

THE POTENTIAL IMPACT OF BLOCKCHAINS ON CORPORATE GOVERNANCE:

A SURVEY ON SHAREHOLDERS' RIGHTS IN THE DIGITAL ERA



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Characters of Blockchains

Register

- Open to all users
- Unchanged without consensus procedure
- Data bank ranging from simple to complex

Exchange

- Virtual money and tokens
- *Smart Contracts (if... then...)*
- No intermediaries = no transaction fees
- *Efficient Market (FAMA) = Perfect information and no transaction costs*

Organize

- Automatization
- Ranking of users feasible
- Voting procedure

Permissioned Blockchains and Public Blockchains

Common

Process security

Pseudonymous

Public

Transparency

No Intermediaries

Inertia

Permissioned

Opacity

Presence of an intermediary

Dynamism

Functional identity in Corporate Law

Register

- Information to shareholders
- Financial Information to the public

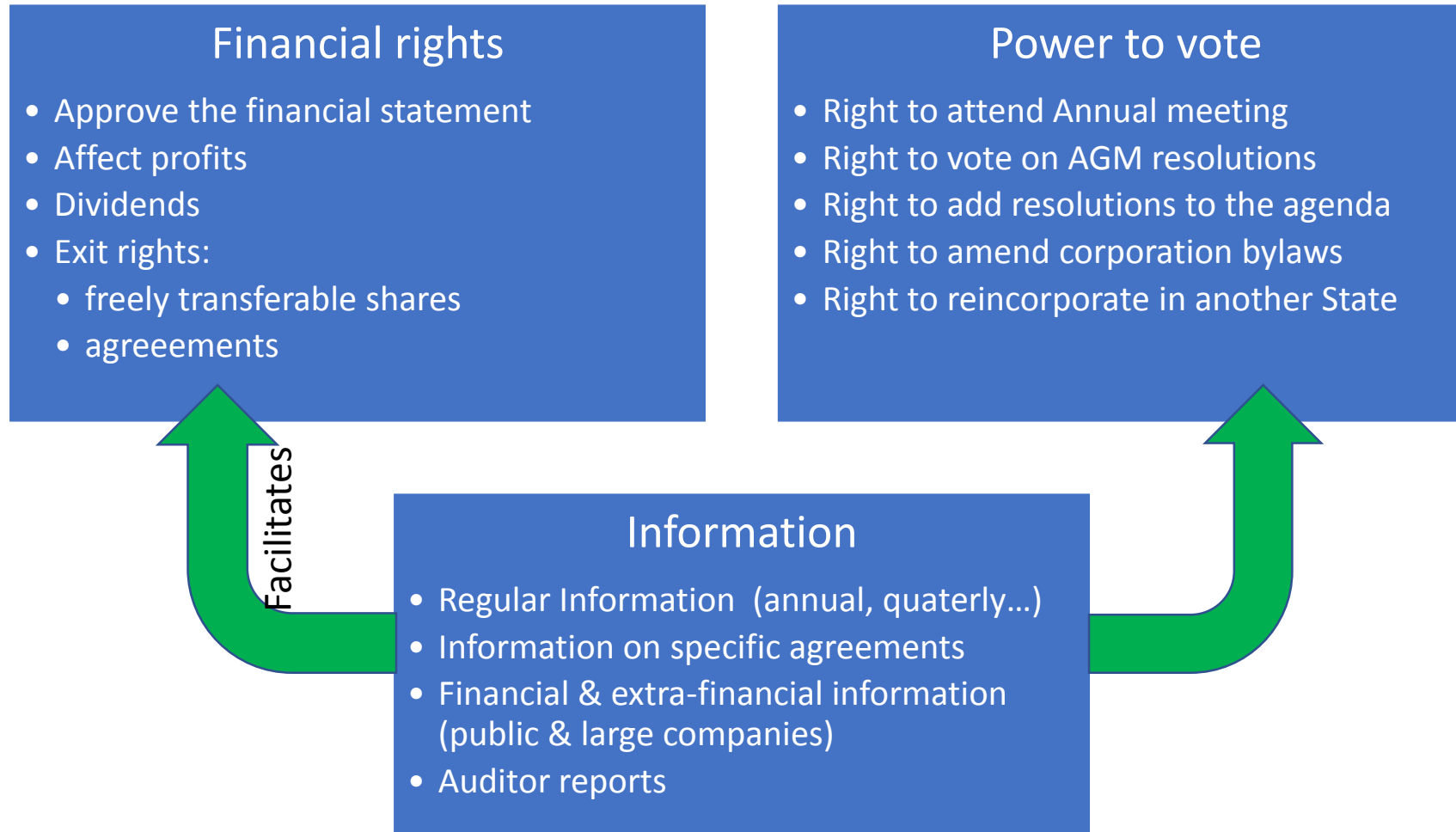
Exchange

- Securities issuance
- Securities selling / buying
- Shareholders' agreement (Financial aspects)

