

LAW ON ENTERPRISE 2020: FUNDAMENTAL CHANGES



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CONTENT

- I. Business Registration
- II. Corporate Governance
- III. Dissolution
- IV. Enterprise re-organization

I. BUSINESS REGISTRATION

1. CORPORATE SEAL – LAW ON ENTERPRISE 2014



1. CORPORATE SEAL – LAW ON ENTERPRISE 2014



Nguồn: hình ảnh chỉ sử dụng cho mục đích minh họa

- Eabolishing notification of seal sample

Coporate seal may be made in form of electronic signature

2. BUSINESS REGISTRATION



Online business registration

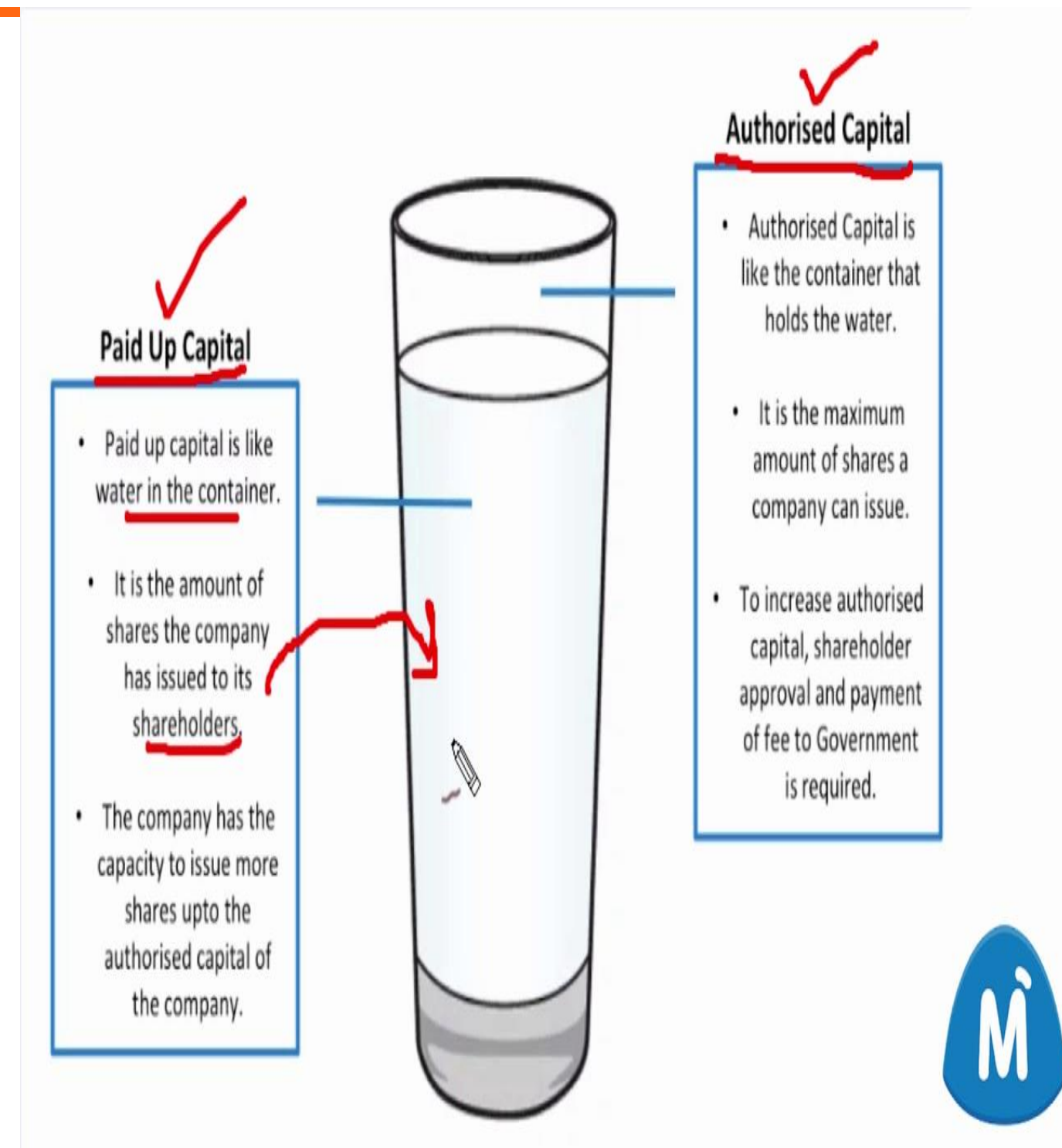
Business registration by post service

Business registration in person

3. CAPITAL PAYMENT

Must be made within 90 days... except for:

