

The Participation of the Small Shareholder in the Annual General Meeting: A Reflection of Good Corporate Governance? **

Peter J Baldacchino¹, Amy Camilleri¹, Isabel Cutajar¹, Simon Grima², Frank H Bezzina³

¹Department of Accountancy, Faculty of Economics, Management and Accountancy, peter.j.baldacchino@um.edu.mt; vellaamy@gmail.com; isacut@gmail.com

²Department of Insurance, Faculty of Economics, Management and Accountancy, University of Malta, Msida, Malta simon.grima@um.edu.mt

³Department of Management, Faculty of Economics, Management and Accountancy, University of Malta, Msida, Malta; frank.bezzina@um.edu.mt

ABSTRACT

This paper analyses the level of small shareholder (SS) participation in the Annual General Meeting (AGM), assessing how this reflects upon the corporate governance of listed entities. It focuses on SS attendance, voting and proposals (excluding those of institutional and majority shareholders), improving SS participation and the significance of such AGM proceedings to listed company corporate governance. Empirical mixed methodology research is carried out in a Maltese listed company (LC) setting by means of semi-structured interviews with seventeen LC secretaries, five stockbrokers, an online questionnaire responded by fifty-four shareholders in different LCs, as well as the analysis of company notices and documentation relating to the AGM. Results indicate that SS participation is weak. Attendance is poor, and is often spurred both by legitimate factors such as information on current financial performance and by questionable ones such as refreshments served and venue. Shareholders seem uncomfortable in asking management formal questions and even in voting by show of hands, and therefore opt for informal interaction with management and for voting by poll, the latter often rendering attendance fruitless and even unnecessary by permitting proxies. As for proposals, they could induce management's later action despite seldom, if ever, being approved, but their submission is rare and mostly frivolous, commonly hampered by a lack of financial knowledge. The study concludes that the current level of SS participation does not render the AGM a tool reflecting good corporate governance, as it does not keep in balance the interests of this shareholder with those of other stakeholders. For the sake of better direction and control, and, in particular, for more transparency and accountability, the AGM has to be less stage-managed, as well as more interactive and engaging towards such shareholder. This calls for increased management commitment, particularly *towards more investor education and guidance*.

ARTICLE INFO

Keywords:

Performance, experience, tenure, entrenchment, GMM

*Corresponding author:

peter.j.baldacchino@um.edu.mt

Article history:

Received 22 03 2016

Revised 25 04 2016

Accepted 27 7 2016

**Previously Published in EJEM, 2016, Volume 3 number 2

Keywords: Annual General Meeting, Corporate Governance, Small Shareholder, Shareholder Participation, Maltese Listed Companies

1. Introduction

The term 'corporate governance' has been defined as the system by which companies are directed and controlled (Cadbury Report, 1992). Corporate governance is mainly concerned with providing

structures through which objectives are set, performance is monitored and rights and responsibilities are adequately allocated among different participants in the corporation (OECD, 1999; OECD, 2004).

From a narrow perspective, corporate governance is limited to the relationship between the company and its shareholders (Solomon, 2010). In a wider context, corporate governance may be considered as a set of relationships between a company's management, its board, its shareholders and other stakeholders (OECD, 1999). While academics have defined corporate governance from varying perspectives, the existence of conflicts arising from the separation of ownership and control is a predominant feature. Discussions on corporate governance have concentrated on the relations between the directors and managers of companies and other parties, in particular focusing on the role of corporate governance to protect and advance the interest of shareholders through appointing and monitoring capable management (Walker Review, 2009).

The Annual General Meeting (AGM) represents one of the corporate governance instruments intended to assist shareholders in holding the directors of a company accountable, thus limiting the possibility of expropriation of shareholders by managers (La Porta et al., 2003). It has been the interest of various scholars to evaluate the importance of the physical meeting of shareholders on entities' corporate governance. While AGMs aim to serve as a means of overseeing the actions and decisions of companies (OECD, 2004), studies have shown that AGMs can be seen as redundant in terms of effectively exercising the agent-principal relationships (Apostolides and Boden, 2005).

Proponents of proposals that AGMs contribute little to effective corporate governance have justified their conclusions by arguing that due to little or no opportunity to influence the company's strategy, private shareholders prefer to exit rather than use their voice in AGMs (Apostolides and Boden, 2005). Nonetheless, while dominant investors have alternative routes by which to exercise governance (Stratling, 2003), small shareholders largely depend on AGMs to exercise their shareholder rights (Van der Elst, 2013).

The market instability brought about by corporate scandals such as Enron, WorldCom and Parmalat, followed by the financial crises in 2008, have led shareholders to demand more information and become more active (Ertimur et al., 2010; Gillan and Starks, 2000; Jensen and Meckling, 1976). The primary focus of activist shareholders is to put pressure on companies to continue enhancing their corporate governance practices, this with the aim of improving the companies' performance and achieving higher returns on investment. In April 2014, the European Commission submitted a proposal on tackling corporate governance shortcomings relating to European listed companies with the aim of enhancing shareholders' rights where necessary to ensure that shareholders are more engaged (European Commission, 2014).

This empirical is based in Malta, a small member state of the European Union (EU). In view of the AGM's importance to small shareholders, this paper analyses the level of small shareholder participation in the AGM of Maltese listed companies. This paper aims to analyse small shareholder attendance at AGMs, evaluate their voting rights, including their strength and effectiveness as well as examine and assess shareholder proposals put as resolutions on the agenda of the AGM. In the light of the emerged results, the paper will provide recommendations addressing the weaknesses identified among AGMs of listed companies, particularly identifying means by which small shareholders' participation at the AGM could be increased.