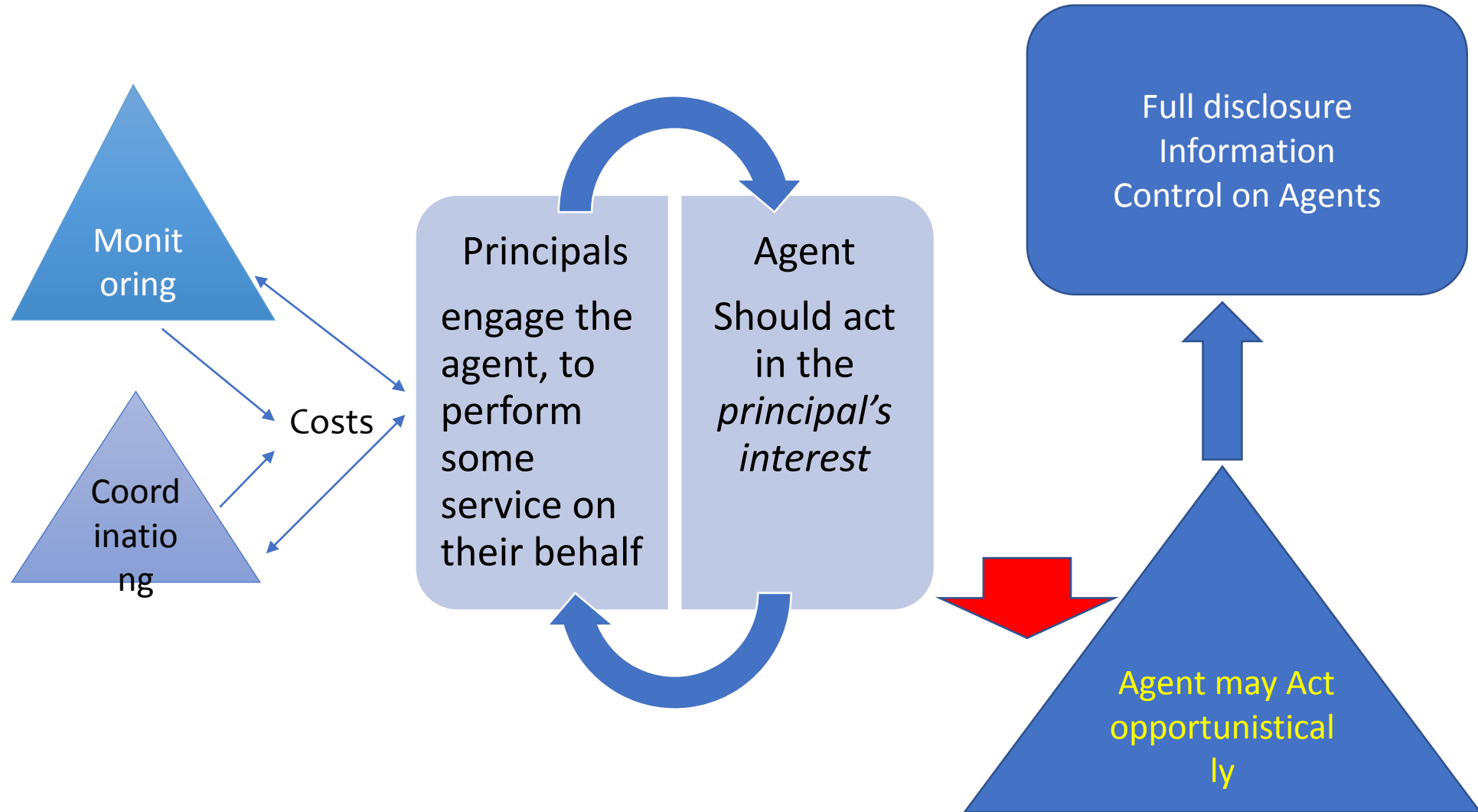
Organize

- General Meeting organization
- Corporate organs power
- Shareholders' agreement (Political aspects)

Shareholders' rights



PRINCIPAL - AGENCY ISSUES



Impact of corporate governance on shareholders' rights

shareholder primacy model

Correct asymmetry of information

- On Executive compensation
- On Conflicts of interests
- More Transparency

Control on Executives

- Incentives: Ex compensation aligned on shareholders' interest (Stock Options)
- 'say on pay'
- Vote on major strategic decisions
- Vote on third party agreements