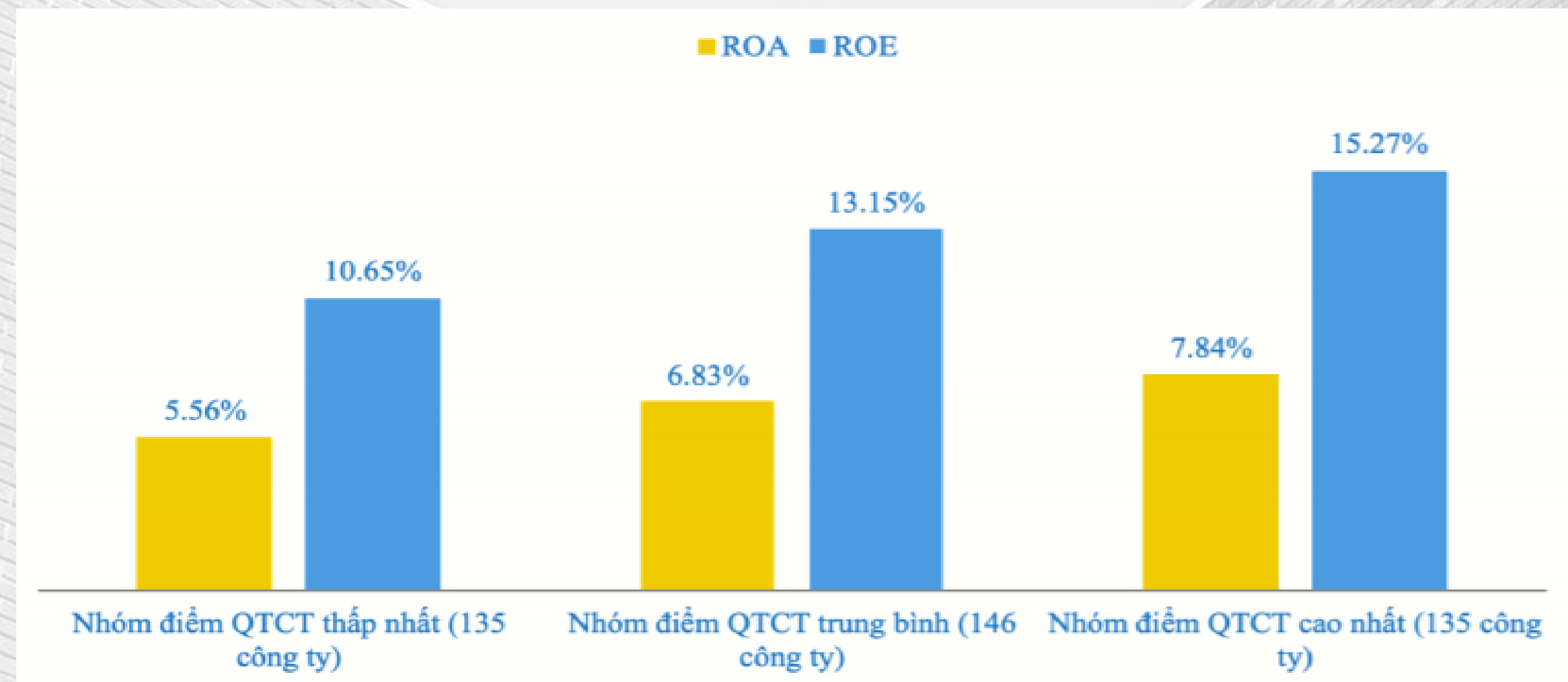
Time for importation, transportation and administrative procedure