2. Literature review

The AGM is an integral part of a company's corporate governance system as it provides the opportunity to shareholders to exercise their ownership rights, including the opportunity to direct any questions to the Board (The Association of British Insurers, 2013). Stratling (2003) identified that AGMs serve to provide three principal functions. Firstly, AGMs aim at informing shareholders about the company's financial performance and important management decisions. Secondly, AGMs enable companies to obtain the shareholders' consent for decisions that the board of directors has no

discretion to take. Thirdly, AGMs support a forum for discussion between directors and shareholders about past performances and future business policies.

Similar to other jurisdictions, Maltese company law grants rights to shareholders at the AGM. In particular, Maltese listing rules provide each shareholder, including a proxy holder, with the right to attend the AGM and ask questions related to the items on the agenda and to have such questions answered by directors or by a competent person as the directors may delegate (Laws of Malta, 1995 and MFSA, 2014). Moreover, such listing rules allow shareholders, holding a minimum of 5% of the issued share capital, to table resolutions at the AGM.

2.1 Small Shareholders' Attendance at the AGM

Shareholder democracy can be achieved through increased participation by investors at the AGM (Van der Schee, 2011). Various scholars have determined that there may be a number of factors influencing shareholder participation. Empirical research by Stratling (2003) and Apostolides and Boden (2005) showed that participation tends to increase when the company is in financial difficulties, with the latter stating, "the more salient the current issues, the greater the AGM attendance" (p.61). Similarly, Kathurima (2011) claimed that the main determinants for shareholders' attendance at meetings depend on the agenda of the meeting and the need to enquire on the company's performance.

Numerous researchers have analysed in great detail the real significance of the AGM, particularly to different classes of investors. Van der Elst (2013) and Bottomley (2003) maintained that the AGM has become less important to large shareholders as, in practice, the company often communicates with institutional shareholders outside the AGM, for example through conferences or one-on-ones. While one-on-ones and other activism behind closed doors are targeted towards large and often institutional investors, the AGM is aimed at all shareholders, including individual and small shareholders (Van der Elst, 2013). This implies that small shareholders largely rely on AGMs to exercise their shareholder rights (Lafarre, 2014).

Recently, participation at AGMs has been increasing through technological breakthroughs (Weil, Gotshal and Manges LLP, 2002). As a measure to increase participation at AGMs, the EU Commission advocates that Member States should focus more on reducing participation barriers so that shareholders could engage in cross-border voting more easily.

2.2 Minority Shareholder Voting

Voting is an important tool, as up to a certain extent, it enables shareholders to influence corporate governance (Yermack, 2010). According to Macey (2008), it is presumed that more and better voting rights to shareholders would further improve corporate performance and accountability. Shareholders commonly vote on directors' elections, executive compensation, fundamental corporate changes, amendments and the sale of most or all corporate assets. These rights are subject to change by contractual provisions. Furthermore, they are subject to legal precincts in various aspects. Notwithstanding the importance of shareholder voting at the AGM, various scholars have discussed whether voting indeed serves the purposes assigned to it by corporate law (Lafarre, 2014).

Low attendance rates and absenteeism of shareholders at the AGM is a widely debated topic in corporate governance literature (Van der Schee, 2011). As proclaimed by economic theory, the ownership structure of the company highly influences voting turnouts (Van der Elst, 2011). In a widely dispersed ownership structure, the voting outcome will be the same irrespective of whether a small (individual) shareholder participates in the AGM (Lafarre, 2014). In this respect, by holding large voting blocks and being able to influence voting results, large shareholders tend to have more motives to participate in AGMs than small shareholders (Van der Elst, 2011).

The voting procedure can have an effect on the nature and quality of the general meeting (Apostolides, 2010). Shareholder voting models have evolved over time from one-share-one vote to a variety of voting structures, some favouring small or individual shareholders and others enhancing the control of large shareholders (Dunlavy, 2006; Pistor et al., 2003). According to Apostolides (2010), a poll by ballot is one of the safest methods for directors, as the majority of proxy votes on resolutions would be carried in favour of the Board. This view supports Hampel (1998) who argued that a show of hand is riskier and more transparent, as small shareholders can still register an interesting majority against the Board.

Maltese company law provides that a resolution put to vote shall be decided “on a show of hands unless a poll is demanded” (MJCLE, Laws of Malta.Ch 386, First Schedule, Reg 41). Such voting is “a method of dealing with non-contentious matters expeditiously and inexpensively” (Companies and Securities Advisory Committee, 2000, Para 4.108). The study of Bottomley (2003) analysed the voting tool adopted for approval of agenda items, whereby most of which were decided by show of hands, except for the election of directors and the fixing of their remuneration.

2.3 Minority Shareholder Proposals

Shareholder-initiated proposals have become an integral part of corporate governance and performance control. Shareholder proposals are a means of mitigating agency problems and thus, advocating shareholder participation (Bebchuk, 2005).

Shareholder proposals are powerful and beneficial to both investors and companies. Investors are able to communicate their concerns to the Board of Directors, while companies get an opportunity to gain insights of shareholders’ interests and concerns over particular matters (British Columbia Investment Management Corporation, 2010). Nevertheless, various scholars such as Bebchuk (2005) and De Jong et al. (2006) have generally considered shareholder proposals to be a relatively weak disciplinary mechanism whereby activist small shareholders exert little influence on management.

A recent study conducted on Maltese listed companies by Bezzina et al. (2014) revealed that the ownership concentration of such companies influenced the effectiveness of the exercise of rights in controlling decisions. In companies with a widely dispersed shareholding, shareholders were regarded as less powerful and hence were unable to exercise effective control through their participation at the AGM (Bezzina et al., 2014).

