

Corporate Governance in a Free Contracting Environment

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Abstract

Our paper exploits a unique experimental setting to analyze how contracts between companies and their equity investors are formed in the absence of written corporate law. Prior to 1910, companies in Norway operated under a system of near-complete contracting freedom. A company could be created and organized for commercial purposes as a limited liability corporation with full judicial recognition as a separate legal entity, without government charter or concession, and though no written law existed to govern this organizational form. We code and analyze the firm-specific laws contained in the charters of 76 publicly traded Norwegian corporations existing in the year 1900. We analyze our sample under the assumption that observed contracts arise as an outcome to an equilibrium bargaining game in which privately informed company founders attempt to raise financing from outside investors. Against this background, we summarize and describe variation in the protections that corporate charters provided to turn-of-the-century Norwegian investors. We observe large heterogeneity in the contracts, including a variety of different board structures, mechanisms for controlling CEO behavior, disclosure policies, and the allocation of control rights. The distribution of voting rights across shareholders is one of the most unusual features of these early contracts. Rather than allocating one vote per share, or even massing voting rights among a small group of shareholders, turn-of-the-century Norwegian corporations often endowed smaller shareholders with marginally larger voting rights. We posit that placing substantial voting power in the hands of outside investors served as a strong commitment that founders would not divert company resources.

I. Introduction

What would a company's corporate governance structure look like in the absence of written corporate law? Numerous corporate governance theorists and legal scholars have pondered this question. For instance, Hart (1995) and Hermalin and Weisbach (2004) caution against imposing new corporate governance regulations before understanding better what governance structures look like in an equilibrium without regulations. Likewise, legal scholars have debated whether optimal governance structures can be created by contract alone (Easterbrook and Fischel, 1991), or whether some regulatory control should be imposed to improve upon inefficiencies in the system (Hansmann and Kraakman, 2000; Klausner, 2006). The challenge from an empirical researcher's standpoint has been that it is difficult to find instances in which observable corporate governance structures have existed outside the scope of corporate law.

Early 20th-century Norway provides just such an instance. Prior to 1910, Norway operated under a system of near-complete contracting freedom with no statutory corporate law. A company could be created and organized for commercial purposes as a limited liability corporation with full judicial recognition as a separate legal entity, though no written law existed to govern this organizational form. Moreover, the foundation of a corporation required no government charter or concession. Only existing property and contract law, along with the judicial norms and merchant traditions that prevailed in Norway at that time, guided the legal oversight of corporations. This institutional setting was truly unique; only Denmark and the three Hanseatic cities of Hamburg, Bremen, and Lübeck maintained a similarly liberal stance with respect to corporations.¹ All other industrialized countries by the turn of the century had in place

¹ Summarizing his comparative analysis of company law at the turn of the century, the contemporary Norwegian expert on business law, Oscar Platou, refers to Denmark and Norway as the "freedom-of-contract" (*Kontraktstfrietens*) systems (Platou, 1911; p.18). That Denmark was the other nation besides Norway to allow for liberal incorporation is not surprising. The Danish-Norwegian union from 1380 to

a set of statutory standards to be met as a prerequisite to organizing a business as a limited liability corporation.²

Our paper exploits this unique experimental setting to analyze how contracts between companies and their equity investors are formed in the absence of written corporate law. Specifically, we code and analyze the firm-specific laws contained in the charters of publicly traded Norwegian corporations existing in the year 1900.

Charters are the legal contracts that establish how a corporation will be governed. First written by the founding members of the corporation, charters cover how boards of directors will be structured, who appoints senior management, and how authority will be delegated across the stakeholders of the corporation. The typical charter will also describe procedures for transferring shares, disclosing financial information, and voting. In short, the charter is the principal contractual mechanism that protects shareholder investments from outright theft and incompetence, and gives new shareholders in the corporation a voice in controlling the firm.

We analyze our sample under the assumption that observed contracts arise as an outcome to an equilibrium bargaining game in which privately informed company founders attempt to raise financing from outside investors. Outside investors understand that founders have the ability to steal or mismanage their invested funds and make their investment choices accordingly. Founders in a given firm select a charter from a menu of contracts offering different levels of protection to outside investors against asset diversion.³ The founders must choose the contract that trades off the benefits awarding higher outsider protection, namely a lower cost of capital, against the costs of giving up control of firm assets. Charter contracts can change through time as new shareholders are added to the corporation and ownership structure changes. Going forward,

1814 created a legal system that remained highly similar until the late 19th century; see Danish Committee on Comparative Law (1963) and Villars-Dahl (1984).

² See Kuhn (1912) for a detailed contemporary discussion of comparative corporate law.

³ Diversion of assets could occur on a variety of dimensions, including poor management of firm assets, consumption of private benefits unavailable to outside investors, or outright theft of investor funds. We view the set of protections to control diversion across these different dimensions.

new shareholders can influence and reshape the contractual protections by voting to alter the charters in a way that maximizes their ongoing stake.

Against this background, we use this first preliminary and incomplete version of our paper to summarize and describe variation in the protections that corporate charters provided to turn-of-the-century Norwegian investors. We then focus our attention on one peculiar feature of these early contracts: the comparatively strong control rights conferred on minority shareholders.

Our sample includes hand-coded information from the corporate charters of 76 firms operating as publicly traded companies in Norway in 1900. The charters were included in the first volume of the *Handbook of Norwegian Bonds and Stocks*, a company handbook compiled by Norwegian stockbroker Carl Kierulf. The standard charter is composed of a series of numbered paragraphs that outline the protections to shareholders in the company, including rules for transferring ownership of shares, appointing and electing the board of directors, running director meetings, hiring (and firing) management, purchasing and selling assets, announcing the annual meeting, hiring an auditor, disclosing financial results, determining dividend payments, and voting at annual meetings. The charter often also provides explicit guidance on the duties of directors and managers, and how authority and decision-making should be delegated across the participants in the firm.

The homogeneity in the contract format enables us to map the contents of each charter into a set of 140 discrete variables. From these variables, we extract and summarize information in the contracts across five distinct areas: (1) Board and CEO structure, (2) transferability and issuance of shares, (3) disclosure policy, (4) the allocation of decision rights, and (5) shareholder voting rules. We also construct single-index measures of investor protection, akin to recent efforts by Gompers, Ishii, and Metrick (2002) and, Bebchuk, Cohen, and Farrell (2004) to measure good corporate governance. Finally, we collect contemporaneous financial and stock price information on the sample companies and draw on corporate governance theory to examine

some correlations between the contractual measures of corporate governance and financial characteristics of the firm.

