

ISTRUZIONI PER LE LEZIONI ONLINE

REGISTRATE E TRASMESSE TRAMITE MICROSOFT TEAMS



NON REGISTRARE

Non registrare le lezioni con dispositivi esterni alla piattaforma. Ricorda che è **vietato registrare esami o sessioni di laurea**.



TUTELA LA TUA IMMAGINE

Se non vuoi apparire nella registrazione della lezione **disabilita o copri la webcam**.



STUDENTI E STUDENTESSE



TUTELA I TUOI DATI

Non usare la piattaforma o la chat per **comunicazioni non pertinenti** alle lezioni, per finalità estranee o per domande personali.



TUTELA IL CONTESTO

Disabilita il microfono se non necessario e usa la funzione **sfocatura dello sfondo** se attivi la videocamera. Presta attenzione ai contenuti presenti nel campo di ripresa.



ITALIAN AND EUROPEAN COMPANY LAW

AA 2021/2022

JOINT STOCK COMPANIES

COMPANIES LIMITED BY SHARES

Company's bodies

Company's bodies

- **Ownership**

- **Management**

- **Supervision**

- **Shareholders' meeting**

- **Director** (-s / Board of directors)

- Management board (double tier system)

- **Board of statutory auditors**

- Supervisory board (double tier system)
- Committee for management supervision formed within the board of directors (single tier system)

Company's bodies

- Different management and control systems
- Company's will
- Listed vs non listed companies

Shareholders' meeting

Company's bodies

Shareholders' meeting

(traditional system)

- What is it?
- Call
- Conduction
- Resolution

Shareholders' meeting - Call

- How?
- Where?
- When?
- Who ..
 - should call?
 - may participate?
 - conducts the meeting?

Shareholders' meeting

- Why?
 - Ordinary
 - Extraordinary
- How does it work?
- Voting
- Invalid resolutions

How?

- Notice of the meeting
 - Risk capital market vs not
 - Day/time/place of the meeting
 - Formality
 - Agenda: sets the matters that may be dealt with at the meeting
 - Plenary meeting

Where?

- In the municipality where the registered office of the company is located
- Or where the by-laws specifies
- (2363 c.c.)

When?

- At any time the management body deem it to be desirable
- At least once a year to approve the financial statements
- When the shareholders (5%-10%) ask for it (2367 c.c.)

Who?

- ...may/shall call the meeting?
 - Director/Board of directors
 - Board of statutory auditors (2406 c.c.)
 - Court

Who?

- ...can participate and/or vote?
 - Shareholders ...who can vote
 - Proxy
 - Persons who are not shareholders but can vote
 - Directors
 - Statutory auditors

Who?

- ...conducts the meeting?
 - By-laws or
 - the shareholders must elect the Chairman
 - Secretary
- duties
- MINUTES