Empirical literature shows that proposal submissions do not really act as an agency control device as often management and institutional activists negotiate between themselves behind the scenes or pursue their own serving agendas (Bainbridge, 2006; Anabtawi, 2006; Crespi and Renneboog, 2010). Similarly, Ertimur et al. (2010) argued that as shareholder proposals are presented well ahead of the AGM, the Board could evaluate them, obtain management’s opinion, hear from large shareholders and eventually determine whether to implement them or put them for shareholders’ vote. Some scholars claimed that the non-binding nature of shareholder proposals yield no control benefits (Prevost and Rao, 2000; Gillan and Starks, 2000). However, various others scholars asserted that albeit their non-binding nature, submitted proposals can exert pressure on the firm being subject to the proposal. Studies show that proposals attaining the majority vote are likely to be implemented (Bizjak and Marquette, 1998; Martin and Thomas, 1999; Ertimur et al., 2010; Thomas and Cotter, 2007).

Evidently, shareholders target proposals to certain companies more than others, and there may be various contributing factors for this. Shareholders tend to become aware and more active especially when the company does not operate up to their expectations. Early studies proclaimed that proposals submitted tend to be substantially targeted to underperforming companies (Karpoff et al., 1996; Martin and Thomas, 1999). According to Cziraki et al. (2010), voting outcomes were strongest for proposals seeking changes to the Board, thereby indicating major governance concerns.

Findings by Gordon and Pound (1993) showed that shareholder proposals are likely to gain more votes during the firm's worsening economic performance period, this similarly indicating a potential quality problem with present management. Maug and Rydqvist (2001) explained that investors are wary in respect of governance issues where the benevolence of managers' judgement is less plausible. Nonetheless, the pass rates of investors' proposals are low while approvals of managements' proposals are high (Maug and Rydqvist, 2001). The study of Gillan and Starks (2000) showed that proposals sponsored by active individual investors receive significantly fewer votes than proposals sponsored by institutional investors or coordinated groups of investors.

2.4 Improving Participation

The increasing desire to improve participation at AGMs has led various researchers to identify ways how regulations can be improved. Common proposals were to allow for technology advances, with the aim of making AGM practices more effective. One of the recommendations put forward by the Australian CAMAC (Australian Government, 2012), was to embrace technology in the conduct of meetings and thereby, doing away with proxy voting and mandating direct voting without having to attend in person. Amey and Mozley (2012) stated that such an Internet voting system represents a highly efficient way of increasing participation in shareholders' meetings, doing away with physical presence and thereby saving time, costs and inconvenience of travelling while assuring effective communication. Similarly, Gonzalez et al. (2014) highlighted the importance of innovative voting procedures by enabling foreign and other shareholders to vote in real time without having to travel. Gonzalez et al. (2014) further advocated a public counting, this allowing for more transparency.

Good governance is achieved through continuous improvement. As circumstances change, companies have to seek ways to keep advancing in the worldwide corporate governance and implement the best practices for the benefit of the company, its shareholders and all other stakeholders (IFC, 2009).

3. Methodology

The findings and analysis of this study were supported by both secondary and primary data sources. Secondary data sources consisted of company notices in relation to notices of the AGM, Annual Reports and other documents published by company secretaries. This data was used to substantiate primary data sources.

A mixed methodology was adopted. Data was mainly collected through twenty-two semi-structured interviews. Seventeen interviews were held with company secretaries, aimed at ascertaining the level of shareholders' participation in their respective companies. The other five interviews were held with stockbrokers dealing with shares of the same companies. The latter's views were found relevant in view of interactions with small shareholders and their independence.

Therefore, two semi-structured interview schedules were designed: one for company secretaries and another for Maltese stockbrokers. The interview schedules consisted of both open- and close-ended questions, with the latter involving either categorical questions or five-point Likert-type items, signifying the respondents' level of agreement to a number of statements (from 1 = 'strongly agree' to 5 = 'strongly disagree').

Obtaining small shareholders' views was also essential to the study. Since the online address details of such shareholders were unavailable, the Malta Association of Small Shareholders was contacted and an on-line questionnaire was sent through their intermediation to those members of whom they had on-line details. Fifty-four shareholders, being the majority of such members, responded to this questionnaire. Descriptive statistics were used to summarise the item responses. To determine whether the responses differed across the three groups (MLCs, shareholders and stockbrokers), the Chi-squared test was used with nominal scales while the Kruskal Wallis test was used for ordinal scales.

4. Analysis of results

4.1 Small Shareholders' Participation at the AGM

In evaluating small shareholder participation in Malta, it was first essential to obtain an understanding of the shareholding structure of listed companies. As per Maltese Listing Rules (MFSA, 2014), shareholders in such companies are allowed to raise resolutions at the AGM when having a minimum of 5% of the company's issued share capital. An analysis of the shareholding structure of the listed companies interviewed showed that, on average, 72.41% of the companies' issued share capital was held by shareholders holding more than 5% of the issued share capital.

While not all shareholders may table resolution at the AGM, they have the right to ask questions. When the 17 Maltese listed company representatives (MLCs) were asked about the level of shareholder participation, 64.7% claimed that it was quite low. Furthermore, 23.5% added that shareholders tend to feel more comfortable approaching the Board informally before, during and after the AGM rather than raising questions at the formal meeting.

As for the shareholders (N = 54), only 37.0% reported that they were active at least to some extent. Most shareholders (57.4%) also indicated that they did not feel comfortable asking questions at the AGM, the majority of these (51.6%) preferring to ask questions before/after the meeting, with the remaining respondents feeling uncomfortable to ask any questions.