II. --- CORPORATE GOVERNANCE

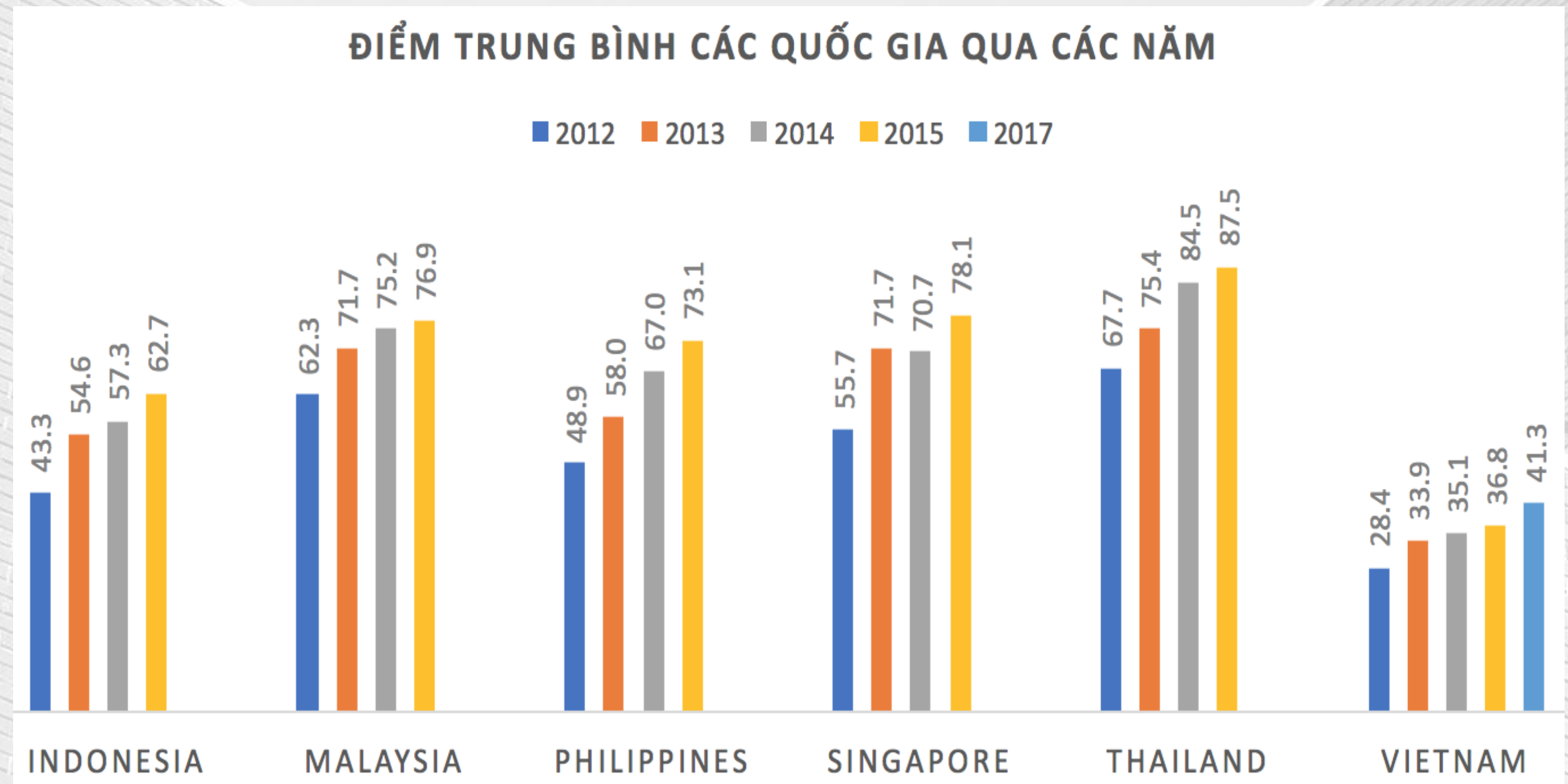
CORPORATE GOVERNANCE – BENEFITS

Quản trị công ty tốt và hiệu quả hoạt động kinh doanh



Nguồn: Báo cáo đánh giá quản trị công ty các công ty niêm yết năm 2019

CORPORATE GOVERNANCE IN VIETNAM?



Nguồn- “Thẻ điểm Quản trị Công ty ASEAN , Báo cáo và Đánh giá Quốc gia 2012 - 2017”

REGULATORY FRAMEWORK?



Specific laws,..

Law on Security
Decree 71

LOE

Joint-stock
company

Public
company

Listed
company

Sector-specific
company

MAJOR CHANGES

Protecting Minority Investors - Vietnam

Indicator	Vietnam	East Asia & Pacific	OECD high income	Best Regulatory Performance
Công khai hóa giao dịch có liên quan	7.0	5.6	6.5	10 (13 Economies)
Trách nhiệm người quản lý	4.0	4.9	5.3	10 (Cambodia)
Cổ đông kiện người quản lý	2.0	6.7	7.3	10 (Djibouti)
Quyền của cổ đông	7.0	5.6	6.4	10 (Kazakhstan)
Tỷ lệ sở hữu và kiểm soát công ty	6.0	4.0	5.4	None in 2017/18
Minh bạch hóa thông tin	7.0	5.3	7.6	10 (6 Economies)

Source: World Bank: Doing business Report 2019

LEGAL REPRESENTATIVE

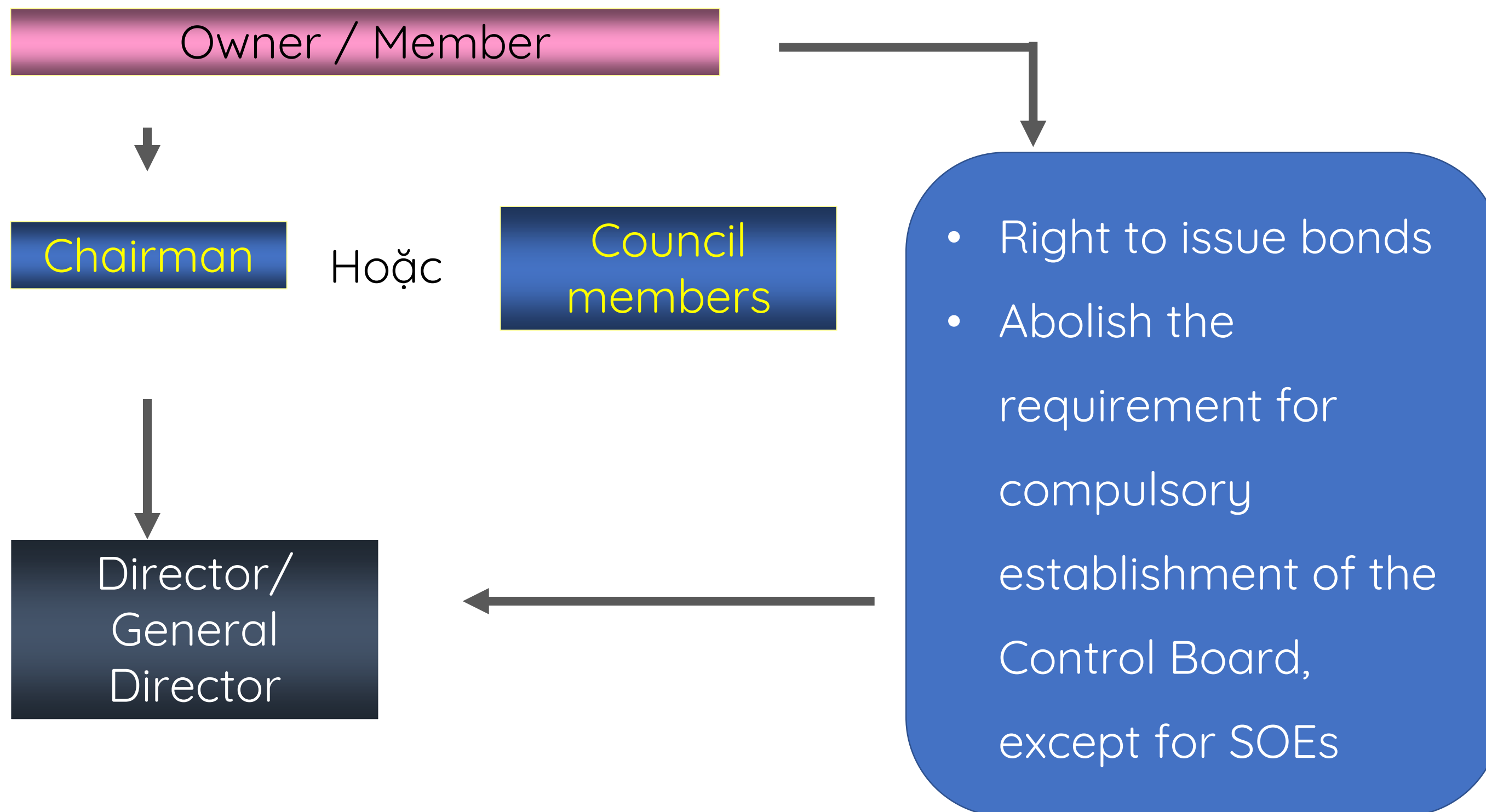
In case the company has 2 legal representatives and the Charter does not clearly assign and the rights and obligations of each person:

- Each person is authorized representative before a 3rd party
- All are jointly responsible to the business

At least one legal representative who holds one of the positions is:

- Company Limited: Chairman of the Members' Council, Company President or Director or General Director.
- Joint stock company: Chairman of the Board of Directors or Director / General Director is the representative under law

LIMITED COMPANY



JOINT-STOCK COMPANY

This is the
organizational structure
of governance
according to
international common
practice



*Role and organizational structure:

- The specialized agency of the Board of Directors
- There are at least 2 members
- The Chairman must be an Independent Member; Another member is non-executive

* Operation Rules:

- Decision may be made by calling a meeting or written approval
- Majority vote principle: decision made by majority of directors participating at the meeting; if 50-50, decided by the chair



ADDITIONAL
PROVISIONS ON AUDITING
COMMITTEE

Missions:

- Supervise the integrity of corporate financial statements and official disclosures related to the company's financial results;
- Review the internal control and risk management system;
- Review transactions with affiliated persons and make recommendations on transactions that require approval;
- Supervise the company's internal audit department;
- To propose to the independent audit company, remuneration and related terms in the contract with the audit company for approval by the Board of Directors before submitting to the Annual General Meeting for approval;
- Monitor and evaluate the independence and objectivity of the auditing company and the effectiveness of the audit process, especially in the case of the company using the auditing party's non-audit services;
- Monitor to ensure the company complies with the law, regulatory requirements and other internal regulations of the company.

ADDITIONAL PROVISIONS ON AUDITING COMMITTEE

SUPERVISE - REVIEW - REQUEST

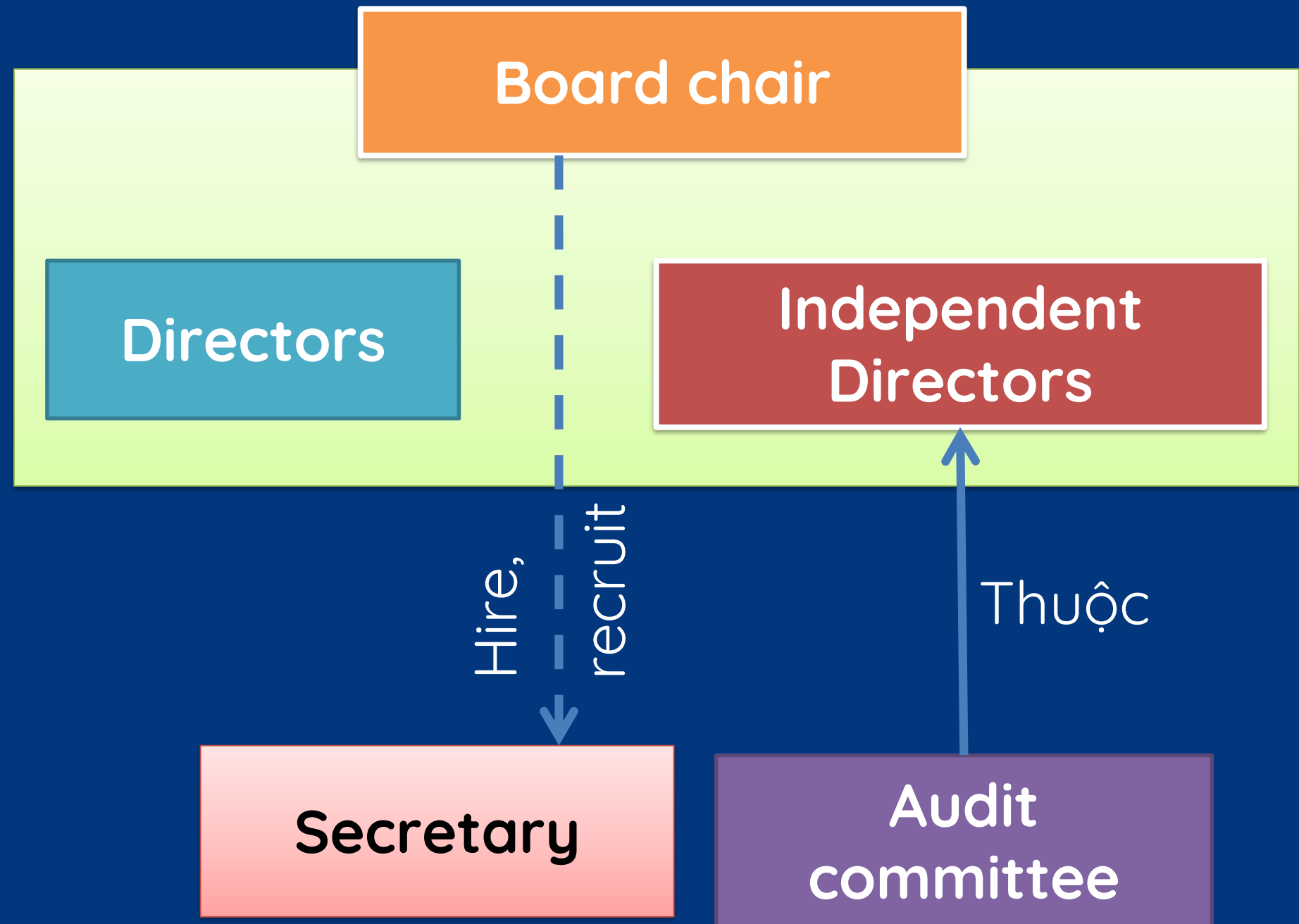
Nowaday, the role of the Company Secretary is not one but includes many duties and responsibilities. This means that their role is the heart of the corporate governance systems in companies and is receiving more and more attention.