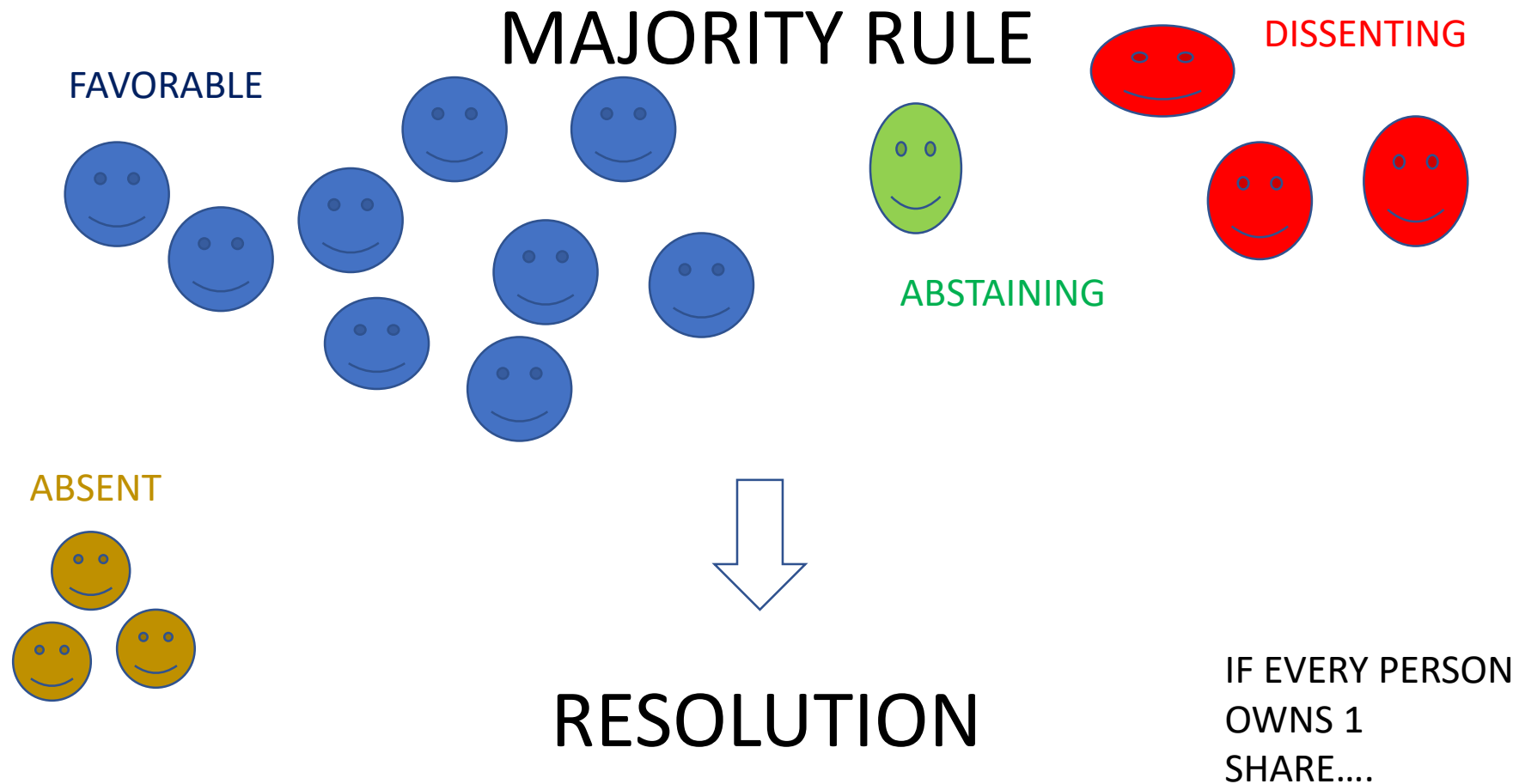
Why?

- Ordinary
 - Approves the financial statements
 - Appointment/revocation directors/board of directors/statutory auditors
 - Remuneration
 - Liability action
 - Other matters by the law to ordinary meetings as well as on authorisations (without prejudice to the directors' liability for the actions taken!)
 - Approves the rules for the shareholders' meeting