The three respondent groups were provided with two statements that, as revealed by the literature, show the reality of AGMs. These two statements were: (i) 'AGMs are truly an occasion where small shareholders exercise their rights'; and (ii) 'Large shareholders tend to have more motives to participate in AGMs as they are more able to influence the voting turnout'. With regards to the first statement, the Kruskal Wallis test revealed that the three groups varied significantly with respect to mean ranks ($p = 0.03$); MLCs agreed to the statement (Median (Md) = 4), while small shareholders and stockbrokers were undecided (Md = 3). However, with respect to the second statement, there was no significant difference in mean ranks ($p = 0.46$); all groups agreed (Md = 4) that large shareholders tend to have more motives to participate as they can have a greater influence on the voting turnout.

Shareholder participation in the AGM will now be assessed in more detail in the next four sections: small shareholder attendance, their voting, their proposals and how to improve their participation. The analysis will then delve into the significance of the AGM to the corporate governance of listed companies.

4.2 Small Shareholder Attendance at the AGM

The number of shareholders eligible to attend the most recent AGM and the actual attendance figures were obtained for each listed company were obtained from the 17 MLC's. The attendance of the shareholders was found poor: 13 companies had an average attendance below 20%, with two between 20-40%, and only the remaining two beyond 80%.

The shareholders were asked to indicate and justify their attendance levels at AGMs during the last five years. Results showed that the majority of the 54 respondents (38.9%) indicated that they had attended from four to six AGMs. Most respondents (94.4%) also stated that when attending they had done so to get informed about their company's performance and to exercise their voting rights. A few (13.0%) had not attended AGMs at all because they were unable to influence the voting result.

The important determinants of shareholders' attendance that emerged among all 76 respondents were 'current financial performance' (Md = 4) and 'refreshments served' (Md = 4). The agenda, venue and duration of the AGM were neither important nor unimportant (Md = 3). Kruskal Wallis tests revealed that only 'agenda of the meeting' differed significantly in mean ranks across groups ($p = 0.05$), with

brokers seeing this factor as important (Md = 4) and shareholders and MLC's as neither important nor unimportant (Md = 3).

4.3 Small Shareholder Voting

4.3.1 Voting Rights emanating from local laws and EU directives

Each and every shareholder has various rights emanating from the regulatory framework. The three independent respondent groups were asked to rate the strength of such shareholders' rights. The level of agreement differed considerably across mean ranks ($p < 0.01$), whereby companies rated shareholders' rights as strong (Md = 4), while small shareholders and stockbrokers considered rights to be rather weak to moderate (Md = 2). One of the five independent local stockbrokers commented that MLCs tend to adopt a "box-ticking exercise", whereas another claimed that the revision of the existing Shareholder Rights Directive (European Commission, 2014) would continue to improve such rights.

Whether institutional shareholders are privileged and have more power over minority shareholders is debatable. Out of the five stockbrokers interviewed, two agreed that institutional shareholders are more powerful than the minority shareholders because they have a greater say owing to the weighting of their shares. The remaining three stockbrokers stated that institutional and majority shareholders are more privileged because they have access to more information and are in a better position to analyse that information.

Greater shareholder participation may be achieved by encouraging investors to exercise their voting rights. In order to achieve this, two out of five stockbrokers emphasised the importance of increasing education among investors, claiming that "Maltese investors lack investment knowledge". Three stockbrokers agreed that the corporate governance framework should introduce incentives that encourage investors to exercise their voting rights.

4.3.2 Shareholder Voting Method

Voting at Maltese AGMs takes place either by show of hands or by poll. Evidently, the 17 listed companies investigated tend to adopt the show of hands method for most of the resolutions (58.8%) rather than the poll because it is easier and less costly.

When the MLCs were asked to give their opinion on the level of transparency of the two methods, over half of them (52.9%) stated that voting by poll is more transparent because it accurately provides the exact number of shareholder votes. They added that when voting takes place by show of hands, the votes of the investors could still not be easily determined and their respective amounts of shares are also disregarded. However, some other MLCs (17.6%) stated that the show of hands is more transparent because resolutions are approved visibly and publicly. The rest of MLCs (29.4%) claimed that both voting methods may be regarded as transparent.

Given that MLCs indicated that voting by show of hands is a common voting method by most listed companies, small shareholders were asked to indicate their preferred voting method. Interestingly, the majority of the 54 small shareholders indicated that they prefer to vote by ballot for resolutions (57.4%). Others indicated that they favour show of hands (24.1%) or they have no preference for any particular voting method (18.5%).

4.4 Proposals from Small Shareholders

Shareholder participation can be analysed further from the aspect of the proposals put forward by shareholders. Most of the 17 MLCs (88.2%) found it difficult to recall any shareholder proposals made, this being indicative of the lack of shareholder participation. Nearly all MLCs (94.1%) stated

that their companies mostly receive enquiries rather than proposals. Most (88.2%) commented that shareholders are interested in dividends or offers given by the company.

For certain MLCs (29.4%), an appreciable number of proposals emanate from substantial and majority shareholders, often also forming part of the Board, rather than small ones. According to the majority of MLCs (58.8%), proposals made by such majority shareholders are always discussed at Board level and implemented. However, most MLC's (58.8%) also claimed that once any proposal is received from minority shareholders, it is invariably evaluated by management and, if deemed "valid", it is forwarded to the Board for further consideration. Yet, only one of the 17 MLCs stated that the Board had referred such proposals by small shareholders to the AGM, and this over the preceding five years' period. Furthermore, no such referred proposal originating from small shareholders had in fact resulted in acceptance at the AGM. Notwithstanding this, the MLC noted that such proposals had resulted in the company holding further discussions with the representatives of the small shareholders in question in an effort to take the proposals on board in managing the company.