Though the contracts are homogeneous in structure, the free-contracting environment in Norway in 1900 allowed for ample heterogeneity in the contents of the contracts. For instance, we observe a variety of different board structures (including one-tiered Anglo-American styled boards and the two-tiered boards more common in continental Europe), board compensation plans (including compensation tied to firm accounting performance), mechanisms for controlling CEO behavior (i.e., how much CEO is directly monitored), shareholder protections against dilution at new issuance (whether or not a rights issue must be required), disclosure policies (ranging from no advanced disclosure of materials to releases 60 days in advance of the annual meeting), and the allocation of control rights (how important firm decisions are allocated across the CEO, board, and shareholders).

As financial contracts, the charters also provide rich insight into the challenges and protections that were pertinent at the dawn of the 20th century. The typical charter included protections assuring an adequate pool of board-of-directors candidates (by limiting shareholders ability to opt-out from acting as a director when nominated), required explicit shareholder votes on important company-level decisions that today might be delegated to management (for example, decisions related to large-scale purchases and to borrowing against fixed assets), and contained clear instructions on how the firm should be liquidated (including the voting majority required for liquidation and how to establish liquidating committees), as if investors anticipated the life of the corporation would be short. At the same time, the charters rarely contained explicit guidance on how to deal with changes in control through takeover -- a central focus of today's corporate governance protections.

Our index of minority investor protections is based on eight contractual characteristics likely to be crucial protections against asset diversion. We examine the relation between this index and a variety of firm characteristics, including measures of firm performance. The results

are very preliminary, based on a small sample, and our difficult to interpret in the absence of exogenous instruments as controls. We find that our index is negatively associated with size and positively related to firm leverage. Moreover, we find that higher investor protection – as measured by our index – is positively associated with firm profitability and negatively related to average annual returns and market-to-book ratios. These latter results suggest that firms with higher investor protections could face lower costs of capital, and potentially, higher profits.

Perhaps one of the most unusual features of these early contracts is the allocation of voting rights across shareholders. Rather than allocating one vote per share, or even massing voting rights among a small group of shareholders (for example, through the issuance of dual-class shares), turn-of-the-century Norwegian corporations endowed *smaller shareholders* with marginally larger voting rights. They did this in two ways. First, the charters limited the maximum number of votes that any one shareholder could cast, independent of the size of their holdings. Second, the charters defined a declining scale for the number of votes earned per share held. Effectively, these rules put substantial voting power into the hands of minority shareholders.

We provide an explanation for why these voting rules might have been optimal in the free-contracting setting of early 20th-century Norway, and examine this explanation using the set of observable variables in our dataset.⁴ Our explanation can be summarized as follows: In this early regulation-free environment, placing substantial voting power in the hands of outside investors served as a strong commitment that founders would not divert company resources. In the cross-section, firms should be more likely to place such strong commitments into their charter contracts when the benefits of raising outside equity capital are large relative to the costs of foregoing the diversion of profits.

⁴ As it turns out, substantial shareholder provisions and declining votes per share held were common voting mechanisms at the outset of the Industrial Revolution, when the use of the corporate organizational form first came into practice. They were the dominant voting mechanism among early 19th-century U.S. corporations (Dunlavy, 2007) and were a common feature of European corporate statutes well into the 20th century (Becht, Bolton, and Roell, 2002).

We make the following cross-sectional predictions and report preliminary evidence consistent with our predictions: Minority-favored voting provisions are more likely to be observed in the contracts of firms that (1) have relied heavily on equity financing to raise capital (i.e., firms that do not have a lot of debt), (2) have fewer shares outstanding, and (3) are more profitable and have larger growth opportunities. We also provide initial evidence that minority-favored voting provisions are positively correlated with other contractual features that protect minority shareholders, including the right to call a special shareholder meeting, and the right to bring up extraordinary items in annual shareholder meetings. All of our results, however, should be viewed as being preliminary as we have not adequately filled in a large enough time series of financial information to yield adequate power in our tests.

The rest of the paper proceeds as follows. Section II provides background information about the legal framework in Norway at the time of our sample. To our knowledge, we are the first scholarly work to bring together original legal source material in order to sketch the business legal environment at that time. Section III describes the data collection process and provides some summary information about the firms in our dataset. Section IV provides walks through the summary statistics on the sets of contractual protections. It also examines the relation between our shareholder protection index and firm characteristics. Section V explores voting rules in more detail with an emphasis on the rules that provide small shareholders with relatively strong voting rights. This section also speculates as to why such allocations of voting rights are no longer common. Section VI discusses upcoming work on the paper.

II. Legal Framework in Norway Prior to 1910

Prior to the 20th century, corporations, partnerships, and other similar business forms in Norway and Denmark could be created freely without regard to codified regulations or law. The companies were recognized by the judicial system as a separate legal “person” without government concession or charter. Originally, government concessions were deemed necessary

only when a company asked for special (e.g., monopoly) privileges.⁵ This legal custom was carried over to limited liability companies as they started to emerge in large numbers in the economic boom years of the 1840s (Villars-Dahl, 1984; Lübeck, 1991).

Although prior to 1910 no statutory law existed to regulate the corporate form of business in Norway, a variety of legal precedents and standards existed to guide lawyers and judges through corporate legal disputes. This body of “unwritten” corporate law started with legal customs or norms (*sedvanerett*) established through centuries of dispute-resolution, primarily in the areas of property rights and contract law.⁶ At their roots, these norms were likely influenced both by Old Norse property rights traditions and the medieval Law Merchant (*Lex Mercatoria*) that prevailed in Hanseatic cities.⁷ Further guidance was provided by basic legal principles (*almennelige rettsprinsipper*) that evolved within the legal community, by and among the lawyers and judges that were engaged in private law during this period. Hallager (1844), for instance, produced a large and detailed volume detailing the basic legal principles behind the rights of parties in contractual disputes, in particular, disputes involving creditors and a debtor. Finally, legal precedents set in court (*rettspraksis*) contributed to the body of unwritten corporate law prior to 1910. While past court decisions in Norway did not take on the central role of creating *common law* as in the Anglo-Saxon countries, they were a valid input to current disputes, and – in the absence of relevant written law – could be used together with norms and principals to inform judicial decisions.

Beyond the legal precedents and standards that prevailed at the end of the 19th century, Norwegian corporations were subject to one set of statutory regulations, so-called “registration laws.” The precedent for registering businesses dates back to a 1681 Danish law that required

⁵The Danish Supreme Court ruled in 1827 that private associations could be recognized as separate legal entities without government approval (Danish Committee on Comparative Law, 1963). By 1824, Danish authorities (*Kancelliet*) had also published a statement that made precise that only privileges of “monopolistic and extraordinary” character required government concession (Lübeck, 1991).

⁶Nygaard (2004) provides a critical overview of the foundations and practice of law in Norway.

⁷For a discussion of the Law Merchant, see Trakman (1983) and Milgrom, North, and Weingast (1990).

registration in a court (*tinglæsning*) to make contracts legally binding vis-à-vis third parties. The laws required all commercial entities, regardless of organizational form, to register their business into a legal court record and to disclose this registration to the “public.”

