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Voting on Blockchain: Opportunities & Liabilities

The use of shareholder voting to engage in decision-making processes is fundamental for modern corporate governance. We observe that shareholders in recent years have become more active and interested in corporate matters of the companies that they have invested. Decades after Berle & Means elemental publication, the division between the investment and control pertains. Now, more than before, shareholders represent one of the key stakeholders and their voice should be decisive for long-term corporate decisions. Legislators across the world have designed diverse legal frameworks and tools to support shareholders’ voting and their participation. Some are more efficient than other. However, the modern technology might be bringing even more opportunities. The distributed ledger technologies, such as blockchain, have become a hot topic and number of start-ups and corporations begun to consider how to utilize this technology for achieving greater efficiency, transparency, information protection or simply for lowering the high costs of shareholder meetings and voting. With the increasingly interconnected world, where investments are done across jurisdiction, participating on annual meetings can be extremely expensive and time consuming. Therefore, a new solution that would enable exercise of shareholders’ rights in a secure and transparent way, would be highly valuable. Beside the efficiency rationale, one could argue that using blockchain would streamline voting and increase shareholder participation. Voting via blockchain could eliminate any plausible fraud by making votes immutable, verifiable and traceable and ultimately, the outcome of the voting would be known instantly, as the election closes. Moreover, decentralized ledger of shareholders would also reduce the need to enlist proxy solicitation firms to track shareholders and the information itself could be easily distributed. There are undoubtedly number of benefits that blockchain would bring. However, not even a perfect golden ledger of shareholder owners is likely to be a panacea for shareholder voting. Information might be sent to outdated addresses. Many shareholders might remain rationally apathetic, and large institutional investors could continue to cast votes according to a prearranged formula. In this paper, I aim to first discuss the opportunities and liabilities that blockchain represents for shareholders voting. Subsequently, I reflect on these in the light of existing regulatory frameworks of Delaware and Liechtenstein. It is important to compare Delaware and Liechtenstein as their blockchain laws represent one of the first adopted across the world. Liechtenstein adopted a more general regulation supporting the use of the technology and development of “token economy”. Delaware blockchain law aims to create digital record of ownership of assets and establish greater transparency and accountability in corporate records. It is important to read these blockchain acts together with relevant corporate laws and reflect whether they allow and support the use of blockchain for shareholder voting. In the last section of this paper, I assess whether a new regulatory approach, “smart regulation” would better accommodate blockchain regulation. It is the aim of this paper to reflect on the possible use of blockchain in democratizing the corporate decision making and providing greater transparency and efficiency for both corporations and shareholders.