On their part, all five stockbrokers also confirmed that, notwithstanding the fact that shareholders' proposals may not be approved and thus not influence the outcome of the AGM, they might still have an impact on future decisions. However, they added that the reluctance of small shareholders to put forward such proposals could be due to the fact that they did not wish to be or to be seen to be "frivolous". Most of the stockbrokers (60.0%) pointed out that the major determinant of such proposals was the level of investor education in financial matters. They emphasised that, in fact, at present small shareholders are not adequately equipped to support or otherwise the Board in its decision making. In their view, the participation of small shareholders is still primarily held back by the latter's common lack of financial knowledge. One of the stockbrokers even highlighted the free-rider problem, whereby individual small shareholders do not bother to know more, and simply decide to rely rather on the initiatives of a few other investors for any proposals to be made.

Both MLCs and stockbrokers were also asked whether proposals from small shareholders can be considered as weak owing to the lack of influence that such shareholders can exert on management. Only 3 out of 17 MLCs (17.6%) agreed that shareholder proposals are weak because of this. In contrast, three out of five (60.0%) of stockbrokers agreed that, besides the question of influence of the lack of financial knowledge referred to earlier, small shareholder proposals are also weak because of their minimal or no influence which they could exert on management. Yet, the two stockbrokers in disagreement stated that the weaknesses in shareholder proposals were little related to the influence which shareholders could exert.

4.5 Improving Participation

As for matters that may improve shareholder participation, the majority of the 17 MLCs (64.7%) agreed that an e-voting system would facilitate the counting process. However, they were concerned about the ability of shareholders to use electronic systems. The rest of the MLCs stated that they did not feel it necessary to adopt an e-voting system.

A similar question asked stockbrokers to give their opinion about the adequacy of the voting system currently adopted by MLCs. All five stockbrokers stated that the voting system was adequate. However, most (80.0%) added that the voting system could be improved by technology as this renders the system less costly and also leads to more precise results than the show of hands.

When asked about the adequacy of the voting process for approval of resolutions, MLCs agreed more strongly than brokers and shareholders ($p < 0.01$). Yet, when respondents were required to rate whether technology can aid in the voting process at AGMs to improve transparency, all three groups agreed ($Md = 4$) and the difference across groups was not statistically significant ($p = 0.66$).

Despite such consensus, both stockbrokers and MLCs agreed more strongly than shareholders that a virtual meeting is not a full substitute for a physical meeting ($p = 0.04$).

4.6 The Significance of the AGM in the Corporate Governance of MLCs

The AGM is a tool reflecting good corporate governance and thus, transparency and accountability. MLCs, stockbrokers and shareholders indicated the extent to which these two principles are reflected at AGMs. As for transparency, MLCs reported this to a higher extent (Md = 5) than stockbrokers and shareholders (Md = 3), and this difference was statistically significant ($p < 0.01$). As for accountability, again MLCs reported this to a higher extent (Md = 5) than stockbrokers (Md = 4) and shareholders (Md = 3), and this difference was statistically significant ($p < 0.01$).

Two stockbrokers raised several comments about the importance of the AGM in providing information and regular updates to shareholders, particularly in view of the separation of control that exists between management and shareholders. A broker claimed that “a strong forum addresses information asymmetry”. Similarly, one stockbroker commented that the presentation of information at the AGM as well as disclosures should be clear and useful to shareholders in making their investment decisions.

When asked whether directors are accountable to shareholders at the AGM, stockbrokers disagreed that the AGM is effective with respect to such accountability (Md = 2). One broker commented that the Chairman of a few of listed companies in Malta is as yet also the CEO, with a duality that in practice “runs the show”. He further argued that directors are less likely to be accountable to shareholders given that normally they do not even address shareholders at the AGM.

Stockbrokers and MLCs strongly agreed (Md = 5) that the AGM allows shareholders sufficient time to ask questions to the Board, while shareholders agreed to a lower extent (Md = 4), with this difference reaching statistical significance ($p < 0.01$). As regards to the statements presented to respondents that (i) the AGM provides information to shareholders on the company’s operation and (ii) generates a discussion between directors and shareholders, stockbrokers and MLCs strongly agreed (Md = 5) while shareholders agreed (Md = 4), with the Kruskal Wallis tests reaching statistical significance at $p < 0.01$.

MLCs and small shareholders were also asked whether the main purposes of the AGM are being attained in Maltese AGMs. A significantly higher proportion ($p < 0.01$ using exact test, since some cells had expected counts less than 5) of MLCs (76.5%) and stock brokers (80.0%) than shareholders (22.2%) stated that these purposes are being attained, this again pointing to the relatively more positive attitude towards the AGM being taken by MLCs as in contrast to the small shareholders.

5. Discussion

Given the weak participation of small shareholders in the AGM, two moot points emerge: firstly, what makes it so weak and secondly, given such weakness, whether the meeting is an adequate reflection of good corporate governance.

5.1 Participation by Small Shareholders – What makes it weak?

Results showed that the majority of small shareholders did not consider themselves as active participants in the AGM. Research findings identified various factors contributing to weak small shareholder participation.

5.1.1 Poor attendance

Results showed that the attendance of shareholders at AGMs of the interviewed MLCs was poor when compared with the total number of shareholders in their respective listed companies. This was also

apparent in international AGMs as research by Stratling (2003) and Hodges et al.(2004) also showed poor attendance at the AGM. Results revealed that small shareholders were passive investors who felt demotivated to attend AGMs owing to their inability to influence the voting turnout.

In conformity with the view of Apostolides and Boden (2005) and Kathurima (2011), research findings showed that prominent agenda issues as well as the company's performance tend to be the factors that mostly motivate shareholders to attend. Results also indicated that refreshments offered by companies could have a significant impact on shareholders' attendance at AGMs. The provision of refreshments seems to be highly valued by small investors, for whom such events serve as an outing. Findings showed that small shareholders regard these as an informal setting in which to ask and discuss questions with the directors – questions which they lack the confidence to place in the formal meeting.