The first business registration law (*Lov om Firmaregistre*) was enacted in Norway in 1874, only to be replaced with a more extensive law in 1890 (*Lov om Handelsregister, Firma, og Prokura*). The 1890 law required a business to make a one-time disclosure that included the firm’s the founding date, a brief description of the business, the county in which the company was headquartered, the amount of equity capital in the company, how the capital was divided among the owners, whether ownership shares were written in the owner’s name or as “bearer” shares, and whether issued shares were paid in full. The disclosure was also supposed to indicate whether the firm would make periodic disclosures, and if so, in which newspapers, and include the founding company manager’s full name and address, and who has the responsibility for signing the company’s name. Finally, the disclosure required that the company’s bylaws or articles be submitted as an attachment, along with proof of identification of the founding managers (Beichmann, 1890). Disclosures were to be published in a timely fashion in an official government periodical, *Norsk Kundgjørelsestidende*.

In sum, one can make several observations about the legal environment in Norway as of 1900. First, there was no statutory corporate law in place. That is, no legislation had been enacted to regulate how a limited-liability, commercial entity should be organized; how it should be capitalized and managed, or how shareholders should be granted control rights over its assets. In virtually every peer country at the time, including Sweden, the U.K., the countries across the European continent, and the states of America, laws were in place to regulate and restrict the business form known as a “corporation.” Second, Norway did have strong and longstanding “extra-legal” mechanisms for adjudicating contractual disputes. Third, by the end of the 19th century, Norway had in place a strong tradition for requiring companies to disclose – at least once – pertinent details about their business. The extra-legal and disclosure traditions arose to

facilitate contracting with third-parties (e.g., creditors), and to make contracts more easily enforceable in court.

III. Data Collection Process

We draw on the first volume of Carl Kierulf's *Handbook of Norwegian Bonds and Stocks* (*Haandbog over Norske Obligationer og Aktier*) from the year 1900 to collect information from the charters of publicly traded Norwegian companies. The first volume includes the charters as well as limited accounting and market information on 145 companies. According to Kierulf, these companies were selected because they were the Oslo Stock Exchange-listed companies that regularly appeared on the price lists circulated by Oslo brokers.⁸ Our sample excludes banks and insurance companies (57 companies) and railroads (12 companies). Railroad companies were excluded because they were partly owned by local county governments and appeared to include heavy state interference.

Our sample is composed of the 76 non-financial companies that are not railroads. For these companies we construct a system for mapping all pertinent information from their charters into a codeable set of indexes. Ultimately, this involves breaking down and translating the charters into 140 different cells of discrete codes. Appendix A contains the complete list of coded data.

For each of the 76 firms, we also collect accounting and financial information where available. The typical 1900 Kierulf's record contains rudimentary financial information, including year-end dividend payments and stock prices dating back three years (to 1897), as well information on the book value of the shares, the number of shares outstanding, and 1899 year-end earnings figures. Many of the records also contain balance sheet and income statement information for year-end 1899. However, these figures must be interpreted with caution, as no generally accepted rules of accounting existed at this time, and accounting practices appear to

⁸ The next addition of Kierulf's Handbook, printed in 1902, increased by 50% the number of listed firms covered, but to save space excluded these companies' charters.

differ across firms. In calculating accounting measures of performance, we work hard to extract the definition most closely aligned with consistent modern definitions.

Table 1 contains summary statistics on our sample firms, including a breakdown of the 76 firms by industry, size, and age (Panel A). The sample provides a fair spread of companies across different industries. The two industry classifications that dominate are Transportation, with 14 firms composed primarily of steamship companies, and Manufacturing, with 41 companies. The Manufacturing sector encompasses a wide variety of firms, including nine breweries, nine businesses devoted to converting wood products to paper (including five companies using sulfite-based technologies for converting cellulose to paper pulp), four clothing/shoe makers, four ironworks, four shipbuilders, a rifle-maker and a telephone equipment manufacturer. The six Real Estate sector firms are akin to today's Real Estate Investment Trusts, earning revenue through the rents generated from land and building holdings. One thing held in common across the firms in our sample is an intense need for capital, often for investment new and expensive technologies.

Table 1 also indicates that the firms in the sample were relatively small and young, measured by today's standards. Measured in 2006 Norwegian kroner, the average market capitalization of the turn-of-the-century sample firm is Kr. 48 million, compared with a market capitalization of Kr 8,366 million for the average Oslo Stock Exchange (OSE) firms at the end of 2006.⁹ Only one firm in 1900 had a market capitalization higher than kr 200 million (*Aktieselskabet Saugbrugsforeningen i Fredrikstad*, with a market capitalization of Kr. 692 million). Likewise, the corporations were relatively young. The reported founding date, which typically represents the date that the company started as a corporation, indicates that over 25% of the sample firms were incorporated within five years of 1900, and all but 2 firms are younger than

⁹ 1900 figures are converted to nominal 2006 values using the latest online update of Grytten's (2004) construction of the Norwegian consumer price index back to 1516. OSE market capitalization figures are from the 2006 *OSE Annual Report*.

60 years old. By contrast, Ongena and Smith (2001) report that, as of 1996, the average OSE firm was 53 years old.

The financial figures, summarized in Panel B of Table 1, indicate that the mean and median reporting firm had market-to-book ratios close to one (we calculate market asset value as the market value of equity plus the book value of debt), mean return on assets (ROA) of around 7% (median = 6%), and annual gross stock returns, measured from 1897-1900, of 11.5% (median = 5.5%). The figures also show that leverage varied considerably across the firms. While the average firm reporting debt figures financed 37% of its assets with debt, leverage the sample these firms ranged between 5% (*Aktieselskabet Sætre Kjøxfabrik*) and 85% (*Christiania Samlag for Handel med Brændevin, Øl, m.m.*).

Note that the “Number of Observations” column in Panel B hints at the number of firms providing adequate financial information. Roughly 60 of the 76 firms report enough financial information to calculate market equity-based estimates of size and performance (e.g., year-end equity prices, book value of shares, and number of shares outstanding) and only 37 firms report enough balance sheet and income statement information to calculate rudimentary accounting ratios. Throughout the rest of the paper, we attempt to be transparent about the influence of missing observations. The final section of the paper discusses how we will increase the number of observations through renewed data collection efforts.

IV. The Protections in the Charters

This section provides an overview and summary of investor protections written into the Norwegian corporate charters of 1900. We group the protections into five categories relevant to corporate governance: (1) Board and CEO structure, (2) transferability and issuance of shares, (3) disclosure policy, (4) the allocation of decision rights, and (5) shareholder voting rules, in particular, how they exercise their decision rights (Section V focuses more on general shareholder voting rules). In this section, we also use the protections to form an index of investor protections,

akin to the good corporate governance indices of Gompers, Ishii, and Metrick (2002) and Bebchuk, Cohen, and Ferrell (2004).