David Jackson, Corporate Secretary of BP plc (2008)

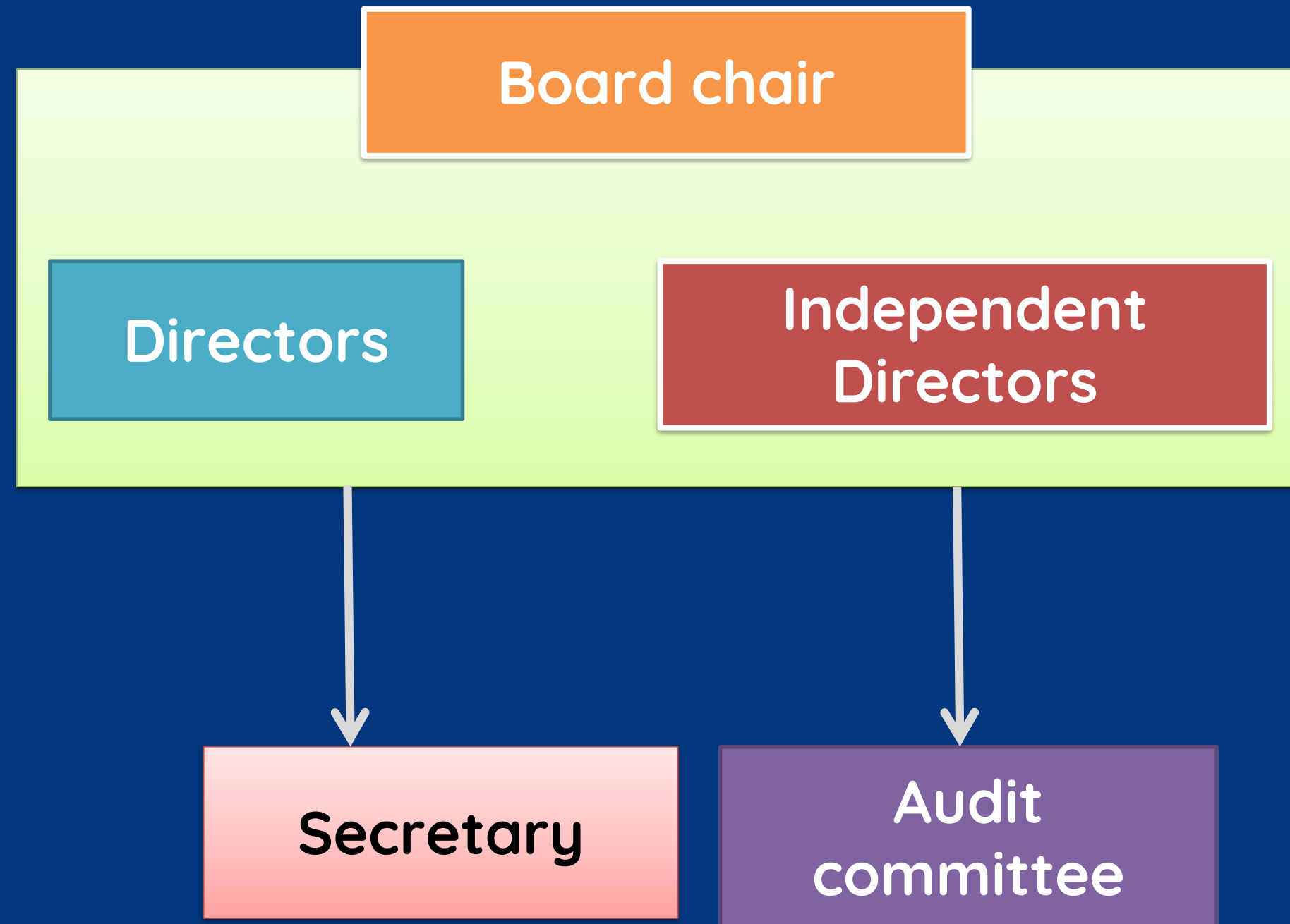
AMENDMENT OF THE COMPANY SECRETARY REGULATIONS

The company secretary has a senior position in the company, is not an ordinary secretary, and has responsibilities in the following four main areas: Administration, Advisory, Media, Compliance

BOARD MODEL UNDER LOE 2014



BOARD MODEL UNDER LOE 2014



SECRETARY

SUPPORT TO

Convene meetings, record minutes

Implement rights and obligations of chairman

Apply and implement CG principles

Building the AGM

Compliance: publicity, administrative formalities

Others

SHAREHOLDERS PROTECTION

- * **Expanding the rights and scope of shareholders, a group of "large" shareholders::**
 - Reduce the requirements and conditions for shareholders to exercise important rights: nominate, convene a meeting of the General Meeting of Shareholders, ...: reduce the requirement for share ownership ratio: from 10% -> 5%; Eliminate requirement: have to own shares continuously for more than 6 months.
- * **Additional rights to the General Meeting of Shareholders:**
 - Decide the remuneration and operating expenses of the Board of Directors, members of the Board of Directors
 - Decide the list of external independent audit companies, dismissing the external audit.

