Separation of Ownership and Control in Non-Bank Maltese Listed Companies: An Analysis

by

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A dissertation submitted in partial fulfillment of the requirements for the award of the Bachelor of Accountancy (Honours) degree in the Department of Accountancy at the Faculty of Economics, Management and Accountancy at the University of Malta

April 2013

13BACC051

Abstract

Title: Separation of Ownership and Control in Non-Bank Maltese Listed Companies: An Analysis

Purpose: This study sets out to analyse the separation of ownership and control in non-bank Maltese listed companies. Studies analysing the separation of ownership and control in foreign entities are numerous, yet no studies have ever been conducted to analyse this separation in Maltese companies.

Design: In order to carry out the study, interviews were held with company officials of 11 listed companies. Also, additional information was obtained from the latest Annual Reports of these same companies, and from the Registry of Companies database.

Findings: The largest three shareholders hold 70.28% of the issued share capital of the companies. These shareholders directly appoint their own directors on the board, the vast majority of which (72.73%) are non-executive. Companies rarely have to deal with agency problems between management and shareholders, and with conflicts between significant and minority shareholders.

In contrast to the Berle-Means image of ownership, none of the companies are widely-held at the 10% cut-off level. These companies are typically controlled by families or individuals. Control by financial institutions and other widely-held companies is not common. There is also a small element of separation (1.80) between the control of ultimate shareholders over companies and their cash-flow rights. This is achieved primarily through the use of pyramids, holding through multiple control chains, and proxy voting.

Conclusions: These findings lead to the conclusion that Maltese listed companies are characterised by a lack of separation between ownership and control, and between the cash-flow rights and voting rights of the ultimate shareholders.

Implications/Value: These findings imply that listed companies, despite being public, are still privately owned to a large extent. It is also important that the interests of the minority shareholders are protected, since problems and conflicts may arise if they feel neglected or “bullied” by the significant shareholders.

Key Words: Corporate Governance, Separation, Ownership, Control.

Name of PDF file: 13BACC051

Acknowledgments

This study would not have been possible without the contributions of various persons. I am especially appreciative of the help and guidance provided by my dissertation supervisor, Ms. Monique Micallef B.Com., B.A.(Hons)(Accty.), M.Sc.(R'dg.), C.P.A., F.I.A.

I am also thankful for the feedback provided by the interviewees from the listed companies, without which, I would not have been able to carry out and complete this study.

Special thanks go to my family, especially to my mother and father, who have believed in me from day one. I certainly would not have made it this far without their help, and I would like to dedicate this dissertation to them.

UNIVERSITY OF MALTA
FACULTY OF ECONOMICS, MANAGEMENT & ACCOUNTANCY

DECLARATION

Student's ID Code: 88590(M)

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Course: Bachelor of Accountancy (Honours)

Title of Dissertation:

"Separation of Ownership and Control in
Non-Bank Maltese Listed Companies:
An Analysis"

I hereby declare that I am the legitimate author of this Dissertation and that it is my original work.

No portion of this work has been submitted in support of an application for another degree or qualification of this or any other university or institution of learning.

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Signature of Student Name of Student (in Caps)

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Date

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List of Abbreviations

6PM – 6pm Holdings plc

AGM – Annual General Meeting

AR – Annual Report

BOV – Bank of Valletta plc

CEM – Control-enhancing Mechanism

CEO – Chief Executive Officer

CW – Crimsonwing plc

EBITDA – Earnings Before Interest Tax Depreciation and Amortisation

GO – GO plc

IHI – International Hotel Investments plc

IHG – Island Hotels Group Holdings plc

MDI – MIDI plc

MDS – Medserv plc

MFSA – Malta Financial Services Authority

MIA – Malta International Airport plc

MLT – Malita Investments plc

MSE – Malta Stock Exchange

MSI – Middlesea Insurance plc

RoC – Registry of Companies

SFC – Simonds Farsons Cisk plc

UoM – University of Malta

Chapter 1

Introduction

1.1 Background Information

For a company to be set up and to grow, it needs funds. In order to raise the required funds, companies can issue shares to the general public. Those who buy shares in a company, become shareholders and owners of the company. A shareholder is a “person, company, or other institution that owns at least one share in a company” (Investopedia, 2013).

The number of shareholders can run into thousands, with the legal ownership becoming widely diffused. This can make it impossible for each and every shareholder to have a say in the day-to-day running of the company. For this reason, the shareholders appoint a board of directors. The board of directors is the “common apex of the decision control systems of organizations” (Fama and Jensen 1983a, p.14) and should act in the interest of the shareholders. It is made up of elected members who oversee the overall performance and are vested with the control of the company. The board of directors may then delegate their controlling powers to the managers.