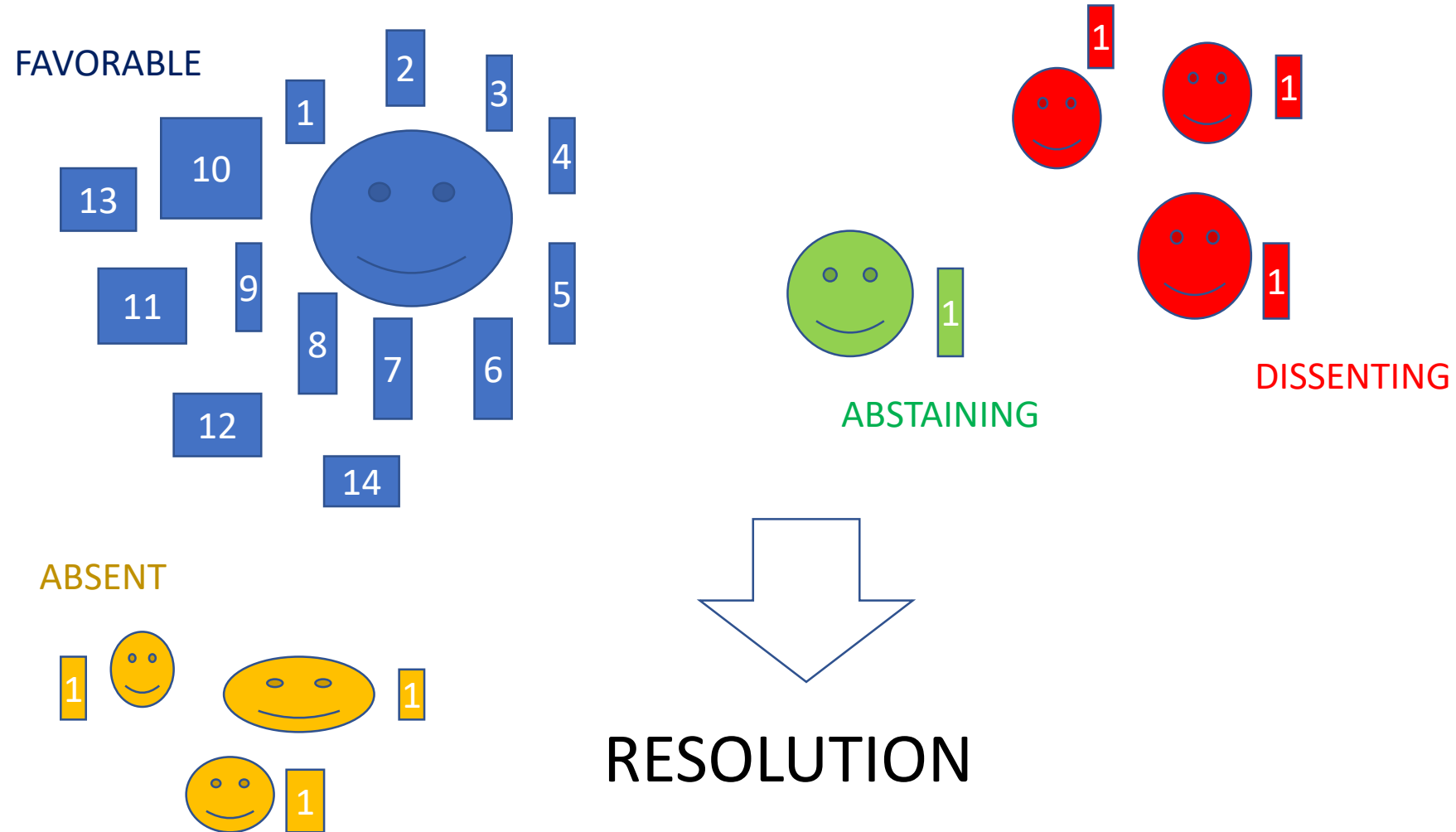
Why?

- Extraordinary
 - Amendments to the articles of association
 - Appointment, replacement and powers of the liquidators
 - Other matters reserved to it
 - Attribution by the by-laws to the board of directors
 - debentures

How does it work?