SHAREHOLDERS PROTECTION (Cont)

- * Shareholders have the right to have more access to information about the company's operations, including transactions under the authority of the Board of Directors, transactions with related parties, (basic except information of business confidentals);
- * Priority to buy shares;
- * The right to decide on issues adversely affecting the rights and obligations of shareholders.

PRIORITY SHARE PURCHASE

3 CAPITAL INCREASING METHODS

Offer to sell shares to existing shareholders

Decided by the General Meeting of Shareholders

Shareholders buy shares according to their existing ownership ratio

Private offering (not a public joint stock company)

Decided by the General Meeting of Shareholders

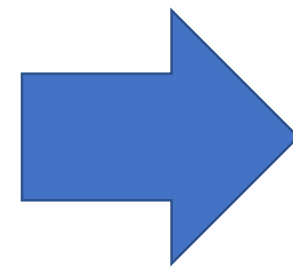
Shareholders buy shares according to their existing ownership ratio

Public offering of shares

Shares are NOT BUYING OUT to sell to good people

DECISION IN MEETING OF SHAREHOLDERS

Adverse change to the
rights and obligations of
the shareholders
concerned



- Get opinions in writing: > 50% of the total number of votes of all shareholders
- > = 75% of the votes of a preferred shareholder of the same type attending the meeting (convening the meeting) or the total number of preferred shareholders of the same type (collecting opinions)

GENERAL MEETING OF SHAREHOLDERS

- The deadline for the Annual General Meeting of Shareholders: The Board of Directors decides, but not later than 06 months from the end of the fiscal year.
- Deadline for sending meeting invitations: At least 21 days before the opening date
- Sign the meeting minutes of the General Meeting of Shareholders: Chairperson, secretary declining the term => other members of the Board of Directors attending the meeting sign and specify who refuses to sign.
- Independent members of the Board of Directors: No more than 2 consecutive terms in a company

MANAGER/ GENERAL MANAGER

- The director or general director runs the company's day-to-day business; subject to the supervision of the Board of Directors; take responsibility before the Board of Directors and law for the performance of assigned rights and obligations.
- The chairman of the Board of Directors of a public company and a joint-stock company specified at Point b, Clause 1, Article 88 of this Law may not concurrently act as the director or general director.

SHAREHOLDERS SUE MANAGER

Distinguish: "Responsibility - Fiduciary Duty"
With "rights" and "obligation"



Shareholders (claimants) have the right to request the Court to request the manager (the defendant) to provide necessary information in the proceedings.

IV.

REORGANIZATION

RE- ORGANIZATION



LIMITED



PRIVATE
ENTERPRISE



JOINT STOCK

Converting Private
Enterprise to Joint
Stock Company

STATE-OWNED ENTERPRISES

Amendment principle:

- SOEs are classified into two categories: 100% and dominant
- For each type of SOE, there will be a need for appropriate management, management and monitoring in order to aim at the goals of the central government on SOE reform; It's not just about fixing the concept of SOEs:

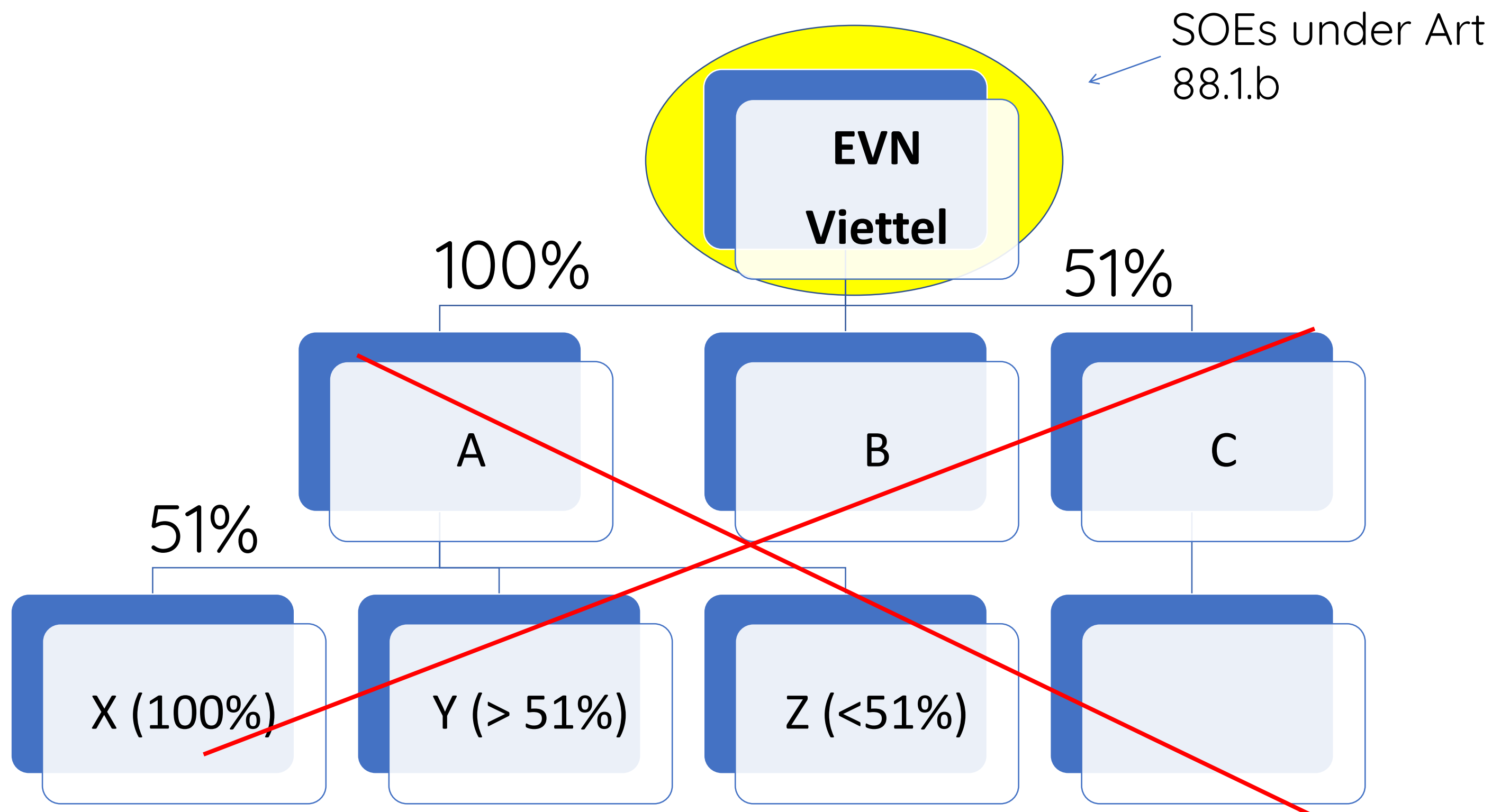
Specific modified content:

Definition of SOEs:

- Company Limited 100%: parent company, independent company (F1)
- Company limited, joint stock company has > 50%: parent company, independent company (F1)

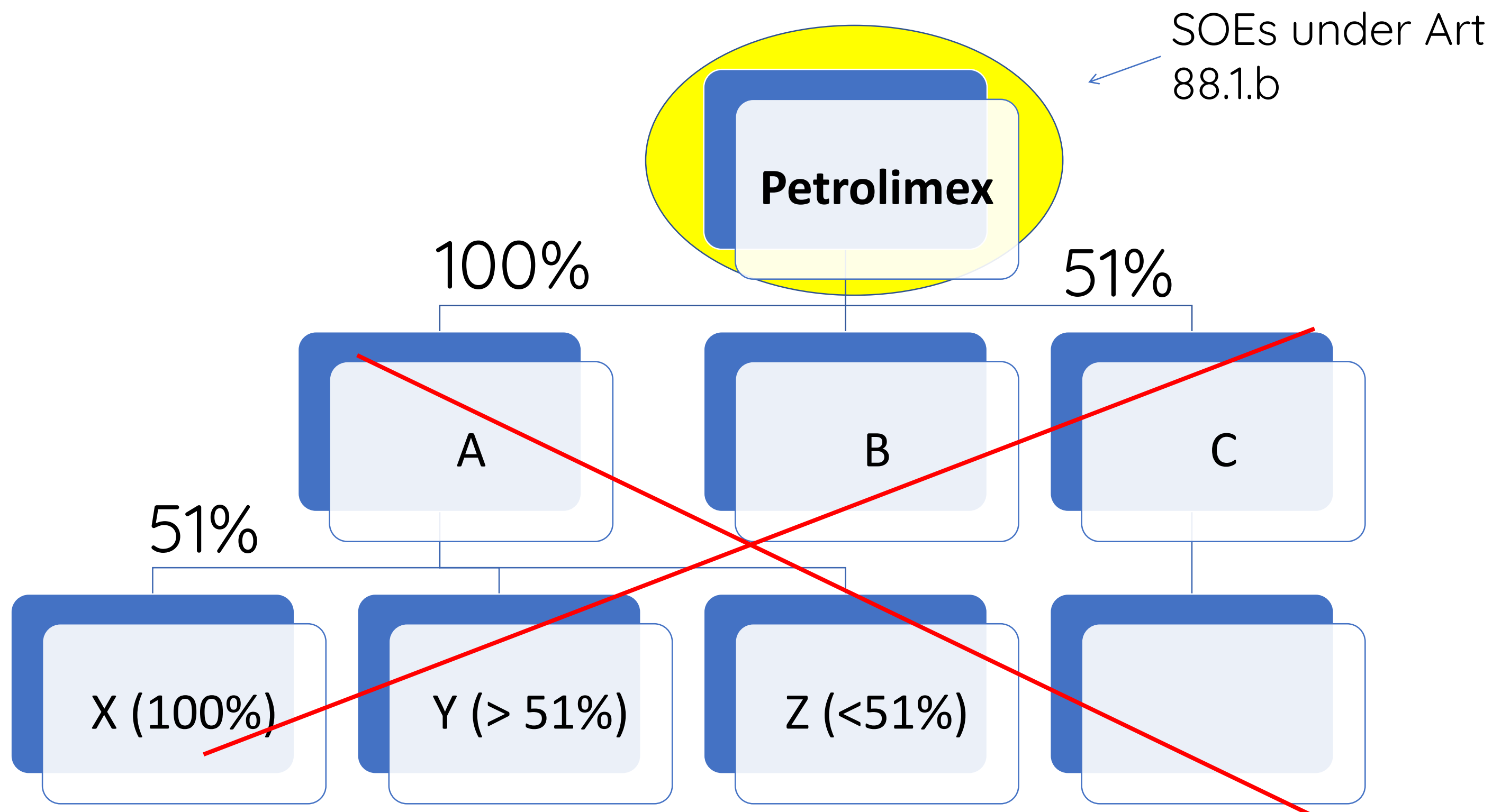
STATE-OWNED ENTERPRISES

Specific amended contents



STATE-OWNED ENTERPRISES

Specific amended contents



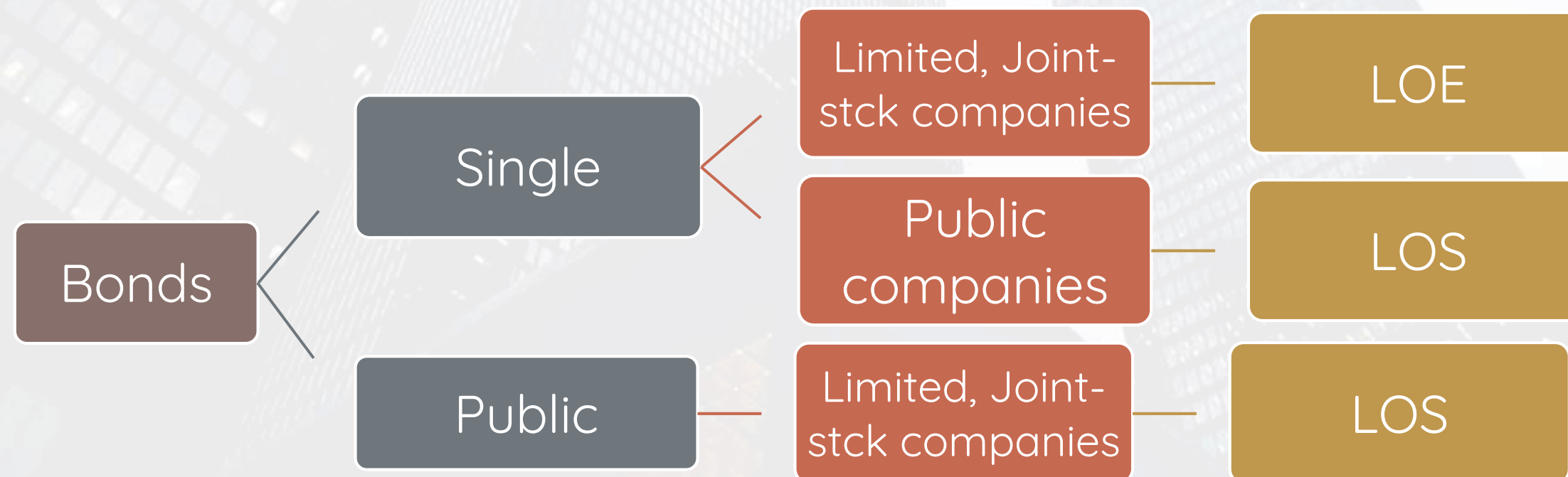
SEPARATE BOND

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MANAGER/ GENERAL MANAGER

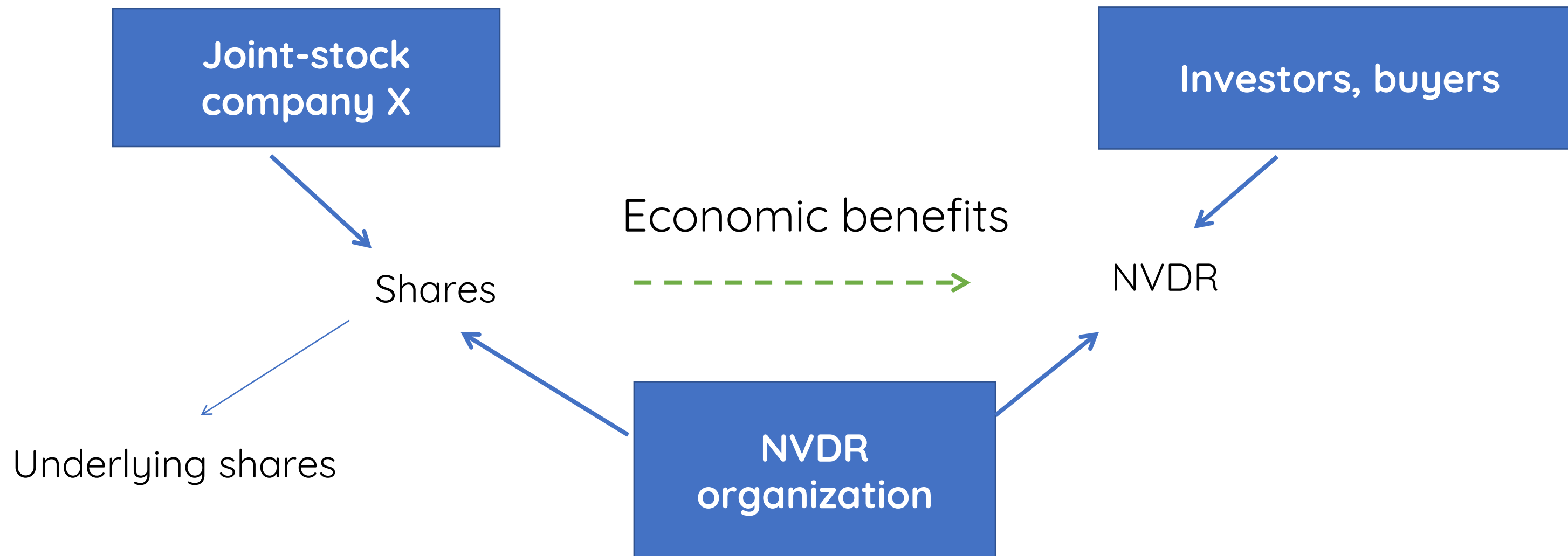
New points:

- Clearly stipulating the right to issue bonds of the limited company
- Buyers of bonds: Strategic investors and Professional securities investors (formerly: <100 any investors)
- Transfer of bonds: strategic and professional investor
- economic benefits



NVDR – NON VOTING DEPOSITORY RECEIPTS

- People who buy NVDR, have no voting rights
- Make voting rights of underlying shares =?



THANK YOU

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