Transparency and Corporate Governance in Maltese Listed Entities: An Analysis

By

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Abstract

TITLE: Transparency and Corporate Governance in Maltese Listed Entities: An Analysis

PURPOSE: The objectives of this study are to examine whether a lack of corporate transparency is a relevant feature in the corporate governance of Maltese listed entities and, if so, to assess the possible reasons for such a corporate stance and its implications.

DESIGN: In order to achieve these research objectives, a predominantly qualitative mixed methodology was adopted. A total of 13 semi-structured interviews were conducted with members of Maltese listed entities and audit firm representatives. Moreover, an examination of the corporate governance statements, in particular, the non-compliance part was held for the three consecutive years between 2015-2017.

FINDINGS: This study finds a general lack of corporate transparency in corporate governance reporting. The tendency is for several Maltese listed entities to comply only at a superficial level with the principles of the Code and thus fail to reap the benefits of sustaining a good governance structure and an appropriate level of corporate transparency. This stems out both from, the inadequate involvement of the regulator and company shareholders, who are not exerting ample pressure on the company's management as well as, from the innate dynamics of an island-state wherein strong perceptions persists as to the sensitivity of divulging corporate matters.

CONCLUSIONS: This study concludes that at present some Maltese listed entities are still facing difficulties in achieving a legitimate balance between corporate confidentiality and corporate transparency and therefore more detailed regulatory guidelines on corporate transparency are required. In addition, increased awareness and education on corporate governance and transparency among both companies and the shareholders may also improve the situation.

IMPLICATIONS: This study hopes to raise awareness both on the need to improve corporate transparency practices in corporate governance reporting as well as on the need to enhance education on such practices among Maltese companies and their shareholders. The recommendations being forwarded are therefore meant for companies to improve their corporate disclosures and for the regulator to explore ways of becoming more involved in this effect.

KEYWORDS: Corporate Governance, Corporate Transparency, Corporate Confidentiality, Comply-or-Explain.

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Dedication

To my mother, Rita, for her unconditional love and support.

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List of abbreviations

AGM	Annual General Meeting
CEO	Chief Executive Officer
CG	Corporate Governance
CGS	Corporate Governance Statement
CoE	Comply-or-Explain
CT	Corporate Transparency
EU	European Union
FRC	Financial Reporting Council
MASS	Malta Association of Small Shareholders
MFSA	Malta Financial Services Authority
MLE	Maltese listed entity
MSE	Malta Stock Exchange
NED	Non-executive Director
OECD	Organisation for Economic Co-operation and Development
Qn	Question
The Code	The Code of Principles of Good Corporate Governance for Listed Entities
UK	United Kingdom

Chapter 1

Introduction

1.1 Introduction

This chapter introduces the basis for this research study. As shown in Figure 1.1, Section 1.2 provides relevant background information on the research subject. This is followed by Section 1.3 which explains the need for conducting such research study and Section 1.4 sets out the objectives of this dissertation. Thereafter, Section 1.5 defines the limitations of the study and finally Section 1.6 outlines the structure of this study.

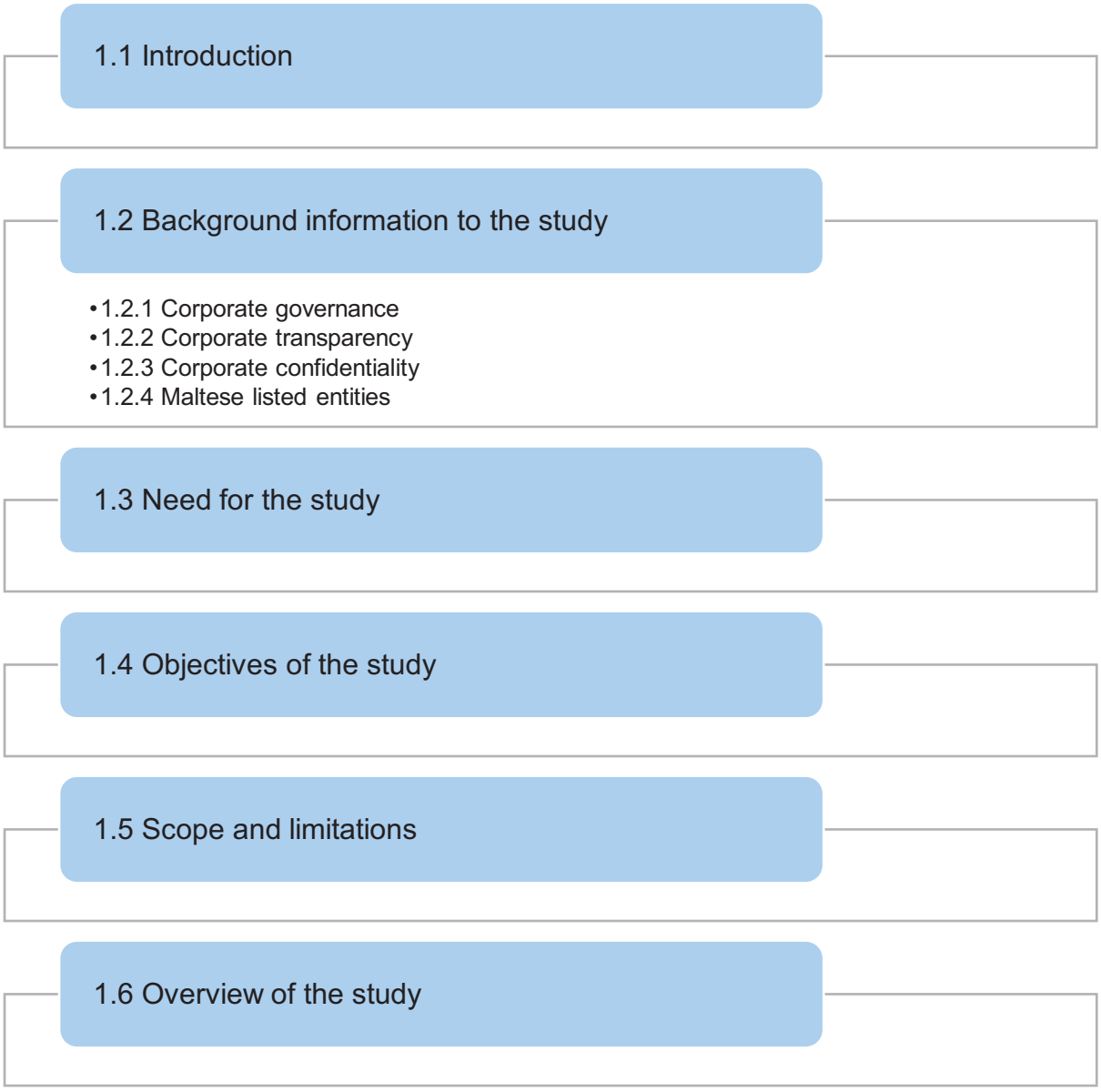


Figure 1.1: Outline of Chapter 1

1.2 Background information to the study

1.2.1 Corporate governance

The global financial crisis and the demise of several well-known businesses such as Enron and Worldcom have given rise to the increasing importance of corporate governance (CG) and recharged the need for improved CG (Khancel, 2007). Accordingly, several governments were induced to make amendments to their CG legislations (Kirkpatrick, 2009). Indeed, CG is nowadays considered a fundamental requirement for the operative and stability of an entity and consequently that of the country's economy at large. In fact, John and Senbet (1998) proclaimed that CG has been seen at lead in forming corporate ethics targeted at reducing crooked corporate practices whilst promoting a fair business environment.

Despite the numerous studies and debates over the years by various scholars and practitioners, finding a single definition of CG remains a challenge to date (Aguilera and Jackson, 2010). As Jill Solomon (2010) posited, the large array of definitions is a product of the continuous evolvement and complexity of the concept in question and also of being analysed in detail under different models such as the shareholder, financial and stewardship models.

Generally, CG is defined as *"the system by which companies are directed and controlled"* (Cadbury Report, 1992, p. 14). CG set forth the relationship between the shareholders who own the entity, having an honest interest in the doings of the business, and the directors who are in charge of the entity's assets. In a similar vein, Sternberg (1999) affirms that CG is the tool required to retain the company's vehicles, assets and performances engaged at the business goals as stipulated by the entity's

owners. Thus, CG can be viewed as the power which administers the conduct of an entity.

However, many authors are of the opinion that, at times, the interest of the shareholders and those of the directors of the company are not aligned. Actually, Tricker (2012) holds on to this understanding and articulates that governance issues are a product of the business becoming a legal entity, where the management of the entity is separated from its owner. This generally results, in the increased need for the protection of investor's interest through sound governance practices.

Many contemporary explanations of CG have been examined by Berghe and De Ridder (1999) who conclude that it is a very difficult task to describe CG with a certain degree of precision. They illustrate CG in three categories, all of which imply the existence of a conflict of interest arising from the separation of ownership and control. The initial category describes CG as a set of policies that provide a direction. The following category then focuses on the relationships of the parties interested, whilst aligning their interests and lastly, they consider the capacity of the business.

The agency's viewpoint is embraced by Shleifer and Vishny (1997) as they describe CG matters as *"the ways in which suppliers of finance to companies assure themselves of getting a return on their investment"* (p. 737).

The supporters of the stakeholder theory broaden the concept of CG in order to also entail the relationships between the company and other stakeholders. CG is described as the mechanism of checking and balancing both internal and external factors to the entities, which assures that companies suit their obligations to shareholders in a trustworthy manner in all business matters (Solomon, 2010). Likewise, the OECD (2004) defines CG as:

> *"a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined" (p. 11).*

Despite the various approaches to explain the matter, it is evident that CG portrays the ability to form, manage and oversee the business. It also appears that a good CG framework is one which must evolve around the fundamental values of accountability, transparency, integrity and fairness (Mallin, 2004). Figure 1.2 illustrates such a framework.

As defined by the United Nations (2008), **transparency** is the willingness shown by a company to deliver true and useful information to various stakeholders. This value is achieved by having full disclosure of all the transactions in the accounts, company conduct and compliance with the applicable regulations. **Accountability** is the obligation and responsibility of the corporate actors to account for their actions and disclose any resulting consequences. It ensures that the resources of the company are used in an efficient and desirable manner. **Fairness is** described as the way of dealing with people within the parameters of equality. In contemporary business, it means avoiding bias contra various stakeholders. **Integrity** is the quality of being honest and truthful in all professional relationships.

Figure 1.2: An effective corporate governance framework

1.2.2 Corporate transparency

Notwithstanding the numerous articles that have been published since the mid-1990s, it is only in very rare instances that a clear and comprehensive understanding of the term corporate transparency (CT) is included. It is, however, possible to identify two main approaches of CT, namely the static and the dynamic (Das Neves and Vaccaro, 2013).

On the one hand, Waddock (2004) and Quaak et al. (2007) embrace the static approach and links CT with the disclosure of information related to the business's activities through the use of standardised documents, such as financial reports. On the other hand, Santana and Wood (2007) apply the dynamic approach which views CT as *"Information Technology (IT)-driven dialog"* (Das Neves and Vaccaro, 2013, p. 641), where the company and its stakeholders both interplay and cooperate to share information. Studies show that the decisions related to the disclosure of information

are significantly influenced by shareholders' *"right to know"* (Hess, 2007, p.455) and are limited by some ethical factors including the reliability and privacy of information (Fung et al., 2007).

Yet, neither approach considers the fundamental ethical requirements of justice, prudence and trust that are taken in account by the practitioner literature (Das Neves and Vaccaro, 2013). The latter views CT as a vital feature of successful leadership (Bennis et al., 2008) and human resources administration (Tapscott and Ticoll 2003), two parts where the virtue of the mentioned ethical factors are considered essential for effective management.

1.2.3 Corporate confidentiality

Surprisingly, the UN doesn't consider the concept of confidentiality as a principle of good governance. It is also argued that in order for good governance to bear fruits, there must be a counterbalance between transparency and confidentiality of information. As part of his research, Mizzi (2016) states that the duty of confidentiality mainly entails the obligation of one party to retain information that has been entrusted to him, private and non-accessible by the general public. Notwithstanding, the due importance of maintaining such a balance between transparency and confidentiality, at times members of the board may take advantage of their occupying offices and powers to favour the excessive retention of information perceived confidential within the entity resulting in a lack of CT.

1.2.4 Maltese listed entities

Generally, financial markets in Mata are controlled by the Financial Markets Act of 1991, Chapter 345 of the Maltese laws. The Malta Financial Services Authority (MFSA) is the sole regulatory authority for the financial services industry in Malta. The Listing Authority which formulates part of the MFSA, has been authorised by the same regulator to manage the Financial Markets Act, authorise the admission of financial instruments to the markets and establish a set of listing rules while ensuring compliance with any requirement set in such rules. Until today, the Malta Stock Exchange (MSE) or 'Borza ta' Malta' is the only regulated market in Malta.

The Financial Markets Act (1991) defines a Maltese listed company as *"a company whose financial instruments have been admitted to listing on a trading venue in accordance with the provisions of this Act*" (p. 5). In this study Maltese listed entities (MLE) are limited to the 23 companies operating in divergent industries ranging from banking to hospitality[1] and equity-listed on the MSE as of 23rd August 2018.

1.3 Need for the study

As a consequence of the numerous corporate failures that happened at the beginning of the twenty-first century, for which weak CG has been blamed, a global awareness regarding efficient and effective systems of CG has been revitalised, which has led to various changes. Since then, various studies considering different qualities of CG in developed economies have been conducted. However, CG studies focusing on developing markets, with an emphasis on CT, are not that abundant, even if the analysis of such practices in these markets is vital because different economic, social

[1] Vide Appendix 1.1

and cultural dynamics are encountered. Moreover, capitalism is becoming one of the main driving forces of Western economies thus shifting awareness on the corporate sector of which CG is central. In Malta, a number of recent studies tackling CG have been carried out. However, none of these have considered the links between CG and CT and it is thus hoped that the researcher fulfils such a gap in the local literature.

1.4 Objectives of the study

The objectives of this study are twofold, namely

1. To establish whether a lack of CT is a relevant feature in the CG of MLEs, and if so,
2. To assess the possible reasons for such a corporate stance and its implications.

1.5 Scope and limitations

This study is limited to the examination of CT within the CG of Maltese entities that had their equity listed on the MSE as of 23rd August 2018. It takes into account information up to the 31st March 2019.

1.6 Overview of the study

The overview of this study is as follows:

Chapter 1 introduces the study by providing a background to the study, including definitions of the key terms used throughout this study, the need, objectives and limitations of such a study.

Chapter 2 provides a broad review of the existing Maltese and international literature pertinent to the subject in question from various different sources.

Chapter 3 describes the research methodology of this study. It also provides a justification of the chosen research design, data collection method and the process of data analysis.

The findings obtained from the study are presented in **Chapter 4** and discussed in **Chapter 5**.

Chapter 6 concludes this study by summarizing its main findings, providing recommendations and suggesting areas for further research. Figure 1.3 below provides an outline of this study.

Figure 1.3: Outline of this study

Chapter 2

Literature Review

2.1 Introduction

This chapter consists of a review of the literature pertinent to the subject in question and the two objectives outlined in Section 1.4. As presented in Figure 2.1, Section 2.2 initially discusses the concept of CG. This is followed by Section 2.3 which reviews the Maltese Regulatory Framework and Section 2.4 which relates to the comply-or-explain approach. Subsequently, Sections 2.5 and 2.6 address CT and good CG practices respectively. Finally, Section 2.7 concludes the chapter.

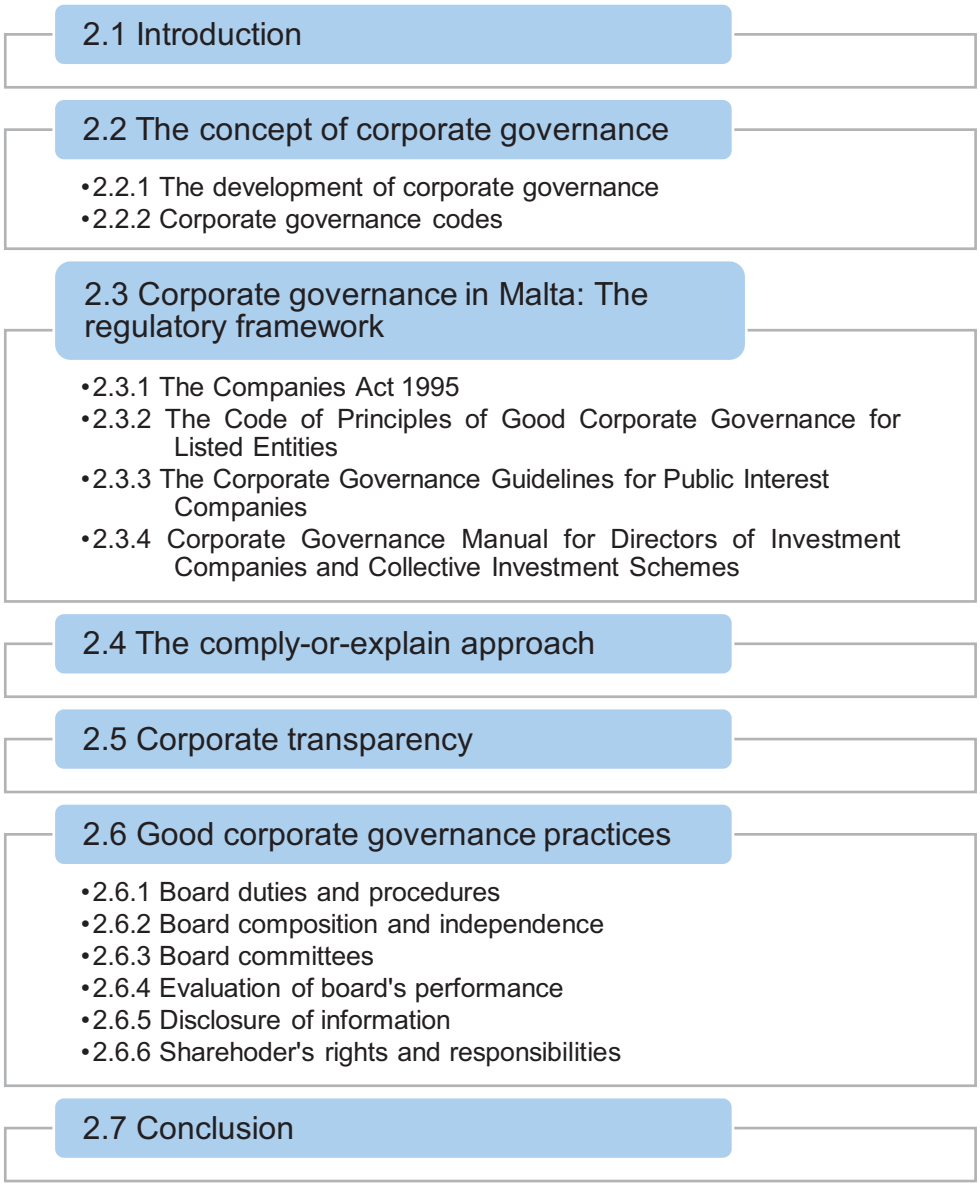


Figure 2.1: Outline of Chapter 2

2.2 The concept of corporate governance

2.2.1 The development of corporate governance

The foundations of CG traces back to the 1600s where the Dutch East India Company faced misalignment of interests between the principal and the agent, which is also known as the agency problem. Jensen and Meckling (1976) defines the agency problem as the engagement of managers in activities for their own benefits rather for the benefits of the firm's shareholders. In fact, Azzopardi (2012) states that very often the managers of a company are more interested in retaining profits and reinvest them or try to improve their own benefits in the form of higher salaries, while the shareholders are more interested in profits being distributed to them in return as dividends.

This was further echoed by Berle and Means (1932) who shed light on the separation of ownership and control in larger companies within the United States. Dissimilar to small private companies where the managing directors are also the owners of the company, as entities started growing and expanding, shares were being taken up by a large number of small shareholders (Vella, 2018). As a result, the latter did not have a majority interest as individuals, thus, control of the company was shifted to its directors (Azzopardi, 2012). As a consequence, shareholders felt the need to assure themselves that companies are directed in a direction which maximises their own wealth and not in a way that to rewards management to their own detriment.

Although, the Berle and Means (1932) ownership structure of a modern company is broadly accepted in most literature related to finance, La Porta et al.'s (1999)

analysis suggested a diverging ownership structure. They argue that the stance of Berle and Means (1932) provides only an organisational form for larger entities incorporated in countries having the finest company law. La Porta et al. (1999) continue to state that in countries where shareholder protection is modest, even the largest entities have a controlling shareholder. Most of the time, this is a family who may have the power to take advantage of the minority shareholders and therefore corporate control is required.

2.2.2 Corporate governance codes

Morgan and Hunt (1994) posited that trust is vital for good CG. The loss of trust will hinder critical synergies between the company and its main stakeholders which will eventually result in a decline in the company's financial performance (Morgan and Hunt, 1994). Thus, in the absence of trust, stakeholders will no longer be willing to go a further mile and provide the company with the support it requires. In a similar vein, Moorman et al. (1993) define trust as *"a willingness to rely on an exchange partner in whom one has confidence"* (p.82).

Post financial crisis, different countries felt the need for better control systems and good CG practice in order to address trust issues and restore public confidence in the capital markets (Calder, 2008). The responses were diverse due to the fact that different countries have exposure to various legal frameworks, cultures, political scenes and business practices (Mallin, 2004). However, all produced codes aim to *"enhance the quality and transparency of corporate management"* (Werder et al., 2005, p.178).

In the United States, both the Securities Act (1933) and the Securities Exchange Act (1934), which aim to protect investors and promote fair and efficient markets have been significantly amended by the introduction of the Sarbanes-Oxley Act of 2002, which adopts a rule-oriented approach.

In the UK, a number of reports have been published throughout the years. Initially, in 1992, following the corporate cases of Maxwell and BCCI, the Cadbury Committee's report on the financial aspects of CG were published and thereafter referred to as the 'Cadbury Report'. This report was followed by the Greenbury Report (1995), the Hampel Report (1998) and more.

The EU departed from the idea of establishing a universal code of good practice for all member states to put up with but instead it decided to leave it for the discretion of each country to develop their own code (IFC, 2008). Despite this, the EU still stipulates a number of rules and principles relating to the CG practice through directives, which are transposed into domestic legislation (Commission of the European Communities, 2003). Actually, it is recognised that most of the codes produced in Europe adopted the principle-based approach and the 'comply-or-explain' (CoE) basis rather than the hard laws and regulations (IFC, 2008).

2.3 Corporate governance in Malta: The regulatory framework

CG in Malta is regulated by a number of guidelines and legislation, namely (1) the Companies Act 1995 Chp.386; (2) the Code of Principles of Good Corporate Governance for Listed Entities; (3) the Corporate Governance Guidelines for

Public Interest Companies and (4) Corporate Governance Manual for Directors of Investment Companies and Collective Investment Schemes.

2.3.1 The Companies Act 1995

The act of 1995 is the primary Maltese legislation which regulates the exercise of CG in Malta. The Companies Act set forth the different forms of corporate organisations or commercial partnerships that may be incorporated, whilst regulating the conduct of their activities. Ample parts of the act deal with the board of directors and board meetings, shareholder meetings, responsibilities and answerability of the directors, disclosure of information and transparency obligations. In addition, another essential source of CG is the company's memorandum and its articles of association. These constituting documents which outline the corporation's powers, restrictions, duties and procedures whilst granting legality to the actions taken by its members.

2.3.2 The Code of Principles of Good Corporate Governance for Listed Entities

The emergence of CG in Malta traces back to 2001, when the Working Group set up by the MSE was asked to give advice on matters relating to CG. One of the main recommendations was to establish a code of CG practices. In response, the MFSA drafted the 'Code of Good Corporate Governance' and has since then formed part of the Listing Rules (2018) as an Appendix to Chapter 5. That said, Bezzina et al. (2014) claim that adherence to such a code is beneficial to all companies and not just to listed entities.

The proposed code was then revised in 2005 by the MFSA as a consequence of the international pressures on the concept of CG. The MFSA made some of its provisions mandatory such as the formation of an audit committee, the separation between the roles of the chairman and the chief executive, the inclusion of non-executive directors (NEDs) on the board and board performance evaluation (MFSA,2005).

Another revision was conducted in 2010 renaming the code as 'The Code of Principles of Good Corporate Governance for Listed Entities' (the Code)[2] and was divided into 12 main principles, supporting principles and provisions. The applicability of this Code is extended to include all listed companies, banks, trusts, finance companies but excluding collective investment schemes. A new principle relating to the nomination committee was introduced whilst principle eight which relates to the remuneration committee, was modified.

It is reasonable to say that the code and all revisions followed developments that occurred within the UK. Similar to the UK's codes, the code is based on the CoE approach, where entities are encouraged to comply with all the principles but if unable to do so an explanation is required (Bezzina et al., 2014). In fact, the code (2011) requires MLEs to include a CG statement (CGS) in the annual financial statements, which shall include two sections, the first section focusing on compliance with the Code and the mechanisms undertaken, whilst the second section addressing non- compliance. Moreover, the CGS shall be validated by auditors. In a similar vein, the Financial Reporting Council (FRC) (2006)

[2] Vide Appendix 2.1

recognised that not all departures from the Code should be considered as a breach since, some may be justifiable under particular circumstances.

On the other hand, the remaining non-mandatory principles share the goal of improving the legal, institutional and regulatory frameworks aimed at the practice of good CG within the Maltese corporate sector (MFSA, 2005). They also complement the related provisions imposed by the Companies Act (1995). That said, Muscat (2007) proclaims that the Code includes principles which are in contradiction with the requirements of the Companies Act (1995), such as allowing the duties of the chief executive and the chairman to be unified if an explanation is given to the various stakeholders.

2.3.3 The Corporate Governance Guidelines for Public Interest Companies

Further to the abovementioned Code, in 2006 the MFSA introduced the Corporate Governance Guidelines for Public Interest Companies. Similarly, such guidelines are non-binding and if applied a statement of compliance is not required. However, public companies adhering to these CG guidelines are advised to highlight such practice in the annual reports (MFSA,2006).

2.3.4 Corporate Governance Manual for Directors of Investment Companies and Collective Investment Schemes

Given the declining interest in the financial services' industry post global financial crisis, the MFSA published this manual to provide broad guidance on how to apply good CG principles in investment companies. The main scope of this manual is to continue improving and promoting good CG practices (MFSA, 2016).

2.4 The comply-or-explain approach

Inwinkl et al. *(*2014) posited that at the heart of the EU's CG framework, which was introduced by Directive 2006/46/EC is the CoE approach. As a result of the transposition of EU directives into national law, the approach of CoE became evident in all 28 EU member states as an obligatory disclosure rule of every CG code (Caspar, 2016). The CoE approach was originally put forward by the Cadbury Report of 1992 in the UK, which provided the first CG code and since then acted as an international benchmark of such practice (Keay, 2014).

The purpose of the CoE approach is to invite and encourage companies to comply with all the principles of the applicable CG code, but whenever they are not able to abide by certain provisions for one reason or another, companies are not expected to comply (Seidl et al*.,* 2013). In fact, the FRC (2018) suggests that a deviation from complying with a provision could be reasonable in specific settings based on a series of factors such as the size, history, complexity and structure of a company. The CoE has been designed to allow some flexibility to companies and to challenge the rigid hard law, acknowledged in the rigorous *'one-size-fits-all'* approach, which seems unrealistic for the practice of CG (Kraakman et al*.,* 2004).

Furthermore, according to Inwinkl et al. (2014), the application of the CoE approach can only be successful if supported by blue-ribbon reporting, where non-compliant companies are required to provide sufficient and appropriate explanation for why they failed to conform with the provisions of the code. In this regard, Inwinkl et al. (2014) suggest that a proper explanation should provide (1)

acceptable information about the areas of non-compliance, (2) an appropriate rationale for the non-conformity and (3) the actions the company is taking to solve the departure. Thus, the CoE principles contributes to increasing transparency and disclosure of how a company is governed (Sergakis, 2015). It also intends to "empower shareholders to make an informed evaluation as to whether non-compliance is justified, given the company's circumstance" (Keay, 2014, p.279) as ultimately the primary objective of CG is the protection of the investor's interest.