However, before turning to the summary statistics, we first briefly outline a theoretical framework for how we think the formation of these contracts occurs in a free-contracting equilibrium.

IV.1 A theoretical framework

We assume the observed contracts arise as an outcome to an equilibrium bargaining game in which privately informed company founders attempt to raise outside financing from outside investors. At the outset, founders have control of firm assets and the ability to divert profits to themselves, if they so choose. Outside investors understand the incentives of the founders. They choose whether to participate and how to price an issue based on their share of firm profits, net of what they believe founders will divert.

Founders can select from a menu a charter contract with a set of legally enforceable *protections* that act as a commitment not to divert firm assets.¹⁰ This set of protections could include commitments to disclose pertinent financial information on a timely basis, guarantees that investor stakes can be sold to a third party, elections of “boards” of delegated monitors, and clear rules for compensating, hiring and firing management. Importantly, the protections can also include allocations of some of the firm’s decision rights to the outside shareholders. Founders choose the extensiveness of the protections by weighing the benefits of a lower cost of capital against the cost of giving up the ability to divert funds.

Of course, as new shareholders are added to the corporation, the ownership structure changes. Going forward, new shareholders can influence and reshape the contractual protections by voting to alter the charters in a way that maximizes their ongoing stake.

IV.1 Board and CEO structure

¹⁰ Diversion of assets could occur on a variety of dimensions, including poor management of firm assets, consumption of private benefits unavailable to outside investors, or outright theft of investor funds. We view the set of protections to control diversion across these different dimensions.

Every charter contract includes a description of a group (or groups) of individuals elected by shareholders to oversee and manage the company's business. The description includes information on who is eligible to sit on a board, how board members are elected or appointed, the length of the term, and how alternates are selected. The description may also contain information on the board members' duties and compensation.

Panels A and B of Table 2 summarize some of the pertinent information on board structure contained in the charters. The first thing to note is that two basic board structures are observed in the contracts: a one-tiered managing board of directors (*direktion*), much like you see in modern U.S. and U.K. companies, and a two-tiered board with a supervisory board (*repræsentantskab*) sitting atop a managing board, as is common in continental European countries. Panel B indicates that 34% of the sample contracts specify the two-tiered structure; the rest specify only the one-tier managing board.

The turn-of-the century managing board was typically small, with three directors on the median-sized board. In 85% of the contracts, directors are required to be shareholders; in 20% of the contracts, they must also be residents of the area in which the company is located. The directors serve a median three-year term and can be reappointed at the end of their term. Indeed, shareholders are typically required to serve as board members if elected, and can only excuse themselves from the responsibility for a time-period equal to their tenure as a director. The boards in our sample board terms are typically staggered, with a given fraction – usually 1/4 or 1/3 – of the terms coming due each year (not shown in table). Rather than a mechanism to defend against takeovers, the board terms were likely staggered to aid in transitioning new members onto the board. Contracts often contain information about director compensation. Though the directors are themselves shareholders, 37% of the contracts also specify that directors will receive pay tied to the performance of the firm. Typically, the measure of performance is accounting earnings.

Another interesting feature of the turn-of-the-century managing board was its involvement in the day-to-day business of the company. The median contract requires managing boards to meet at least twice a month (not shown in table), and many contracts require weekly meetings. Moreover, 88% of the contracts specify directly that managing directors must participate in some type of daily activity within the firm. These duties include receiving, and signing for, daily deliveries and overseeing the activities of the CEO. In 57% of the contracts, directors also maintain the formal legal responsibility (*prokura*) of representing the firm in 3rd-party negotiations.

Where they are included, supervisory boards appear primarily to take on the responsibility of hiring auditors for the firm and managing the disclosure of the firm's financial statements. Frequently (79% of contracts with a supervisory board), they also take over from the shareholders the responsibility of appointing managing board directors. However, in contracts that include a supervisory board, shareholders always elect the supervisory board members. Thus, unlike the European supervisory boards of today, there were no laws in 1900 that required stakeholders other than shareholders to take part in the board-selection process. As Panel B of Table 2 indicates, the supervisory boards are typically much larger than the managing boards (with a median of 12 members) and supervisory board members serve shorter terms (median = 2 years) than managing board directors. Unlike managing board directors, supervisory board members are not contracted to receive pay for performance.

Though managing board directors appear to play an important role in the day-to-day running of the sample firms, as shown in Panel C of Table 2, most (88%) of the contracts also specified that an individual with expertise in the industry be hired as a CEO (the term for this position varies across contracts and industries: *forretningsfører*, *chef*, *disponent*, *bestyrer*, *administrativ direktør*). Thus, the contracts at the time recognized the efficiencies gained from having some separation of ownership from control. Indeed, unlike the managing board directors, the CEO typically did not have to be a shareholder (required in only 6% of cases) and was

specifically hired as an expert to run the business. Daily decisionmaking was often (77% of the time) delegated to the CEO, and the CEO could be endowed with the legal responsibility for contracting with 3rd parties (in 28% of the cases). Moreover, the CEO could participate and vote as a managing board director in 37% of the cases. But 68% of the contracts still make explicit that the CEO must take instructions from the managing board. And among firms allowing the CEO a position on the managing board, only 22% allow the CEO to be chairman.

The last panel of Table 2 (Panel D) reports on an event that is relatively uncommon across the contracts, but nonetheless interesting. Eight of the contracts (11%) specify a named individual, or set of individuals, that must take part in management or supervision of the firm until their death or some other condition is met. Thus, for example, in the charter for *Krag-Jørgensens Geværkompagni* (a well-known rifle maker at the time), paragraph 6 states,

The board of directors shall be composed of 4 directors elected at the annual meeting, together with Captain O. Krag, or the shareholder that he designates by proxy to participate on the board.

Krag was co-founder of the company. The paragraph goes on to say that in the event of Krag's death, a fifth member of the board can be selected at the annual meetings. Panel D indicates that the majority of these contractual proscriptions were to allow founding family members a seat on the managing or supervisory boards of the companies. However, in one case – *Aktieselskapet Franklin, Baker, & Co* – the British founder James Franklin stipulates in the contract that he is CEO until death, or until shareholders muster a supermajority vote at the annual meeting to fire him.

IV.2 Transferability and issuance of shares

Recognizing that an appealing property of corporate equity ownership is that shares can be sold, all charters provide some information on the transferability of ownership.¹¹ Kraakman, et al. (2004) argue that one of the essential features that distinguish stock shares in corporations

¹¹ Of course, this finding is endogenous to the fact that our sample is limited to the most actively traded publicly listed companies.

from ownership in other organizational forms is the ability to liquefy your ownership position. As shown in Panel A of Table 3, nearly every company required shares be registered in the name of the owner and that a shareholder list be maintained at company headquarters. This practice stood in contrast to the common use of *bearer* shares in many continental European countries during this time period (Kuhn, 1912 and Villars-Dahl, 1984). Roughly one-third of companies imposed a restriction that required a director's approval – or at least notification – before shares could be sold.

