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**RISK'S DISSOCIATION FROM VOTING IN THE  
SOLICITATION OF PROXIES AND EFFICIENCY IN THE  
ALLOCATION OF EXPENSES**

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**THE FOCUS IS ON THE DEEPENING OF TWO DIFFERENT ISSUES BORN  
FROM THE DECLINATION OF THE DICHOTOMY RISK / VOTE IN THE  
CONTEXT OF *PROXY FIGHTS*.**

**ABSTRACT**

The work addresses the issue of cleavage in the economic risk, from the exercise of voting rights, mainly in the solicitation of proxies, primarily by analyzing the historical evolution of the legal framework, and the shareholders' representation with a particular attention to the solicitation of proxies.

After a general introduction to frame the institution in the broader contest of European and U.S. legislative environment, the attention needs to be focused to the close examination of the result of two different issues raising by the declination of the risk-vote's dichotomy in the context of *proxy contests*.

On one side, it embarks the attempt, which apparently has not been addressed in an organic mode yet, at least in Italy, to systematize different forms of solicitation. Two different categorizations are being proposed: the first one based on who holds the initiative as issuer, shareholders or third parties, that is the first with references to the solicitation's methods through intermediaries, trustees and fiduciary management or regarding *proxy advisors*.

The other is the dogmatic issues related to certain types of solicitation, with specific reference to those for which the issuer is the promoter, as well as the possible solutions through the argument of allocative techniques in chief costs to the issuer, the beneficiary of last instance of every legitimate solicitation.

To better evaluate the stress points where the rift between the economic risk and the voting right inherent to the subjective legal

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positions of individual members becomes pathological, the survey is focused on the possible limits to which administrators should incur about promoting a solicitation through the issuer and, conversely, the margins where it would be plausible to a refund of the costs incurred by a shareholder or by a third party imposed the issuer.

The developed reconstruction of current regulations has shown, enriched by the analysis of the doctrine, as well as certain court judgments, that today's architecture of the assembly system, shaped by providing a pre-meeting reporting mechanism that will encourage participation, it cracks due the distorted use of certain institutions, such as the shareholders' representative which, although perfectly legitimate, can be easily manipulated with also a high risk of subornation of the shareholders.

In conclusion this work try to demonstrate firstly how the guarantee of equal access to corporate funds can contribute to equality of treatment between directors and shareholders, and also equality of treatment between majority shareholders and minority shareholders. And thus it could smooth over the dissociation of economic risk from the exercise of voting rights at least in the context of the proxy solicitation, retracing some proposals for the allocation of costs as part of the intense debate on the subject, mostly in Anglo-Saxon countries.