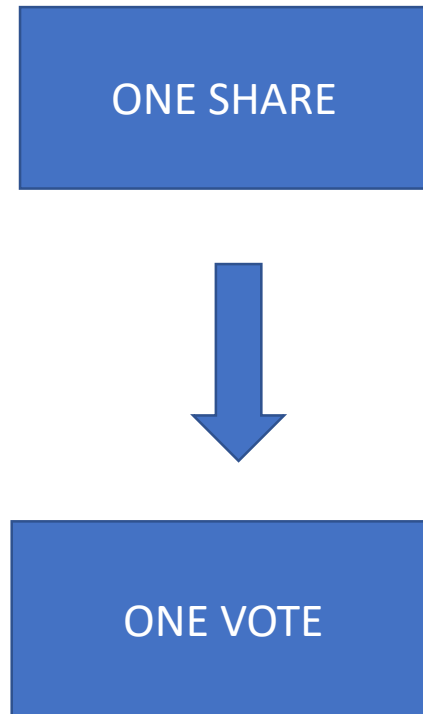


MAJORITY RULE

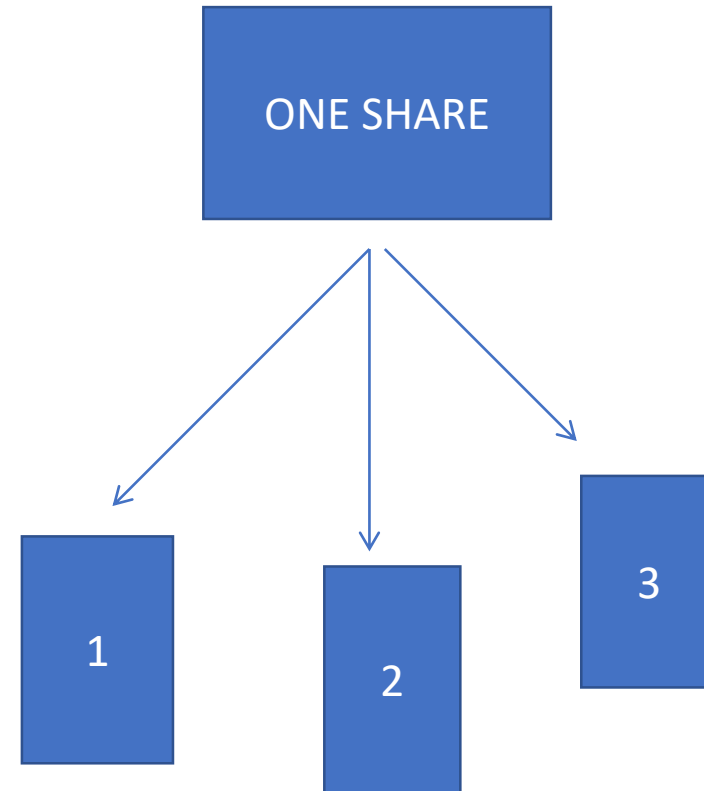


How does it work?