GOAL

=

Maximisation of shareholder
value

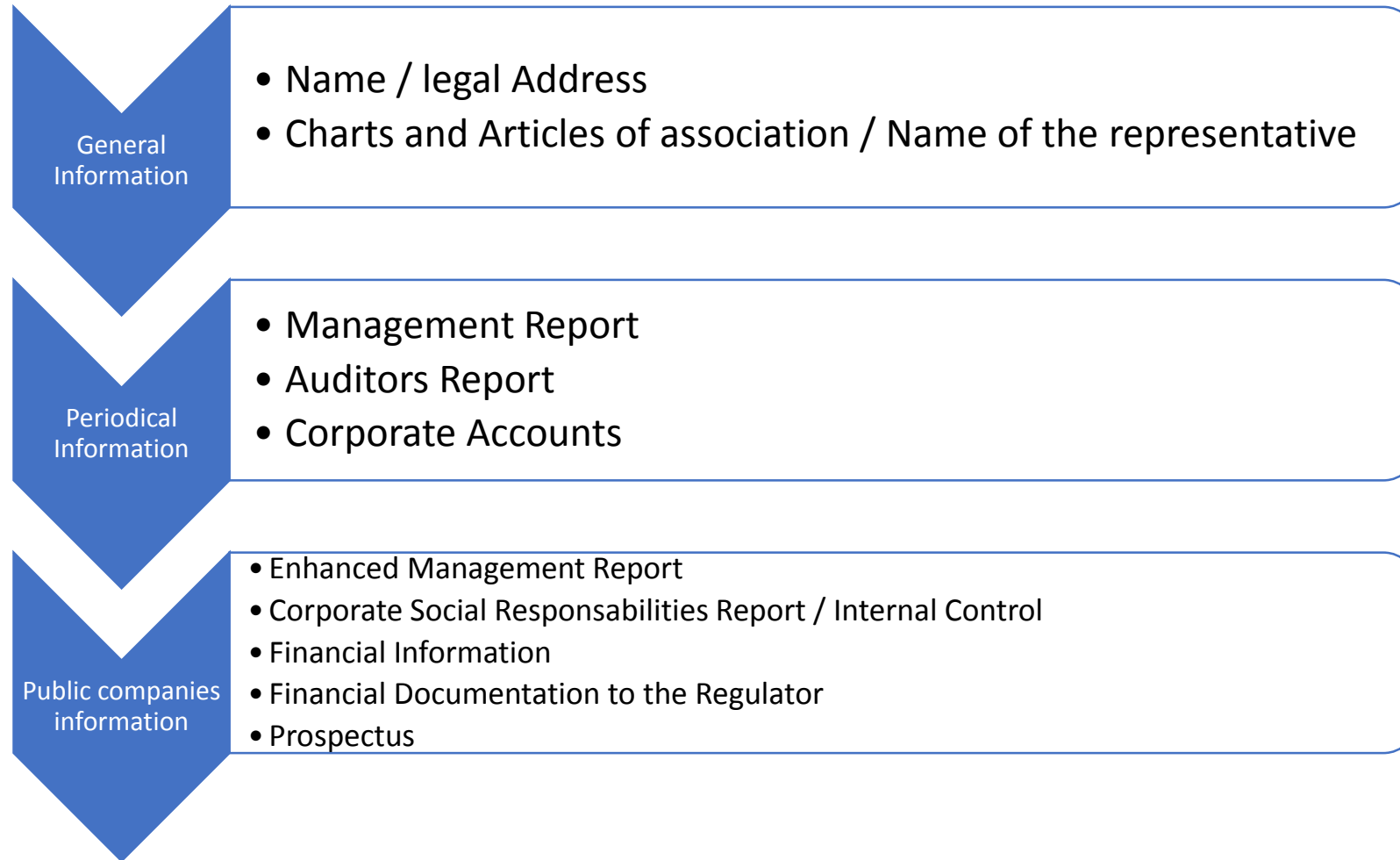
Question 1 :

How BC may improve
'direct democracy'?