As can also be seen in Panel A of Table 3, about half of the contracts provide some information on how new equity issuances will occur. This contractual feature is important because it sets the protections that existing shareholders have against future dilution of their stake. Only 19% of the contracts – or about 40% of the contracts that discuss share issuances – require a rights offering. This low percentage may simply reflect the fact that owners desired the right to seek quick financing through a 3rd-party source without working through a rights offering, or it may indicate that many companies viewed future share issuances to be rare enough that the type of offering need not be specified.

IV.3 Disclosure policies

As discussed in Section II, both Norway and Denmark have a rich history of requiring businesses to disclose pertinent company information, primarily for the protection of 3rd-party claimants, such as creditors. Moreover, the business registration laws of 1874 and 1890 required companies to make detailed disclosures at the time of registration, and as part those disclosures, identify a plan for future periodic disclosures. Therefore, it is not surprising that the Norwegian contracts we observe contain details about disclosure.

Nonetheless, as is apparent from Panel B of Table 3, wide variation existed across the contracts in how disclosures occurred. First, only about 2/3 of the contracts committed to disclose the company's financial statements to shareholders prior to the annual meeting. The remaining 1/3 required that shareholders attend the annual meeting, digest firm performance, and

vote based on that performance, at the meeting. Among those companies making advanced disclosures, contracts commonly specified that the financials would be made available two weeks in advance of the meeting at the company's headquarters. Some contracts provided more lead time in advance of the meeting (with a maximum of 60 days); one contract promised to mail the financial statements to each shareholder, while another committed to publish the results in local newspapers. Three-quarters of the contracts committed to notify shareholders of an upcoming annual meeting in local and national newspapers. The median contract committed to advertising the meeting in 2 newspapers, with one often being a national circular or Oslo newspaper. In addition to newspaper announcements, some companies committed to mailing an announcement to each shareholder (not shown in table).

IV.4 Allocation of decision rights

An important component of the charter contracts is the specification of what firm decision rights remain in the hands of shareholders and what is delegated to the boards. Panel A of Table 4 details these allocations across a variety of decisions. In addition to following whether decision rights are allocated across the managing and supervisory boards or shareholders, the panel includes the category, "Fixed in contract" because some of the decision rights are pre-specified as part of the charter.

Panel A of Table 4 indicates that the hiring of the CEO and the determination of is nearly always delegated to the managing board, or to a lesser extent, the supervisory board. Deciding the salaries of the managing board directors is roughly split evenly across the supervisory board, shareholders, and fixed by contract. Auditors are appointed by supervisory boards when supervisory boards are part of the company, otherwise they are approved by shareholders.

Perhaps most interesting is the observed variation in the allocation of rights associated with large investment and financing decisions. Most of the contracts provide specific guidance as to who approves the purchase and sale of large assets, including liquidating or selling the entire firm, borrowing that involves encumbering assets as collateral, payment of dividends, and as

mentioned earlier, the issuance of new shares. Roughly 2/3 of the firms keep the decision to acquire or sell fixed assets in the hands of the shareholders, while the other 1/3 delegates the decision to the managing and supervisory boards. The benefit of allocating such decisions to shareholders is that it protects them against wasteful management spending. The cost of allocating the decisions arise from shareholder coordination problems, if shareholders are unable to agree, or it is costly to postpone a decision until all shareholders can vote, valuable investment opportunities may be wasted.

Shareholders often (in 65% of the cases) do not have a direct say in how dividends will be paid out each year. The supervisory board, or a combination of the supervisory and managing board, often makes the decision (27% of the case). But in 31% of the contracts, the contract provides a direct formula for how dividends are to be paid. A typical formula for payouts starts by allocating a fixed percentage of the book value of the shares as dividends to shareholders, then sets aside a fixed amount of any remaining earnings to a reserve account and directors' pay, and then leaves any remaining amount to be paid out according to the discretion of the shareholders. Although shareholders have some discretion in these cases, the level of discretion is low.¹²

All contracts describe a mechanism for liquidating the firm and 94% of the contracts assure that shareholders participate in the liquidation decision. The liquidation clause in these contracts likely existed for a number of reasons. First, by requiring a shareholder vote – typically with supermajority voting requirements (see below) – the clause prevented insiders or management from selling the company out from under existing shareholders (for example, at an unreasonably low price). Second, it provided shareholders with the option to sell the company as

¹² The contracted dividend policy at *Aktieselskabet Kværner Brug* (a precursor to one part of today's Aker Kværner concern) is a good example:

Of the profits, there can be returned, after all operating and other expenses are covered together with all necessary write-downs, first to preferred shareholders a dividend up to 6 percent of the book value of the preferred shares. Thereafter, an amount up to 5 percent of the book value of common shares can be paid to common shareholders; of any remainder must one-quarter be set aside to an operating or reserve fund, with the rest dispensed at the shareholders' discretion (paragraph 6).

a going-concern to a potential acquirer. Third, it provided a roadmap resolving sales of the firm in case of financial distress. Finally, the clause provided a way for shareholders to limit the time management had to run the business before “cashing out.”

IV.5 Shareholder exercise of decision rights

Shareholders exercise their control over company management through the votes that they cast, on behalf of board candidates and on decisions that contractually required a shareholder vote. In turn-of-the-century contracts, the relative power of *minority* shareholders to influence the outcome of a vote depended on the quorums and majorities required to approve or reject a certain decision. High meeting quorums, requiring the presence of a relatively large number of shareholders before a vote could be taken, and supermajority voting provisions weakened the ability for large blockholders to influence the outcome of a decision.

The typical company in our sample required no meeting quorum and a simple 51% majority when voting on standard items at an annual meeting, including the election of the board, board compensation, dividend payout, and acceptance of the current year’s audited financial statements. For these decisions, and under the assumption that shareholders received one vote per share, a 51% shareholder or group of shareholders could exert significant influence over the governance of the firm.¹³ Quorum and supermajority requirements came into play in more important decisions.

As can be seen in Panel B of Table 4, quorum rules and supermajority requirements were associated with votes to approve acquisitions and sales of fixed assets, new equity issuances, liquidation of the firm, and changes to the charter laws themselves. As discussed above and shown in Panel of A of Table 4, only slightly more than half of all contracts allow shareholders to participate in decisions related to acquisitions, asset sales, and new equity issuances. Among the firms that do allow a shareholder vote, few require a meeting quorum and the median firm

¹³ However, as discussed below, one-share, one-vote provisions were relatively rare.

requires only a simple majority for approval. Yet a handful of contracts do require quorum votes and or supermajority provisions before these events can be carried out.