Having said that, Keay (2014) also points out that shareholders tend to lack participation with respect to the limited monitoring of the CoE and stick to the traditional channels of information such as the annual financial statements for decision making. On the other hand, studies show that certain companies are taking advantage of the flexibility of the principle by complying simply with the letter of the law and not with its spirit, providing uninformative explanations, if any (Arcot et al., 2010). Thus, both the unchallenging investor and the exploiting company are undermining the primary objective of the CoE principle.

2.5 Corporate transparency

As a consequence of the various corporate misconducts, CT is nowadays generally considered to be the tool which mitigates distressed relationships between a company and its stakeholders through its perceived ability to create, maintain and repair trust issues (Fombrun and Rindova, 2000). Moreover, transparency is considered fundamental as it may offer better accountability and CG, resulting in the proper allocation of resources and capital (Choi and Sami,

2012). In this context, the EU's Transparency Directive specifies that the disclosure of proper information maintains investor confidence, market efficiency and investor protection (European Parliament and the Council of the European Union, 2013).

Over the years, a number of varying definitions for the concept of CT have been put forward by several researchers coming from distinct research areas. For example, finance and accounting researchers define the concept as *"the availability of specific information to those outside publicly traded firms"* (Bushman et al., 2004, p.207), researchers of organisational behaviour describe it as "leader behaviors that are aimed at promoting trust through disclosures that include openly sharing information and expressions of the leader's true thoughts and feelings" (Walumbwa et al., 2011, p.6) and Zhu (2004), an electronic markets researcher, defines CT as "the degree of visibility and accessibility of information" (p.670). This indicates that the concept of transparency does not exist or operate in a single field. Rather, its pertinent operation exists significantly at the company level, in particular relating to company-stakeholder relationships (Schnackenberg and Tomilson, 2014).

Despite the various approaches to explain the concept, it appears that there are some common aspects which surrounds the concept of CT, firstly being that CT relates to information. In this regard, Fung (2014) argues that information is vital for investors to be able to make well-informed judgments of the risk and rewards of a particular investment. Similarly, Madhavan et al. (2005) studied transparency as the capacity of information disseminated by corporate institutions to its

stakeholders and Christensen (2002) linked the notion of transparency with those of communication and the availability of information by arguing that, greater loads of information are only possible at higher levels of transparency. Secondly, CT is deemed to be a perception of the information being received, such a perception can be highly influenced by an entity's information sharing performance (Schnackenberg and Tomilson, 2016). Thirdly, a central and fundamental aspect of CT is the quality of information made available to the various stakeholders (Bushman et al., 2004).

Schnackenberg and Tomilson (2016) mentioned three distinct dimensions which contribute to the general perception of CT by improving stakeholder confidence in the quality of information being received, namely (1) disclosures, (2) clarity and (3) accuracy. Haely and Palepu (2001) define corporate disclosures as a means of communicating company performance and governance to the outside stakeholders. The concept of corporate disclosures entails information to be freely and openly distributed in order to be treated as transparent while warranting the availability of relevant information thereof.

Farvaque et al. (2011) mention two important distinctions, the first is that between financial and non-financial corporate disclosures. The former generally relates to information about the financial performance and position of a company included in the financial statements whereas the latter mainly involves information about the company's social and CG. The second distinction is that between mandatory and voluntary disclosures. Mandatory disclosures relate to what is required by

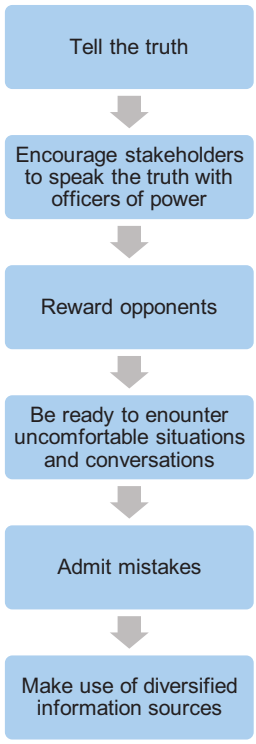
laws and regulations while voluntary disclosure is generally supplementary information, which is more expected in today's contemporary world.

A company can increase its level of disclosure by disclosing further volumes of information in more frequent intervals through the use of open information systems on the one hand or it can reduce it through keeping secrets (Schnackenberg and Tomilson, 2014). Most of the time, secrets are linked with negative connotations, however, there are times where secrets are considered to be legitimate and ethical within the parameters of confidentiality and necessary for sustaining the competitive advantage of a firm such as product ingredients. Nonetheless, the intended concealment of information from external stakeholders is considered both illegitimate and unethical (Anand and Rosen, 2008).

Another pivotal dimension of CT is clarity, Schnackenberg and Tomilson (2014) define clarity as the degree of rationality and directness of the information shared by organisations. In this context, Winkler (2000) explained that companies are expected to deliver clearer information so as to reflect transparency while Street and Meister (2004) emphasised that such information must be understandable. Wolfe and Putler (2002) explained that companies could influence and communicate more clearly with stakeholders by delivering the message which is fit for their knowledge, interests and requirements, avoiding any unnecessary ambiguous linguistics and formality. Lastly, accuracy is considered to have an essential role in enhancing CT and preventing corporate scandals (Akhigbe and Martin, 2006). Walumbwa et al. (2011) claimed that intentionally-biased and

manipulative information is not a proper reflection of transparency. Information is required to be valid (Bushmanl et al., 2004) and reliable (Williams, 2005) in order to be transparent.

Given the volatility of today's financial markets and the increase in scrutiny, transparency is no longer viewed as a luxury but has become a necessity in a system of governance (Borgia, 2005). Borgia (2005) continues to explain that CT may not lead to instant corporate success, but the absence of which may be a burden on the company's performance and reputation and yet some companies may choose to set aside such requirements. In this regard, Bennis and O'Toole (2009) suggested a process involving a number of stages or practices that a company should incorporate in its CG framework in order to develop the concept of CT and improve the management of the firm. Figure 2.2 provides an illustration of this process.



Amended from Bennis and O'Toole (2009)

Figure 2.2: The process of developing the concept of corporate transparency in corporate governance

2.6 Good corporate governance practices

This section delves into the nature and extent of some of the practices which are considered necessary for companies to have a good stand on CG.

2.6.1 Board duties and procedures

The duties of the directors are various, nonetheless some of them are not always observed especially in smaller companies having some sort of overlap between management and ownership (Farrugia, 2010). Hinnant (1988) argues that *"a traditional principle of corporate law is that corporate directors are charged with certain fiduciary duties"* (p.163). A person becomes a fiduciary when he is granted the trust and confidence of another person. Thus, the directors of a company are fiduciaries as they have been entrusted by the shareholder to direct and control the company (Cadbury Report, 1992). Such fiduciary relationships require the directors of a company to act with total honesty and in good faith, meaning that they will always respect the interest of the company and its shareholders by maximising the value of the company.

In Malta, the duties of the directors are recognised by article 136.A of the Companies Act of 1995, Chapter 386 of the Laws of Malta, including the implementation and monitoring of strategic plans, ensuring compliance with necessary ethical and legal requirements, managing risk and ensuring an effective system of information. Such an article is supported further by principle 4 of the Code (2011)[3] which states that the members of the board shall act,

[3] Vide Appendix 2.1, p. A2.1-6

> *"responsibly for exercising independent objective judgment with the highest degree of integrity, and 'on a fully informed basis in good faith with due diligence and in the best interests of the company and the shareholders" (p.6).*

2.6.2 Board composition and independence

The size and structure of the board are fundamental elements influencing the efficiency and effectiveness of the board. As included in the Code (2011)[4], the board should not be composed of too many members becoming too difficult to be managed. It should, however, be large enough to provide the necessary mix of skills and experience. Moreover, principle 3 adds that it is optimal for a board to include both executive and NEDs to allow for a higher degree of independence at the table. In order to ensure that neither an individual nor a small group of individuals has a disproportionate amount of control or influence on the decision making of a company, the second principle of the Code (2011)[5] stipulates that the position of the chairman and that of the CEO shall be two discrete positions. The characteristics of independence may vary from one legislation to the other, yet, the Code (2011) proclaims that a director is considered to be independent

> *"when he is free from any business, family or other relationship with the company, its controlling shareholders or the management of either – that creates a conflict of interest such as to jeopardise exercise of his free judgement" (p.4).*

[4] Vide Appendix 2.1, p. A2.1-4
[5] Vide Appendix 2.1, p. A2.1-3

2.6.3 Board committees

The Code also refers to the formation of certain board sub-committees which are considered vital for good CG (Deloitte, 2014). These committees are established to deal with certain tasks and allow the board to manage the available resources more efficiently. One of the most common board committees is the remuneration committee which gained its heightened importance from the Greenbury Report (1995).

The remuneration committee is required to determine fair compensation packages which *"attract, retain and motivate director"* (Greenbury, 1995, p.16) whilst increasing transparency of such matters. The remuneration committee should be made up of NEDs having no personal financial interest other than as shareholders in the company. One of the members of this committee has to be independent and chair the committee. Main and Johnston (1993) argued that in the non-existence of this committee directors would appear to use one hand to script their own contracts and the other to sign them. Whereas businesses are given the discretion of their remuneration packages for directors it is obligatory that at minimum a share of executive director remuneration be linked to both the performance of the company and the director himself.

According to principle 8 of the Code (2011),[6] listed companies are required to prepare a report on the remuneration committee and include it in the annual report. This report shall provide enough information about the membership, meetings and performance of the committee. Furthermore, the annual report shall

[6] Vide Appendix 2.1, p. A2.1-11

include a remuneration statement including the company's remuneration policy and emoluments paid. Under the older version of the Code, companies were required to provide information about the remuneration of each individual director. The revised Code, however, reduced this disclosure to the total emoluments in cash or otherwise received by all directors. These aggregates are then expected to be further split into different categories of "fixed remuneration, variable remuneration, share options and others" (p.13). One would ask, if this is the proper way to achieve CT and more information.

Studies carried out by Cauchi (2009) and Debono (2016) suggest that in Malta the views about such modifications are mixed although there is some skewness in favour of the total emoluments. The reasons given were varied. Specifically, those in favour argue that individual remuneration is considered to be sensitive information or that by providing individual disclosure there will be no added benefit to shareholders. Those against mentioned that individual disclosure is required for the sake of transparency and to avoid having directors who earn high amounts hiding behind lower earners. Bezzina et al. (2014) also identify the disclosure of remuneration packages as one of the aspects of non-adherence by MLEs and areas for potential improvement.

2.6.4 Evaluation of board's performance

Principle 7 of the Code (2011)[7] requires the board to conduct an evaluation of its own performance and that of its committees on an annual basis. Additionally, it is recommended to establish a dedicated committee which is chaired by a NED

[7] Vide Appendix 2.1, p. A2.1-10

to perform such evaluations. The Code (2011) does not specify the composition of the rest of the committee and so it could be possible to involve some outsiders for a higher quality performance evaluation given that such internal evaluations will automatically be influenced by peer directors (Azzopardi, 2012).

The chairman is then responsible for analysing the results thoroughly and acting properly to ascertain the board's strengths and mitigate its weaknesses whilst reporting back to the board of directors (MFSA,2011). However, the Code does not oblige the chairman to report the aforementioned during the Annual General Meeting (AGM) which, in turn, may put into question whether the directors are really ready to be challenged by the relevant stakeholders.

In his study, Azzopardi (2012), proves that this performance evaluation is one of the weakest aspects of CG of MLEs as only 15% of MLEs complied fully with the Code in such respects. Around 30% of the remaining 17 companies did conduct a performance evaluation but without following any formal process or establishing a specific committee, whilst 55% of MLEs did not carry any performance evaluation. Most of the companies claimed that this evaluation was not necessary given the size of their business and that the directors of a company are already scrutinised by the shareholders.

2.6.5 Disclosure of information

As described in Section 2.5, transparency and the disclosure of information are pivotal to CG as it is the means by which the directors of a company are held accountable for their responsibilities and decisions (Wilcox, 2015). Given the

demanding nature of the world we live in, companies are nowadays expected to disclose a greater deal of detailed information than previously.

In fact, most of the CG codes are based on the CoE approach explained earlier, which entails situations of non-compliance by virtue of explanations. Haxhi and Van Ees (2010) affirmed that explanations and disclosures are two different things but the former prevail as they are considered central to the CoE principle. Moreover, its strengths and benefits are reflected by the quality of the same explanations (Shrives and Brennan, 2017).

By a brief overview of the historical development of CG, or, more precisely, the concept of the CoE in the UK, one can easily notice that the notions which underpin the concept of explanations do vary. The Cadbury Report (1992, p.11) required companies to provide “reasons” for non-compliance. The Greenbury Report of 1995 recommended the provision of both an explanation and a justification for any deviations. Later, the Hampel Report (1998) stated that the explanations should refer to exceptional circumstances. Recently, the FRC (2018) described explanations as a convincing mechanism.

Several researchers have evaluated the real effectiveness of such a non-mandatory system (Shrives and Brennan, 2017) and also reviewed the level of non-compliance with various different CG codes (Vella, 2018). Sergakis (2013) documented that most of the time, explanations for non-compliance were inadequate, superficial or even non-existent. Furthermore, a study conducted by Merkl-Davies and Brennan in 2017 concluded that companies established in jurisdictions which lack oversight by the relevant regulator might choose not to

include an explanation for non-compliance on purpose. This is due to the fact that the reader may misinterpret the situation as that of being in full compliance.

The inadequacy of explanations is also evident locally. In fact, both Azzopardi (2012) and Schembri (2016) highlight the fact that MLEs do not provide adequate explanations as a justification for their non-compliance. More recent studies also show that despite the fact that companies are fully aware of the lack of explanation they are providing in the CGS, very little action is being taken from their end to improve the situation (Debono, 2016; Vella, 2018). Therefore, these findings complement the notion that MLEs observance of the Code is completely superficial and that they simply do it because they are required to do so by law.

Albeit, this booming need for more information, the OECD (2015) also contemplates that such disclosure of information should not put companies into conveying absurd administration and costs load. Moreover, *"nor are companies expected to disclose information that may endanger their competitive position unless disclosure is necessary"* (Ibid, p.37). Nonetheless, as argued by Balzan and Baldacchino (2007) an emphasis on the confidentiality of information may derive from the perceived need of so many companies to self-protect against the spread of sensitive trade information. This leads to additional problems such as difficulties in carrying out benchmarking particularly in a small state context, an environment where it is much easier for the next-door neighbouring competitor to gain such potentially dangerous information.

2.6.6 Shareholders' right and responsibilities

Shareholder rights tend to be plentiful and diverse, however Velasco (2006) categorises them into the following four categories: (1) economic rights, (2) control rights, (3) information rights and (4) litigation rights. One of the main purposes of CG practices is to provide a tremendous degree of respect and protection to such shareholder rights. Hence, it is natural for the CG codes to include appropriate provisions to safeguard these rights. In fact, the Code (2011)[8] recommends MLEs to communicate effectively through the provision of *"regular, timely, accurate"* and *"comparable"* (p.15) information on the market in order to allow investors to make knowledgeable investment decisions. Also, it suggests that directors shall resort to the general meeting in order to communicate with the shareholders and for the chairman to allocate enough time for direct dialogue to solve any issue or concerns (MFSA, 2011).

Bezzina et al. (2014) identified that all MLEs which amounted to 20 made use of the normal channels of communication which include (1) AGM, (2) annual financial statements and report, (3) interim results, (4) company announcement and (5) company's website. Moreover, the study concluded that only 15% of the MLEs have an internal shareholder relation officer and just seven companies actually hold a direct conversation with institutional investors and other intermediaries to support the AGM (Ibid).

On the other hand, shareholders are expected to practice activism. Shareholders activism is the shareholder's effort to influence the company's behaviour by

[8] Vide Appendix 2.1, p. A2.1-15

exercising their rights as owners of the company (Hernández-López, 2003). Rajyalakshmi (2014) states that an owner who is not satisfied with the performance and management of a firm has simply three options to choose from, namely (1) trade off his holdings and not have anything to do with the company any longer, (2) make himself comfortable with the situation and let the management do their job or (3) express his dissatisfaction through activism. When compared to individual investors, institutional investors are said to be a much stronger and influential tool in ensuring good CG practices as their significant holding grants them better access to information and greater power (Esser and Havenga, 2008).

Regardless, many shareholders still choose to remain inactive for a number of different reasons. Esser and Havenga (2008) state that one of the possible drivers for such a lack of participation may be that shareholders are not aware of their legal rights and powers. Also, some shareholders perceive that their effort will not induce any change and that shareholder activism can be costly (Esser, 2008).

Solomon (2017) documents that shareholders inactivity strips off the ideological grounds of corporate democracy, which legitimises the act of power by the company's shareholders, managers and directors. This leads to the board of directors emphasising the confidentiality of information and avoiding making information available, as they consider absolute power. Thus, it may be claimed that if shareholders had to scream their concerns from the top of their lungs,

boards might be alarmed. As follows, shareholder activism can really be a way to improved CG.

2.7 Conclusion

This chapter entailed a broad evaluation of the existing literature on the subject in question, consisting of information about the concept of CG, the Maltese regulatory framework, the principle of the CoE, CT as well as good CG practices. The following chapter will set forth the research methodology pertaining to the purpose of this research study.

Chapter 3

Research Methodology

3.1 Introduction

This chapter outlines the research methodology adopted in order to address the objectives of the study. As outlined in Figure 3.1, Section 3.2 presents the preliminary secondary research carried out. Subsequently, Section 3.3 describes the research design of this study. This is followed by Section 3.4 and Section 3.5, which present the data collection and analysis methods respectively. Section 3.6 outlines the limitations of the adopted research methodology and finally, Section 3.7 concludes the chapter.

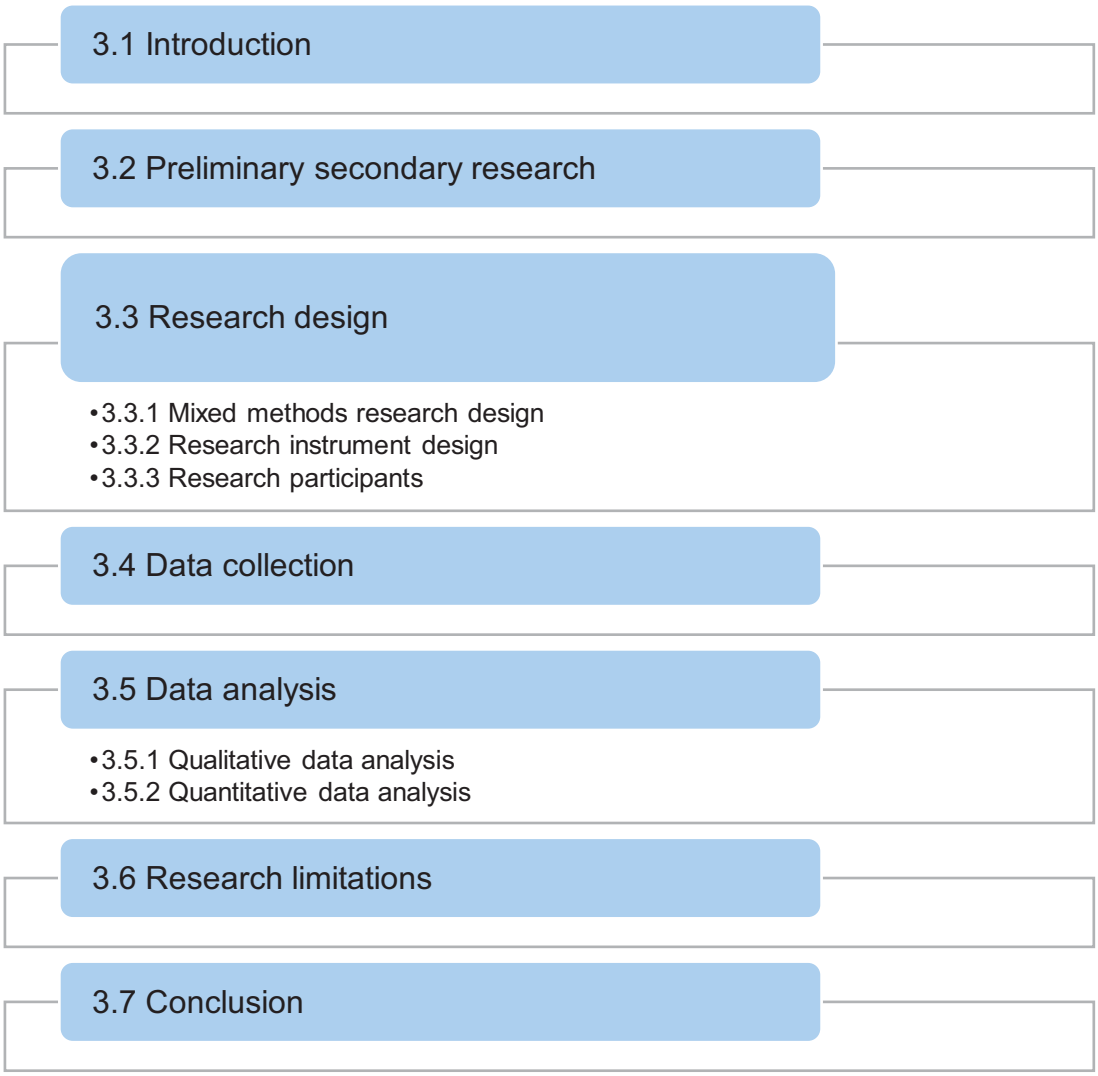


Figure 3.1: Outline of Chapter 3

3.2 Preliminary secondary research

At the preliminary stages of this research, an analysis of both Maltese and international sources was performed. The primary literature sources included, academic articles, books, past dissertations, journals and legislation from the University of Malta Library and the internet. The majority of the sources related mainly to CG, very few, if any, related directly to the concept of CT. Subsequently, a number of academics were contacted to discuss and confirm the feasibility of the study. Once the research proposal was approved, introductory meetings with the dissertation tutor were held which assisted the researcher in formulating the objectives of the study. Figure 3.2, summarises this initial research process.

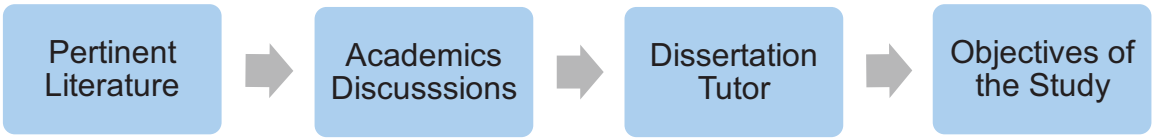


Figure 3.2: Preliminary research process

3.3 Research design

This section describes the research design implemented, Section 3.3.1 provides the rationale behind the use of a mixed methodology. Section 3.3.2 explains the design of the research instrument resorted to collect primary data and finally, Section 3.3.3 focuses on the research participants.

3.3.1 Mixed methods research design

The research design is the process by which the research question is turned into a research project (Robson, 2002). It is the general action plan that executes to fulfil the objectives of the study. As identified by Creswell (2014) there are three kinds of research designs, namely (1) Qualitative, (2) Quantitative and (3) Mixed Methods. Easily explained, quantitative research is framed in terms of quantities and numbers, whilst qualitative research is more associated with words (Patten and Newhart, 2018).

A mixed methods research is one which either combines or integrates both qualitative and quantitative data collection and analysis procedures (Saunders et al., 2016). Qualitative data usually consists of open-ended questions, excluding any proposed responses and allowing participants to provide as much detail as they desire to provide, whereas, quantitative data consists of close-ended questions that are subject to predetermined responses. Hurmerinta-Peltomaki and Nummela (2006) argued that by combining the two research methods into a single study, the researcher is in a better position to obtain a deeper and broader understanding of the research phenomenon.

All research methods have their own benefits and challenges. Quantitative research is often argued to be deficient because it tends to simply take a snapshot at a point in time of the research problem (Rahman, 2017) and most of the time minority response may be overridden by the majority response and therefore not considered. On the other hand, qualitative research is usually perceived to include significant bias, because of direct interaction between the researcher and the participants.

Thus, as posited by Hesse-Biber (2015) the amalgamation of quantitative and qualitative methods allows the researcher to counterbalance the weaknesses of each technique. Nonetheless, a mixed methods research design is generally considered to be more burdensome on the part of the researcher in terms of skills, time and resources required to draw everything together (Almaki, 2006). Yet, the researcher of this study considered a qualitative mixed methods methodology to be the most suitable to achieve the objectives of this study.

3.3.2 Research instrument design

- **Semi-structured interviews**

Interviews are considered to be one of the most effective tools for conducting primary research and for understanding the perspective of others (Fontana and Frey, 2000). Furthermore, Robson (2002,) described interviews as a mean by which the researcher is able to "*find out what is happening and seek new insights"* (p.59). Interviews can be classified as formal and unstructured discussions or else informal and unstructured conversations (Smith and Albuam, 2012). Structured interviews generally require the researcher to ask participants a set of predetermined questions. Usually the researcher is bound to a rigid script and most of the time the exact same questions are asked to each and every interviewee.

On the other hand, an unstructured interview doesn't include any predetermined list of questions. Semi-structured interviews have the characteristics of both types as such interviews usually include a theme or a set of related question to be covered during the meeting although no strict order is followed. Cameron and Price (2009) explained

that this type of interview allows the researcher to have a high degree of flexibility as well as interactivity. Which allow the researcher to probe further depending on the remarks made by the interviewees aiming to elaborate further and obtain more comprehensive answers (Collis and Hussel, 2014).

For these reasons, semi-structured, individual and face-to-face interviews were deemed to be the most appropriate to collect the data required to achieve the objectives of this study.

As previously mentioned in Section 3.3.1, mixed methods research requires the collection and analysis of both qualitative and quantitative data, thus the interview schedule[9] consisted of both open-ended and closed-ended questions. Interview questions were aimed at two interviewees categories: (1) MLEs representatives and (2) Big-4 audit firm representatives, with the main aim to obtain varying views from different professionals.

Table 3.1 below illustrates the structure of the interview schedule; all questions were asked to the two different categories of interviewees.

Part Heading	Question Number
Part A: The Maltese Regulatory Framework	1 - 4
Part B: Corporate Transparency and Dysfunctional Corporate Governance Practices	5 - 8
Part C: Possible Reasons for and Implications of Lack of Corporate Transparency	9 - 10
Part D: Improving Corporate Transparency	11

Table 3.1: Structure of the interview schedule

[9] Vide Appendix 3.5

Part A of the interview schedule related to the Maltese Regulatory Framework. This part consisted of four questions, the first three questions dealt with the Code and the CGS, while the fourth question related specifically to the CoE approach.

Part B of the interview schedule dealt with the possible link between CT and a number of dysfunctional CG practices. This part consisted of a total of four other questions. The first three questions related to the understanding of some relevant terms and the fourth question dealt directly with the possible link mentioned.

Part C of the interview schedule aimed to explore the possible reasons for and the possible implications of a lack of CT. This part specifically related to the second objective[10] of this study and consisted of two questions, one question dealt with the possible reasons for lack of CT and the other dealt with the possible implications on the CG of MLEs.

Part D, related to improving the issue of CT in Malta. This part consisted only of one question.

The closed-ended questions for this study required a Likert scale response. As illustrated in Table 3.2, responses could range from “Strongly Disagree” to “Strongly Agree” on a five-point Likert scale. The table also provides an indication of which questions required such a Likert scale response. Interviewees were also required to elaborate a bit and provide reasons for their rating.

[10] Vide Section 1.4

Scale	Value	Question Number
1	Strongly Disagree	4, 9, 10, 11
2	Disagree	
3	Neutral	
4	Agree	
5	Strongly Disagree	

Table 3.2: Likert scale categories

- **Examination of annual reports**

To further support this study, the researcher also conducted a detailed examination of the CGS of MLEs for three consecutive years, namely 2015 – 2017. As at 23rd August 2018, the MSE consisted of 23 equity listing entities.[11] Three of these entities were admitted to the MSE in 2017 or after and therefore, the examination was conducted on a total of 61 annual reports.[12] In analysing the CGSs, the researcher's focus was on the adequacy of explanations disclosed in the non-compliance section of such statements.