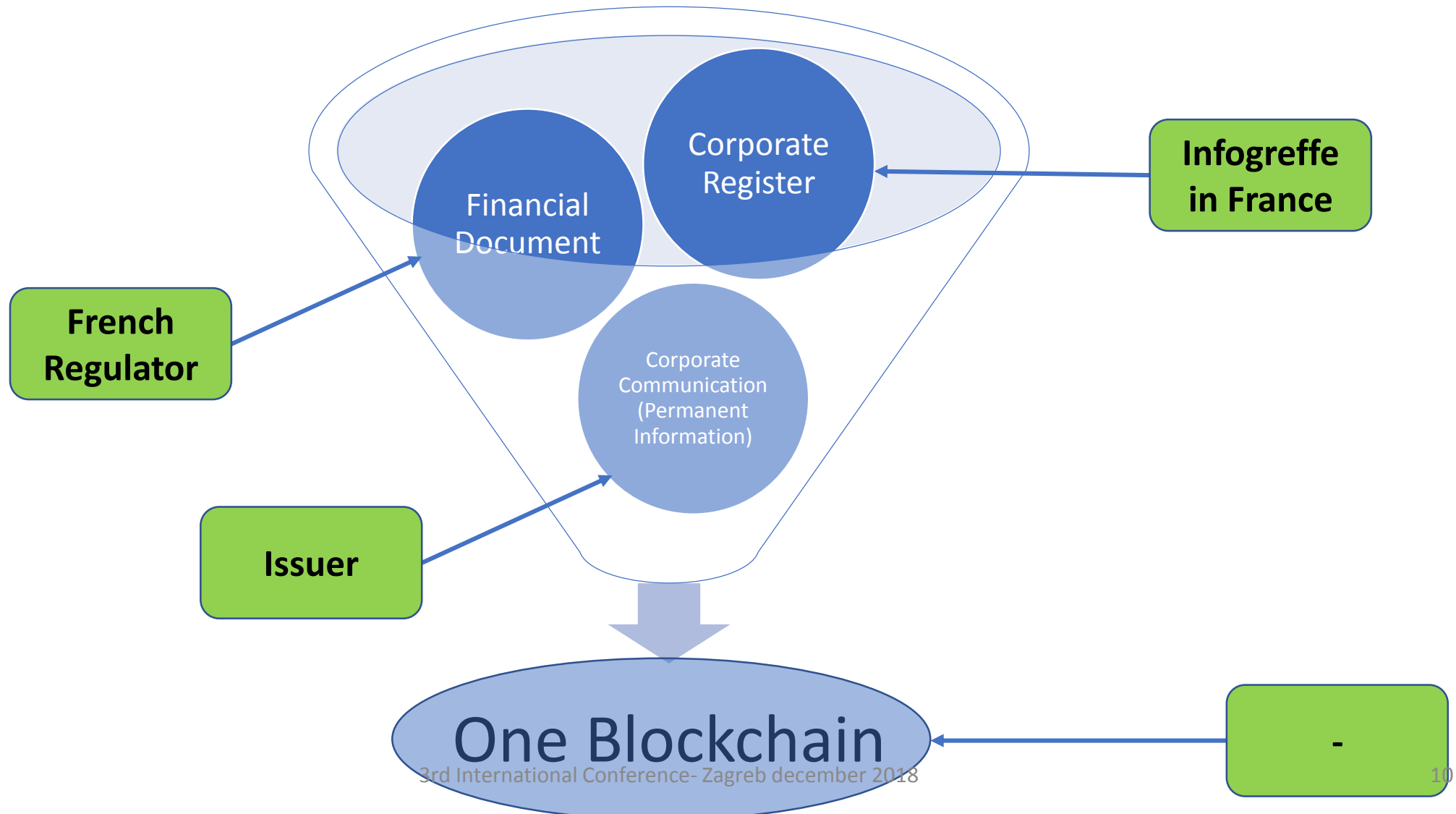
Question 2 :

What are the
potential risks?