Quorum rules and supermajority provisions are much more common in decisions to liquidate the firm and change the laws in the charter. Among the 63 firms that specify a quorum for liquidations, the median firm required 50% of the outstanding voting capital be represented at the meeting, and among the 71 firms specifying that shareholders must vote before a liquidation can occur, the median voting majority required to approve a liquidation was 2/3. Votes on changes in charter laws follow a similar pattern, though fewer firms (50) require a quorum for the change-in-law vote.

That liquidations and changes to the charter were the most common decisions requiring a supermajority is perhaps not surprising since insiders could most easily steal or freeze out minority investors either by selling the firm – diverting all of its assets – at a value below the market value, or by changes the laws to directly weaken the decision rights of minority shareholders. Indeed, it is interesting to observe that *some* firms provided little or no protection against liquidations and charter changes. Two contracts (for *Christiania Aktie-Ølbryggeri* and *Fredrikshalds Kanalselskab*) make no mention of whether shareholders had a direct say liquidation decisions at all, and 14.4% of the sample (not shown in table) required only simple majorities to further a liquidation.

In addition to voting to approve or reject proposals put forth by management at annual meetings, shareholders in many of our sample firms could also put up their own proposals for a vote. They accomplish this in two ways: by lobbying for a proposal to be considered at the annual meeting, and by calling for extraordinary meetings.

Panel C of Table 4 summarizes the frequency of such protections across our contracts. Less than half (33) of our contracts explicitly allow shareholders to put a proposal on the agenda of the annual meeting. But among these firms, the number of shareholders required to get the proposal on the agenda is small, the median requirement is one shareholder, and the mean is less

than three. Allowing shareholders to call an extraordinary meeting is more common across the contracts, 48 (63%) provide direct guidance on how to do so. The median requirement among these contracts is that shareholders representing at least 25% of the outstanding capital vote to call the extraordinary meeting; minimum vote cutoffs range between 5% and 52% of capital.

IV. 6 Shareholder protection index

In the spirit of Gompers, Ishii, and Metrick (2002), we now turn to constructing an index of minority investor protections. The index is one way to summarize information across the large set of codeable fields in our dataset, but it is preliminary and simple. Moreover, governance indices in general have come under recent criticism for being ad-hoc and endogenously determined (e.g., see Lehn, Patro, and Zhao, 2005, and Bhagat, Bolton, and Romano, 2007). Nevertheless, we find it helpful to reduce the dimensionality of our contractual protections into one, or perhaps several summary measures. The reader should take caution in interpreting any results because they are very preliminary, based on a relatively small sample, and non-causal.

To build our investor protections index, we attempt to identify those contractual features whose presence implies clear protections for minority shareholders against potential asset diversion by firm founders and management. Specifically, we construct our index by summing across the following set of indicator variables: (1) whether financial statements are disclosed prior to the annual shareholder meeting; whether firms have a direct vote in: (2) selecting an auditor, (3) approving sales and purchases of fixed assets, and (4) approving borrowing against fixed assets; (5) whether shareholders have the right to call an extraordinary meeting, (6) whether shareholders have the right to add their own items to the annual meeting agenda, (7) whether votes to liquidate the firm require at least a two-thirds supermajority, and (8) whether meeting quorum for liquidation requires at least 51% of voting capital to be present. At this point, we hesitate to speculate about how cross-sectional characteristics will be related to the index before having better exogenous instruments on the right hand side.

Panel D of Table 4 presents summary statistics for the measure, as well as bivariate correlations between the index and firm characteristics. The mean and median firm in our sample scores 5 out of 8 on our investor protections index. Though not shown in the table, two companies score the maximum score of 8 (*Dampskibsselskabet «Færder»* and *Aktieselskabet Nitedals Tændstikfabrik*) and two score the minimum of 1 (*Christiania Aktie-Ølbryggeri* and *Christiania Telefonselskab*).

Panel D indicates that the shareholder protection index is negatively related to size as measured both by the market value of equity and the number of shares outstanding. The number of shares outstanding also serves as a rough proxy for the dispersion in ownership and could thus suggest that more dispersely held firms have fewer protections. The index is positively related to the amount of leverage held by the firm, and not very highly correlated with the presence of a supervisory board or contracted insider. In relation to our performance measures, the index is negatively associated with all market measures of performance, including past annual stock returns and the market-to-book ratios. Of course, interpreting these unadjusted firm variables as performance measures is dubious since they will be highly correlated with the firm's cost of capital. Taken together, the market variables could suggest that firms with higher protections enjoy a lower cost of capital, but this is too early to tell. Going the other way, measured in terms of return on assets, higher protection firms appear to be more profitable in 1899 than low protection firms.

V. Allocation of Voting Rights Across Shareholders

In this section, we examine the unusual allocations of voting rights that existed in the 1900 contracts. We provide an explanation for why these voting rules might have been optimal in the free-contracting setting of early 20th-century Norway, and why they are rarely observed today. We then examine our explanation using variables in our dataset.

Rather than allocating one vote per share, or even massing voting rights among a small group of shareholders (for example, through the issuance of dual-class shares), turn-of-the-

century Norwegian corporations endowed *smaller shareholders* with marginally larger voting rights. They did this in two ways. First, the charters limited the maximum number of votes that any one shareholder could cast, independent of the size of their holdings (in modern terminology, these are referred to as “substantial shareholder provisions”; see Gompers, Ishii, Metrick, 2002). Second, the charters defined a declining scale for the number of votes earned per share held. Effectively, these rules put substantial voting power into the hands of minority shareholders.

The voting rules for *Stavangerske Dampskibsselskab* provides a typical example:

The owner of 1-4 shares has one vote, owner of 5-10 shares had 2 votes, owner of 11-20 shares has 3 votes, owner of 21-30 shares has 4 votes, owner of 31 shares and over has 5 votes, which is the highest number of votes one shareholder can give.

As of 1900, *Stavangerske Dampskibsselskab* had 1,068 shares outstanding.

Panel A of Table 5 provides a 2 x 2 matrix that summarizes the frequency of such voting rules. The rows of the matrix indicate whether or not the marginal voting power in a given contract remained constant (e.g., one share, one vote) in the number of shares held, or decreased in shares held, ignoring any substantial shareholder maximum. The columns indicate whether or not such a maximum existed. The upper left-hand corner of the matrix corresponds to a “true” one-share one vote rule, as we think about them today. In 1900, only 9.6% of the firms in our sample had adopted the now-common allocation of voting rights. The remaining contracts imposed some restriction on the voting rights of large shareholders, either by including a substantial shareholder provision (20.5% of the contracts), a declining marginal votes rule (4.1% of the cases), or – as in the case above of *Stavangerske Dampskibsselskab* – both restrictions (65.8% of the cases).