3.3.3 Research participants

The main concern of this study was the reliability and validity of the information to be collected rather than the number of interviewees. This is because the main intention of the study was not to generalise information but rather to explore and clarify the research phenomenon. Therefore, the researcher used purposeful sampling, a sampling method mostly used in qualitative research (Patton, 2015). This technique,

[11] Vide Appendix 1.1
[12] Vide Appendix 3.4

as stated by Creswell and Plano Clark (2011), identifies and selects individuals or else a group of individuals who are highly experienced and knowledgeable about the research subject, allowing the researcher to collect as much relevant information as possible. However, Bernard (2002) also added that someone's availability and willingness to take part in the research could lead to high-quality communication, as participants are volunteering themselves and thus become more engaged in the research.

As illustrated in Table 3.3, a total of thirteen interviewees participated in this research. Nine interviews were conducted with MLE's representatives, the majority of them holding a position in the company secretariat office. In total, seven MLEs contributed to this research as in the case of a particular company, interviewees with two different individuals were conducted. Moreover, another interview was conducted with an individual who occupied the position of a director in the past. Four other interviews were conducted with auditors working for three of the Big-4 audit firms. Table 3.4 lists company representatives according to the industry or sector in which the company operates.

Interviewee Category	Details	Number of Interviewees	Total
MLEs Representatives	Company Secretary	7	**9**
	Chief Financial Controller	1	
	Ex-Director	1	
Audit Firm Representatives	Audit Partner	1	**4**
	Audit Director	1	
	Audit Senior Manager	2	
Total Number of Interviewees			**13**

Table 3.3: Interviewees participating in the study

Industry Sector	Number of Company Interviewees
Food and Beverages	2
Property	1
Hospitality	1
Credit Institutions	2
Financial Services	1
Total	***7***

Table 3.4: Company interviewees by industry

3.4 Data collection

For the purpose of this research, primary data were collected by two different mediums: (1) the semi-structured interviews and (2) the examination of the annual reports.

Initially, interviewees were contacted by e-mail[13] providing a brief introduction to the study. The e-mail sent requested interested participants to reply back by recommending a convenient date, time and location for the interview to be conducted. Additionally, the researcher assured potential interviewees that their name would remain anonymous and in no way made identifiable throughout the research. Moreover, the researcher guaranteed that any information obtained would be used solely for academic purposes and would be considered as confidential. Furthermore, a signed Letter of Introduction[14] by the Department of Accountancy at the University of Malta was attached, enhancing the credibility of the study. A reminder e-mail or a phone call was made to those individuals who did not respond back within three

[13] Vide Appendix 3.1
[14] Vide Appendix 3.2

weeks. Some individuals again failed to reply while others rejected the offer to participate in the study.

Towards mid-October 2018, an invitation was sent via an e-mail to a selected participant who accepted to contribute in a pilot testing. An interview meeting was scheduled for early November 2018. At the end of the meeting, the interviewee was asked to provide feedback about the length and clarity of the interview schedule. Feedback was taken into consideration by the researcher and the interview schedule was amended accordingly. Subsequently, a copy was sent to all other participants via an e-mail before the scheduled meeting so as to familiarise themselves with the questions if needed.

Interviews were then conducted between November and December 2018 at the interviewees' offices, with each lasting approximately between 45-50 minutes. At the very start of each interview meeting, the researcher asked the interviewees to sign a consent form[15] and permission to audio record the discussion was also obtained. The majority of the interviewees did not object to being recorded which allowed the researcher to listen more attentively, observe the body language and eventually eased the data analysis which followed. For all other cases notes were jotted down.

As already mentioned in Section 3.3.2, an examination of the CGSs was conducted by the researcher. This examination was carried out during the second week of February 2019. Where possible, the researcher simplified the analysis in a checklist on an excel spreadsheet. Otherwise descriptive notes were taken.

[15] Vide Appendix 3.3

3.5 Data analysis

3.5.1 Qualitative data analysis

The audio recordings of the interviews, if possible, were transcribed immediately after the interviews were held. The transcripts enabled the researcher to analyse and interpret interviewees' answers for the open-ended questions. All information gathered from the semi-structured interviews and the examination of the CGSs was then summarised, so that the researcher could identify the main similarities and differences in the interviewees' responses as well as the results of the CGSs review. All of this eased the drawing up of conclusions.

3.5.2 Quantitative data analysis

Quantitative data obtained from the Likert scale questions were analysed by IBM SPSS Statistics. Initially, the Friedman Test[16] was carried out to compare the mean rating score provided to a series of statements in each of the three Likert scale questions. This test aims to determine whether the mean rating score provided by the interviewees are comparable or else vary significantly. Results are discussed in Chapter 4.

Secondly, the Mann-Whitney Test[17] was carried out with the main aim to compare the mean rating score provided by the two categories of interviewees and determine any significant difference between the categories. Results of this test found that none of the mean rating scores of the statements varies significantly between the different

[16] Vide Appendix 3.6
[17] Vide Appendix 3.7

categories of interviewees. It is very unlikely to have statistically significant differences where the sample size is small (less than 30) unless differences are considerable.

3.6 Research limitations

In order to assess the level of CT this study mainly refers to information found in the non-compliance section of CGS of MLEs. Specifically, it refers to the compliance section only insofar it is relevant. Moreover, CT is a sensitive subject which, in turn, may hamper interviewees from providing truthful responses. In order to address this limitation, the researcher ensured to maintain a contented discussion while general conclusions were made on the basis of both representatives of MLEs and audit firms perspectives.

3.7 Conclusion

This chapter outlined the research methodology adopted for this research study. The research design, the data collection methods, the data analysis and the research limitations were described in detail. The next chapter presents the findings of this research study obtained by adopting the discussed research methodology.

Chapter 4

Research Findings

4.1 Introduction

This chapter presents a detailed analysis of the findings of both the semi-structured interviews and the annual reports addressing the two objectives of this study. As summarised in Figure 4.1, Section 4.2 relates to the Maltese regulatory framework, Section 4.3 presents the findings relating to the concept of CT and good CG practices. Furthermore, Section 4.4 analyses the possible reasons and implications of lack of CT and Section 4.5 examines CT improvement. Lastly, Section 4.6 concludes the chapter.

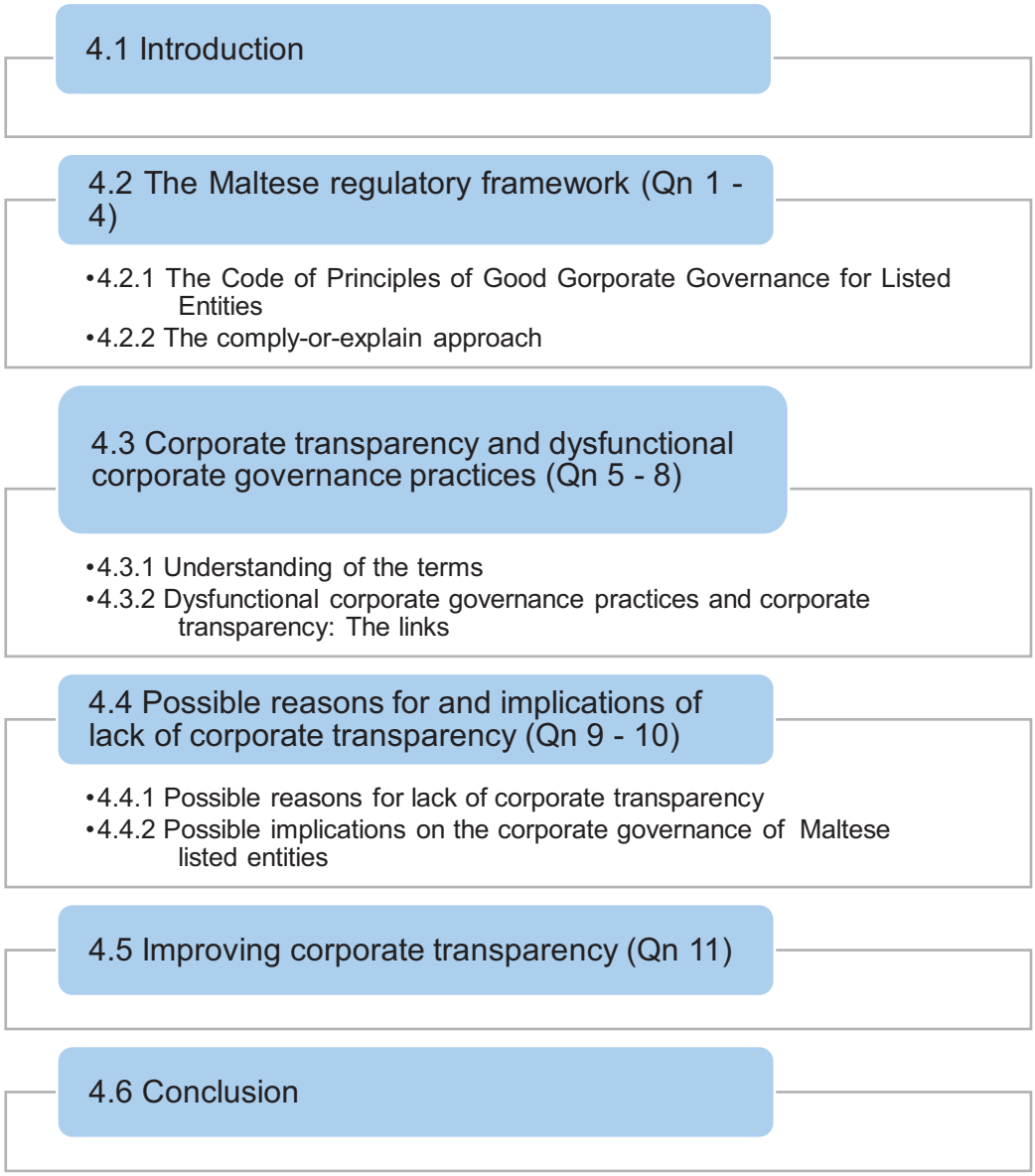


Figure 4.1: Outline of chapter 4

4.2 The Maltese regulatory framework (Qn 1- 4)

This section outlines the perceptions of the interviewees with regards to the existing Maltese regulatory framework. Section 4.2.1 and Section 4.2.2 relate to the code and the CoE approach respectively, pertinent to Part A of the interview schedule.

4.2.1 The Code of Principles of Good Corporate Governance for Listed Entities

- **Validity of the Code**

Initially the interviewees were asked whether[18], in their opinion, the Code sufficiently encourages an effective system of CG practices in MLEs. Interviewees *(13/13)* agreed, to a limited extent, with most of them *(11/13)* highlighting the fact that the Code provides for a set of essential principles that every entity must have in place to assure effective CG structures. Hence, the Code manages to *"guide and direct"* entities into embracing good CG whilst providing a framework against which companies can benchmark themselves. Moreover, few interviewees *(2/13)* pointed out that the Code was not merely drafted in an *ad hoc* manner with one of these interviewees *(1/2)* adding that a considerable amount of time and effort have been put into its development. The other interviewee *(1/2)* explained that the principles incorporated in the Code were not simply invented, but rather extracted from the UK's CG infrastructure.

One particular interviewee *(1/13)* posited that since the Code is annexed to the Listing Rules, it already sends a strong message that the Code is a document which the listing authority looks upon strongly and therefore it is expected of companies to adhere to it. However, another interviewee *(1/13)* asserted that unless the principles included in

[18] Vide Appendix 3.5, p. A3.5-2

the Code become "*part and parcel"* of the Listing Rules, companies will not be entirely committed as their continuing listings are not implicated. This was the case with the principle relating to the audit committee whereby the majority of MLEs only introduced such a committee when it became mandatory by the Listing Rules.

Furthermore, some of the interviewees *(5/13),* most of which are auditors *(4/5)*, emphasised that the Code does encourage good CG. However, it lacks the required controls to sufficiently encourage such structures and practices on its own, as it can be effortlessly bypassed. Two of these interviewees *(2/5)* highlighted the detail that issues relating to CG arise not specifically because of the Code itself, but more as a result of its weak implementation. One of these interviewees *(1/2),* argued that very little is being done by the MFSA on this matter, more precisely the regulator is not going after those entities not adhering to the Code, and emphasised the need for further MFSA involvement. The other interviewee *(1/2)* asserted that the main issue with the current situation is the insufficiency of inspection. The interviewee further stated that, although a statutory audit is required to verify the CGS, the requirement is not detailed enough to scrutinise the in-practice field and to evaluate what procedures and processes are really being utilised. The interviewee concluded by stating that the Code is too high level and hence, lacks practicality.

One particular interviewee *(1/13)* believes that good CG comes from the company's culture. The interviewee argued that it is undeniable that the Code does provide some guidelines. However, if a company "*embraces good CG"*, the Code itself will not change the way the company operates, as the company is adhering to good principles because it believes in them. While, understanding that unless regulations are enforceable by legislations, they may probably be of little avail, in her/his view one

needed much more to be stimulated by having the *"concept"* behind the regulations really developed.

- **Information mechanism**

The second question[19] asked interviewees whether they consider the CG statement as a mechanism to provide more relevant disclosure and information to various stakeholders. In this instance, almost all interviewees *(12/13)* responded positively, with few *(3/12)* emphasising that this statement could provide enough information on how the board and management are thinking in terms of the organisation. However, this is mainly subject to companies paying more than mere *"lip service"* to good CG and also to stakeholders placing importance on this statement.

Furthermore, another interviewee *(1/12)* argued that nowadays the financial statements persistently include much more complexities and technicalities and this increases the difficulty of interpretation especially for the individual shareholder who may not be that familiar with finance. The interviewee continued to state that the CGS together with the Chairman's and the CEO's statements could become even more popular than the financial statements themselves as sources of reference to individual shareholders. Likewise, another interviewee *(1/12)* pointed out that the CGS is one of the simplest in the annual report, she/he still doubts whether stakeholders actually appreciate its value enough.

In response to this question, a particular interviewee *(1/12)* explained that since the CGS is developed on the basis of a set of prescribed principles, any stakeholder may also compare the practices of one MLE to another. Two other interviewees *(2/12)*

[19] Vide Appendix 3.5, p. A3.5-2

disagreed with this because of the evident inconsistencies in the way companies report. Such inconsistencies can significantly impair the relevance of such a statement.

On the other hand, the interviewee *(1/13)* who did not consider the CGS as an important mechanism for disclosure of information, emphasised that the CGS is mostly *"a copy-and-paste exercise lacking substance".* The interviewee expressed uncertainty as to whether this situation is a matter of the Code itself or rather it is due to the mentality of the Maltese market, which has to date viewed CG as a tick-the-box approach.

- **Enforceability of the Code**

Interviewees were then asked[20] whether the Code should be legally enforceable where results were controversial.

On their part interviewees against *(8/13)* presented their perspectives. Three *(3/8)* held that the market is made up of companies with diverse characteristics, strategies and needs and thus it is difficult to develop and implement a one-size-fits-all set of rules. They also stated that the Code already includes a number of provisions which at times may be challenging to put into practice. Legal enforceability could be even more challenging for smaller companies. Two interviewees *(2/8)* mentioned that the law as it stands is already a burden on all MLEs. Other interviewees *(2/8)* emphasised that legally enforceability would merely drive MLEs to adhere to the letter of the law and not its spirit. As one *(1/8)* added it is a matter of *"ethics"* while pointing out that it would be better if a *"name-and-shame policy"* was adopted for defaulters. Lastly, three interviewees (3/13) claimed that legal enforceability should only be limited to the more

[20] Vide Appendix 3.5, p. A3.5-2

important parts of the Code an instance in this case have already been the provision relating to the Audit Committee.

The interviewees *(5/13)* who sided with the legal enforceability of the Code provided a number of distinct yet intertwining reasons. Two of these interviewees *(2/5)* argued that making the Code compulsory would not rock any boat, since most of the MLEs tend to adhere to the Code anyway. Moreover, one of these interviewees added that this particular Code is of extreme relevance and bears positive influence. The other of the two interviewees added that, in his/her opinion, debt-listed companies are taking a much lighter stance when compared to equity-listed companies. Thus, s/he suggested that enforceability needs to be imposed not only on equity listings but also on debt listings particularly given in view that the MSE encompasses more debt listings than equity listings.

Two other interviewees (2/5) maintained that unless the members of the board possess the required level of integrity and the Code is embedded into law, it is difficult to obtain total commitment from the members of the board. The other interviewee (1/5) emphasised that enforceability needed particular improvement within family-owned businesses and added that s/he was against more enforceability towards all companies as this could result in a corporate “straight jacket”, thus decreasing their degree of flexibility.

4.2.2 The comply-or-explain approach

This section relates to the CoE approach as embedded in the Code. Interviewees were asked[21] to provide the extent of their agreement to five statements related to such a CoE principle. Figure 4.2 summarises the findings.

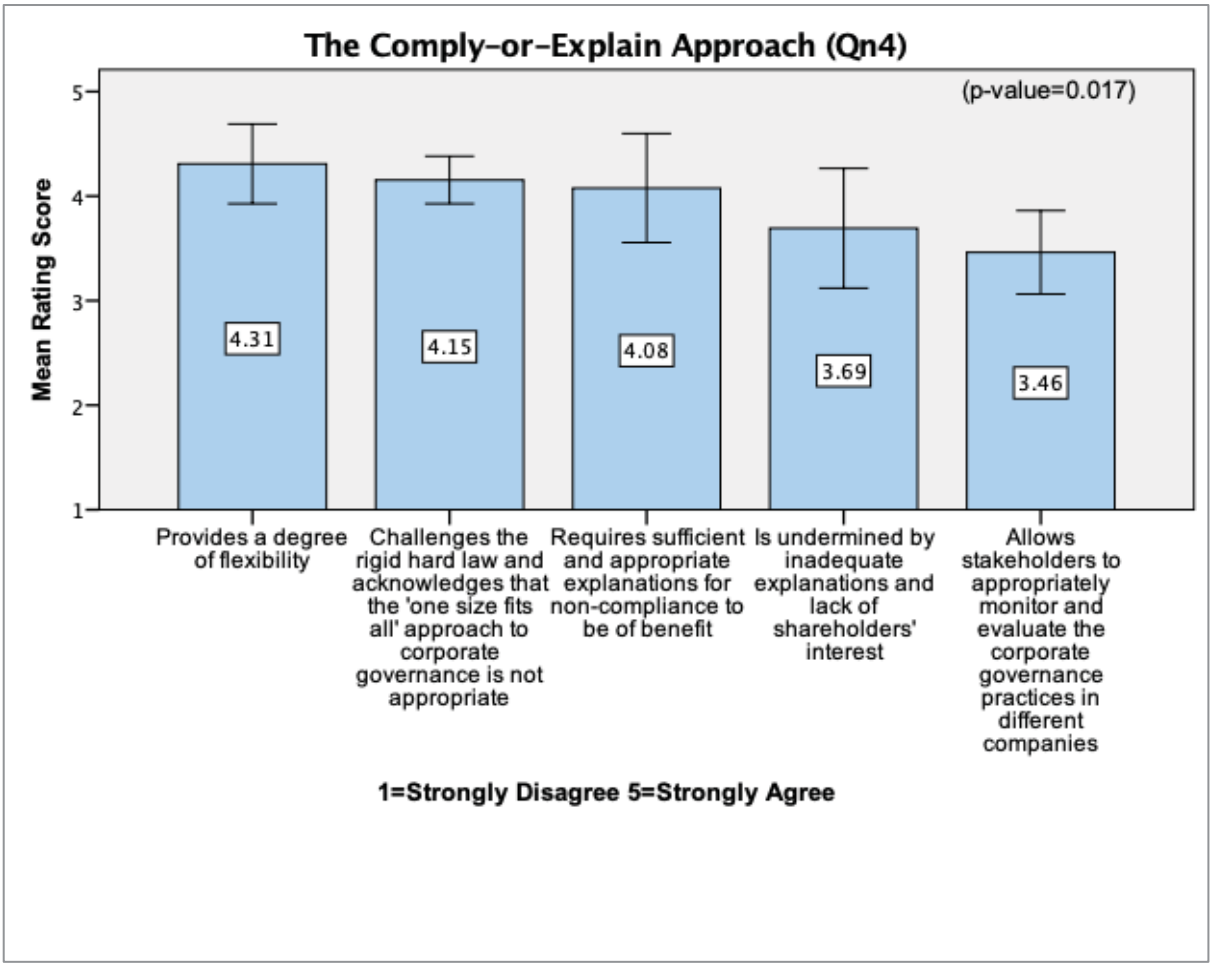


Figure 4.2: The comply-or-explain approach

The mean rating scores for the five statements is $(\bar{x} = 3.938)$ with interviewees tending to agree to all statements. The statement that the CoE approach provides a degree of flexibility was the most agreed to $(\bar{x} = 4.31)$. In this context, a number of interviewees *(5/13)* added that the principle provides a degree of freedom to companies to justify themselves in light of the characteristics of their operations. However, others *(2/13)*

[21] Vide Appendix 3.5, p. A3.5-2

pointed to the possibility of abuse by those who do not embrace the concept of good CG.

Likewise, interviewees agreed ($\bar{x} = 4.15$) that the CoE approach manages to challenge the rigid law and to that ($\bar{x} = 4.08$) it requires sufficient and appropriate explanations to be effective. In fact, with respect to such explanations, two interviewees *(2/13)* added that if these are superficial, meaning that they reveal almost nothing, they will be of no avail to the users of the annual report. Another *(1/13)* pointed out that the quality of explanation is a very subjective matter.

With respect to the statement that the CoE approach is undermined by lack of shareholders' interest, interviewees also agreed ($\bar{x} = 3.69$). Two *(2/13)* explained that most of the Maltese minority shareholders are not sophisticated enough and may also be financial illiterate, thus unable to take interest in the CGS. The tendency *(2/13)* is for minority shareholders to be only interested in the distribution of dividends.

Interviewees were neutral verging on agreement ($\bar{x} = 3.46$), and therefore agreeing to a significant less degree (*p-value = 0.017*) that the CoE approach allows stakeholders to appropriately monitor and evaluate the CG practices for different companies. Disagreeing interviewees pointed out that this is due to the *"free-hand report writing"* permissible by the CoE approach, which leads to incomparability. A box-ticking exercise could facilitate benchmarking wherever descriptive rather than numeric data is being analysed. In this context, the examination of the annual reports published by MLEs underlined some dissimilarities, mainly relating to the reporting structure of the CGS. Despite the fact that the Code itself suggests that such statements shall include two sections, with the first section focusing on the company's adherence to the principles of the Code and the second section dealing with non-compliance, such a

report structure was not adhered to by a few MLEs. Santumas Shareholding plc addressed Principles 1 to 5 together in both sections of the CGS and no specific reference was made as to which principles the company was not compliant with. Instead the company reported that the size and the level of activity of the company are not appropriate for an elaborate structure. Moreover, the CGS for GlobalCapital plc was not structured in two sections. Rather, the CGS was made up of one section entirely addressing compliant instances without any hint of explanation with respect to instances of non-compliance.

4.3 Corporate transparency and dysfunctional corporate governance practices (Qn 5 – 8)

This section analyses the findings applicable to Part B of the interview schedule. Section 4.3.1 analyses interviewees understanding of both corporate confidentiality and transparency. Section 4.3.2 analyses any possible links between a number of dysfunctional CG practices and listed company attitudes against CT.

4.3.1 Understanding of the terms

The next two questions[22] asked interviewees what they understood by the terms corporate confidentiality and transparency.

- **Corporate Confidentiality**

As regards to corporate confidentiality interviewees described this as being a fundamental obligation to not disclose sensitive information to third parties for various reasons such as profession, work, business or vocation.

[22] Vide Appendix 3.5, p. A3.5-3

Most of these interviewees *(7/13)* asserted that this obligation relates to *"internal sensitive matters"* involving both client-related data held by the company as well as information related to the organisation's strategy, business direction and decision making. Such data *(4/7)* often needed to be withheld in order to protect a competitive advantage. It is essential for maintaining a balance in what to communicate to the wider stakeholders not to hinder the operations of the company and ultimately shareholder wealth. Thus, information is only to be made publicly available on a *"need-to-know basis".* Another interviewee viewed confidentiality as a must in order not to lose trust.

Yet, another interviewee *(1/13)* pointed out that, in any case, the need to hold information is *"watered down"* as disclosures may be required by law or professional duty, thus it is no longer considered as a *"sacred cow".*

Most interviewees *(10/13)* distinguished between corporate confidentiality and secrecy. Confidentiality is a positive concept with parameters for the ultimate benefit of shareholders as it reduces corporate risks and potential damages. On the other hand, corporate secrecy has a *"negative connotation"* which may be *"aggressive"* and *"abusive".* The latter may be to the detriment of shareholders, preventing them from taking corrective actions. One interviewee *(1/10)* gave the example of corporate secrecy as denoting everything as being commercially sensitive with the real interest being that of withholding information.

- **Corporate transparency**

In relation to what interviewees understand by the term CT, they *(13/13)* described it as a *"degree of open communication"* between a company and its relevant stakeholders, which *"provides enough detail"* for them to *"truly understand the actual performance, operations and management"* of the organisation, yet, without breaching confidentiality. In this context, one interviewee added that an entity might be negatively impacted if all of its matters are placed in the *"public eye".* Two interviewees *(2/13)* also linked CT with the duty of accountability. They stated that CT is essential as it keeps shareholders appropriately informed, enabling them to uphold directors responsible for their actions, which also benefits directors. With transparency directors communicate that their decisions involved "*reasonable professional judgement"* within acceptable legal and moral limits. Three *(3/13)* even added that transparency generates *"support", "trust"* and *"reciprocal respect"* between directors and shareholders, while its lack may have an adverse impact on the company's share price. Another point raised by some interviewees *(3/13)* was that CT prevents information asymmetry and enables stakeholders to take any needed action in time.

A few interviewees *(4/13)* explained that while a lack of CT may signal *"bad faith"* on the part of directors and then an *"unhealthy"* CG, yet, they denied any direct link between such a lack and corporate failure. This is more evident in the Maltese market, as is evidenced by its too often slow reaction to financial information.

4.3.2 Dysfunctional corporate governance practices and corporate transparency: the links

The next question[23] asked interviewees how far they agree to the relevance of the attitudes of listed entities against CT to a number of dysfunctional CG practices.

- **Insufficiently detailed disclosures relating to director compensations**

Most interviewees *(10/13)* stated that the main issues with the insufficient disclosures of compensations are unrelated to a lack of CT. On the contrary, they attributed this to the perceived *"commercial sensitivity"* with respect to any information being published and the legal need for personal privacy. These interviewees also emphasised that such a need and perception are even more prevalent given the smallness of the state of Malta. Most *(10/13)* deeply felt that given such smallness, it is safer for MLEs to limit this to an aggregate figure of remuneration.

Nonetheless, four interviewees *(4/10)* added that they were in favour of a statutory requirement to separate the remuneration of executive directors insofar as possible on one part from those of NEDs. However, they emphasised that such segregation is not possible when there is only one executive or NED as this would lead to undue identification of persons concerned. One interviewee *(1/10)* considered that there is no *"added value"* in individualised disclosure but only in aggregate disclosure of remuneration, which on its part could be overseen by an appropriate remuneration committee. Another *(1/10)* opined that as long as the law permitted aggregation of remuneration *"why should I go beyond?"*.

[23] Vide Appendix 3.5, p. A3.5-3

However, a minority of interviewees *(3/10)* agreed that there was a link between this practice of aggregation remuneration and a lack of CT. They found such a practice as originating from the perceived need to conceal the amounts earned at the top level and their remuneration thereof. One interviewee *(1/3)* mentioned that this practice is most evident in debt-listed companies, which are not subject to as much stakeholder scrutiny as equity-listed companies. One of these interviewees claimed that this practice is indeed dysfunctional but that such practice is on the decline.