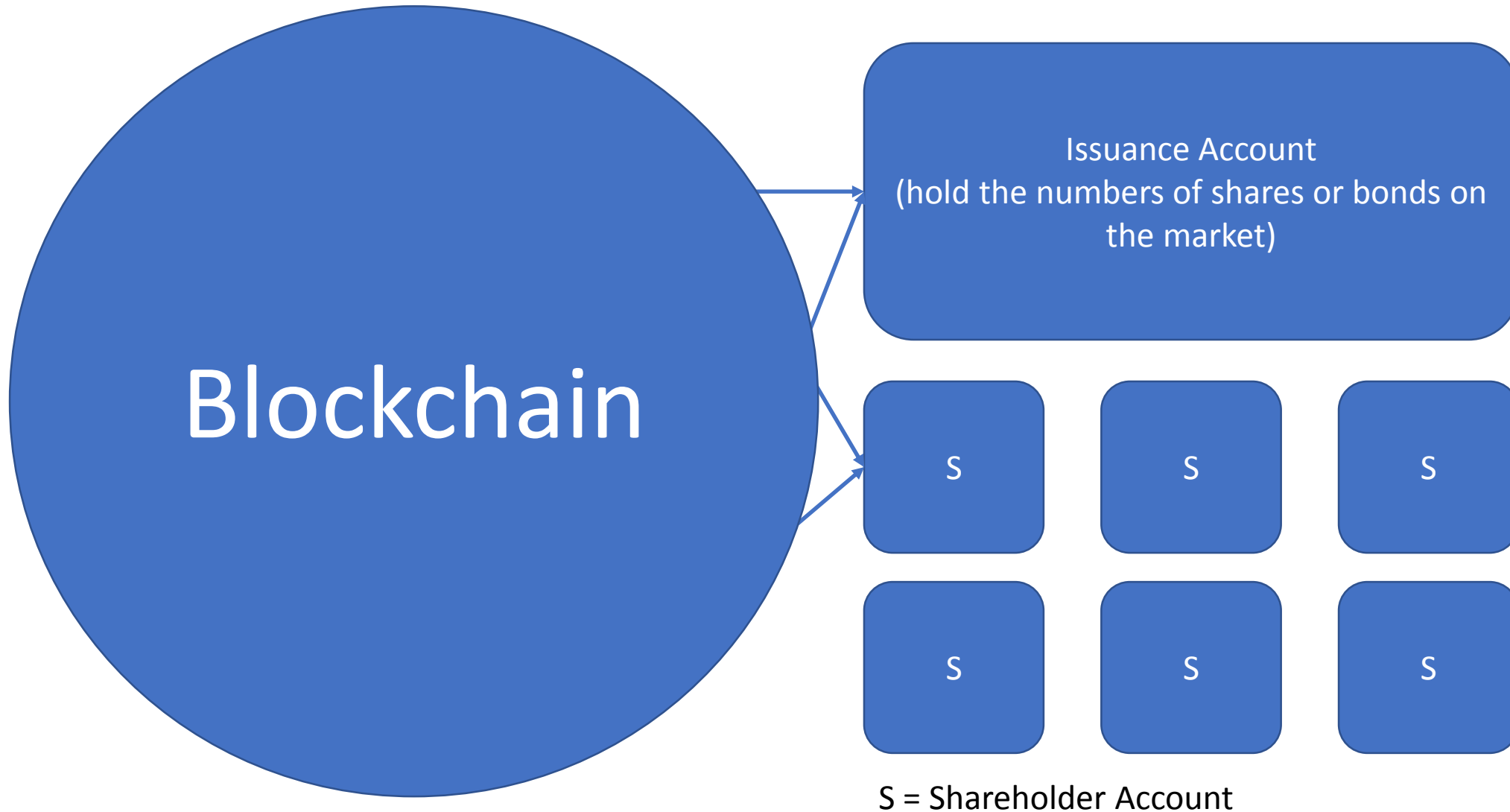
Duty of information



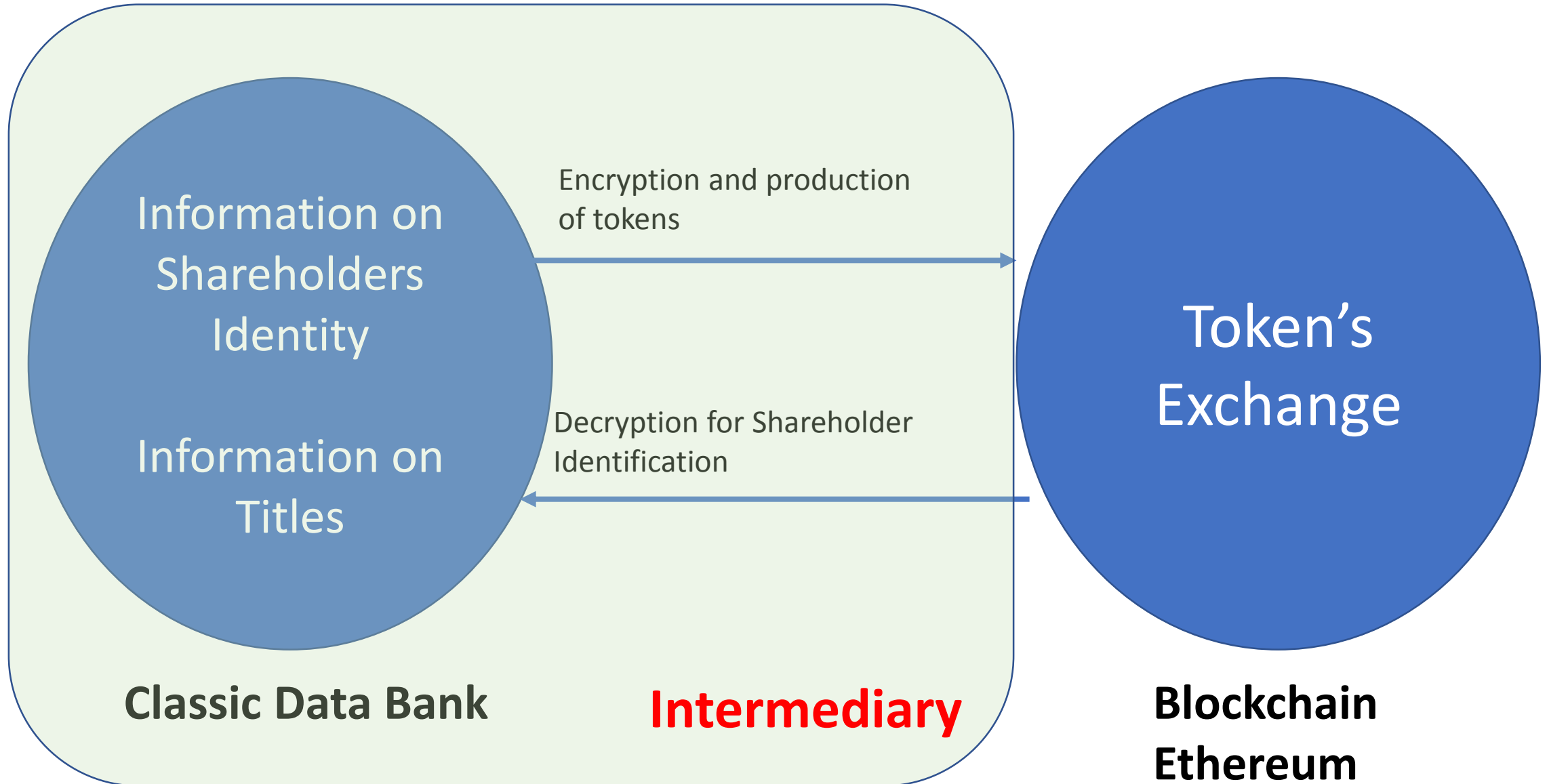
Disintermediation / Dematerialization



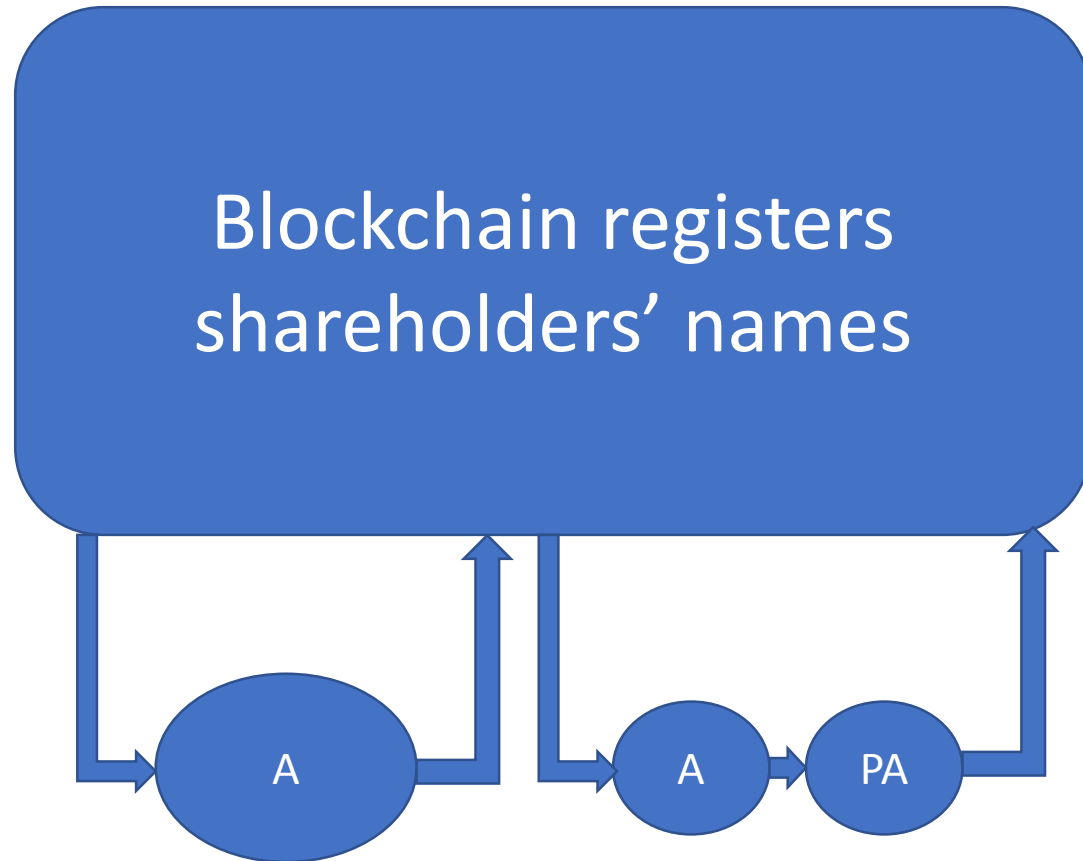
Register of Shareholders



ERC-884 Case