Therefore, theoretically, the ownership and control of public companies can be separated from each other. The separation of ownership and control is a phenomenon which is associated with publicly-held companies, and dates back at least to Adam Smith (Marks, 1999; Denis and McConnell, 2003). Berle and Means (1932) studied large US corporations and developed what authors refer to as the Berle-Means Corporation model. This model states that when there is separation of ownership and control, the majority of shareholders will not be interested in the day-to-day running of the company. Instead, there will be the board of directors and their hired managers who are free to use shareholders’ funds without any shareholder intrusion. The managers may use these funds for their own personal interests and “the owners most emphatically will not be served by a profit seeking controlling group” (Berle and Means 1932, p.114). This leads to agency problems, which arise when there are conflicting interests between the controllers and the shareholders. Despite being published more than half a century ago, the

Berle-Means Corporation model is still predominant in the US, in the UK, and to a lesser extent in Japan (Armour and Gordon, 2008).

In fact, until the early 90s, the perception was that the Berle-Means Corporation model was a universal model (Armour and Gordon, 2008). However, this perception was soon shaken by evidence from other countries such as that presented by La Porta *et al* (1999), Claessans *et al* (2000), and Faccio and Lang (2002). This evidence showed that unlike the Berle-Means Corporation, the ownership of public companies around the world is concentrated in the hands of the ultimate shareholders who are able to directly appoint directors and managers. Because of this, agency problems in these companies are avoided, but conflicts may still arise between the ultimate shareholders who own a lot of shares, and the minority shareholders who only own a few. These companies are characterised by the separation of cash-flow rights (representing ownership) and voting rights (representing control). This separation is achieved by means of various devices, known as Control-enhancing Mechanisms (CEMs), such as multiple classes of shares, pyramids, and cross-shareholdings. Cash-flow rights, voting rights, and CEMs are described in more detail in Chapter 2 sections 2.8 and 2.9.

1.2 Need for the study

Through the 1970s and 1980s, corporate governance research focused on US corporations only (Denis and McConnell, 2003). However, as stated in section 1.1, research on countries other than the US began to appear by the early 1990s. At first, this research focused on other major world economies, such as the UK, Japan, and Germany (such as Prowse, 1992; Kaplan and Minton, 1994). Later on, however, various authors (such as Zingales, 1994; Xu and Wang, 1997; Valadares and Leal, 2000) carried out numerous studies on other countries from around the world. A number of studies on various European countries were also carried out by the European Corporate Governance Institute, which is a non-profit association that provides a forum for debate and dialogue on major corporate governance issues. However, to the author's knowledge, no previous study has been done on the analysis of the separation of ownership and control in Maltese listed companies. So, this will be the first study of its kind, which renders it even more important and interesting.

1.3 Objectives of the study

The objective of this study is to analyse the separation of ownership and control in non-bank Maltese listed companies that have their equity listed on the Malta Stock Exchange (MSE). This will involve:

1) Constructing the ownership structure for each company in order to identify the indirect and ultimate shareholders;
2) Examining the composition of the board of directors and the proportion of shares, if any, owned by the members of the board;
3) Assessing the existence of agency problems between shareholders and management, conflicts between significant and minority shareholders, and any measures taken to deal with such problems; and
4) Examining the separation, if any, of cash-flow rights and voting rights, and identifying any CEMs employed to separate them.

1.4 Scope and Limitations

This study focuses on listed companies in Malta that have their equity listed on the MSE. From these companies, banking entities and collective investment schemes were excluded, leaving a total of 17 companies, 11 of which accepted to be interviewed. These 11 companies are listed in Appendix I.

1.5 Chapter Overview

<u>Chapter 1 - Introduction</u>

This introductory chapter gives an overview of the entire dissertation. It gives background information to the research question in section 1.1, and proceeds to explain the importance of this study in section 1.2. Section 1.3 lists the objectives that must be addressed in order to answer the research question. This chapter is concluded by giving a preview of the rest of the dissertation, which is simplified in Figure 1.1.

Chapter 2 – Literature Review

In this chapter, references to relevant books, published articles and websites are made. This chapter establishes the framework to be used as well as the basis for the research question. This chapter thus provides a theoretical background to the research problem, models, and concepts, and also describes the situation in foreign countries, which provides guidance on this study to be carried out in the Maltese scenario.

Chapter 3 – Research Methodology

In this chapter, the research design and sources used to obtain the necessary data are discussed. This chapter also provides an explanation of how the companies in the sample were chosen. This chapter then proceeds with explaining how and why the data was collected, and concludes by discussing any limitations which were encountered.

Chapter 4 – Findings and Discussion of the Findings

In this chapter, the collected data is presented, analysed and discussed in detail. The findings and results presented here enable the analysis of the separation of ownership and control in listed companies, the identification of effects of this separation and the measures taken to deal with such effects, the identification of conflicts between significant shareholders and minority ones, the separation of cash-flow rights and voting rights, and the CEMs used to achieve this separation. The concepts and findings of articles published by other authors are also taken into consideration.

Chapter 5 – Summary, Conclusion and Recommendations

This is the final chapter of the study, in which the findings and their importance are summarised, recommendations are given, and areas for further research are identified.