In this context, the examination of the annual reports of MLEs analysed the non-compliance section of the CGS. In the CGSs for the three financial years ending 2015 to 2017, there were only nine cases of non-compliance relating to the setting up of a remuneration committee. Moreover, despite the fact that the Code limits its requirement to an aggregated disclosure of remuneration and most of the interviewees considered that such aggregation is sufficient, there were still 25 cases over the three years where companies went beyond the Code requirements to disclose individualised remuneration. Companies providing such individualised remuneration information included Bank of Valletta plc, HSBC Bank Malta plc, MaltaPost plc and Plaza Centres plc.

- **Non-evaluation of the performance of the board**

With respect to the non-evaluation of the performance of the board of directors, most interviewees *(9/13)* maintained that there is probably little, if any, link between such non-evaluation and corporate attitudes against CT. Such links may, however, arise from the fact that an appreciable number of directors may not be willing to subject themselves to such an exercise. This might be because the results of this exercise may have adverse implications beyond the company performing such an evaluation.

Malta is a country where many directors have multiple *"positions"* in different companies and where the place is "*too small"* for any undesirable results of the performance evaluation of the directors whether published or also not to become known elsewhere. One interviewee *(1/9)* maintained that performing such an exercise on the board of directors falls within the parameters of confidentiality and, therefore, any lack of CT in this regard is justifiable.

One interviewee *(1/13)* emphasised that it is the resistance against CT which is results in such a lack of formal directors' evaluations. Instead of such a formal exercise, companies prefer to come to know about performance only informally and without any structure. Perhaps the regulator requiring structures, such as a robust and detailed questionnaire, an interview and a review of the board minutes as well as the engagement of independent consultants, are the only ways for CT in this context to become implemented.

- **Inadequate explanations for non-compliance**

With respect to the inadequacy of explanations for non-compliance with the Code, responses were balanced as to whether there is a link between such explanations and the lack of CT with slightly more responses to such no link *(7/13).* The main reason forwarded by those who stated that there is no such link is that the preparers of explanations have legitimately considered the competitiveness of the company.

Furthermore, giving more detailed explanations would be dangerous as it would breach confidentiality. An adequate level of confidentiality and the right accounting numbers were significantly more important than CT. Moreover, both an inappropriately structured Code and the Maltese culture commonly override any consideration

towards more transparency. With respect to Maltese culture, this is evident in that boards controlled by foreigners volunteer to give more detailed explanations.

On the other hand, those claiming that there is a link *(6/13)* between CT and inadequate explanations emphasised that a number of company boards were ready to *"skew the picture"* and to stick to *"political correctness".* The latter attitudes lead such directors to consider and evaluate each and every word and resort to a *"copy-and-paste"* from similar reports method. A few others *(2/6)* added that such a link could also merely due to director incompetence.

In this regard, the examination of the annual reports analysed the adequacy of explanations provided in the non-compliance section of the CGS. A number of issues relating to explanations were observed. It is evident that companies use different tactics to provide their explanations, with some companies providing too scant if any few. The following are the main issues arising:

- Generally, most companies recognise the way in which they are non-compliant with the principles or supporting provisions of the Code. However, as per the examples illustrated in Table 4.1, a number of companies simply identify such departure/s and fail to provide any valid reason or explanation for their actions, at times attempting to justify this by depicting the other measures put in place instead of complying.

Grand Harbour Marina plc 2015: Provision 9.3
"The Company does not have a formal mechanism in place as required by Code provision 9.3 to resolve conflicts between minority shareholders and controlling shareholders and no such conflicts have arisen". (p.19)
Medserv plc 2016: Principle 3
"In accordance with Code Provision 3.1, where the roles of the Chairman and the Chief Executive Director are combined, the Board should appoint one of the independent non-executive directors to be the senior independent director. The Board has not appointed one of the independent non-executive directors to be the senior independent director". (p.21)
Plaza Centres plc 2017: Provision 6.4
"With respect to Code Provision 6.4, the Board notes that professional development sessions were not organised for the period under review". (p.15)
HSBC Bank Malta plc 2015: Provision 4.2.7
"Code Provision 4.2.7 recommends 'the development of a succession policy for the future composition of the Board of Directors and particularly the executive component thereof, for which the Chairman should hold key responsibility'. The bank discloses that it never formalised a Board succession policy. However, in practice the REMNOM Committee is actively involved in the board succession, specifically in recommending the appointment of new members and also by evaluating any newly proposed appointees". (p.34)

Table 4.1: Attempted justifications for non-compliance

- Despite the free-hand report writing mechanism, it is evident that in a number of instances, different companies tend to provide the same type of explanations, at times with slight variations. Table 4.2 presents some illustrations:

Plaza Centres plc 2016: Provision 9.4
"Plaza does not have a policy in place to allow minority shareholders to present an issue to the Board". (p.15)
Malta International Airport plc 2017: Provision 9.4
"The Company does not have a policy in place to allow minority shareholders to present an issue to the Board". (p.22)
GO plc 2015: Principle 3
"As explained in Principle 3 in Section B, the Board is composed entirely of non-executive Directors. Notwithstanding this, it is considered that the Board, as composed, provides for sufficiently balanced skills and experience to enable it to discharge its duties and responsibilities effectively. In addition, no cases of conflict of interest are foreseen". (p.32)
Malta Properties Company plc 2015: Principle 3
"As explained in Principle 3 in Section B, the Board is composed entirely of non-executive Directors. Notwithstanding this, it is considered that the Board, as composed, provides for sufficiently balanced skills and experience to enable it to discharge its duties and responsibilities effectively. In addition, no cases of conflict of interest are foreseen". (p.16)

Table 4.2: Explanations with minor inter-company variations

- Furthermore, similarities are also evident with companies continuing not to adhere to a principle or provision of the Code, often providing the same exact explanations from year to year. Table 4.3 gives some examples of this. This could indicate that few companies are trying to solve such departures, and also that little, if any, effort is being made to improve the situation.

RS2 Software plc 2015: Provision 4.2.7
"The Code recommends the development of a succession policy for the future composition of the Board of Directors. The Company does not consider this principle to be applicable to it on the basis that appointment of directors is a matter which is reserved exclusively to the Company's shareholders (except as specified herein)". (p.31)
RS2 Software plc 2016:
"The Code recommends the development of a succession policy for the future composition of the Board of Directors. The Company does not consider this principle to be applicable to it on the basis that appointment of directors is a matter which is reserved exclusively to the Company's shareholders (except as specified herein)". (p.13)
RS2 Software plc 2017:
"The Code recommends the development of a succession policy for the future composition of the Board of Directors. The Company does not consider this principle to be applicable to it on the basis that appointment of directors is a matter which is reserved exclusively to the Company's shareholders (except as specified herein)". (p.40)

Table 4.3: Explanations with no intra-company variations

- **Communication with shareholders and the market**

With respect to the lack of communication with shareholders and the market and its link to company attitudes against CT a minority *(5/13)* of interviewees, all company representatives emphasised that there is no such lack of communication. Communication with shareholders includes not only the AGM but also (1) company announcements, (2) company's newsletters, (3) the annual report, (4) e-mails and (5) meetings with the MASS. Therefore, in their opinion, there was no question of any link with CT.

On the contrary, most interviewees *(8/13)* stated that a lack of communication with shareholders and the market exists with most of these *(6/8)* also pointing out that there is a link to attitudes against CT. In their view, adverse CT attitudes were evident from the lack of meaningful communication with all shareholders particularly in the AGM which they described as often being *"stage-managed",* a *"fancy reception"* and of *"inconvenience to directors".* A number of interviewees *(3/8)* referred to the implication of there being no CT by the fact that a number of directors do not feel any sense of accountability. A common cause of the situation is that many shareholders are not sophisticated enough to exert pressure on their directors at the AGM, which they may view as entertainment.

One *(1/8)* auditor pointed out that in his/her experience, the link between a company's attitudes and a lack of CT becomes more evident whenever a company is not performing well and even more when in distress. On the other hand, a company enjoying boom performance is much more prone to be transparent. Two other interviewees *(2/8)* claimed that although a lack of communication exists, it can't be directly linked to a lack of CT. In their view, such a lack of communication exists because of shareholder indifference, thus rendering it unviable for companies to invest in more disclosures than at present.

4.4 Possible reasons for and implications of lack of corporate transparency (Qn 9 - 10)

This section analyses the findings applicable to Part C of the interview schedule. Initially, Section 4.4.1 analyses the possible reasons for lack of CT. Section 4.3.2 lays out the possible implications on the CG of MLEs as a result of the lack of CT.

4.4.1 Possible reasons for lack of corporate transparency

Interviewees were then asked[24] to provide the extent of their agreement with eight possible reasons which may possibly stimulate MLEs to be less transparent in their disclosures in certain situations. Figure 4.3 outlines the reasons provided and a summary of the findings.

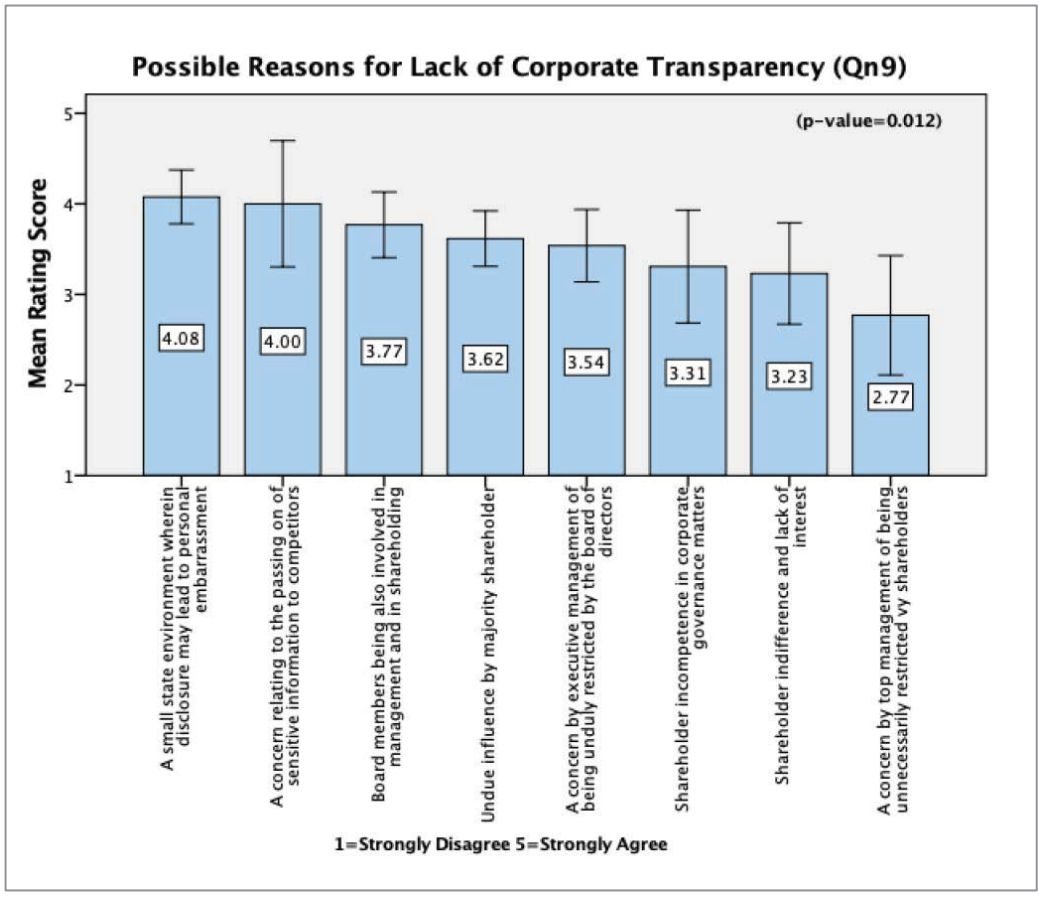


Figure 4.3: Possible reasons for lack of corporate transparency

[24] Vide Appendix 3.5, p. A3.5-4

Interviewees showed the highest agreement ($\bar{x} = 4.08$) with the statement that Malta is a small state environment wherein disclosure may lead to personal embarrassment and ($\bar{x} = 4.00$) the statement a concern relating to the passing on of sensitive information to competitors. Most of the interviewees *(9/13)* pointed out that the approach used by companies to provide information is highly influenced by the dynamics of the state in which they are incorporated.

In a small state like Malta, where almost everyone knows each other, one needs to be very careful of what to disclose in order to protect the interest of the company and its stakeholders because the dissemination of unneeded information may lead to *"disastrous"* outcomes. On the contrary, two disagreeing interviewees *(2/13)* added that the people signing up for high corporate positions should be ready to overcome any fears of personal embarrassment. A further interviewee stated that irrespective of what the potential consequences may be, if there is an obligation MLEs and directors have to live up to it.

Interviewees showed a high level of agreement ($\bar{x} = 3.77$) with a lack of CT being due to having members of the board who are also involved either in management or as shareholders. Three interviewees *(3/13)* stated that if any stakeholder is involved in different roles in the company, s/he is in a much better position to have access to any needed information and may not feel obliged enough to transfer such information to other stakeholders. However, other interviewees *(2/13)* pointed out that the regulatory framework present in Malta restricts the possibility of such limitations being imposed by the more powerful stakeholders, which includes issues relating to conflict of interest.

Interviewees also marginally agreed ($\bar{x} = 3.62$) that the majority shareholder may impose unnecessary influence on those charged with governance. A number of interviewees *(5/13)* held that the Maltese market consists of some family-owned listed companies which have directors with a conservative "*state of mind",* potentially leading them to keep information within the company and not considering the fact that the company is a public interest one. One disagreeing interviewee *(1/13)* added that the regulatory framework prevents directors from allowing the majority shareholder to impose unnecessary influence in such a manner that it impinges on CT vis-à-vis other stakeholders.

Furthermore, interviewees marginally agreed ($\bar{x} = 3.54$) that a lack of CT may be due to the possible concern by the executive management of being unduly restricted by members of the board. However, most interviewees *(7/13)* added that given that most directors are increasingly aware of their responsibilities and given also that a good number are *"professional sceptics",* such a limitation on CT is possibly on the decline. Another factor working against such a CT limitation is the restriction of the duality of both the chairman and the CEO being the same person which applies to all MLEs.

Interviewees tended to be neutral ($\bar{x} = 3.23$) to a lack of CT possibly being due to shareholder indifference and a lack of interest or ($\bar{x} = 3.31$) shareholder incompetence in CG matters. In this context, a number of interviewees distinguished between majority and minority shareholders and argued that if the minority shareholders were to be more sophisticated, as in portraying much more "*pressure and challenges"*, disclosure would naturally increase to meet the appropriate level of CT. However, they claimed that any indifference, lack of interest or incompetence, does not justify a

company withholding information or being very selective in what information is revealed.

On the other hand, interviewees were neutral verging on disagreement with respect to the statement of a lack of CT possibly being due to the concern by top management of being unnecessarily restricted by shareholders. Specifically, the p-value for this response was significantly low (*p-value = 0.012*). Few interviewees *(3/13)* again distinguished between the majority and minority shareholders and stated that there is a much higher probability that restrictions are put forward by the majority shareholder, given the unsophistication of the individual shareholder in the Maltese market. One other interviewee *(1/13)* argued that as long as the decisions of the directors are being taken in the interest of the company they will not have any concern to provide the full picture as shareholders will not have any reasons to interfere.

As regard to any other possible reasons for lack of CT, one particular interviewee *(1/13)* referred to the issue of *"short-termism"*, as when the board is faced with a situation which they strongly believe that they will be able to rectify shortly, directors may decide to delay the timing of disclosure in order to mitigate its pressure. Such a practice may especially be possible in cases where the law does not strictly specify that certain disclosures are required to be disclosed immediately but simply states on a "*timely manner"*.

4.4.2 Possible implications on the corporate governance of Maltese listed entities

Interviewees were asked[25] to provide the extent of their agreement with four statements relating to the possible implications that a lack of CT may have on the CG of MLEs. Figure 4.4 outlines the implications and summarises the findings.

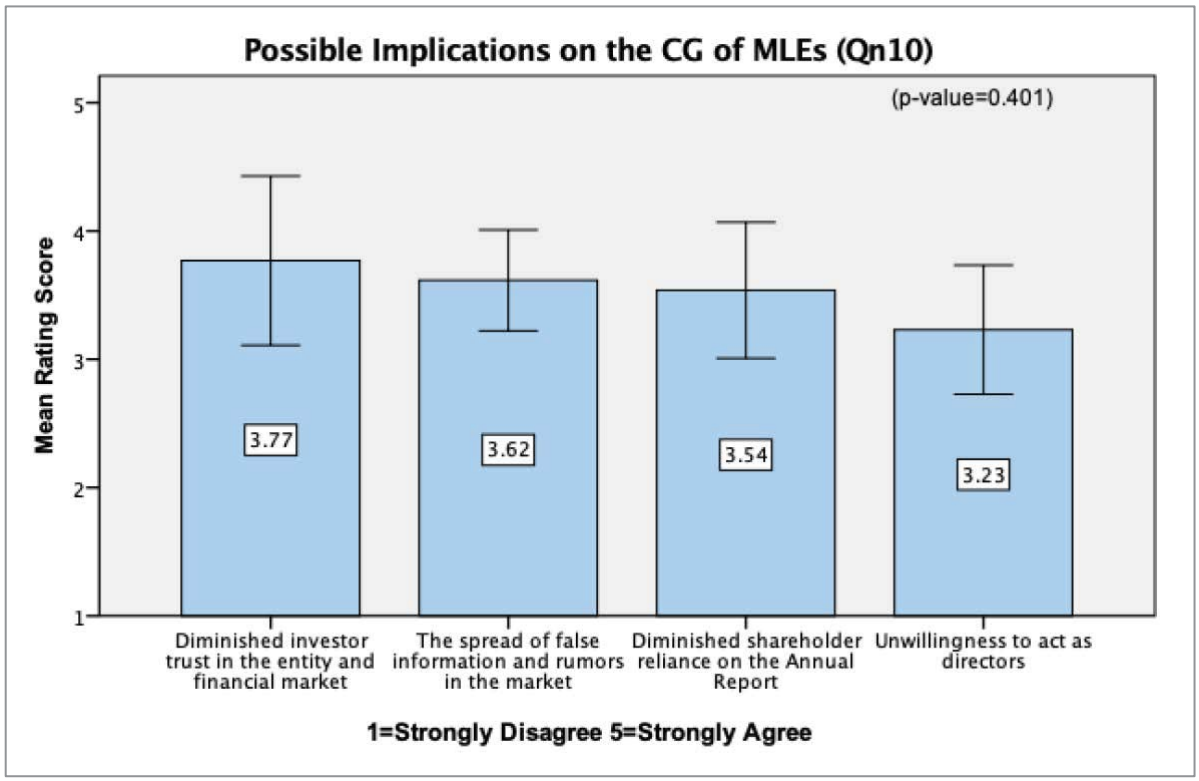


Figure 4.4: Possible implications on the corporate governance of Maltese listed entities

Interviewees agreed marginally ($\bar{x} = 3.77$) that a lack of CT may result in diminished investor trust in the entity and the financial market. Most interviewees (7/13) claimed that the investor is required to be treated fairly and provided with all relevant information required to make informed decisions. If this is not the case, one cannot expect that the existing/potential investor to be "totally confident" and provide the

[25] Vide Appendix 3.5, p. A3.5-5

necessary support. One interviewee (1/7) added out that today's investor is becoming more sophisticated than that of the past and also one who wants more information. Thus, such diminishing of trust may become even more apparent as time passes.

On the contrary, the interviewees (6/13) clarified that in Malta such diminished investor trust could possibly not take place since the Maltese investor's trust in the market is mainly driven by "*high rates of return", "dividends", "bonds income" and "shares price volatility"* rather than the lack of CT or anything related to CG. A few of these interviewees (2/9) pointed out that the possible reason behind this deficiency of awareness about the CG concept maybe the fact that, until today, every bond issued has been paid back and none of the MLEs has failed. Therefore, investors do not easily "*get alarmed"*. However, such a lack of sensing alarm as long as they receive their return may prove itself to be dangerous.

Furthermore, interviewees marginally agreed ($\bar{x} = 3.62$) that a lack of CT may result in the spread of false information and rumours in the market. Most *(9/13)* added that the lack of disclosure may encourage rumours, as such a lack may act as a motive for people to draw their own conclusions. A few of these *(2/9)* further explained that rumours can be disastrous and at a point in time companies will have to react to "*set the record straight*", thus involving a burden on the business. They also stated that with sufficient foresight, any cost burden may be avoided and the risks of "market *misconception*" and "*misunderstanding"* mitigated.

Also, interviewees marginally agreed ($\bar{x} = 3.54$) that a lack of CT may lead to diminished shareholder reliance on the annual report. Some interviewees *(7/13)* claimed that the concept of secrecy will lead to suspicions and conspiracy theories, and a number of question marks on the annual report. The others *(6/13)* emphasised that shareholder's

current reliance on the Annual Report is at a very low ebb and that it is difficult to improve whatever the level of transparency. Two *(2/6)* emphasised that the annual report is becoming too technical for the ordinary shareholder to understand, resulting in their unwillingness to even read it. Instead, as one stated *(1/6),* shareholders tend to merely refer to the auditor's report.

Interviewees were undecided ($\bar{x} = 3.23$) as to whether a lack of CT may result in an unwillingness to act as directors. On the one hand, a number of interviewees *(5/13)* pointed out that, for the sake of their reputation, few want to be associated with bad practice that could easily result in a sinking ship. On the other hand, others *(4/13)* pointed out that, in their experience, such unwillingness was very rarely, if ever, expressed. At the stage of deciding whether or not to become a director, a lack of CT may not be that influential as candidates often think that they can change the situation.

4.5 Improving corporate transparency

A final question[26] probed interviewees' perception of improving CT in MLEs. Interviewees were asked to provide their extent of agreement to four statements, as shown in Figure 4.5.

[26] Vide Appendix 3.5, p. A3.5-6

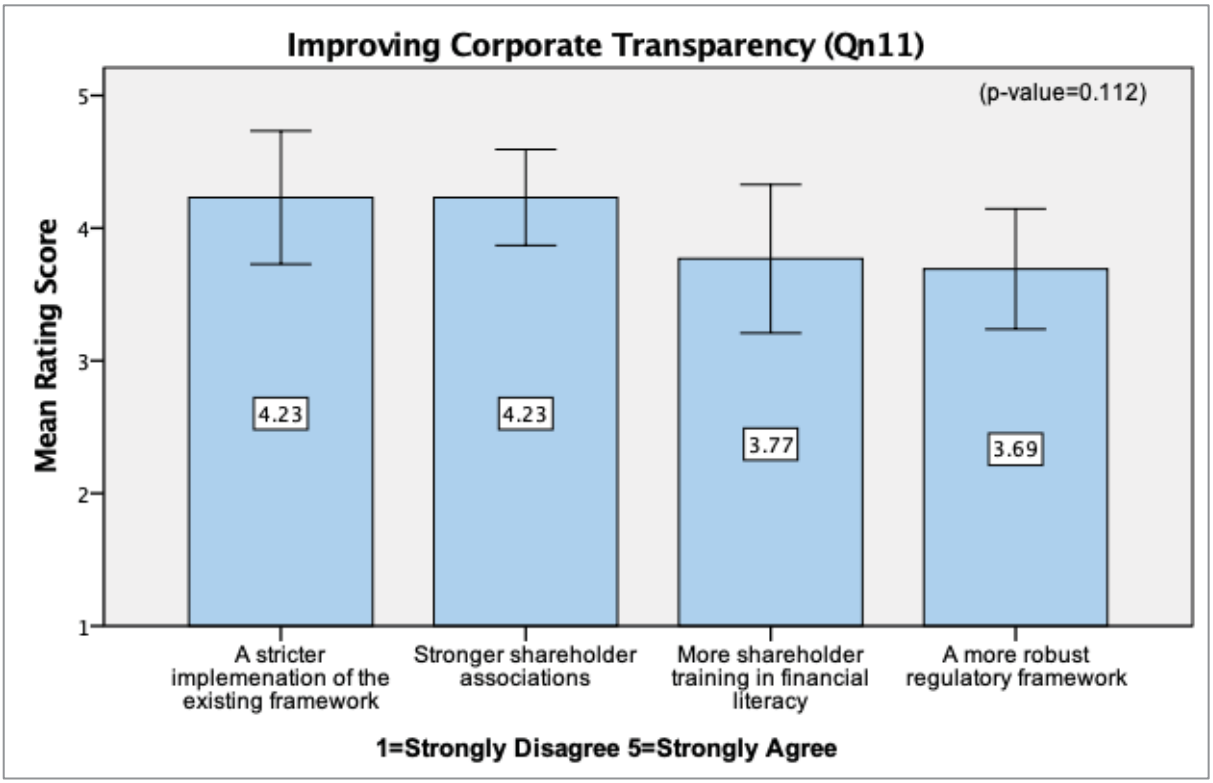


Figure 4.5: Improving corporate transparency

As can be seen, interviewees agreed to all four statements. The statements with the highest level of agreement $(\bar{x} = 4.23)$ were that in order to improve CT, a stricter implementation of the existing regulatory framework is needed and also $(\bar{x} = 4.23)$ stronger shareholder associations.

There is much room for improvement on the regulator *(8/13.* Particularly, the MFSA could take up a more "*proactive supervision"* stance. In the experience of some of the company representatives (3/9), very few MFSA inspections have been held in this context and even where inspection does materialise, regulator feedback is often delayed and rarely relevant. Unfortunately, few interviewees (2/3) agreed that the MFSA tends to focus more on somewhat trivial matters such as requiring the provision of the annual report not through a hyperlink. One interviewee (1/8) stated that the Code needs

to be clearer so that inspectors will be able to act where appropriately required. An effective regulator needs to be provided with appropriate resources and while audit firms could lend a helping hand to the regulator, it ultimately remains the regulator's responsibility to inspect properly. A few interviewees *(3/13)* also pointed out that the MFSA is in a state of transition working towards better interaction with MLEs.

As regards improving CT by stronger shareholder associations, interviewees *(8/13)* pointed out that collective action is much more effective than individual initiative. Yet, prior to such actions becoming possible, the mind set of shareholder associations needs to prioritise the educational aspect

In a similar vein, interviewees marginally agreed ($\bar{x} = 3.77$) that a possible solution to improve the level of CT would be that of more shareholder training in financial literacy. A number (4/13) stated that the more "*educated and knowledgeable"* the shareholders are, the more *"monitoring and challenging"* they can be to the management of a company. Furthermore, others *(2/13)* clarified that while shareholder education is important, one needs to strengthen the communication between the financial intermediary and the minority shareholder. As such, the latter can make better use of the annual report and not try to take shortcuts such as referring only to the auditor's report.

Finally, interviewees marginally agreed ($\bar{x} = 3.69$) that for CT to be improved, the regulatory framework itself is to be more robust. A number of interviewees (6/13) explained that Maltese culture is "*laid back"* and one needs to be challenged by such more detailed framework. One *(1/13)* pointed out that more regulations would not necessary equate to more CT. Others *(5/13)* were wary in their response in

strengthening the regulatory framework in that more regulation could easily simply mean undue costs and a waste of resources.

4.6 Conclusion

This chapter presented the main findings emerging from the semi-structured interviews and the examination of the annual reports. The next chapter discusses these findings.

Chapter 5

Discussion of Findings

5.1 Introduction

This chapter discusses the research findings in light of the literature review in Chapter 2 and the objectives of the study. As illustrated in Figure 5.1, Section 5.2 discusses the findings related to the Maltese regulatory framework and addresses the first objective. This is followed by Sections 5.3 to 5.4 which deal with the second objective of this study and discuss the intersecting line between CT and corporate confidentiality, possible reasons for lack of CT and possible implication on the CG of MLE of lack of CT respectively.