5.1.2 A box-ticking exercise

In contrast to MLCs responses, stockbrokers and small shareholders regarded shareholder's rights to be rather weak. Results have shown that small shareholders prefer to vote by ballot as they feel uncomfortable showing hands, especially where they are investors in more than one company and directors may be up for election in different companies. Much of this may be attributable to the fact that, in the context of a small country, shareholders and directors are more likely to know each other.

Results have also shown that small shareholders were reluctant to ask questions during the AGM and therefore, when attending the AGM they would only participate by ticking the boxes on the ballot. Like all other shareholders, small shareholders have the right to vote and ask questions at the AGM. However, brokers acknowledged that institutional and majority shareholders have access to more information than small shareholders, giving them better ability to raise queries and analyse information. This leads one to question whether the rights of small shareholders are in fact strong enough to address their participation passivity at AGMs. Both stockbrokers and small shareholders argued that shareholders' rights could be improved in this regard. The new European-wide directive (European Commission, 2007) which addresses the key principles of accountability and transparency, is another milestone in shareholders' rights. As proclaimed by ACCA (2015, p.5), "Recent global developments in corporate governance include a new focus on the implementation and the quality of response rather than simple 'box ticking'".

5.1.3 Rare and weak proposals hampered by a lack of financial knowledge

Proposals forwarded by shareholders at the AGM are both rare and weak, and there may be a number of factors contributing to this. One clearly emerging factor is the poor financial background of small investors rendering them unaware of the risks which they are exposed to and hardly capable of making informed financial decisions, even hindering them to the extent that they do not understand the AGM agenda. The strong indications, particularly as given by stockbrokers, are that this directly contributes to shareholders being less likely to put forward AGM proposals and also to the probability that even when they do so, these are in fact not taken seriously. For shareholder proposals to make any impact, they commonly have to be backed by sound financial knowledge. More education to this effect is therefore imperative if one is to have valid and increased shareholder proposals. As perceived to date, it is as yet justifiable to consider proposals as a weak disciplinary mechanism, as claimed by Bebchuk (2006). Yet, while there are diverging views on the power of such proposals, for the small shareholder these clearly have the potential of being a main participation ingredient facilitating a better balance among the corporate players.

MLCs do currently endeavour to increase investors' financial skills through a few investor education programmes and conferences held jointly with the Malta Association of Small Shareholders. Additionally, media and stockbrokers do provide educational investment material on their website.

Yet, evidently, more needs to be done with the specific aim to overcome shareholder apathy towards reading and learning such skills. Furthermore, for the longer term, new investor generations may be introduced earlier to the fundamental aspects of finance and stock market dynamics. As ultimate aim, the necessary background is to be provided, rendering it more difficult for small shareholders to have their resolutions by-passed, as such, proposals will then have the real potential of sending significant messages to their company, even if not approved at the AGM itself. After all, it is in the interest of the company itself that the small shareholders do not continue to rely on institutional investors or a few active retail shareholders to speak up and try to bring change on their behalf.

Of course, the lower the level of investor knowledge, the greater the need for the MLCs also to ensure that general communication with them is clear and effective. Therefore, on their part, directors and others in contact with investors are also to ensure that their communication skills are sharp and may themselves have to undergo regular training, including induction courses and professional development programmes.

5.2 The AGM: Enough for Good Corporate Governance?

5.2.1 A Forum for Director/Shareholder Interaction?

In light of the weak participation by small shareholders at the AGM, one asks whether the functions of the AGM as defined by Startling (2003) are being applied for the sake of good corporate governance, particularly in supporting a forum for discussion between directors and shareholders both about past performance and future business prospects.

Directors are to hold themselves accountable to shareholders, and this is hardly, if at all, possible without shareholder participation and involvement. Accountability cannot be served merely with the CEO or Chairman's speech, and the rest of the directors being uninvolved and silent for most of the meeting. As this seems to be commonly occurring, the inference is that AGMs are stage-managed and not serving as a platform for shareholders to exercise their ownership rights, including that of deriving from the directors the appropriate information concerning their stewardship. For this climate to be dispelled, time is to be allowed not only for genuine questions but also for the transmission of all needed information, such as the profile of all candidates, old and new, presenting themselves for director election. As for the transfer of information on the company's financial performance, it is important that the information provided during the AGM is not too technical for investors to understand. Such transmission has to be clear, simple and concise and, insofar as is possible, complete. This would help to transform the AGM from mostly being, as at present, a set of procedures for having management-backed resolutions rubber-stamped, focusing on the fulfilment of the financial reporting legal requirements to one with meaningful and potentially far-reaching interactive discussions. Such transformation is a sine qua non if the small shareholders' interest to attend and participate in the AGM is to be rekindled and for the AGM to become a more significant reflection of corporate governance than at present.

5.2.2 Exploiting Technology – A Way Forward?

The study points to a general need to exploit technology further to improve the AGM. This includes the use of electronic voting as long as shareholders are adept at using the new systems. In addition, more webcasting of the AGMs would permit those shareholders unable to attend to follow the meeting and thus with the opportunity of being kept informed as well.

Technological devices could be used to increase shareholder engagement in decision-making. Listed companies could invest in an electronic polling system whereby the shareholder can select a simple

‘yes’ or ‘no’. Such a polling system can become a simple and effective means for shareholders to convey their opinion, and for management to take more account of shareholders’ opinions. This again brings to the fore the importance of shareholder education in bringing about change.

6. Conclusion

In summary, this study indicates that the level of small shareholder participation at AGMs of listed companies is low, with poor shareholder attendance being a major factor leading to this. Yet, even when attending, small shareholders do not feel confident in raising questions or bringing forth proposals during the AGM, and this is mainly due to limited meaningful information being transmitted to them, this being commonly aggravated by their lack of financial knowledge. The resulting inability of the AGM to create an effective forum for discussion between directors and shareholders casts serious doubt on whether the AGM actually reflects good corporate governance, as it does not keep in balance the interests of the small shareholder with those of the other stakeholders, including themselves, management and major shareholders.