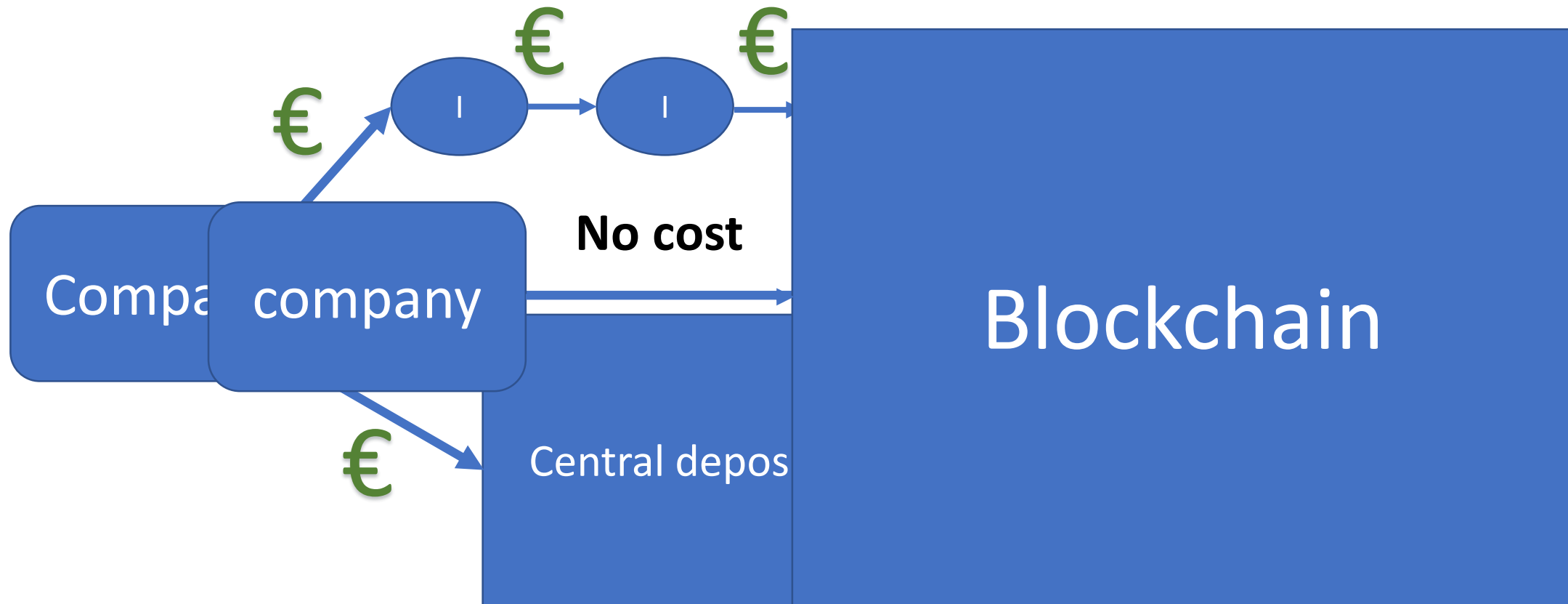
Reinforced voting power on BC



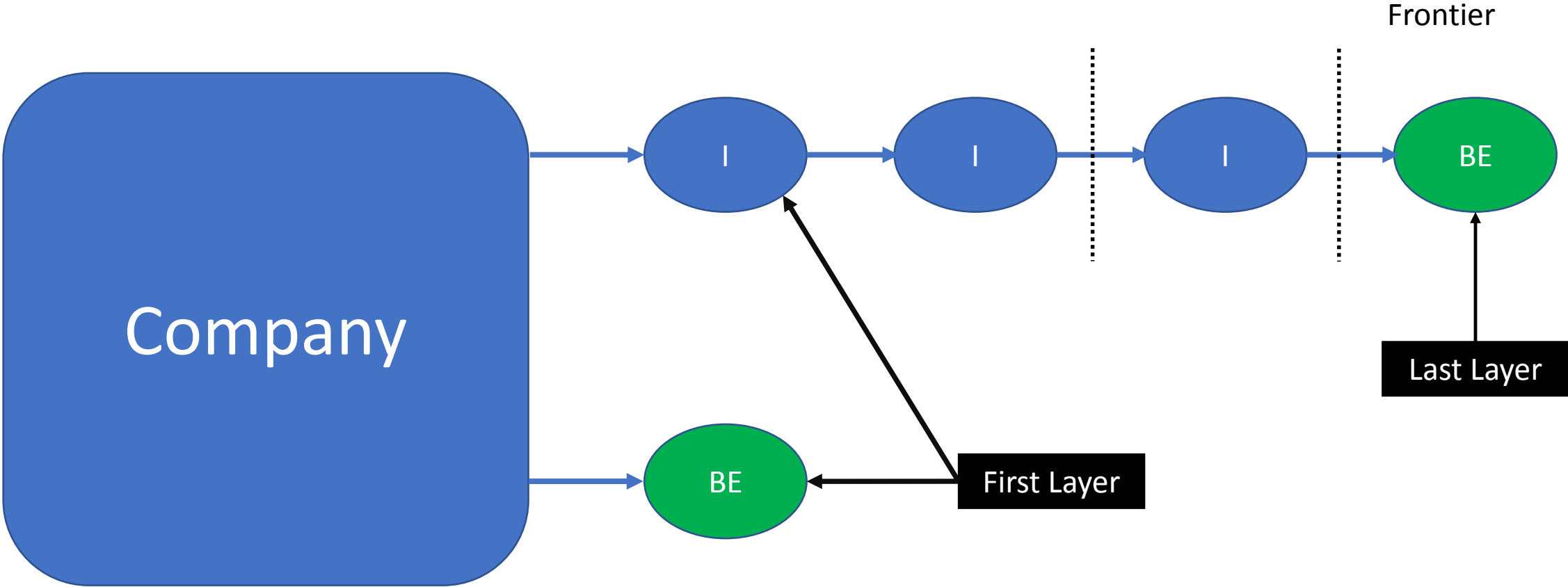
TOKEN

- AGM organized via BC:
 - ➔ More participants
- Voting coins are directly transferred to the shareholder at the AGM
 - ➔ No more *empty voting issues*?
- No need for proxy in listed companies?
- Immediate & direct exercise of the voting right
 - ➔ No more *Blank Check Practice*?
- Reduction of voting costs
- Disclosure : impact on shareholder activism?