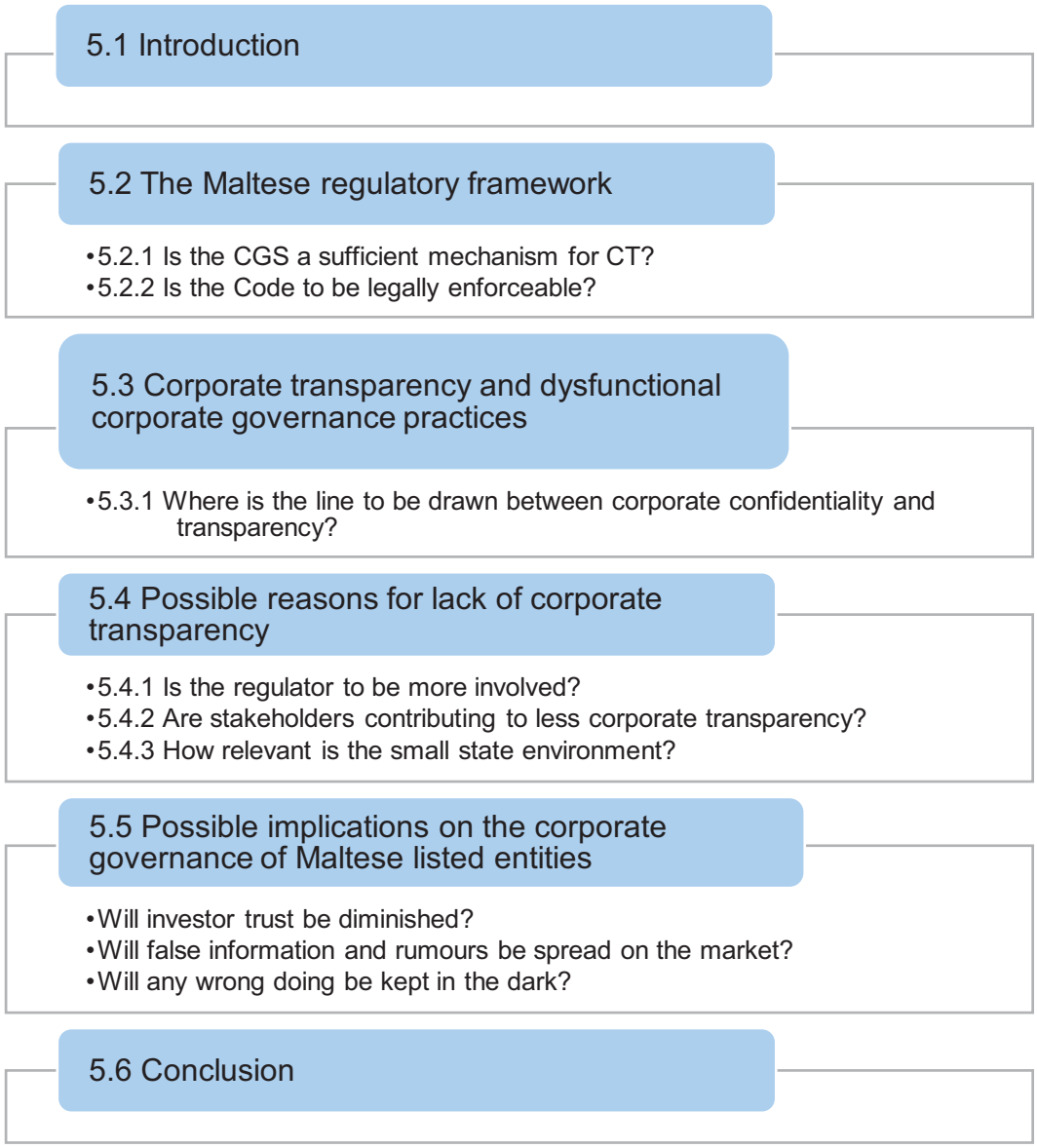


Figure 5.1: Outline of Chapter 5

5.2 The Maltese regulatory framework

5.2.1 Is the CGS a sufficient mechanism for CT?

As already stated,[27] constructing a regime of CT has become an elementary first step in attaining trust and confidence in today's contemporary environment. As suggested in the findings,[28] honest and open dialogue significantly contribute to the generation of shareholder trust and confidence in public companies and consequently in the financial market, whereas a lack of CT and communication generally creates suspicions [29]. CT takes place only when a company has the ability to produce a regime of fairness and respect,[30] where the board and management of the company are willing to speak the truth to relevant stakeholders and vice versa.

Moreover, if company directors and executives are inclined to listen to opposing arguments to those put on the table and guarantee to take notice of such viewpoints, they open the way for the creation of a transparent environment. As mentioned earlier in Chapter 1 of this study,[31] CT refers to the extent to which information disseminates freely between the company and all its relevant stakeholders irrespective of their power of influence on the company's performance.

As stated in the literature, Bennis and O'Toole (2009)[32] suggested a process involving a number of stages or practices that a company should incorporate in its CG framework in order to be able to produce a higher degree of transparency to improve disclosures. This process is being referred to in various sections of this chapter.

[27] Vide Section 2.5
[28] Vide Section 4.3.1
[29] Vide Section 4.4.2
[30] Vide Section 4.3.1
[31] Vide Sections 1.2.1 and 1.2.2
[32] Vide Section 2.5

Bennis and O'Toole (2009) recommended that a company should initiate this concept building by always telling the truth, while avoiding picturing situations rosier than they actually are with the primary aim to mislead the market. Therefore, the following question arises: *Are MLEs being transparent enough in their CGSs by telling the truth?*

The examination of the CGSs[33] raised some issues relating to the adequacy of explanations provided. Although a number of companies are showing progress in their disclosures over the years, others significantly fail to do so. As also found in other foreign studies of Arcot et al (2010)[34] and Sergakis (2013),[35] such failures mostly relate to explanations for non-compliance being inadequate, superficial or even non-existent. In this context, the findings in this study confirm a number of previous recent studies also held in Malta such as Debono (2016) and Vella (2018).[36]

While interviewees did agree[37] that the CoE approach for the CGS requires sufficient and appropriate explanations to be effective, it is clear that some MLEs are in practice not bothered to provide such explanations and improve the situation.[38] At the same time, a general denial persists with respect to any link between such low-quality explanations and a lack of CT. This is also indicative of corporate agents such as directors and managers being more intent on paying "*lip service"* to CG through politically correct explanations to complement their needs rather than telling the truth. This is an illustration of the agency problem.[39] With such attitudes towards the CGS it can hardly be claimed that such a statement conveys a proper reflection of CT within

[33] Vide Section 4.3.2
[34] Vide Section 2.4
[35] Vide Section 2.6.5
[36] Vide Section 2.6.5
[37] Vide Figure 4.2
[38] Vide Tables 4.1 and 4.3
[39] Vide Section 2.2.1

the local context and therefore further guidance to MLEs may be required regarding the preparation of such a statement.

5.2.2 Is the Code to be legally enforceable?

Inwinkil et al. (2014)[40] claimed that CG and the CoE approach are perceived to bear fruits only if supported by blue-ribbon reporting. In this context, MLEs seem to be sufficiently aware of what is expected of them, and yet the issue of a lack of explanations persists with companies evidently exploiting the flexibility provided by the Code. On their part, companies claim [41] that this is the main characteristic of the Code that enables them not to be unduly burdened by regulation. Yet, having been given such flexibility, they remain reluctant to refrain from any sort of exploitation.

Moreover, as already referred to earlier,[42] the one main objective of the CoE approach is to contribute towards increasing CT and disclosure. The notion is to protect the interest of shareholders which could be threatened by the separation of ownership and control,[43] as such an approach helps to empower them to make better-informed decisions. Fung (2014) supports this idea of empowerment and adds that, if used appropriately, CG could also be an effective investment valuation tool. Yet, the findings indicate[44] that the lack of sophistication and the financial illiteracy of most Maltese shareholders, particularly the minority ones, too often render them uninterested or even incompetent in exerting any pressures for CT or any other CG issues beyond the distribution of dividends. It is the majority shareholder who typically shows interest in such issues and, as a result, overall shareholder monitoring may be lacking.

[40] Vide Section 2.4
[41] Vide Figure 4.2
[42] Vide Section 2.4
[43] Vide Section 2.2.1
[44] Vide Section 4.2.2

Therefore, it is natural that these arguments give rise to the debate over whether the Code needs to be legally enforceable if it is to ensure adherence to regulations of CG CT best practices. The findings indicate[45] that MLEs would resist the legal enforceability of the Code and that, therefore, one would need to proceed cautiously on this matter. On the one hand, legal enforceability of CG provisions could result in a one-size-fits-all effort which does not leave enough room for manoeuvring in different companies in a dynamic and complex market. If so compelled, many companies will not believe in improving their CG and CT but will possibly reduce their efforts to a symbolic box-ticking exercise.

On the other hand, it is clear from the literature (e.g. Baldacchino, 2007) that, within the Maltese CG culture, unless there is legal enforceability there will be too few adherents to best practices even if recommended by a CoE code. There is also the issue of the extent to which CG matters, most of which fall under the umbrella of corporate ethics, may be regulated directly and effectively by any laws. Translating into legislation such matters which are considered part of ethical morals may also be highly controversial. Therefore, legal enforceability of CG/CT matters may have the reverse effect to the legislators' intent in that companies may attempt only to observe the letter, rather than the spirit, of the law.

Taking both sides of the argument into consideration, one possible compromise that emerges is the introduction of structured requirements in a part of the CGS. By going through the answers to the structured questions stakeholders may come to know clearly whether CG/CT requirements are being met. However, so as not to render the CGS as a mere box-ticking exercise any structured part could be followed by another

[45] Vide Section 4.2.1

semi-structured part made up of more open-ended questions, wherein the company may explain with some flexibility the extent to which it is adhering to CG/CT practices.

5.3 Dysfunctional corporate governance practices and corporate transparency: the links

5.3.1 Where is the line to be drawn between corporate confidentiality and transparency?

The appropriate level of CT emanates from a balance between stakeholders' right to have information and companies' right to privacy with respect to confidential and sensitive matters. On the one hand, stakeholders have a legitimate right[46] to receive detailed information which is transparent enough as to allow them to form a valid opinion on the past, present and future direction of the company. In this context, the Code (MFSA, 2011) recommends for MLEs to "*give shareholders a clear and comprehensive picture of a company's governance arrangements"* (p.1)[47] and to communicate effectively by providing "*regular, timely, accurate, comprehensive* and *comparable"* (p.15)[48] information. On the other hand, companies' right to privacy refers to their right to control the supply of information and disclosures in such a way that they retain confidential and sensitive material as a protection of their competitive advantage as claimed by the OECD (2015).[49]

In short, one may synthesise this as the dilemma between the two requisites of CT and corporate confidentiality, both essential for a business to be successful. Figure 5.2 illustrates that there needs to be a line drawn between these two opposites. If such

[46] Vide Section 2.6.6
[47] Vide Appendix 2.1, p. A2.1-1
[48] Vide Appendix 2.1, p. A2.1-15
[49] Vide Section 2.6.5

a line is not appropriately drawn, corporate secrecy will start to infringe on CT. Therefore, the main concern and responsibility of those in charge of CG are to ensure that such a line is legitimate and that no corporate secrecy infringement occurs. Becoming too focused on confidentiality may result in unneeded secrecy with its negative implications. On the other hand, even focusing on transparency may result in undue damage to the company within its market in view of its overexposure.

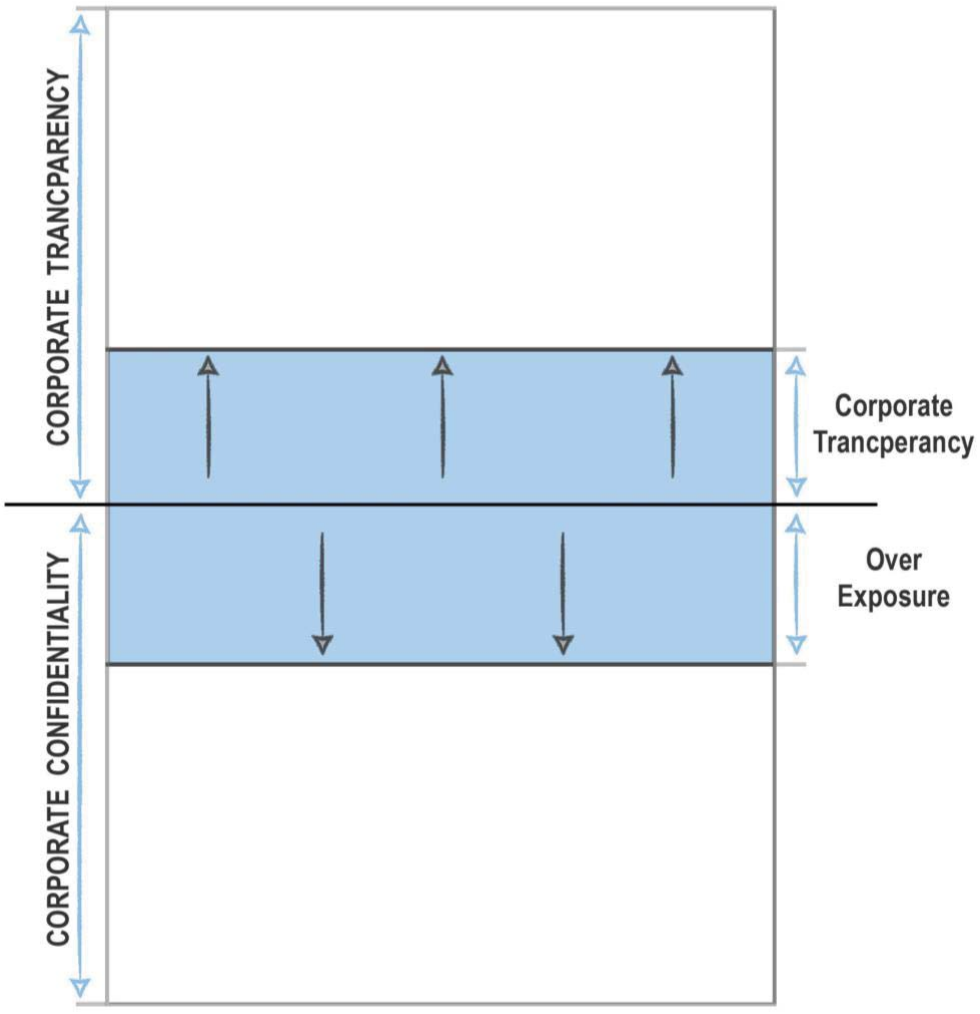


Figure 5.2: The corporate dilemma

The research findings[50] indicate that a number of MLEs may be finding it difficult to draw such a legitimate line. In fact, when faced with four different dysfunctional CG practices[51] which were indicative of possible suppression of CT, a controversy arose among interviewees. While a number recognised that such practices (e.g. inadequate explanations for non-compliance and insufficiently detailed disclosures relating to director compensations) are possibly secretive, others rationalised that they are not so but that, rather, they have more to do with the need for confidentiality. As seen in the literature,[52] two major pillars in developing the concept of CT are the readiness to encounter uncomfortable situations and to admit mistakes – two pillars which, unfortunately, seem to be weak in the Maltese corporate culture.

5.4 Possible reasons for lack of corporate transparency

5.4.1 Is the regulator to be more involved?

The findings of this study[53] show that the current situation considerably lacks the involvement of the regulatory authority. More precisely, the MFSA is not placing much pressure on those companies failing to comply with the Code. In particular, the regulator generally does not review the substance of the disclosures provided in the CGS. This situation could be permitting companies to provide superficial disclosures and withhold useful information from the users.

More regulatory involvement is probably required, not only with respect to monitoring and inspection but also in terms of better guidance to MLEs in preparing their CGS. Such increased involvement does not necessarily lead to stricter fines but may also

[50] Vide Section 4.3.2
[51] Vide Appendix 3.5, p. A3.5-3
[52] Vide Section 2.5
[53] Vide Sections 4.2.1 and 4.5

involve the introduction of policies such as a name-and-shame one. With the increased stakeholder use of social media sources, a name-and-shame policy could render companies highly concerned with potential damages that any regulator announcement in their regard could have on the reputation, credibility, financial support, trust and competitive advantages of the company.

A stronger level of regulation does not have to be overstretched and will not be so if the focus is on improving communication lines between the regulator and MLEs. In this context, provisional guidelines on CG matters such as transparency and confidentiality could go a long way.

5.4.2 Are stakeholders contributing to less corporate transparency?

As already mentioned,[54] the shareholder who exercises his own right as the owner of the company can exert significant influence on the company's CG. However, the indications[55] are that most shareholders do not value the information provided in the CGS and any analysis therein is carried out either by institutional shareholders or financial intermediaries. A related issue is that even if they are willing to, most shareholders are not themselves competent enough to analyse the technical information in the annual report. Such annual reports may easily turn out to be a waste of resources if left unread by most shareholders. After all, it is of little use for companies to improve the level of CT if doing so leaves hardly leaving any impact on most corporate stakeholders. In this connection, the MASS may play its part in helping its members achieve better training and understanding and possibly acting as an intermediate for them in dialogues with companies.

[54] Vide Section 2.6.6
[55] Vide Sections 4.2.1, 4.2.2 and 4.4.2

Companies may also play their part to encourage both internal and external stakeholders to participate more in CG/CT matters. In this context, Bennis and O' Toole's (2009)[56] process includes encouraging stakeholders to speak the truth with high ranking individuals within their company. In the Maltese corporate context, this study indicates[57] that companies often discourage shareholders from participating by measures such as allowing too short a time for questioning in the AGM or using too technical a language for the ordinary minority shareholder to be engaged. Perhaps also required is a stronger minority shareholder association which places more importance on the protection of shareholders' interests without sharing the common current disinterested mindset (i.e., most focused on the distribution of dividends) of most minority shareholders.

5.4.3 How relevant is the small state environment?

This study indicates[58] that within the Maltese small state environment, corporate disclosures may lead to wider damages to those in charge of CG as the corporate community is smaller and most people are easily accessible and know each other. This is also in line with the literature.[59] Furthermore, corporate competitors may be watching company developments more closely and intensely and therefore rendering directors more prone to withholding information. Probably, such an innate issue cannot be easily resolved at least not until there is more integration between Maltese industries and its European counterparties.

[56] Vide Section 2.5
[57] Vide Section 4.3.2
[58] Vide Sections 4.3.2 and 4.4.1
[59] Vide Section 2.6.5

5.5 Possible implications on the corporate governance of Maltese listed entities

5.5.1 Will investor trust be diminished?

As stated earlier,[60] owing to the volatility in the international financial markets, the need and demand for the proper level of CT have been on the rise. Corporate information and disclosure are considered to be integral components for both existing and potential investors in their investment decision making. CT and a more robust disclosure regime which demand accurate and detailed information on financial matters and other non-financial matters, such as the entity's goals for the future, related party transactions, conflicts of interests and governance structures is expected. This would enable investors, along with other market participants, to much more accurately evaluate the position and activities of the company. As such, this would lead to the generation of more trust and confidence and even facilitate external financing to the company.

On the other hand, a closed and opaque corporate culture will usually lead to increased negative consequences. For progress to be made, the annual report needs to place more importance on the CG aspects beyond the financial ones. Hopefully, minority shareholders will, in time, further appreciate both aspects and stop limiting themselves to what directly concerns them.

5.5.2 Will false information and rumours be spread on the market?

Any lack of information, direct dialogue and CT may easily create suspicions even when circumstances do not warrant this and even false rumours. This practice can

[60] Vide Section 2.5

negatively impact both the company which is not disclosing the required detailed information and its stakeholders. External stakeholders such as investors and creditors may end up being misled into taking the wrong decisions. Furthermore, the company's reputation, which may have taken a long time to build, may easily become susceptible to destruction, thus leading to the creation of further investment barriers. CT should push the company not only towards correcting wrong impressions but also to be more proactive and generate market confidence

5.5.3 Will any wrongdoing be kept in the dark?

In the real-world information may flow quickly but not necessarily smoothly. The management of a company usually have greater access to information than its owners and therefore are more aware of the functioning of the business. The impact of CT is that of minimising such information asymmetry. The more companies manage to be transparent without breaching any legitimate confidential matters, the more they push towards problem-solving and ensure that any wrong doing if committed in the past will not be repeated in the future.

5.6 Conclusion

This chapter has presented a discussion of the research findings in light of the pertinent literature review and the objectives of this study. The next chapter will conclude the study.

Chapter 6

Summary, Conclusions and Recommendations

6.1 Introduction

In concluding this research, Section 6.2 provides a summary of the main points of the research study while Section 6.3 outlines the conclusions of this research. Recommendations and areas for further research are dealt with in Section 6.4 and Section 6.5 respectively. Finally, Section 6.6 consists of a concluding remark on the research study.

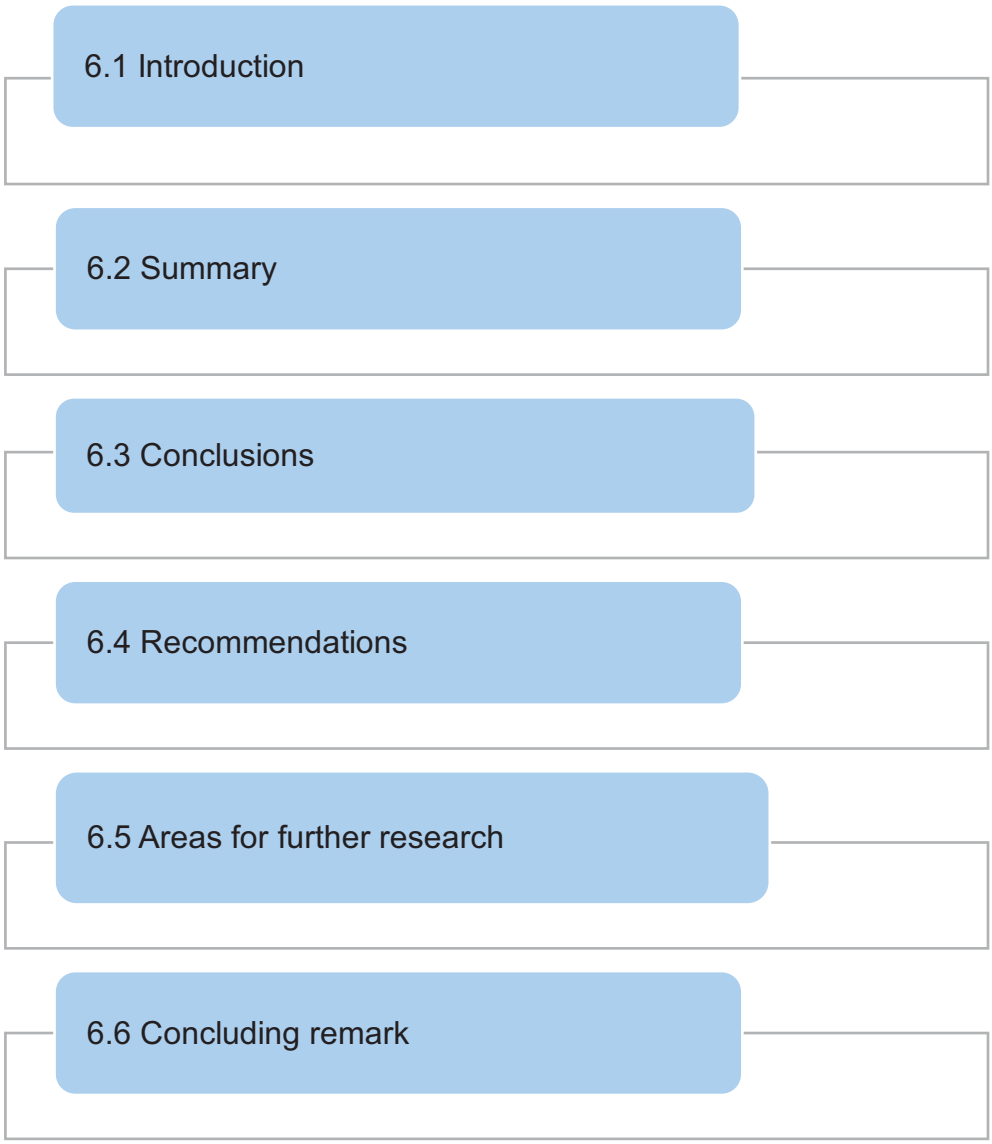


Figure 6.1: Outline of Chapter 6

6.2 Summary

The purpose of this study was to establish the extent to which a lack of CT is a relevant feature in the CG of MLEs. The second objective was to identify and assess the possible reasons for such a corporate stance and its implications thereof.

In order to achieve the aforementioned research objectives, a predominantly qualitative mixed methodology was implemented. Primary data were collected through the use of semi-structured interviews with nine representatives of MLEs and four audit firm members. Moreover, an examination of the CGS of MLEs for the three consecutive years between 2015-2017 was conducted.

The study found an overall lack of CT in the CG reporting of some MLEs. Although most MLEs have implemented the concepts of CG and CT and consider them fundamental to their corporate culture, others have as yet significantly failed to do so. This lack of CT is probably due to the inherent characteristics of the small state of Malta with the perceived increased need to protect against the spread of sensitive corporate material. Moreover, the unsatisfactory level of involvement on the part of both the regulator and shareholders may be resulting in MLEs not fully facing the sufficient external pressures and challenges for them to provide the necessary disclosures to meet the appropriate level of CT. The findings also highlighted that if such a lack of CT had to persist, tensions on the market might arise causing existing and potential future investors to diminish their trust and confidence.

6.3 Conclusions

This study concludes that, at present, CT is not sufficiently entrenched within the CG culture of several MLEs, as the latter are still facing difficulties in achieving and maintaining a legitimate balance between corporate confidentiality and transparency. In this regard, the Maltese Code may be more supportive by providing more detailed and clearer guidelines on CT. In particular, the Code does not specify how the CGS may properly reflect the appropriate level of CT. This is evidently contributing to the tendency of some MLEs to render the CGS as a merely politically correct necessity and only complying to an artificial symbolically level, despite not being strangers to what it is and what it should entail.

In addition, insufficient regulatory enforcement maybe another major factor contributing to a lack of CT. In this context, more regulatory involvement is clearly required in terms of monitoring and inspections. Such increased enforcement may do away with inadequate explanations for non-compliance with the provisions of the Code. Furthermore, this study concludes that shareholders, in particular minority shareholder, often lack the necessary level of sophistication and financial education to render them competent to challenge those charged with CG. The tendency is therefore for them to be merely interested in the return of their investment. As a small island state, Malta may also be contributing to the reluctance of corporate directors to be more transparent.

The implications of the above are that both the regulator and the regulated need to be taking the appropriate action as otherwise one cannot ensure adequate investor confidence and protection against future corporate scandals.

6.4 Recommendations

This study recommends that:

a) **further guidance is provided to MLEs for the preparation of the CGS** (Section 5.2.1)

Given the fact that the Code is unclear with respect to what disclosures are required in the CGS and that the CoE approach allows companies to benefit from a free-hand report-writing mechanism, it would be beneficial if more guidance from the regulatory authority was provided to MLEs in preparing such a statement. This guidance could be provided through the means of workshops and guidebooks which may provide different scenarios and possible disclosures and even allow room for meetings with company secretaries who would like to discuss disclosure matters.

b) **the review of explanations provided in the CGS is enhanced** (Section 5.2.1)

It is indicative that few MLEs do not give the necessary importance to the preparation of explanations provided in the non-compliance section of the CGS. Indeed, these companies tend to provide explanations which are either superficial, thus being of no avail to the users, or providing the same exact explanations year after year. The CGS is required to be reviewed and validated by auditors, yet the requirement is not detailed enough to significantly scrutinise the functioning systems, procedures and processes of governance which companies actually have in place.