ORDINARY SHARES



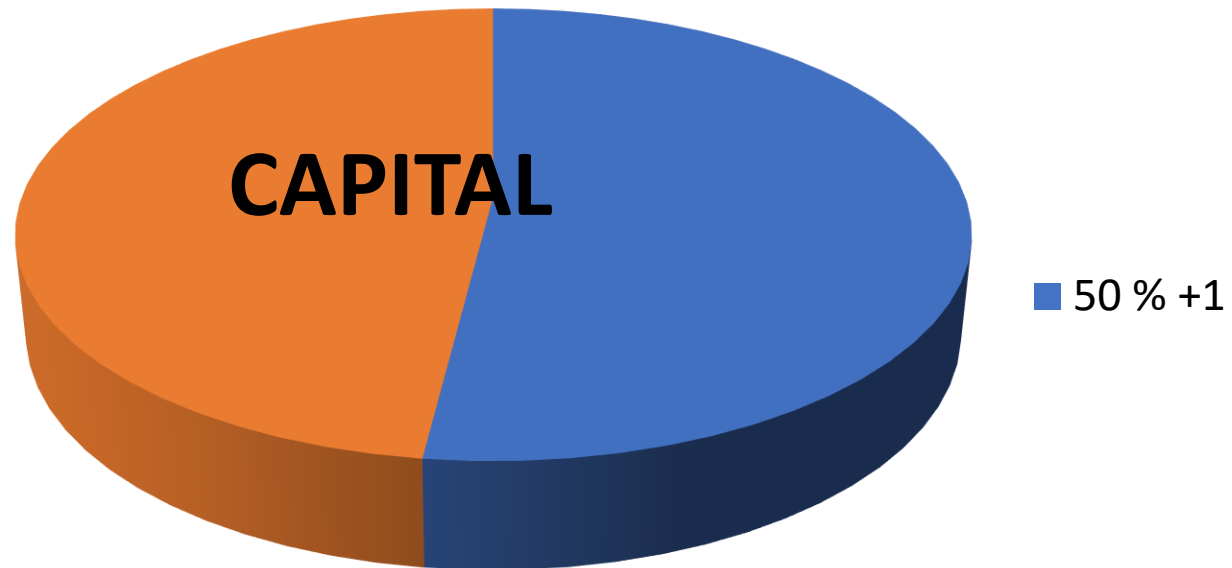
MULTIPLE-VOTE SHARES



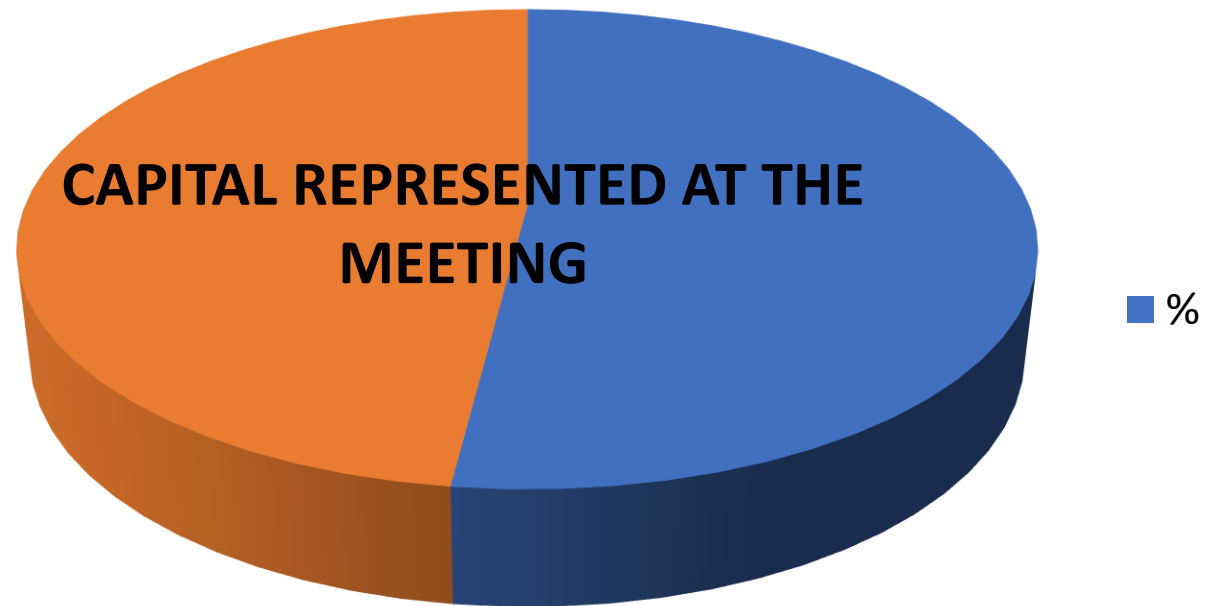
Voting - rules / Overview

- Constitution vs resolution majority/quorum
- Ordinary < Extraordinary
- 1st call > 2nd call
 - Risk capital market

MAJORITY



MAJORITY



Shareholders' agreements

- 2341bis c.c. – 122 TUF
- Voting agreements
- Tag-along and drag-along rights
- Duration (5/3 years)
- Information

Conflict of interest

- 2373 c.c.
- Consequences on the resolutions
 - Voidable if
 - Potential damage
 - Endurance test
- Misuse of power

Resolutions' invalidity

- Breach of the rules governing the shareholders' meeting procedure
- Content
- Void (annulment) vs voidable (null)

Annulment of resolutions (2377 c.c.)

- Why are resolutions voidable?
 - Adoption not in compliance with the law or the articles of association
 - But 2377, V co., c.c.:
 - participation of persons without legitimation
 - Invalidity of votes or count
 - decisive
 - Minutes incomplete or incorrect
 - Impossibility to ascertain content, effect and validity of the resolution

Annulment of resolutions (2377 c.c.)

- Who is entitled to challenge?
 - Absent, dissenting or abstaining shareholders
 - 5% - 1/1000
 - Directors
 - Board of statutory auditors

Annulment of resolutions (2377 c.c.)

- Terms
 - 90 days from ...
 - Consequences
 - Sanatoria: replacement

Nullity of resolutions (2379 c.c.)

- Impossibility or illegality of the object
- Absence of notice of the shareholders' meeting
- Absence of the meeting's minutes
 - Everyone/judge ex officio
 - Time: 3 years, but anytime if the object of the company is changed to impossible or illegal activities, 2379-ter c.c.

Nullity of resolutions (2379 c.c.)

- NOT if
 - Irregularity of the notice (by a member of the administrative/supervisory body and with date)
 - Irregularity of minutes (date of the resolution, object, signature)

Nullity of resolutions (2379 c.c.)

- Sanatoria
 - Lack of notice: person who declared his consent
 - Lack of minutes: drafting the minutes before the next meeting
- Capital increase/reduction and issue of debentures

Special shareholders' meeting (2376)

- Different classes of shares/financial instruments
- Which grant administrative rights
- Every resolution which affects those rights
- Must be approved by the special meeting

Debentureholders' meeting (2415 c.c.)

- Meeting and common representative
- Meeting
 - Appointment/removal common representative
 - Amendments of the terms of the loan
- Call
 - Quorum