As it turns out, substantial shareholder provisions and declining votes per share held were common voting mechanisms at the outset of the Industrial Revolution, when the use of the corporate organizational form first came into practice. They were the dominant voting mechanism among early 19th-century U.S. corporations and were a common feature of European corporate statutes well into the 20th century (Becht, Bolton, and Roell, 2002). Dunlavy (2004,

2007) documents widespread use of these practices in U.S. corporations from the late 18th century through the mid part of the 19th century, when the voting rules began to be replaced by one-share, one-vote rules. She also finds that substantial shareholder provisions and declining marginal votes remained popular in the United Kingdom and continental Europe for much long, only being replaced by one-share, one-vote rules in the first half of the 20th century.

We provide a rationale here for why such voting rules were optimal in these countries as corporations first started to emerge, and why they ultimately were replaced by one-share, one-vote rules. Our argument hinges on the initial conditions that likely prevailed at the time that the corporations were formed. The typical company at this time first operated a business under a different organizational form – as a partnership, for example – prior to converting to a limited liability corporation. Ownership in these partnerships was concentrated among a group of close-knit founders or family members, who could originally finance their capital needs through private equity contributions and secured bank loans.

But rapid technological developments and inventions occurred during the so-called “second industrial revolution” of the 19th century suddenly placed unprecedented requirements for innovative companies to raise large amounts of new capital.¹⁴ The limited-liability structure and protections inherent in the legal “personhood” of the corporate organizational form were ideal for raising capital from new investors outside of the partnership (Villars-Dahl, 1984; Hansmann and Kraakman, 2000). The popularity of the corporate form exploded.

In a free-contracting environment, with little or no oversight by government regulators, how does a group of founders with substantial investments already in their business raise external capital? One way would be to raise debt. By raising debt – say from a bank – the original partners avoided diluting their position. The bank, as an effective monitor, is willing to the group of partners on the promise that the bank gets the assets in case of default. Another to raise

¹⁴ For histories of the economic development that occurred during this period, see North and Thomas (1973) and Chandler (1977).

financing was through equity. But then with one-share, one-vote rules, unless you can sell enough to give the outside investors a large part of the firm, you have the problem of convincing outside investors to invest since they have little recourse to vote against asset-diversion practices carried about by the founding partners. Fixing voting rights to decline in cash flow rights (i.e., with the marginal addition in control declining in the number of shares held), you overcome this problem because smaller shareholders have marginally higher control rights (on a per-share basis) than large shareholders.

In sum, founders tied their own hands by allocating the voting power to outside shareholders, even though the founders likely held the largest financial stakes in the firms. This enabled founders to raise financing for the capital-intensive transitions that were occurring in the latter half of the 19th century.

In the cross-section of our sample, firms should be more likely to place such strong commitments into their charter contracts when the benefits of raising outside equity capital are large relative to the costs of foregoing the diversion of profits. Based on this intuition, we make the following cross-sectional predictions: Substantial shareholder and declining marginal vote provisions are more likely to be observed in the contracts of firms that (1) have relied heavily on equity financing to raise capital (i.e., firms that do not have a lot of debt), (2) have fewer shares outstanding (as a measure of insider ownership concentration), and (3) are more profitable and have larger growth opportunities.

To examine these predictions, we define a minority-favored voting index that takes on the value of 0 if the contract allows for one-share, one-vote with no maximum, a value of 1 if the contract contains either a substantial shareholder provision or a declining vote-per-share rule, and a value of 2 if the contract contains both minority-favored provisions. By constructing the index in this manner, we assume the contract tilts more to providing more voting power to minority shareholders when both provisions are in place.

Panel D of Table 5 contains the results from preliminary correlations between the minority-favored index and firm characteristics. As in the previous table, all results reported here should be weighed against the fact that they are very preliminary, are univariate, and our based on a small sample. Consistent with our predictions, firms are more likely to use the minority-favored provisions when they are more reliant on equity, when they have fewer shares outstanding, and when the firm is profitable.

Panel D of Table 5 also provides initial evidence that minority-favored voting provisions are positively correlated with other contractual features that protect minority shareholders, including the right to call a special shareholder meeting, the right to bring up extraordinary items in annual shareholder meetings, and our index of shareholder protections. Thus, contracts that provided more marginal voting power to minority shareholders also contained other protections for minority shareholders.

[TO BE COMPLETED:

- Explanation of why these voting rules are not common today. Basic intuition: Minority-favored voting rules, like other voting rules that do not assign one vote to each share (dual class shares) and supermajority provisions, makes it very hard to acquire control of the company. Competitive forces, for instance beginning in the late 19th century in America, worked to push companies to consolidate and be acquired. But control-oriented acquisitions are very difficult to achieve because the minority-favored rules would require buying very large blocks of the company to gain control. Meanwhile, companies became more dispersely held (could be endogenous), making it more difficult for any one large founder/insider to divert assets. Thus, companies wanting to be acquired changed their voting rules. The net result? More dispersely held companies and new agency problems: Separation of ownership and control?
- Do we still see voting rules like this today? Yes! In instances where (a) companies need to raise cash, (b) high leverage is not an option, and (c) cash can be easily diverted you

can still see these sorts of rules. Example: So-called “blank check” (or special purpose acquisition company – SPAC) IPOs, which recently have represented about ¼ of U.S. IPO volume and have increased in popularity since the slowdown in debt markets, raise cash through equity issuances to pursue acquisition programs. At the time of the IPO, the SPAC does not reveal (or does not know) what acquisitions it will pursue, but raises the money in advance (hence the “blank check”). Investors are willing to provide money to the fund partly because they get to vote whether to accept or reject the acquisition. Shareholders amounting to 20%, 30%, or 40% of the deal (depending on the contract) are all that is need to reject the deal. Moreover, any one shareholder can receive back his pro-rate amount invested if he elects not to participate in the deal, but the deal is approved.]

VI. Conclusion – Where the project goes from here.

Major short term goals:

1. Enlarge our sample: By buying a larger set of turn-of-the-century charters from Brønnøysundregistrene (possible now the funding we anticipate), we hope to at least double the size of our sample contracts.
2. Enter large time series of financial information. This we accomplish using the existing Kierulfs, which contain financial information on many more companies beginning in Volume 2 (from 1902), but no charters. Our hope is to collect a panel of financial information that extends through at least 1915.
3. Add the exogenous shock element to our paper by comparing performance of firms before and after the introduction of the 1910 *Aksjeloven*.
4. Nail the theory and enrich the economic modeling. We feel that we have a nice framework through which to think about equilibrium modeling. However, we need to put

more meat on the model with the ultimate goal of making interesting cross-sectional predictions.