Therefore, it is recommended to either extend the requirements of the auditor's review to reflect such corroborating need. Otherwise, the regulator could itself become responsible for thoroughly monitoring the adequacy of the disclosures and verify CG structures within MLEs. The regulator may also be ready to take regulatory actions as required, including the imposition of sanctions or the suspension of directorship. It is through such monitoring and enforcement that the regulator may prove the importance of CG and CT.

c) **the CT requirements in the Code become more detailed and specific** (Section 5.2.2)

It is recommended that the CGS is more detailed and specific by adding a structured part to be included in it. Such a structured part would need to consist of clear answers to closed-ended questions. In addition, more open-ended questions may be included for those charged with governance to answer, these retaining some flexibility of comments. The more detailed and specific CT requirements the more challenging it is for companies to exploit the CoE approach.

d) **The regulator increases awareness and education on best practices of CG and CT amongst MLEs** (Sections 5.4.1 and 5.5.3)

As has been seen, a number of MLEs directors are not as yet ready to encounter uncomfortable situations and own up to due to the lack of appropriate education and training on CG and CT. In this context, the regulatory authority could step in and provide the necessary training by organising seminars and courses making sure that directors are kept up-to-date with current requirements and be able to transmit them through all levels of the company. These educational courses could become mandatory for individuals who seek to take up directorships.

e) Improving the line of communication between the MASS and MLEs (Section 5.4.2)

One of the leading complications with respect to CG is scant shareholder involvement. Generally, shareholders lack knowledge of CG and therefore they cannot make relevant use of the information provided in the CGS. Moreover, the pool of strong institutional shareholders in Malta is not vast and so it is essential to educate shareholders better and provide them with all the required tools to be able to exert more pressures on MLEs demanding improved CG practices. This could be achieved through associations such as the MASS. The primary aim of the MASS is to improve shareholders' financial literacy and the protection of their interests by, for example, organising conferences and speeches from various professionals. On their part, MLEs may advocate the benefits and efforts of this association and encourage their shareholders to join as members of the association. By improving the line of communication, MLEs may obtain constructive feedback to be able to increase the level of transparency in their corporate reporting.

6.5 Areas for further research

This study identified a number of areas which require further research, including:

a) CG and CT in Debt-Listed Maltese Companies – A Study

As an extension of this study, further study is recommended to assess the position of CT in debt-listed companies rather than equity-listed companies.

b) Restructuring the CGS: Balancing Flexibility and Relevance – A Study

In line with the practical recommendation in (c), a dissertation on this topic may help the regulator to achieve some progress in this direction.

c) The Statutory Auditor and CT in the CGS – A Study

With increasing awareness by corporate stakeholders on the need for CT, the current limited role of the statutory auditor with respect to the CGS, deserves to be reviewed. A study in this connection may check whether increased independent auditor involvement could be beneficial in improving the state of CT.

6.6 Concluding remark

As this study has shown, the deficiencies in the CT of MLEs clearly emanate not only from the attitudes, actions and omissions of the various stakeholders but, even more importantly, the regulatory framework itself. Therefore, the priority must be that any CT loopholes and gaps in such a framework are addressed. After all, as one interviewee stated:

"before using a bucket of water, one must ensure that it contains no holes."

Appendices

Appendix 1.1: Equity Listed companies on the Malta Stock Exchange as at 23rd August 2018

- Bank of Valletta plc
- HSBC Bank Malta plc
- Lombard Bank Malta plc
- Mapfre Middlesea plc
- Simonds Farsons Cisk plc
- GO plc
- International Hotel Investments plc
- Plaza Centres plc
- GlobalCapital plc
- FIMBank plc
- Malta International Airport plc
- Santumas Shareholdings plc
- Medserv plc
- Grand Harbour Marina plc
- MaltaPost plc
- RS2 Software plc
- MIDI plc
- Malita Investments plc
- Tigne Mall plc
- Malta Properties Company plc
- PG plc
- Trident Estates plc
- Main Street Complex plc

Appendix 2.1: The Code of Principles of Good Corporate Governance for Listed Entities

PREAMBLE

These principles are designed to enhance the legal, institutional and regulatory framework for good governance in the Maltese corporate sector. They thus complement the current provisions already in force in the Companies Act providing a comprehensive corporate governance framework based on the guidelines provided by the Organization for Economic Cooperation and Development.

These principles are targeting companies whose equity securities are admitted to listing on a Regulated Market but are not applicable to Collective Investment Schemes. Companies should endeavour to adopt these principles so as to provide proper incentives for the Board and management to pursue objectives that are in the interests of the Company and its shareholders. The principles should facilitate effective monitoring thereby encouraging issuers of equity securities to use resources more efficiently.

The adoption of these principles is expected:

§ to provide more transparent governance structures and improved relations within the market which should enhance market integrity and confidence;

§ to ensure proper transparency and disclosure of all dealings or transactions involving the Board, any Director, senior managers or Officers in a position of trust or other related party; and

§ to protect shareholders from the potential abuse of those entrusted with the direction and management of the Company by the setting up of structures that improve accountability to them.

The Code contains main and supporting principles and provisions. When preparing their corporate governance statement, listed companies should divide such statement in two parts. The first part should deal generally with the company's adherence to the main principles whilst the second part should deal specifically with non-compliance with any of the Code Provisions. The descriptions together should give shareholders a clear and comprehensive picture of a company's governance arrangements in relation to the Code as a criterion of good practice.

In relation to the requirement to state how it has applied the Code's main principles, where a company has done so by complying with the associated provisions (that is, the supporting principles and Code provisions) it should be sufficient simply to report that this is the case. Where a company has taken additional steps to apply the principles or otherwise improve its governance, it would be helpful to shareholders to describe these in the annual report.

If a company chooses not to comply with one or more of the Code provisions, it must give shareholders a careful and clear explanation which shareholders should evaluate on its merits. In providing an explanation, the company should aim to illustrate how its actual practices are consistent with the principle to which the particular Code provision relates and contribute to good governance.

While it is expected that listed companies will comply with the Code's provisions most of the time, it is recognised that departure from the provisions of the Code may be justified in particular circumstances. Every company must review each provision carefully and give a considered explanation if it departs from the Code provisions.

1. THE BOARD

Main principle

Every listed Company should be headed by an effective board, which should lead and control the company.

Supporting principles

(i) Directors are stewards of a company`s assets and their behaviour should be focused on adding value to those assets by working with management to build a successful Company and enhance Shareholder value.

(ii) All Directors are required to provide leadership, integrity and judgment in directing the company.

(iii) Leadership can only come about if the Directors, individually and collectively, are of the appropriate calibre, with the necessary skills and experience to contribute effectively to the decision making process.

Directors should:

(a) set the company`s values and standards in order to enhance and safeguard the interests of shareholders and third parties;

(b) act with integrity and due diligence while discharging their duties as Directors and in particular in the decision and policy-making process of the company, which should be reflected in all company`s dealings and at every level of the organization;

(c) exercise accountability to shareholders and be responsible to relevant stakeholders.

Code provisions

1.1 The board should be composed of persons who are fit and proper to direct the business of the company. The concept of fit and proper requires Directors to conduct themselves with honesty, competence and integrity.

1.2 The shareholders, as the owners of the company, have the jurisdiction and discretion to appoint or remove Directors on the board. The process of appointment should be transparent and conducted at properly constituted general meetings where the views of the minority can be expressed.

1.3 All Directors should:

1.3.1 exercise prudent and effective controls which enables risk to be assessed and managed in order to achieve continued prosperity of the company;

1.3.2 be accountable for all actions or non-actions arising from discussion and actions taken by them or their delegates;

1.3.3 determine the company`s strategic aims and the organizational structure;

1.3.4 regularly review management performance and ensure that the Company has the appropriate mix of financial and human resources to meet its objectives and improve the economic and commercial prosperity of the company;

1.3.5 acquire a broad knowledge of the business of the company;

1.3.6 be aware of and be conversant with the statutory and regulatory requirements connected to the business of the Company;

1.3.7 allocate sufficient time to perform their responsibilities; and

1.3.8 regularly attend meetings of the board.

1.4 In cases when a Director is unable to agree with a decision of the board because a proposed course of action is not deemed to be consonant with his statutory or fiduciary duties and responsibilities and all reasonable steps have been taken to resolve the issue, the Director may feel that resignation may be a better alternative to submission. In such instances, the shareholders are entitled to an honest account of any such disagreements between Directors.

2. CHAIRMAN AND CHIEF EXECUTIVE

Main principle

There should be a clear division of responsibilities at the head of the Company between the running of the board and the executive responsibility for the running of the company`s business. No one individual or small group of individuals should have unfettered powers of decision.

Supporting principles

(i) The Chairman has a pivotal role to play in helping the board achieve its full potential. He should allow every Director to play a full and constructive role in the affairs of the company. The separation of the roles of the Chairman and Chief Executive avoids concentration of authority and power in one individual and differentiates leadership of the board from the running of the business.

(ii) The Chairman should also facilitate the effective contribution of non-executive directors in particular and ensure constructive relations between executive and non-executive directors.

Code provisions

2.1 The position of the Chairman and that of the Chief Executive should be occupied by different individuals. The division of responsibilities between the Chairman and Chief Executive should be clearly established, set out in writing and agreed by the board. Where the Chairman and the Chief Executive Officer are not different individuals, the Company should provide an explanation to the market and to its shareholders through a Company Announcement for the decision to combine the two roles.

2.2 The Chairman is responsible to:

2.2.1 lead the board and set its agenda;

2.2.2 ensure that the Directors of the Board receive precise, timely and objective information so that they can take sound decisions and effectively monitor the performance of the company;

2.2.3 ensure effective communication with shareholders;

2.2.4 encourage active engagement by all members of the board for discussion of complex or contentious issues.

2.3 The Chairman should meet the independence criteria set out in supporting principle (v) below. A Chief Executive should not go on to be Chairman of the same company. If exceptionally a board decides that a Chief Executive should become Chairman, the board should consult major shareholders in advance and should set out its reasons to shareholders at the time of the appointment and in the next annual report.

3. COMPOSITION OF THE BOARD

Main principle

The board should not be so large as to be unwieldy. The board should be of sufficient size that the balance of skills and experience is appropriate for the requirements of the business and that changes to the board's composition can be managed without undue disruption. The board should be composed of executive and non-executive Directors, including independent non-executives.

Supporting principles

(i) The board should ensure that it is composed of members who, as a whole, have the required diversity of knowledge, judgment and experience to properly complete their tasks.

(ii) The board must understand and fully appreciate the business risk issues and key performance indicators affecting the ability of the Company to achieve its objectives.

(iii) It is desirable that Listed Companies should have a minimum number of non-executive Directors sitting on the board in order to ensure a balance such that no individual or small group of individuals can dominate the board's decision making. The exact composition and balance on a board will depend on the circumstances and business of each enterprise but it is recommended that at least one third of board members are non-executive and the majority of these should be independent.

(iv) A non-executive director is a director who is not engaged in the daily management of the company. A non-executive director has an important role in overseeing executive or managing directors and dealing with situations involving conflicts of interests. Non executive directors and executive directors have as board members the same duties and responsibilities in terms of law. However, as the non-executive directors are not involved in the day-to-day running of the business, they can bring fresh perspectives and contribute more objectively in supporting as well as constructively challenging and monitoring the management team.

(v) The company should appoint non-executive directors of sufficient calibre whose independence and standing would offer a balance to the strength of character of a chairman. Where the roles of the chairman and chief executive officer are combined, it is important that the non-executive directors are able to bring an independent judgment to bear on the various issues brought before the company.

(vi) Non-executive Directors should be free from any business or other relationship which could interfere materially with the exercise of their independent and impartial judgment.

(vii) A Director is considered to be independent when he is free from any business, family or other relationship - with the company, its controlling Shareholder or the management of either - that creates a conflict of interest such as to jeopardize exercise of his free judgment.

(viii) The value of ensuring that committee membership is refreshed and that undue reliance is not placed on particular individuals should be taken into account in deciding chairmanship and membership of committees.

(ix) No one other than the committee chairman and members is entitled to be present at a meeting of the audit or remuneration committee, but others may attend at the invitation of the committee.

(x) Non-executive Directors are expected to take an active role in:

(a) constructively challenging and help developing proposals on strategy;

(b) monitoring the reporting of performance;

(c) scrutinizing the performance of management in meeting agreed goals and objectives; and

(d) satisfying themselves on the integrity and financial information and that financial controls and risk management systems are well established

Code provisions

3.1 Where the roles of the chairman and chief executive officer are combined, the board should appoint one of the independent non-executive directors to be the senior independent director to act a reference and coordination point for the requests and contributions of non-executive directors and, in particular, those who are independent pursuant to supporting principle (vi) under main principle 3.

3.2 The board should identify in the annual report each non-executive director it considers to be independent. The board should determine whether the director is independent in character and judgment and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director's judgment. The board should state its reasons if it determines that a director is independent notwithstanding the existence of relationships or circumstances which may appear relevant to its determination, including if the director:

3.2.1 has been an executive officer or employee of the company or a subsidiary or parent of the company, as the case may be, within the last three years;

3.2.2 has, or has had within the last three years, a significant business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;

3.2.3 has received or receives significant additional remuneration from the company or any member of the group of which the company forms part in addition to a director's fee, such as participation in the company's share option or a performance-related pay

scheme, or membership of the company's pension scheme, except where the benefits are fixed;

3.2.4 has close family ties with any of the company's executive directors or senioremployees;

3.2.5 has served on the board for more than twelve consecutive years; or

3.2.6 is or has been within the last three years an engagement partner or a member of the audit team of the present or former external auditor of the company or any member of the group of which the company forms part.

For the purposes of Code Provision 3.2.2, "business relationship" includes the situation of a significant supplier of goods or services (including financial, legal, advisory or consulting services), of a significant customer, and of organisations that receive significant contributions from the company or its group.

3.3 Each Director should apply to his duties the necessary time and attention, and should undertake to limit the number of any Directorships held in other companies to such an extent that the proper performance of his duties is assured.

3.4 Every person who is appointed as a non-executive director shall declare in writing to the board that he undertakes:-

3.4.1 to maintain in all circumstances his independence of analysis, decision and action;

3.4.2 not to seek or accept any unreasonable advantages that could be considered as compromising his independence; and

3.4.3 to clearly express his opposition in the event that he finds that a decision of the board may harm the company.

3.5 When the board has made decisions about which an independent non-executive director has serious reservations, he should draw all the appropriate consequences from this. If he were to resign, he should explain his reasons in a letter to the board or the audit committee, and – where appropriate – to any relevant body external to the company.

4. THE RESPONSIBILITIES OF THE BOARD

Main principle

The board has the first level responsibility of executing the four basic roles of corporate governance namely; accountability, monitoring, strategy formulation and policy development.

Supporting principles

(i) The Board should:

(a) regularly review and evaluate corporate strategy, major operational and financial plans, risk policy, performance objectives and monitor implementation and corporate performance within the parameters of all relevant laws, regulations and codes of best business practice.

(b) apply high ethical standards and take into account the interests of stakeholders. Its members should act:

(i) responsibly for exercising independent objective judgment with the highest degree of integrity; and

(ii) on a fully informed basis in good faith with due diligence, and in the best interests of the Company and the shareholders.

(c) recognise that the company`s success depends upon its relationship with all groups of its stakeholders, including employees, suppliers, customers and the wider community in which the company operates. The board should maintain an effective dialogue with such groups in the best interests of the company;

(d) monitor the application by management of its policies;

(e) recognise and support enterprise and innovation within the management of the company. The board should examine how best to motivate Company management.

(ii) A balance between enterprise and control in the company should be struck by the board.

Code provisions

4.1 The board should ensure that its level of power is known by all Directors and the senior management of the company. Any delegation of responsibilities and functions should also be clear and unequivocal. Independently of any powers and functions that the Directors may from time to time validly delegate to management, it remains a fundamental responsibility of Directors to monitor effectively the implementation of strategy and policy by management.

4.2 The board should:

4.2.1 define in clear and concise terms, the company`s strategy, policies, management performance criteria and business policies which can be measured in a precise and tangible manner;

4.2.2 establish a clear internal and external reporting system so that the board has continuous access to accurate, relevant and timely information such that the board can discharge its duties, exercise objective judgment on corporate affairs and take pertinent decisions to ensure that an informed assessment can be made of all issues facing the board;

4.2.3 establish an Audit Committee in terms of Listing Rules 5.117 – 5.134;

4.2.4 continuously assess and monitor the company`s present and future operations, opportunities, threats and risks in the external environment and current and future strengths and weaknesses;

4.2.5 evaluate the management's implementation of corporate strategy and financial objectives. The strategy, processes and policies adopted for implementation should be regularly reviewed by the board using key performance indicators so that corrective measures can be taken to address any deficiencies and ensure the future sustainability of the enterprise;

4.2.6 ensure that the Company has appropriate policies and procedures in place to assure that the Company and its employees maintain the highest standards of corporate conduct, including compliance with applicable laws, regulations, business and ethical standards;

4.2.7 develop a succession policy for the future composition of the board of Directors and particularly the executive component thereof, for which the Chairman should hold key responsibility.

4.3 The Board should organise regular information sessions to ensure that Directors are made aware of, interalia;

4.3.1 their statutory and fiduciary duties;

4.3.2 the company's operations and prospects;

4.3.3 the skills and competence of senior management;

4.3.4 the general business environment; and

4.3.5 the board's expectations.

4.4 The board should assess regularly any circumstances, whether actual or potential, that could expose the Company or its Directors to risk, and take appropriate action.

4.5 The business risk and key performance indicators should be benchmarked against industry norms so that the company's performance can be effectively evaluated.

4.6 The board shall require management to constantly monitor performance and report to its satisfaction, at least on a quarterly basis, fully and accurately on the key performance indicators.

4.7 The board shall ensure that the financial statements of the Company and the annual audit thereof are completed within the stipulated time periods.

5. BOARD MEETINGS

Main principle

The board should meet regularly to discharge its duties effectively. Board members should be given ample opportunity during meetings to discuss issues set on the board agenda and convey their opinions.

Supporting principles

(i) The Chairman is primarily responsible for the efficient working of the board. He must ensure that all relevant issues are on the agenda supported by all available information.

(ii) The board agenda should strike a balance between long-term strategic and shorter-term performance issues.

(iii) In conducting board meetings, the Chairman should facilitate and encourage the presentation of views pertinent to the subject matter and should give all Directors every opportunity to contribute to relevant issues on the agenda.

Code provisions

5.1 The board should set procedures to determine the frequency, purpose, conduct and duration of meetings and meet regularly in line with the nature and demands of the company's business.

5.2 The attendance of board members should be reported to shareholders at annual general meetings.

5.3 Notice of the dates of the forthcoming meetings together with the supporting material should be circulated well in advance to the Directors so that they have ample opportunity to appropriately consider the information prior to the next scheduled board meeting. Advance notice should be given of ad hoc meetings of the board to allow all Directors sufficient time to re-arrange their commitments in order to be able to participate. .

5.4 After each board meeting and before the next meeting, minutes that faithfully record attendance and decisions should be prepared and should be circulated to all Directors as soon as practicable after the meeting.

6. INFORMATION AND PROFESSIONAL DEVELOPMENT

Main principle

The board should:

- appoint the Chief Executive Officer;
- actively participate in the appointment of senior management;
- ensure that there is adequate training in the Company for Directors, management and employees;
- establish a succession plan for senior management; and
- ensure that all Directors are supplied with precise, timely and clear information so that they can effectively contribute to board decisions.

Supporting principles

(i) Boards should actively consider the establishment and implementation of appropriate schemes to recruit, retain and motivate high quality executive officers and the management team.

(ii) The Chairman should ensure that Board members continually update their skills and the knowledge and familiarity with the Company required to fulfil their role both on the board and on board committees. The Company should provide the necessary resources for developing and updating its directors' knowledge and capabilities.

(iii) Under the direction of the Chairman, the company secretary's responsibilities include ensuring good information flows within the board and its committees and between senior management and non-executive directors, as well as facilitating induction and assisting with professional development as required.

(iv) The company secretary should be responsible for advising the board through the chairman on all governance matters.

Code provisions

6.1 All new Directors should be offered a tailored induction programme on joining the board which covers to the extent necessary the company's organization and activities and his responsibilities as a Director.

6.2 The board should ensure that the Directors, especially non-executive Directors, have access to independent professional advice at the Company's expense where they judge it necessary to discharge their responsibilities as directors. Committees should be provided with sufficient resources to undertake their duties.

6.3 All Directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are complied with.

6.4 The Chief Executive Officer should ensure that systems are in place:

6.4.1 to provide for the development and training of the management and employees generally so that the Company remains competitive;

6.4.2 to provide additional training for individual Directors where necessary;

6.4.3 to monitor management and staff morale; and

6.4.4 to establish a succession plan for senior management.

6.5 The Chief Executive Officer should be responsible for the recruitment and appointment of senior management.

7. EVALUATION OF THE BOARD`S PERFORMANCE

Main principle

The board should undertake an annual evaluation of its own performance and that of its committees.

Code provisions

7.1 The board should appoint a committee chaired by a non-executive Director in order to carry out a performance evaluation of its role.

7.2 The committee is to report directly to the Chairman who should act on the results of the performance evaluation process in order to ascertain the strengths and to address the weaknesses of the board and to report to the board and, where appropriate, to the Annual General Meeting.

7.3 The non-executive Directors should be responsible for the evaluation of the Chairman, taking into account the views of the executive directors.

7.4 As part of the disclosure requirements in the annual report, the board should provide adequate information about its internal organization and including an indication of the extent to which the self-evaluation of the board has led to any material changes in the company's governance structures and organization.

8. COMMITTEES

A. Remuneration Committee

For the purposes of this section the term "senior executive" shall mean any person reporting directly to the Board of Directors.

Main principle

The board should establish a remuneration policy for Directors and senior executives. It should also set up formal and transparent procedures for developing such a policy and for establishing the remuneration packages of individual Directors.

Supporting principles

(i) The role of the Remuneration Committee referred to below is to devise the appropriate packages needed to attract, retain and motivate Directors, whether executive or not, as well as senior executives with the right qualities and skills for the proper management of the company. It. should, however, avoid paying more than is necessary to secure the people with the appropriate skills and qualities. In carrying out this function the Remuneration Committee should judge where to position its Company relative to other companies in the marketplace.

(ii) The Remuneration Committee's main duties are:

(a) to make proposals to the board on the remuneration policy for Directors and senior executives;

(b) to make proposals to the board on the individual remuneration to be attributed to executive Directors, ensuring that they are consistent with the remuneration policy adopted by the Company and the evaluation of the performance of the Directors concerned;

(c) to monitor the level and structure of remuneration of the non-executive Directors on the basis of adequate information provided by the executive or managing Directors;

(iii) The Committee:

(a) may consult the Chairman and/or the Chief Executive Officer about proposals relating to the remuneration of other executive Directors;

(b) may avail itself of consultants who may be useful in providing the necessary information on market standards for remuneration systems; and

(c) should be responsible for establishing the selection, appointing and setting the terms of reference for any consultants who advise the Committee.

(iv) No member of the Remuneration Committee shall be present while his remuneration is being discussed at a meeting of such Committee.

Code provisions

8.A.1 The board of Directors should establish a Remuneration Committee composed of non- executive Directors with no personal financial interest other than as shareholders in the company, one of whom shall be independent and shall chair the Committee.

8.A.2 Where, however, the remuneration of Directors is not performance-related, the functions of the Remuneration Committee may be carried out by the board and in such case any reference to such Committee in this section shall be construed as a reference to the board of directors. For the purposes of this supporting principle "performance-related" remuneration includes share options and pension benefits, profit sharing arrangements and any other emolument payable to the Directors that is related to the performance of the Company in question.

8.A.3 The Remuneration Committee shall prepare a report which forms part of the annual report providing information regarding its membership, the number of meetings held, the attendance over the year and its main activities.

8.A.4 The annual report should contain a "Remuneration Statement" which discloses at least the following information:

8.A.4.1 the current remuneration policy of the Company, including profit-sharing, share options and pension benefits, as well as specific arrangements relating to the disclosure of information on performance, highlighting any significant changes in the Company's remuneration policy as compared to the previous financial year as well as any changes that the Company intends to effect in its remuneration policy for the following financial year;

8.A.4.2 an explanation of the relative importance of the variable and non-variable components of directors' and/or senior executives' remuneration;

8.A.4.3 sufficient information on the performance criteria on which any entitlement to share options, shares or variable components of remuneration is based;

8.A.4.4 sufficient information on the linkage between remuneration and performance;

8.A.4.5 the main parameters and rationale for any annual bonus scheme and any other non-cash benefits;

8.A.4.6 a description of the main characteristics of supplementary pension or early retirement schemes for Directors and/or senior executives;

8.A.4.7 a summary and an explanation of the Company's policy with regard to the terms and conditions of the contracts of executive Directors and senior executives including information on the duration of such contracts, the applicable notice periods and details of provisions for termination payments and other payments linked to early termination under the said contracts;

8.A.4.8 the total emoluments, whether in cash or otherwise, received by Directors from the Company or any other undertaking of the Group of which the Company forms part;

8.A.4.9 the total emoluments, whether in cash or otherwise, received by senior executives from the Company or any other undertaking of the Group of which the Company forms part;

8.A.4.10 the compensation paid or receivable by each former executive Director in connection with the termination of his activities during that financial year;

8.A.4.11 the compensation paid or receivable by each former senior executive in connection with the termination of his activities during that financial year;

8.A.4.12 with respect to shares and/or rights to acquire share options and/or all other share-incentive schemes:-

8.A.4.12.1 the number of share options offered or shares granted by the Company or any other undertaking of the group of which the Company forms part during the relevant financial year and their conditions of application;

8.A.4.12.2 the number of share options exercised during the relevant financial year and, for each of them, the number of shares involved and the exercise price or the value of the interest in the share incentive scheme at the end of the financial year;

8.A.4.12.3 the number of share options unexercised at the end of the financial year, their exercise price, the exercise date and the main conditions for the exercise of the rights; and

8.A.4.12.4 any change in the terms and conditions of existing share options occurring during the financial year; and

8.A.4.13 with respect to supplementary pension schemes:-

8.A.4.13.1 when the pension scheme is a defined-benefit scheme, changes in the accrued benefits under that scheme during the relevant financial year; and

8.A.4.13.2 when the scheme is a defined-contribution scheme, details of the total contributions paid or payable by the Company or any other undertaking of the Group of which the Company forms part during the relevant financial year.

8.A.5 The company shall report separately on Code Provisions 8.A.4.8 and 8.A.4.9, and, in doing so, it shall divide the part dealing with the emoluments of directors and the other dealing with the emoluments of senior executives into four sections entitled "fixed remuneration", "variable remuneration", "share options" and "others". The company may also provide an explanation on which items fall under one of the four categories of emoluments referred to herein.

8.A.6 Without prejudice to the requirements of Code Provision 8.A.2 the disclosure of any information in the Remuneration Statement shall not oblige the Company to disclose commercially sensitive information.

B. Nomination Committee

Main principle

There should be a formal and transparent procedure for the appointment of new directors to the board. The procedure shall ensure, inter alia, adequate information on the personal and professional qualifications of the candidates.

Supporting principles

(i) Appointments to the board should be made on merit and against objective criteria. Care should be taken to ensure that appointees have enough time available to devote to the job. This is particularly important in the case of chairmanships.

(ii) The functions of the Nomination Committee referred to below shall be:

(a) to propose to the board candidates for the position of director, including those persons that are considered to be independent in terms of supporting principle (vii) under Principle 3, taking into account any recommendations in this regard received from shareholders;

(b) to periodically assess the structure, size, composition and performance of the board and make recommendations to the board with regard to any changes;

(c) to properly consider issues related to succession planning; and

(d) to review the policy of the Board for selection and appointment of senior management.

(iii) The board of the company shall determine the terms of reference of the Nomination Committee.

(iv) In performing its duties, the Nomination Committee should be able to use any forms of resources it deems appropriate, including external advice or advertising, and should receive appropriate funding from the company to this effect.

(v) The Nomination Committee may invite Directors other than the committee members, Officers of the company or experts to attend meetings where appropriate to assist in the effective discharge of its duties.

(vii) Whilst the Nomination Committee should try to achieve consensus on the recommendations it makes to the board, where such consensus cannot be achieved, decisions shall be made by a majority vote. In the event that a member or members of the Committee dissent(s) with the majority view on any particular matter, that member or member(s) (as the case may be) shall be entitled to make a dissenting report to the board setting out the reasons as to why they dissent from the majority opinion expressed in the Committee's recommendations.