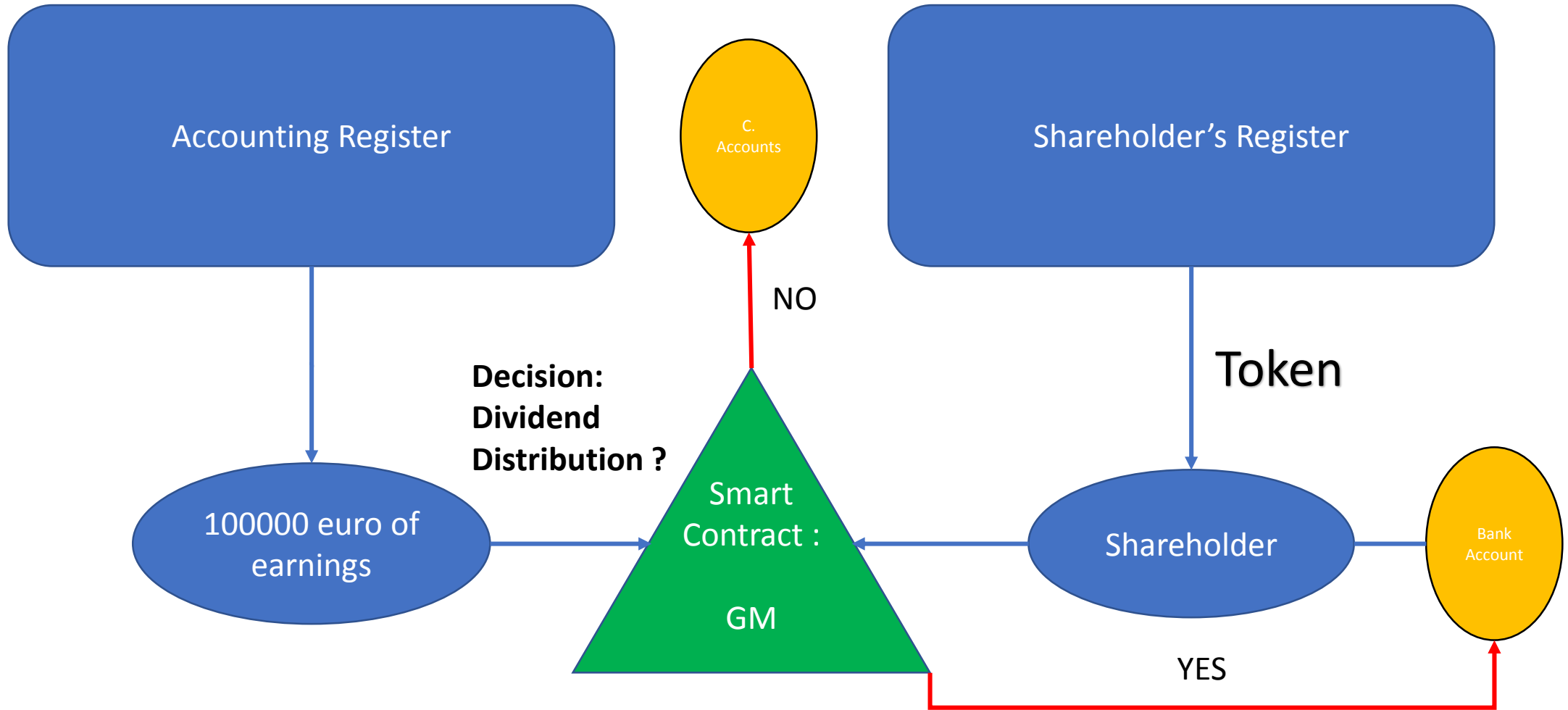
Overcome shareholders Identification obstacles



Solve Beneficial owner issue



Decentralized Autonomous Organization



Organization of Shareholders' Agreement through Smart Contracts

Advantages



- Automatization = 0 cost
- No need to go to court
- If the clauses are clear and arithmetic = efficiency

Disadvantages



- If the clauses are not clear neither arithmetic = need to ask a third party for enforcement
- Limited to simple « If... then... »
-

Risks (1): Loss of confidentiality?

- No more anonymous shareholding
 - exercice des droits associés à sa participation dans le capital d'une société
 - Sens de la Directive Actionnaires
- A new intermediary should help find anonymity
 - Trusted third party
 - Starw man (risk of appearance/reality)
- But what if these intermediarie do not declare their third party position?

Risk (2): Potential conflicts of interests?

Actual

- Executive compensation:
 - « pay for performance »
 - Say on pay
- Third party Contracts:
 - quantitative criteria
 - Special report (auditors)
 - AGM control

New

- New opportunistic behavior on BC?
- No more trusted third-parties?
- Decentralized BC

Need: BC Legal expert?

Need

- Contractual clauses should be translated into Smart contracts or on the DAO
- Regulation should be translated into Smart contracts or on the DAO

Expertise

- Expertise in Digital and data processing techniques
- IP/IT law expert
- Business & Tax law expert

Statute

- Independence
- Auditor (internal/external)
- New 'compliance officer'
- employee of the firm

Q&A