For the sake of better direction and control, and, in particular, for more transparency and accountability, the study recommends that directors strive more towards ensuring that AGMs are not stage-managed, going beyond the simple routines of gathering votes and formal approval of resolutions towards serious interaction between themselves, management and all shareholders, possibly involving the better use of technology. On their part, in order to effect fruitfully such interaction, small shareholders have to combat their passivity and attain a stronger sense of ownership in their company. For most of them, a main way towards effecting this is to stop relying on institutional or main shareholders to speak up and bring change. As a pre-requisite for this, they need to commit themselves towards acquiring the minimum level of financial knowledge. For this purpose, the study recommends that they participate much more in educational activities, particularly, though not only, those that may be tailor-made for them by company management.

The study has its limitations. In their response to what occurs at the AGM, MLCs may have been somewhat influenced by what their company expects to be occurring. Furthermore, the proportion of small shareholders responding to the questionnaire was relatively low, being largely limited by on-line accessibility. Following this study, further research may therefore attempt to place added focus on the perspectives of small shareholders themselves, such as by securing direct listed company support, such as listed company authorisations to attend the various AGMs and thus establishing face-to-face contact with such shareholders.

To conclude, Baldacchino et al. (in press) envisage the creation of powerful means to align all corporate stakeholders towards a major common goal – that of improving the corporate governance performance of the company. Clearly, enabling a more meaningful participation for the small shareholder in the AGM should be an important preliminary step in the process of achieving such stakeholder alignment towards corporate governance improvement.

References

- ACCA. 2015. Association of Chartered Certified Accountants, ACCA's position on the European Commission's proposal for a revised shareholder rights directive, London, Feb. Available at: <http://www.accaglobal.com/content/dam/acca/global/PDF> [12 March 2015].
- Amey JH, Mozley ED. 2012. Online shareholder participation in AGMs, *HLS Forum on Corporate Governance and Financial Regulation*. Available at: <http://blogs.law.harvard.edu/corpgov/2012/07/19/online-shareholder-participation-in-annual-meetings/> [15 November 2014].
- Anabtawi I. 2006. Some Skepticism About Increasing Shareholder Power [Electronic Version]. *UCLA Law Review*, Vol. 53(3): 561-600.
- Apostolides N. 2010. Exercising corporate governance at the Annual General Meeting [Electronic Version]. *Corporate Governance*, Vol. 10 (2): 140-149.
- Apostolides N., Boden R. 2005. Cedric the Pig: Annual General Meetings and Corporate Governance in the UK [Electronic Version]. *Social Responsibility Journal*, Vol. 1(1): 53-62.
- Association of British Insurers. 2013. Improving Corporate Governance and Shareholder Engagement. Available at: <https://www.abi.org.uk/~media/Files/Documents/Publications> [1 November 2014].
- Australian Government. 2012. Corporations and Markets Advisory Committee. The AGM and Shareholder Discussion Paper Engagement. Available at: [http://www.camac.gov.au/camac/camac.nsf/byheadline/pdfdiscussion+papers/\\$file/agm.pdf](http://www.camac.gov.au/camac/camac.nsf/byheadline/pdfdiscussion+papers/$file/agm.pdf) [15 October 2015].
- Bainbridge S. 2006. The Case for Limited Shareholder Voting Rights [Electronic Version]. *UCLA Law Review*, Vol. 53: 601-636.
- Baldacchino PJ, Baldacchino J, Bezzina F, Tipuric D. (in press). Assessing the Applicability of a Corporate Governance Index in Maltese Listed Entities. *International Journal of Transitions and Innovation Systems*.
- Bebchuk LA. 2005. The Case for Increasing Shareholder Power [Electronic Version]. *Harvard Law Review*, Vol. 118 (3): 833-914.
- Bezzina FH, Baldacchino PJ, Azzopardi JR. 2014. The Corporate Governance Relationship Between The Board And Management In Maltese Listed Companies, in *Tipurić D, Vrdoljak Raguž I, Podrug N, (Eds.), Rethinking Corporate Governance*. Pearson: London: 1-15.
- Bizjak JM, Marquette CJ. 1998. Are shareholder proposals all bark and no bite? Evidence from shareholder resolutions to rescind poison pills. *Journal of Financial and Quantitative Analysis*, Vol. 33:499-521.
- Bottomley S. 2003. The Role of Shareholders' Meetings in Improving Corporate Governance [Electronic Version]. Australian National University: Canberra.
- British Columbia Investment Management Corporation. 2010. Corporate Governance Principles and Proxy Voting Guidelines. Available at: <http://www.bcimc.com/publications/pdf/responsibleinvesting/corporategovernanceprinciplesproxyvotingguidelines.pdf>. [20 September 2014].