Code provisions

8.B.1 The board should establish a Nomination Committee to lead the process for board appointments and to make recommendations to it. Such committee should be composed entirely of Directors of the company. The majority of the members of the Nomination Committee shall be non-executive Directors, at least one of whom shall be independent.

8.B.2 No member of the Nomination Committee shall be present while his nomination as a director of the Company is discussed at a meeting of such Committee.

8.B.3 For any new appointment to the board, the skills, knowledge and experience already present and those needed on the board should be evaluated and, in the light of that evaluation, a description of the role and skills, experience and knowledge needed should be prepared by the Nomination Committee.

8.B.4 With respect to the appointment of the chairman, the Nomination Committee should prepare a job specification, including an assessment of the time commitment expected. A chairman's other

significant commitments should be disclosed to the board before appointment and any changes to such commitments should be reported to the board as they arise.

8.B.4 The letter of appointment issued to non-executive Directors should set out the expected time commitment and non-executive Directors should undertake that they will have sufficient time to meet what is expected of them. Their other significant commitments should be disclosed to the board before appointment, with a broad indication of the time involved and subsequent changes should be notified to the board.

8.B.5 Any proposal for the appointment of a director by the general meeting of shareholders should be accompanied by a recommendation from the board, based on the advice of the Nomination Committee.

8.B.6 The lists of candidates to the office of director, accompanied by exhaustive information on the expertise and professional qualifications of the candidates with an indication, where appropriate, of their eligibility to qualify as independent and competent in accounting and/or auditing, shall be deposited at the Company's registered office at least fourteen (14) days prior to the date fixed for the Annual General Meeting.

8.B.7 A separate section of the annual report should describe the work of the Nomination Committee, including the process it has used in relation to board appointments.

8.B.8 The Nomination Committee shall periodically assess the skills, knowledge and experience of individual directors, and report on this to the board.

9. RELATIONS WITH SHAREHOLDERS AND WITH THE MARKET

Main principle

The board shall serve the legitimate interests of the company, account to shareholders fully and ensure that the Company communicates with the market effectively. The board should as far as possible be prepared to enter into a satisfactory dialogue with institutional shareholders and market intermediaries based on the mutual understanding of objectives. The board shall use the general meeting to communicate with shareholders.

Supporting principles

(i) The Company should provide the market with regular, timely, accurate, comprehensive and comparable information in sufficient detail to enable investors to make informed investment decisions.

(ii) Communication with the market is crucial for Listed Companies and the integrity of the market itself. The board should ensure that long-term strategic decisions are communicated where the Directors consider these to be in the best interests of the company.

(iii) The board should endeavour to protect and enhance the interests of both the Company and its shareholders, present and future. The Chairman should ensure that the views of shareholders are communicated to the board as a whole.

(iv) The board should:

(a) always ensure that all holders of each Class of capital are treated fairly and equally; and

(b) act in the context that its shareholders are constantly changing and, consequently, decisions should take into account the interests of future shareholders as well.

(v) Shareholders must appreciate the significance of participation in the general meetings of the Company and particularly in the election of Directors. They should continue to hold Directors to account for their actions, their stewardship of the company's assets and the performance of the company.

(vi) The agenda for general meetings of shareholders and the conduct of such meetings must not be arranged in a manner to frustrate valid discussion and decision-taking.

(vii) Whilst recognising that most shareholder contact is with the Chief Executive Officer and finance Director, the Chairman should maintain sufficient contact with major shareholders to understand their issues and concerns.

(viii) The board should consider whether, from time to time, disclosure should be made by the Company to other stakeholders other than its shareholders.

Code provisions

9.1 The Chairman should arrange for the chairmen of the audit, remuneration and nomination committees to be available to answer questions at the Annual General Meeting and for all directors to attend.

9.2 Minority shareholders should be able to call special meetings on matters of importance to the company. However a minimum threshold of share ownership, as established in the Memorandum or Articles of Association of the company, should be set up before a Group or an individual may call a special meeting.

9.3 Procedures should be established to resolve conflicts between minority shareholders and controlling shareholders. To resolve conflicts, there should be some mechanism, disclosed in the Company's Memorandum or Articles, to trigger arbitration.

9.4 Minority shareholders should be allowed to formally present an issue to the board of Directors.

10. INSTITUTIONAL SHAREHOLDERS

The term 'institutional shareholders' should be interpreted widely and includes any person who by profession, whether directly or indirectly, takes a position in investments as principal, or Manager or holds funds for or on behalf of others and includes Custodians, banks, financial institutions, fund managers, stockbrokers, investment managers and others.

(A) Shareholder voting Main principle

Institutional shareholders have a responsibility to make considered use of their votes.

Supporting principles

(i) Institutional shareholders have the knowledge and expertise to analyse market information and make their independent and objective conclusions of the information available. Their role in the market is to be perceived by individual investors as being a very significant one. Accordingly, institutional shareholders are expected to conduct themselves in an appropriate manner in the market and act as a more effective check on Listed Companies.

(ii) Institutional shareholders should take an active role in the pursuit of the attainment of their voting objectives. They should work towards the adherence to principles of good governance without substituting themselves for the company's board and management.

(iii) Institutional shareholders should make available to their clients, upon request, information on the proportion of resolutions on which votes were cast and non-discretionary proxies lodged.

(iv) Institutional shareholders should use their best endeavours to attend Annual General Meetings. Companies and registrars should facilitate this.

(B) Evaluation of governance disclosures Main principle

When evaluating the Company's governance arrangements, particularly those relating to board structure and composition, institutional shareholders should give due weight to all relevant factors drawn to their attention.

Supporting Principle

Institutional shareholders should consider carefully the explanations given for departure from this Code and make reasoned judgements in each case. They should give an explanation to the Company, in writing where appropriate, and be prepared to enter a dialogue if they do not accept the Company's position. They should avoid a box-ticking approach to assessing a company's corporate governance. They should bear in mind in particular the size and complexity of the Company and the nature of the risks and challenges it faces.

11. CONFLICTS OF INTEREST

Main principle

Directors` primary responsibility is always to act in the interest of the Company and its shareholders as a whole irrespective of who appointed them to the board.

Supporting principles

(i) A Director should avoid conflicts of interest at all times and shall not accept a nomination if he is aware that he has an actual conflict of interest.

(ii) The personal interests of a Director must never take precedence over those of the Company and its shareholders

Code provisions

11.1 Should an actual or potential conflict arise during the tenure of a Directorship, a Director must disclose and record the conflict in full and in time to the board. A Director shall not participate in a discussion concerning matters in which he has a conflict of interest unless the board finds no objection to the presence of such Director. In any event, the Director shall refrain from voting on the matter. In certain circumstances it may be appropriate for the board to disclose in a public document that an actual conflict or potential conflict of interest has arisen.

11.2 A Director having a continuing material interest that conflicts with the interests of the Company, should take effective steps to eliminate the grounds for conflict. In the event that such steps do not eliminate the grounds for conflict then the Director should consider resigning.

11.3 Each Director should declare to the Company his or her interest in the share capital of the Company distinguishing between beneficial and non-beneficial interest and should only deal in such shares as allowed by law.

12. CORPORATE SOCIAL RESPONSIBILITY

Main principle

Directors should seek to adhere to accepted principles of corporate social responsibility in their day-to-day management practices of their company.

Supporting principles

(i) Corporate Social Responsibility is the continuing commitment by business entities to behave ethically and contribute to economic development while improving the quality of life of the work force and their families as well as of the local community and society at large. Being socially responsible means not only fulfilling legal expectations but also going beyond compliance and investing "more" into human capital, the environment and the relations with stakeholders.

(ii) It is encouraged that Listed Companies take up initiatives aimed at augmenting investment in human capital, health and safety issues, and managing change, while adopting environmentally responsible practices related mainly to the management of natural resources used in the production process.

(iii) Listed Companies are expected to act as corporate citizens in the local community and work closely with suppliers, customers, employees and public authorities.

(iv) Listed Companies are encouraged to go through material relating to the theme of corporate social responsibility and keep abreast with initiatives being taken in the local and international scenario.

Appendix 3.1: Introductory e-mail

Dear Mr./Ms.,

By way of introduction, I'm Nirvana Duca, M.Acc. student at the University of Malta. As part of my studies, I am researching 'Confidentiality and Corporate Governance: The Perspectives of the Accountancy Profession and Listed Entities'.

The study will focus on the principle of Confidentiality. The research aims to explore whether the aforementioned principle affects the corporate governance in Maltese Listed entities.

As part of this research I will be conducting interviews with both accounting professionals mainly auditors and members of the board of listed entities. These interviews are to be held between November and December 2018 at your desired time and location. Your participation is voluntary and at any time you may refuse to answer any question. I would be grateful if you are willing to participate. Under no circumstances I will mention your name or any identifying characteristics and I guarantee that any information collected is solely for academic purpose.

The study has been approved by the Department of Accountancy in the University of Malta. Attached please find a letter of approval.

If you have any questions regarding this study, or would like additional information to assist you in reaching a decision about participation, please contact me on +356 99455890 or by e-mail on nirvana.duca.14@um.edu.mt
I very much look forward to speaking with you and thank you in advance for your assistance in this project.

Kind regards,
Nirvana Duca

Appendix 3.2: Letter of Introduction and Invitation to Participate in Research

L-UNIVERSITÀ TA' MALTA
Msida - Malta
IL-FAKULTÀ TA' L-EKONOMIJA, MANAGEMENT U ACCOUNTANCY

UNIVERSITY OF MALTA
Msida - Malta
FACULTY OF ECONOMICS, MANAGEMENT AND ACCOUNTANCY

DEPARTMENT OF ACCOUNTANCY
LETTER OF INTRODUCTION AND INVITATION TO PARTICIPATE IN RESEARCH

18th October 2018

Dear Sir / Madam,

This is to introduce Nirvana Duca, a Master in Accountancy student at the Faculty of Economics, Management and Accountancy at the University of Malta.

The student is undertaking research within the Department of Accountancy regarding corporate governance. This research aims to explore whether the principle of confidentiality affects the corporate governance of Maltese listed companies.

In this regard, the said student would like to invite you to contribute on this research project by participating in an interview covering aspects of this topic at your convenience.

This research is important and valuable in enhancing understanding of the subject area and helping practicing professionals and practitioners like yourself, as well as informing policy and support initiatives. The student would be happy to share with you general findings ensuing from this research.

The student is to ensure that any information provided will be treated in confidence, also in line with general Faculty research requirements and ethical obligations. A consent form will be separately provided. You are, of course, entirely free to discontinue your participation at any time or to decline to answer particular questions.

While I thank you beforehand for your consideration as well as your possible kind support and involvement in this important research, should you have any queries on this research please feel free to contact me via email at: accountancy.fema@um.edu.mt.

Yours sincerely,

Dr. Peter J Baldacchino
Head, Department of Accountancy
Faculty of Economics, Management and Accountancy

Appendix 3.3: Consent Form

CONSENT FORM

Name of Researcher: Nirvana Duca

Title of research project: Confidentiality and Corporate Governance: Perspectives of the Accountancy Profession and Listed Entities.

Declaration by Participant:

- I confirm that I have been given a copy of the information sheet and consent form for the above-mentioned study. I have had the opportunity to read and consider the information provided, and to ask questions; any questions have been answered in a satisfactory manner.
- I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason and without any penalty or loss of benefit to which I am otherwise entitled.
- I understand that the data collected will be securely stored and accessible only to the researcher, and potentially to his/her supervisor/s, examiner/s, and/or reviewer/s. I have been informed that data will be erased/destroyed within six months of completion of the study.
- I understand that the data collected will be anonymised and that I will not be identifiable in any publications, reports, or presentations arising from this research.
- I understand that under the General Data Protection Regulation, I have the right to access, rectify and where applicable erase any data concerning me.

Please tick as appropriate

- I agree to be interviewed/recorded/videotaped *(delete as necessary)* for purposes of this study.

  ☐ YES ☐ NO

- I agree to be contacted for a follow-up meeting/interview at a later date.

  ☐ YES ☐ NO

I consent to participate in the study.

☐ YES ☐ NO

Name of Participant: _____

Signature: _____ Date: _____

Name of Researcher: Nirvana Duca

UM Email address: nirvana.duca.14@um.edu.mt
Phone Number/s: 99455890

Name of Supervisor / Head of Department: Dr Peter J Baldacchino

UM Email address: peter.j.baladcchino@um.edu.mt
Phone Number/s: 79977799

Appendix 3.4: Corporate Governance Statements Analysed

Company Name	2015	2016	2017
Bank of Valletta plc	X	X	X
HSBC Bank Malta plc	X	X	X
Lombard Bank Malta plc	X	X	X
Mapfre Middlesea plc	X	X	X
Simonds Farsons Cisk plc	X	X	X
GO plc	X	X	X
International Hotel Investments plc	X	X	X
Plaza Centres plc	X	X	X
GlobalCapital plc	X	X	X
FIMBank plc	X	X	X
Malta International Airport plc	X	X	X
Santumas Shareholdings plc	X	X	X
Medserv plc	X	X	X
Grand Harbour Marina plc	X	X	X
MaltaPost plc	X	X	X
RS2 Software plc	X	X	X
MIDI plc	X	X	X
Malita Investments plc	X	X	X
Tigne Mall plc	X	X	X
Malta Properties Company plc	X	X	X
PG plc	N/A	N/A	X
Trident Estates plc	N/A	N/A	N/A
Main Street Complex plc	N/A	N/A	N/A
Total Statements/Year	**20**	**20**	**21**
Total Statements		**61**	

Appendix 3.5: Interview Schedule

Introduction

Corporate governance is the system by which companies are directed and controlled. The boards of directors are one of the main contributors of corporate governance and they determine whether an entity exercises good corporate governance or not. Effective corporate governance requires corporate transparency and disclosure as these enable both shareholders and other stakeholders, to obtain proper information about the company's financial position and performance to make fully informed decisions. Despite, the due importance and relevance of corporate transparency, at times it may be interfered by the over practice of corporate confidentiality. Thus, this study intends to assess the practice of lack of corporate transparency and its implications in the corporate governance of Maltese listed entities.

Part A

The Maltese Regulatory Framework

1. In your opinion, does the Code of Principles of Good Corporate Governance for Listed Companies ("the Code') sufficiently encourage effective corporate governance practices in listed entities? Why or Why not?
2. Do you consider the Corporate Governance Statement as a mechanism to provide more relevant disclosure to various stakeholders? Why or Why not?
3. In your view should the Code become legally enforceable? Why or Why not?
4. Please indicate the extent to which you agree to the following statements regarding the **comply-or-explain** approach incorporated by the Code and kindly provide reasons for such rating:

Please rate as applicable: **The Comply-or-Explain approach;**	***Strongly Disagree (1)***	***Disagree (2)***	***Neutral (3)***	***Agree (4)***	***Strongly Agree (5)***
a) Provides a degree of flexibility.					
b) Challenges the rigid hard law and acknowledges that the 'one size fits all' approach to corporate governance is not appropriate					
c) Requires sufficient and appropriate explanations for non-compliance to be of benefit.					
d) Allows stakeholders to appropriately monitor and evaluate the corporate governance practices in different companies.					
e) Is undermined by inadequate explanations and lack of shareholders' interest.					

Part B

Corporate Transparency and Dysfunctional Corporate Governance Practices

5. What do you understand by the term **corporate confidentiality**?
6. In your view is there any difference between the term of **corporate confidentiality** and that of **corporate secrecy**?
7. What do you understand by the term **corporate transparency**?
8. (a) A number of claimed dysfunctional corporate governance practices in Maltese listed entities may be attributed to their attitudes against corporate transparency. How far do you agree that this is applicable in the case of the following claimed practices?

    I. Insufficiently detailed disclosures relating to director compensations in the published financial statements.

    II. Non-evaluation of the performance of the board of directors of Maltese listed entities.

    III. The inadequate explanations for non-compliance in the corporate governance statement of listed Companies.

    IV. Communications of most listed companies with the whole body of shareholders commonly being limited to the Annual General Meeting.

    (b) In your view, are there any other instances that may imply excessive secrecy in the corporate governance of Maltese companies?

Part C

Possible Reasons and Implications of Lack of Corporate Transparency

9. To what extent do you agree that the exercise of lack of corporate transparency if it exists, is due to the following? Please provide reasons for your answer.

	Strongly Disagree (1)	***Disagree (2)***	***Neutral (3)***	***Agree (4)***	***Strongly Agree (5)***
a) Shareholder indifference and lack of interest.					
b) Shareholder incompetence in corporate governance matters.					
c) Undue influence by majority shareholder.					
d) A small state environment wherein disclosure may lead to personal embarrassment.					
e) Board members being also involved in management and in shareholding.					

f) A concern by executive management of being unduly restricted by the Board of Directors.					
g) A concern relating to the passing on of sensitive information to competitors.					
h) A concern by top management of being unnecessarily restricted by shareholders.					

(b) Could you specify any other reason for any claimed abuse of confidentiality?

10. To what extent do you believe that excessive corporate secrecy may have the following implications on the corporate governance of Maltese listed entities? Please provide reasons for your answer.

	Strongly Agree (1)	***Agree (2)***	***Neutral (3)***	***Disagree (4)***	***Strongly Disagree (5)***
a) Diminished investor trust in financial market.					
b) Unwillingness to act as directors.					
c) The spread of false information and rumors in the market.					
d) Diminished shareholder reliance on the Annual Report.					
e) Others (*please specify if any…)*					

Part D
Improving Corporate Transparency

11. In your view, to what extent do you agree that any of the following may prompt those charged with corporate governance in Listed Companies towards more transparency? If so why?

Please rate:	***Strongly Agree (1)***	***Agree (2)***	***Neutral (3)***	***Disagree (4)***	***Strongly Disagree (5)***
a) A more robust regulatory framework.					
b) A stricter implementation of the existing framework.					
c) More shareholder training in financial literacy.					
d) Stronger shareholder associations.					
e) Other *(please specify if any…)*					

12. Other Comments *(if any)*

Appendix 3.6: Statistical Data Analysis using the Friedman Test

The Friedman Test was used to compare the mean rating scores provided to a number of related statements. These mean rating scores range from 1 to 5, where 1 corresponds to ‘Strongly Disagree’ and 5 corresponds to ‘Strongly Agree’. The larger the mean rating score, the higher the agreement.

The **null hypothesis** specifies that the mean rating scores provided to the statements are comparable and is accepted if the *p*-value exceeds the 0.05 level of significance.

The **alternative hypothesis** specifies that these mean rating scores vary significantly and is accepted if the *p*-value is less than the 0.05 criterion.

- **Friedman Test 1: The Comply-or-Explain Approach**

The Friedman test was used to analyse the mean rating scores provided by MLEs and auditors. The alternative hypothesis is accepted since the *p*-value (0.017) is less than the 0.05 criterion, representing that these mean rating scores vary significantly as illustrated in Table A3.6-1.

Comply-or-Explain Approach	Mean	Std. Deviation
4a) Provides a degree of flexibility	4.31	0.630
4b) Challenges the rigid hard law and acknowledges that the 'one size fits all' approach to corporate governance is not appropriate	4.15	0.376
4c) Requires sufficient and appropriate explanations for non-compliance to be of benefit	4.08	0.862
4d) Allows stakeholders to appropriately monitor and evaluate the corporate governance practices in different companies	3.46	0.660
4e) Is undermined by inadequate explanations and lack of shareholders' interest	3.69	0.947

$X^2(4) = 12.08$, p= 0.017

Table A3.6-1: Statements related to the comply-or-explain approach (Qn4)

The error bar graph illustrated in Figure A3.6-1 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since the error bars of the two statements with the highest mean rating scores (statements 4a and 4b) are not overlapping the error bar of the lowest rated statement (statement 4d) indicates that the mean rating scores differ significantly.

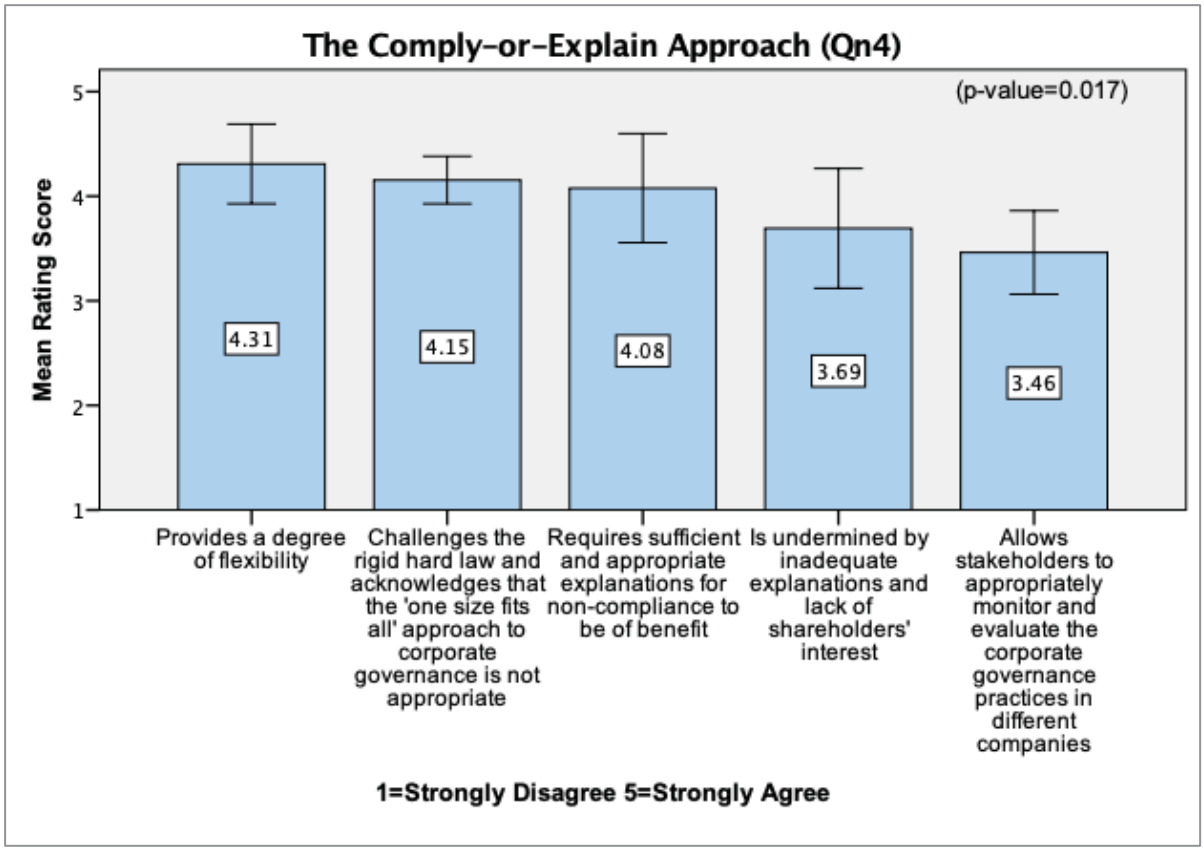


Figure A3.6-1: The comply-or-explain approach (Qn4)

- **Friedman Test 2: Possible Reasons for Lack of Corporate Transparency**

The Friedman test was used to analyse the mean rating scores provided by the MLEs and auditors. The alternative hypothesis is accepted since the *p*-value (0.012) is less than the 0.05 criterion, representing that these mean rating scores vary significantly as illustrated in Table A3.6-2.

Possible Reasons for Lack of Corporate Transparency	Mean	Std. Dev.
9a) Shareholder indifference and lack of interest	3.23	0.927
9b) Shareholder incompetence in corporate governance maters	3.31	1.032
9c) Undue influence by majority shareholder	3.62	0.506
9d) A small state environment wherein disclosure may lead to personal embarrassment	4.08	0.494
9e) Board members being also involved in management and in shareholding	3.77	0.599
9f) A concern by executive management of being unduly restricted by the board of directors	3.54	0.660
9g) A concern relating to the passing on of sensitive information to competitors	4.00	1.155
9h) A concern by top management of being unnecessarily restricted by shareholders	2.77	1.092

$X^2(7) = 18.09$, $p= 0.012$

Table A3.6-2: Statements related to the possible reasons for lack of corporate transparency (Qn9)

The error bar graph illustrated in Figure A3.6-2 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly.

Therefore, since the error bar of the statement with the highest mean rating scores (statements 9d) is not overlapping the error bar of the lowest rated statement (statement 9h) indicates that the mean rating scores differ significantly.

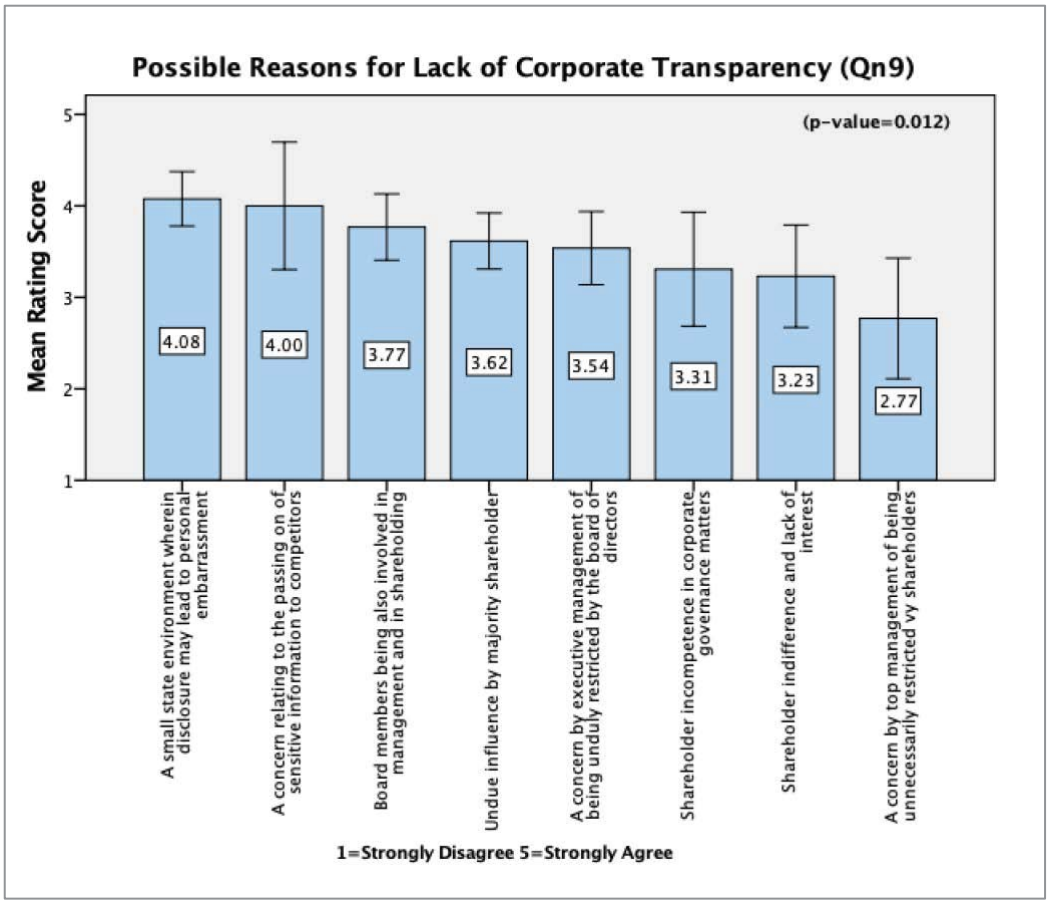


Figure A3.6-2: Possible reasons for lack of corporate transparency (Qn9)

- **Friedman Test 3: Possible Implications on the CG of MLEs**

The Friedman test was used to analyse the mean rating scores provided by the MLEs and auditors. The null hypothesis is accepted since the *p*-value (0.875) exceeds the 0.05 criterion, representing that these mean rating scores do not vary significantly and are therefore comparable as illustrated in Table A3.6-3.