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Table 1
Summary Statistics of Sample Firms

Panel A: Distribution of sample firms

Number	76
Industry:	
Forestry and Logging	2
Mining	1
Utilities	1
Manufacturing	41
Wholesale and Retail Services	3
Transportation	14
Publishing	3
Telecommunications	1
Real Estate	6
Entertainment and Food Services	4
Market Value of Equity (Millions of 2006 Norwegian Kroner):	
0-10	10
10-50	36
50-100	10
100-200	6
>200	1
Missing value	13
Age (in years):	
1-5	20
6-10	12
11-20	14
21-40	10
41-60	18
>61	2

Table 1
Summary Statistics of Sample Firms
(continued)

Panel B: Financial Characteristics of sample

	Number of Observations	Mean	Median	Minimum	Maximum
Market Value of Equity (Millions of 2006 Norwegian Kroner)	63	48.31	33.13	4.43	276.97
Market Value of Assets (Millions of 2006 Norwegian Kroner)	37	74.13	56.50	7.10	206.72
Equity Market-to-Book Ratio	59	1.114	0.972	0.116	7.982
Asset Market-to-Book Ratio	37	1.056	0.932	0.509	5.117
Leverage (Debt to Market Value)	37	0.379	0.325	0.050	0.854
Profitability (Return on Assets)	37	0.070	0.061	-0.077	0.362
Annual stock return 1897-1900	156	0.115	0.055	-0.500	2.259

Table 2
Contractual Features Related to Board and CEO Structure

A. Managing Board Structure (excluding CEO)		C. Chief Executive Officer (CEO)	
Proportion of contracts that require appointment of a managing board	1.00	Proportion of contracts that specify the hiring of CEO	0.88
Median number of directors	3	Among contracts mentioning CEO:	
Median term of directors (years)	3	CEO must be shareholder	0.06
Directors elected by shareholders	0.68	CEO on managing board	0.37
Directors must to be shareholders	0.85	When CEO on managing board, he is chairman	0.22
Directors must be local resident	0.20	Daily decisionmaking delegated to CEO	0.77
Directors takes part in daily management	0.88	CEO takes instructions from managing board	0.68
Directors represent firm in 3rd party contracts	0.57	CEO represents firm in 3rd-party contracts	0.28
Directors receive extra pay for performance	0.37		
B. Supervisory Board Structure		D. Insiders by Contract	
Proportion of contracts that require appointment of a supervisory board	0.34	Proportion of contract that require that a specific named individual serve:	
Median number of supervisory members	12	As a director on managing board	0.05
Median term of supervisory members (years)	2	As a member of supervisory board	0.04
Among contracts requiring supervisory board:		As CEO	0.02
Members elected by shareholders	1.00	Total Insiders by Contract	0.11
Members must to be a shareholder	0.89		
Members must be local resident	0.19		
Members elect directors of managing board	0.27		
Members receive extra pay-for-performance	0.00		

Table 3
Contractual Features Related to Transferability of Shares, New Share Issuances, and Disclosure Policies

Panel A: Transferability of Shares and Share Issuances

Proportion of contracts requiring shares be registered in name of the owner.	0.98
Proportion of contracts requiring director approval before shares can be transferred to new owner	0.31
Proportion of contracts specifying procedure for new share issuances	0.49
Proportion of contracts requiring a rights offering prior to issuance	0.19

Panel B: Disclosure Policies

Proportion of contracts requiring financial statements be disclosed to shareholders prior to annual meeting	0.66
Median time ahead of annual meeting that financials are disclosed to shareholders (in days)	14.00
Minimum time	8.00
Maximum time	60.00
Mechanism for disclosing financial statements	
Sent to shareholders through mail	0.02
Made available at company office	0.46
Published in newspaper	0.02
Not specified	0.50
Proportion of contracts stating that annual meeting will be publicly announced in newspapers ahead of annual meeting	0.74
Median number of newspapers in which annual meeting is announced.	2.00

Table 4
Contractual Allocation of Decision Rights and Shareholder Voting Rules

Panel A: Allocation of Decision Rights

Allocated to:	Decision right								
	Director salary	Hiring of CEO	CEO Salary	Appointment of auditor	Approval of acquisitions and sales of fixed assets	Approval of liquidation	Approval of borrowing against fixed assets	Payment of dividends	
Managing board	0.03	0.60	0.51	0.09	0.11	0.00	0.12	0.08	
Supervisory board	0.28	0.11	0.22	0.29	0.10	0.00	0.12	0.17	
Combination managing and supervisory boards	0.00	0.19	0.15	0.01	0.11	0.04	0.12	0.10	
Vote by Shareholders	0.34	0.08	0.11	0.60	0.66	0.94	0.65	0.35	
Fixed in contract	0.35	0.02	0.02	0.00	0.02	0.01	0.00	0.31	

Panel B: Shareholder Voting Majorities Required for Certain Decisions

	Approve acquisitions and sales of fixed assets	Approve of new equity issuance	Decide to liquidate	Change charter laws
Proportion of votes at meeting:				
Mean	0.53	0.58	0.65	0.64
Median	0.51	0.51	0.67	0.67
Min	0.51	0.51	0.51	0.51
Max	0.67	0.75	0.75	0.75
Number of contracts reporting	42	43	71	73
Required meeting quorum:				
Mean	0.47	0.54	0.57	0.75
Median	0.50	0.67	0.50	0.50
Min	0.25	0.05	0.05	0.05
Max	0.67	0.67	0.88	0.75
Number of contracts reporting	6	13	63	50

Table 4
Contractual Allocation of Decision Rights and Shareholder Voting Rules
(Continued)

Panel C: Shareholder Ability to Put Up Special Proposals and Call Extraordinary Meetings

Number of shareholders required to put special issue on meeting agenda	Put up special proposals at annual meeting, number of shareholders	Call extraordinary shareholder meeting, proportion of votes
Mean	2.85	0.23
Median	1.00	0.25
Min	1.00	0.04
Max	24.00	0.52
Number of contracts reporting	33.00	48

Panel D: Shareholder protection index

Mean	5.07
Median	5.00
Min	1.00
Max	8.00
Correlations with firm characteristics	
Ln(Market Value of Equity)	-0.08
Ln(Shares Outstanding)	-0.25
Leverage (Debt to Market Value)	0.17
Supervisory Board	0.01
Contracted insider	0.08
Correlations with firm performance	
Annual stock return 1897-1899	-0.17
Annual stock return 1899	-0.02
Asset Market-to-Book Ratio	-0.20
Equity Market-to-Book Ratio	-0.08
Profitability (Earnings to Market Value)	0.17

Table 5
Contractual Allocation of Voting Rights Across Shareholders

Panel A: Voting Rules in Shareholder Meetings

Proportion of contracts using:	No maximum on total number of votes per shareholder	Explicit maximum on total number of votes per shareholder	Sum
Marginal voting power constant (one- share, one-vote)	0.096	0.205	0.301
Marginal voting power declines in number of shares held	0.041	0.658	0.699
Sum	0.137	0.863	1.000

Panel B: Minority-favored Voting Index

Correlations with firm and contract characteristics	
Ln(Market Value of Equity)	-0.05
Ln(Shares Outstanding)	-0.11
Leverage (Debt to Market Value)	-0.23
Profitability (Return on Assets)	0.16
Call an extraordinary meeting?	0.13
Include proposals at annual meeting?	0.07
Shareholder protections index	0.12