- Cadbury Report. 1992. Report of the Committee on Financial Aspects of Corporate Governance, Gee: London.
- Companies and Securities Advisory Committee. 2010. Shareholder Participation in the Modern Listed Public Company: Final Report [Electronic version]. Companies and Securities Advisory Committee: Sydney.
- Crespi R, Renneboog L. 2010. Is (institutional) shareholder activism new? Evidence from UK shareholder coalitions in the Pre-Cadbury Era. *Corporate Governance: An International Review*, Vol. 18(4): 274-295.
- Cziraki P, Renneboog L, Szilagyi PG. 2010. Shareholder Activism through Proxy Proposals: The European Perspective. *European Financial Management*, Vol. 16(5): 738-777.
- De Jong A, Mertens G, Roosenboom P. 2006. Shareholders' voting at general meetings: Evidence from the Netherlands. *Journal of Management and Governance*, Vol. 10(4): 353-380.
- Dunlavy CA. 2006. Social Conceptions of the Corporation: Insights from the History of Shareholder Voting Rights. *Washington and Lee Law Review*, Vol. 63: 1347-1388.
- Ertimur Y, Ferri F, Stubben SR. 2010. Board of directors' responsiveness to shareholders: Evidence from shareholder proposals. *Journal of Corporate Finance*, Vol. 16: 53-72.
- European Commission 2014. Proposal for a Directive of the European Parliament and of the Council amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement and Directive 2013/34/EU as regards certain elements of the corporate governance statement, COM(2014) 213 final, April 9, 2014.
- Gillan SL, Starks LT. 2000. Corporate Governance Proposals and Shareholder Activism: The Role of Institutional Investors. *Journal of Financial Economics*, Vol. 57(2):275-305.
- González GP, Guzman A, Prada F, Trujillo M. 2014. Annual General Meetings: A Waste of Time or Effective Corporate Governance Bodies. Available at:
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2395053 [15 October 2014]
- Gordon LA, Pound J. 1993. Information, Ownership Structure, and Shareholder Voting: Evidence from Shareholder-Sponsored Corporate Governance Proposals. *Journal of Finance*, Vol. 48(2): 697-718.
- Hampel Committee Report 1998. Committee on Corporate Governance: Final Report. Gee Publishing: London.
- International Finance Corporation 2009. Stakeholder Engagement and the Board: Integrating Best Governance Practices. Available at:
http://www.ifc.org/wps/wcm/connect/19017b8048a7e667a667e76060ad5911/FINAL%2Bfocus8_5.pdf?MOD=AJPERES [22 September 2014].
- Jensen MC, Meckling WH. 1976. Theory of the firm: Managerial Behaviour, agency costs and ownership structure. *Journal of Financial Economics*, Vol. 3(4): 305-360.
- Karpoff JM, Malatesta PH, Walkling RA. 1996. Corporate Governance and Shareholder Initiatives: Empirical Evidence. *Journal of Financial Economics*, Vol. 42:365-395.
- Kathurima K. 2011. The Effectiveness of Annual General Meetings for Retirement Benefits Schemes. Retirement Benefits Authority. Available at: <http://www.rba.go.ke/publications/research->

<papers/category/1-research-reports-2010-2011?download=161%3Athe-effectiveness-of-annual-general-meetings-for-retirement-benefits-schemes> [August 29 2014]

- Lafarre A. 2014. Shareholder Activism at European AGMs: Voting Turnout and Behaviour of (Small) Shareholders. Master's thesis Ondernemingsrecht, Tilburg University.
- La Porta R, Lopez-de-Silanes F, Shleifer A, Vishny R. 2000. Investor protection and corporate governance. *Journal of Financial Economics*, Vol. 58: 3-27.
- Macey JR. 2008. Corporate Governance: Promises Kept, Promises Broken. Princeton University Press: Princeton.
- Martin KJ, Thomas RS. 1999. The Effect of Shareholder Proposals on Executive Compensation. *University of Cincinnati Law Review*, Vol. 67:1021–1081.
- MFSA. 2014. Malta Financial Services Authority, Listing Rules.
- MJCLE. 1995. Ministry for Justice, Culture and Local Environment, Chapter 386 of the Laws of Malta, Companies Act 1995. <http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8853&l=1> [June 2014]
- Maug E, Rydqvist K. 2001. What is the Function of the Shareholder Meeting? Evidence from the U.S. Proxy Voting Process. [Electronic Version]. Working Paper, Humboldt University.
- Pistor K, Keinan Y, Kleinheisterkamp J, West MD. 2003. The Evolution of Corporate Law: A Cross-Country Comparison. *Journal of International Economic Law*, Vol. 23(4):791-871.
- Prevost AK, Rao RP. 2000. Of What Value are Shareholder Proposals Sponsored by Public Pension Funds? *Journal of Business*, Vol. 73(2):177–204.
- Solomon J. 2010. Corporate Governance and Accountability, John Wiley & Sons Ltd: Chinchester.
- Strätling R. 2003. General Meetings: A dispensable tool for corporate governance of listed companies? *Corporate Governance: An International Review*, Vol. 11(1): 74-82.
- Thomas RS, Cotter JF. 2007. Shareholder Proposals in the New Millennium: Shareholder Support, Board Response, and Market Reaction. *Journal of Corporate Finance*, Vol. 13:368–391.
- Van der Elst CF. 2011. Revisiting Shareholder Activism at AGMs: Voting Determinants of Large and Small Shareholders. [Electronic Version]. European Corporate Governance Institute (ECGI), Finance Working Paper No. 31: 2.
- Van der Elst CF. 2013. Shareholders as Stewards: Evidence from Belgian General Meetings. Working Paper, Tilburg Law School. Available at: <http://ssrn.com/abstract=2270938> [22 September 2014].
- Van der Schee P.A. 2011. Regulation of Issuers and Investor protection in the US and Malta. Boom Juridische Uitgevers: The Hague: 137-138.
- Walker Review. 2009. A review of corporate governance in UK banks and other financial industry entities. Available at: http://webarchive.nationalarchives.gov.uk/+/http://www.hmtreasury.gov.uk/d/walker_review_261109.pdf [6 November 2015].
- Weil, Gotshal, Manges LLP 2002. Comparative Study of Corporate Governance Codes Relevant to the European Union and its Member States, on behalf of the European Commission, Internal Market Directorate General: Brussels. Available at:

http://ec.europa.eu/internal_market/company/docs/corpgov/corp-gov-codes-rpt-part1_en.pdf [3
October 2014].

Yermack D. 2010. Shareholder Voting and Corporate Governance. *Annual Review of Financial Economics*, Vol. 2:103-125.