Possible Implications on the CG of MLEs	Mean	Std. Dev.
10a) Diminished investor trust in the entity and financial market	3.77	1.092
10b) Unwillingness to act as directors	3.23	0.832
10c) The spread of false information and rumours in the market	3.62	0.650
10d) Diminished shareholder reliance on the Annual Report	3.54	0.877

$X^2(3) = 2.942$, p= 0.401

Table A3.6-3: Statements related to the possible implication on the CG of MLEs (Qn10)

The error bar graph illustrated in Figure A3.6-3 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since all error bars of the statements are overlapping indicates that the mean rating scores do not differ significantly.

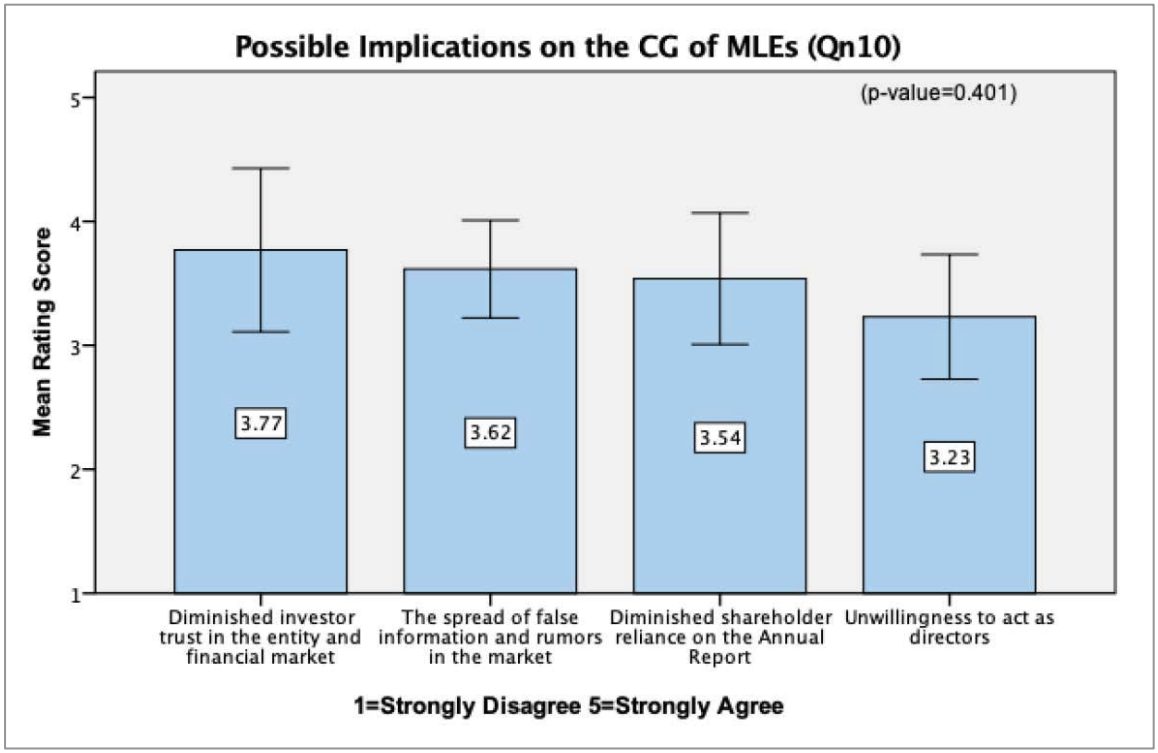


Figure A3.6-3: Possible implication on the CG of MLEs (Qn10)

- **Friedman Test 4: Improving Corporate Transparency**

The Friedman test was used to analyse the mean rating scores provided by the MLEs and auditors. The null hypothesis is accepted since the *p*-value (0.112) exceeds the 0.05 criterion, representing that these mean rating scores do not vary significantly and are therefore comparable as illustrated in Table A3.6-4.

Improving Corporate Transparency	Mean	Std. Dev.
11a) A more robust regulatory framework	3.69	0.751
11b) A stricter implementation of the existing framework	4.23	0.832
11c) More shareholder training in financial literacy	3.77	0.927
11d) Stronger shareholder associations	4.23	0.599

$X^2(3) = 6.00$, $p = 0.112$

Table A3.6-4: Statements related to the improvement of corporate transparency (Qn11)

The error bar graph illustrated in Figure A3.6-4 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since all error bars of the statements are overlapping indicates that the mean rating scores do not differ significantly.

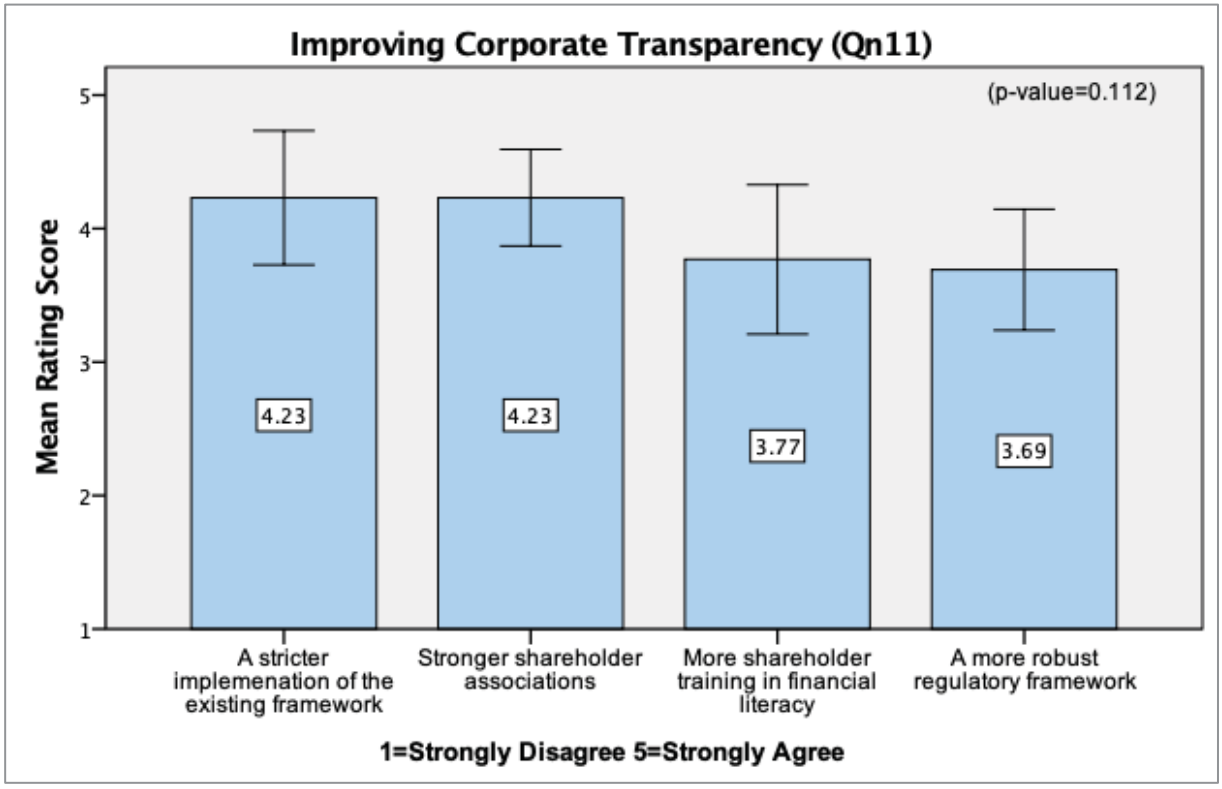


Figure A3.6-4: Improving corporate transparency (Qn11)

Appendix 3.7: Statistical Data Analysis using the Mann-Whitney Test

The Mann-Whitney Test was used to compare mean rating scores provided to a statement between two independent groups of participants (MLE's and auditors). These mean rating scores range from 1 to 5, where 1 corresponds to 'Strongly Disagree' and 5 corresponds to 'Strongly Agree'.

The **null hypothesis** specifies that the mean rating scores provided to the statements vary marginally between the two groups and is accepted if the *p*-value exceeds the 0.05 level of significance.

The **alternative hypothesis** specifies that the mean rating scores provided to the statements vary significantly between the groups and is accepted if the *p*-value is less than the 0.05 criterion.

The *p*-value of a statistical test depends heavily on the sample size, it is very unlikely to have statistical significance when the sample size is small (less than 30) unless differences are considerable.

- **Mann-Whitney Test 1: The Comply-or-Explain Approach**

The Mann-Whitney test was used to define whether the mean rating scores for the statements differ significantly between MLE ‘s representatives and auditors. Table A3.7-1 presents that the mean rating scores provided by auditors for each statement are similar to those provided by listed entities. The differences between these mean rating scores do not differ significantly since the p values exceed 0.05 level of significance.

Comply-or-Explain Approach	Group	Mean	Std. Dev.	P-value
4a) Provides a degree of flexibility	Auditors	4.50	0.577	0.604
	Listed entities	4.22	0.667	
4b) Challenges the rigid hard law and acknowledges that the 'one size fits all' approach to CG is not appropriate	Auditors	4.00	0.000	0.604
	Listed entities	4.22	0.441	
4c) Requires sufficient and appropriate explanations for non-compliance to be of benefit	Auditors	3.50	1.000	0.199
	Listed entities	4.33	0.707	
4d) Allows stakeholders to appropriately monitor and evaluate the corporate governance practices in different companies	Auditors	3.25	0.500	0.604
	Listed entities	3.56	0.726	
4e) Is undermined by inadequate explanations and lack of shareholders' interest	Auditors	3.50	1.000	0.710
	Listed entities	3.78	0.972	

Table A3.7-1: Statements related to the comply-or-explain approach (Qn4)

The error bar graph illustrated in Figure A3.7-1 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since all of the error bars for each statement of the groups are overlapping, indicates that the mean rating scores do not differ significantly.

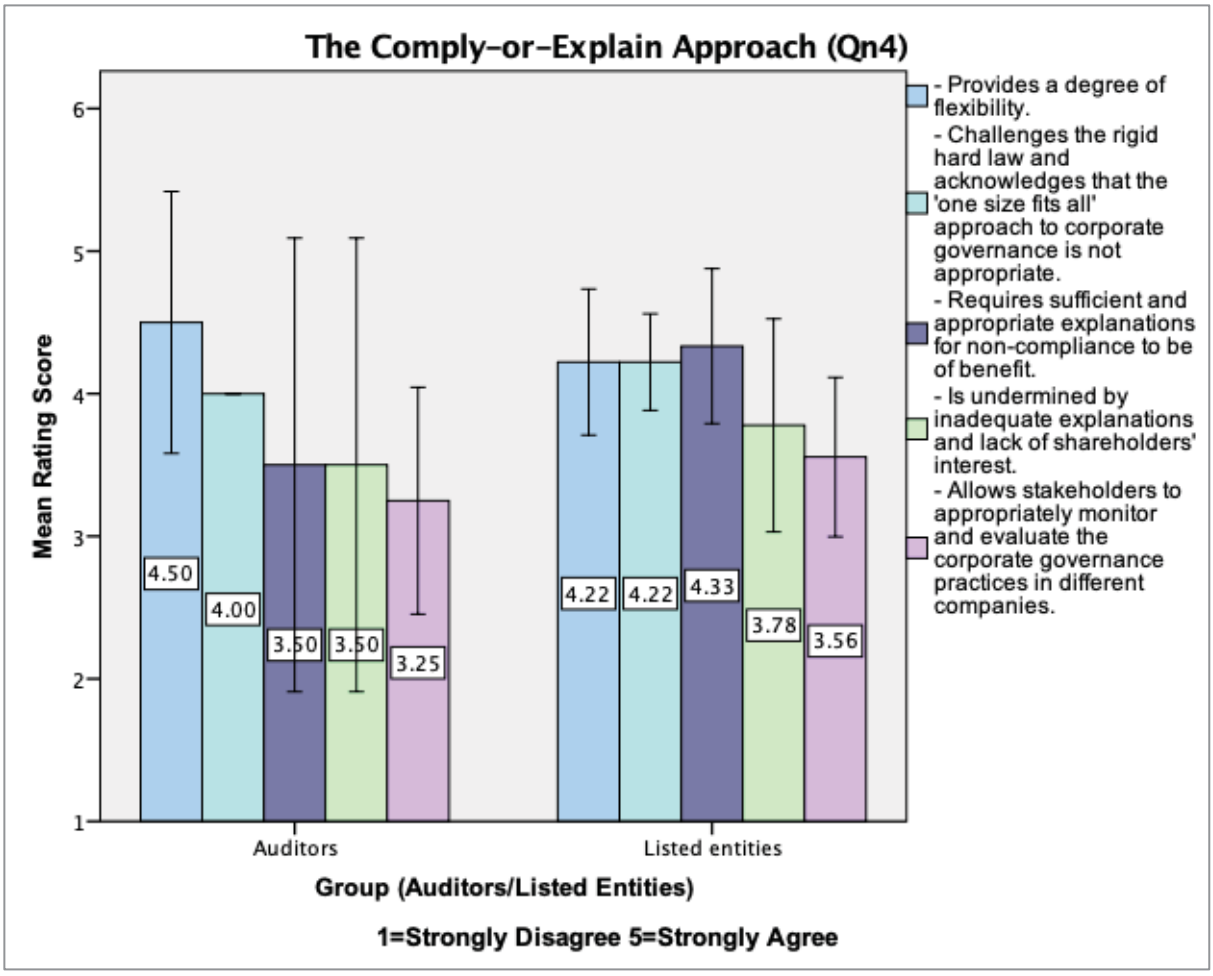


Figure A3.7-1: The comply-or-explain approach (Qn4)

- **Mann-Whitney Test 2: Possible Reasons for Lack of Corporate Transparency**

The Mann-Whitney test was used to define whether the mean rating scores for the statements differ significantly between MLE ‘s representatives and auditors. Table A3.7-2 presents that the mean rating scores provided by auditors for each statement are similar to those provided by listed entities. The differences between these mean rating scores do not differ significantly since the p values exceed 0.05 level of significance.

Possible Reasons for Lack of Corporate Transparency	Group	Mean	Std. Dev.	P-value
9a) Shareholder indifference and lack of interest	Auditors	3.00	0.816	0.604
	Listed entities	3.33	1.000	
9b) Shareholder incompetence in corporate governance maters	Auditors	3.00	0.816	0.503
	Listed entities	3.44	1.130	
9c) Undue influence by majority shareholder	Auditors	4.00	0.000	0.148
	Listed entities	3.44	0.527	
9d) A small state environment wherein disclosure may lead to personal embarrassment	Auditors	4.25	0.500	0.604
	Listed entities	4.00	0.500	
9e) Board members being also involved in management and in shareholding	Auditors	4.00	0.000	0.414
	Listed entities	3.67	0.707	
9f) A concern by executive management of being unduly restricted by the board of directors	Auditors	3.25	0.957	0.503
	Listed entities	3.67	0.500	
9g) A concern relating to the passing on of sensitive information to competitors	Auditors	4.00	1.414	0.940
	Listed entities	4.00	1.118	
9h) A concern by top management of being unnecessarily restricted by shareholders	Auditors	3.00	1.155	0.710
	Listed entities	2.67	1.118	

Table A3.7-2: Statements related to the possible reasons for lack of corporate transparency (Qn9)

The error bar graph illustrated in Figure A3.7-2 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since all of the error bars for each statement of the groups are overlapping, indicates that the mean rating scores do not differ significantly.

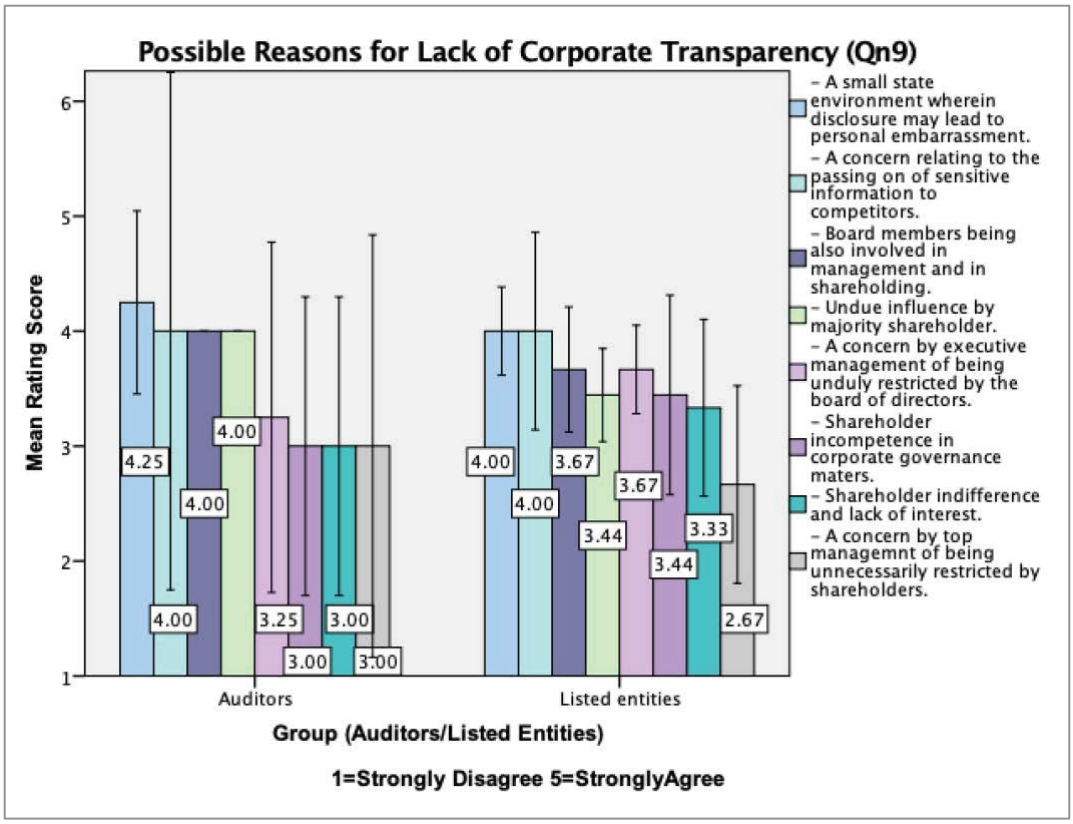


Figure A3.7-2: Possible reasons for lack of corporate transparency (Qn9)

- **Mann-Whitney Test 3: Possible Implications on the CG of MLEs**

The Mann-Whitney test was used to define whether the mean rating scores for the statements differ significantly between MLE ‘s representatives and auditors. Table A3.7-3 presents that the mean rating scores provided by auditors for each statement are similar to those provided by listed entities. The differences between these mean rating scores do not differ significantly since the p values exceed 0.05 level of significance.

Possible Implications on the CG of MLEs	Group	Mean	Std. Dev.	P-value
10a) Diminished investor trust in the entity and financial market	Auditors	3.75	1.500	0.940
	Listed entities	3.78	0.972	
10b) Unwillingness to act as directors	Auditors	2.75	0.957	0.076
	Listed entities	4.00	1.000	
10c) The spread of false information and rumors in the market	Auditors	3.50	0.577	0.825
	Listed entities	3.67	0.707	
10d) Diminished shareholder reliance on the Annual Report	Auditors	3.50	1.291	0.825
	Listed entities	3.67	0.866	

Table A3.7-3: Statements related to the possible implication on the CG of MLEs (Qn10)

The error bar graph illustrated in Figure A3.7-3 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since all of the error bars for each statement of the groups are overlapping, indicates that the mean rating scores do not differ significantly.

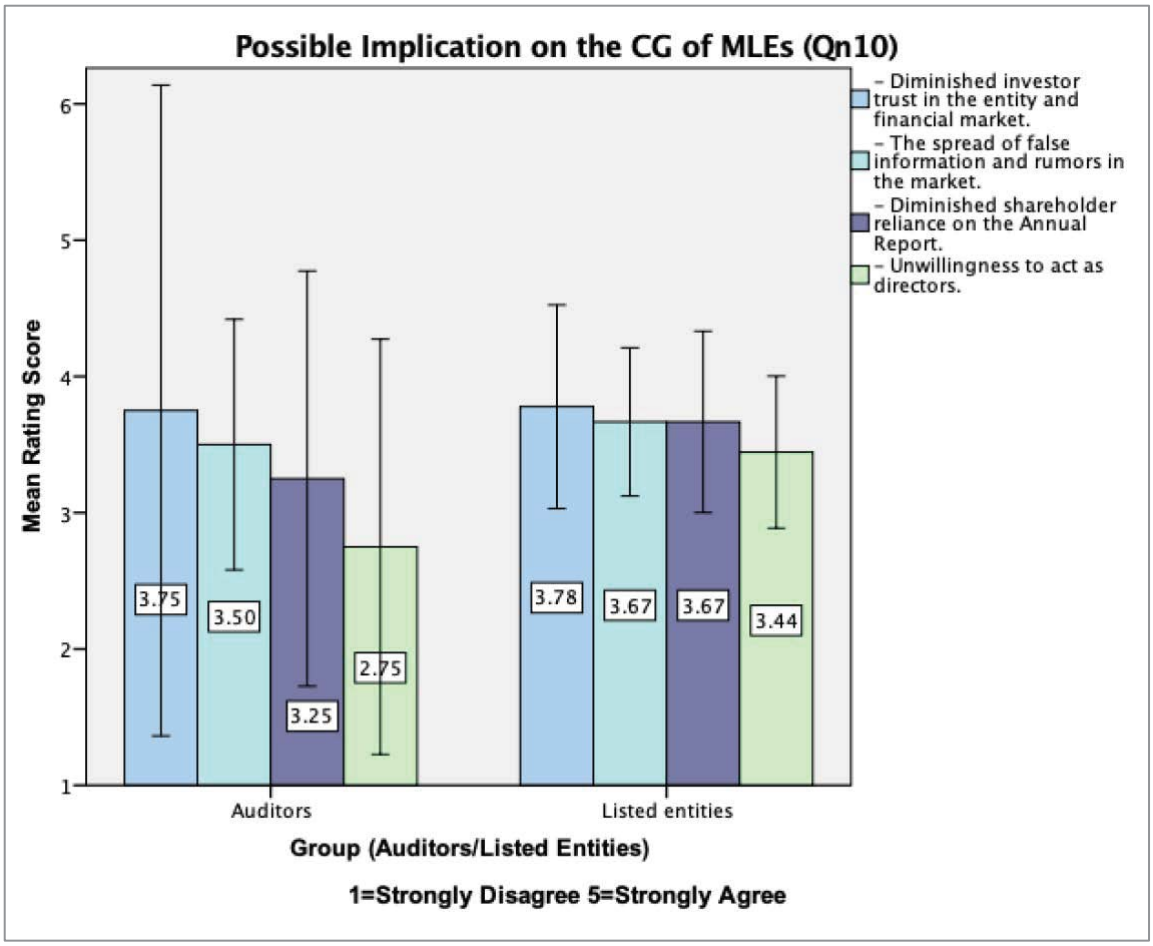


Figure A3.7-3: Possible implication on the CG of MLEs (Qn10)

- **Mann-Whitney Test 4: Improving Corporate Transparency**

The Mann-Whitney test was used to define whether the mean rating scores for the statements differ significantly between MLE ‘s representatives and auditors. Table A3.7-4 presents that the mean rating scores provided by auditors for each statement are similar to those provided by listed entities. The differences between these mean rating scores do not differ significantly since the p values exceed 0.05 level of significance.

Improving Corporate Transparency	Group	Mean	Std. Dev.	P-value
11a) A more robust regulatory framework	Auditors	3.75	.500	0.940
	Listed entities	3.67	.866	
11b) A stricter implementation of the existing framework	Auditors	4.25	.500	0.825
	Listed entities	4.22	.972	
11c) More shareholder training in financial literacy	Auditors	4.00	.816	0.604
	Listed entities	3.67	1.000	
11d) Stronger shareholder associations	Auditors	3.75	.500	0.106
	Listed entities	4.44	.527	

Table A3.7-4: Statements related to the improvement of corporate transparency (Qn11)

The error bar graph illustrated in Figure A3.7-4 displays the 95% confidence interval for the actual mean rating score provided to a statement if the sample size had to be increased considerably. When two confidence intervals overlap, this indicates that their mean rating scores do not defer significantly, meaning that they are comparable. On the other hand, when two confidence intervals do not overlap, therefore disjoint, this indicates that their mean rating score differ significantly. Therefore, since all of the error bars for each statement of the groups are overlapping, indicates that the mean rating scores do not differ significantly.

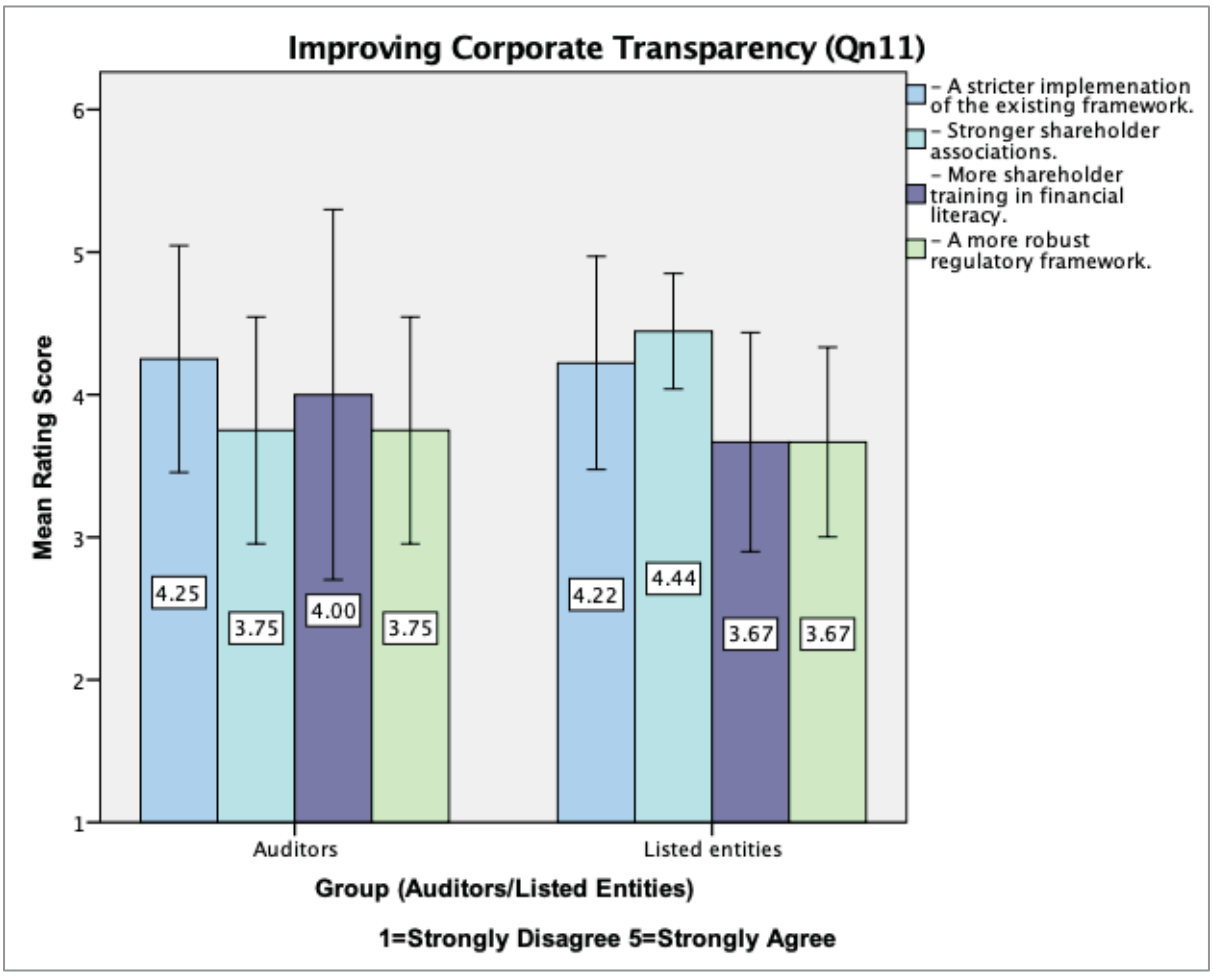


Figure A3.7-4: Improving corporate transparency (Qn11)

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