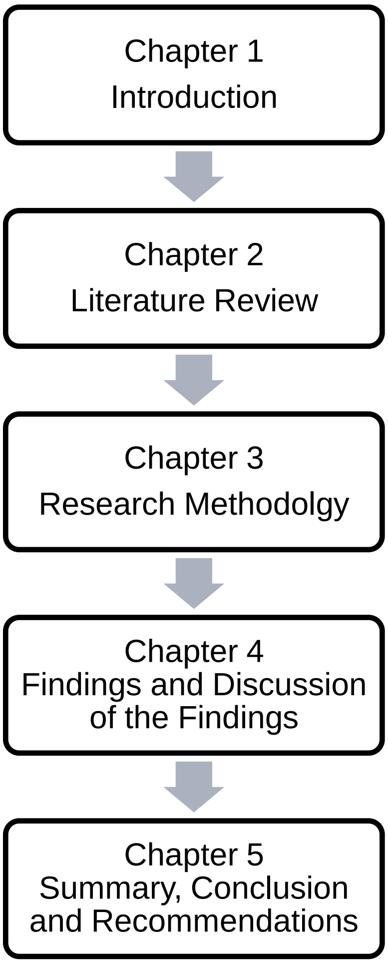


Figure 1.1 - Dissertation Structure Flowchart

Chapter 2

Literature Review

2.1 Introduction

Separation of ownership and control implies that ownership exists without control, whilst control can be exercised without ownership. There is a spectrum of different types of organisations with differing degrees of separation of ownership and control along the spectrum. On one end of the spectrum, one can find small, privately-owned firms. In these firms, it is the owner-manager who takes decisions and who has claims on the profits. Thus, in this case, there is no separation since ownership and control are both vested in one person. On the other end of the spectrum, one can find a number of public companies.

> "The separation of ownership and control refers to the phenomenon associated with publicly held business corporations in which the shareholders possess little or no direct control over management decisions."
>
> (Marks 1999, p.692)

These public companies allow the functions of the owner-manager to be split up. Some of these companies issue shares on the stock exchange for the general public. These shares allow the company to raise finance on a permanent basis, invest in risky projects, and as a result, continue to grow even further. An investor in such shares becomes a shareholder (and owner) of the company. He can receive a dividend on his investment or allow the funds to be re-invested. The shares of these public companies are unrestricted, meaning they are easily transferable. The shareholders do not require any decision-making skills since, apart from providing funds and voting during general meetings, they are not required to have any other role in the company.

2.2 The Board of Directors and the Management Team

Since a company can issue quite an extensive number of shares, the number of shareholders can also be quite substantial, thus resulting in a widely-dispersed ownership. This makes it impossible for every shareholder to have a say in the day-to-day running of the business, and this is the reason for having a board of directors. This board is made up of members elected by the shareholders who are fit and proper to jointly lead and control the company, while representing the shareholders' interests. They can employ, fire, supervise, and compensate managers (Denis and McConnell 2003, p.2).

The directors appoint managers with the necessary skills and knowledge to run the company on a full-time basis. In order to do this, the management group must be given decision-making power. The decisions taken by the managers are reviewed from time to time, but will not be supervised in detail (Fama and Jensen, 1983a; Lipsey and Chrystal, 2006). Thus, the connection between shareholders, directors, and managers is usually so weak that it is the managers that are in control of the company, and they are free to use the money invested by the owners (shareholders) with very little or no intrusion, despite being employed by the shareholders themselves (Berle and Means, 1932; Marks, 1999; Lipsey and Chrystal, 2006). This is known as the separation of ownership and control.

2.3 Benefits and Costs of Separation

Marks (1999) identified three major benefits of the separation of ownership and control. These are

i. the efficiency of hierarchical decision-making,
ii. the economies of scale in both production and decision-making, and
iii. the diversification of investor portfolios.

This means that the decision-making process is efficient since decisions are taken by skilful, knowledgeable, and competent individuals. The company is also able to raise funds from different sources. This enhances the companies' liquidity and lowers its cost of capital, thus facilitating its growth prospects.

On the other hand, costs are incurred when the managers pursue goals that are different from those of the shareholders. These are known as agency costs, and arise due to the unrestricted nature of company shares. According to Marks (1999), such costs arise either because managers might not have the necessary incentives to pursue shareholders' goals (moral hazard problem), or because they are incompetent to do so (adverse selection problem). Such concerns are not recent, and date back to at least Adam Smith (Marks, 1999; Denis and McConnell, 2003). In his book 'The Wealth of Nations', Smith (1776) stated that:

> "The directors of such companies, however, being the managers rather of other people's money than of their own, it cannot well be expected that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own."

2.4 The Berle-Means Corporation

Modern interest in the separation of ownership and control is usually associated with Adolf Berle and Gardiner Means, and dates back to 1932 (Jensen and Meckling, 1976; Fama and Jensen, 1983b; Marks, 1999; Armour and Gordon, 2008). Berle and Means (1932) analysed the legal ownership of large US corporations. Their studies indicated that the shares of most of these large US corporations were in the hands of a large number of small shareholders, making ownership widely dispersed. No single shareholder or a group of shareholders had the sufficient proportion of shares necessary to control the company, and hence none of them had the incentive to spend money to monitor manager performance. As a result, the control of the company lay in the hands of the directors and their hired managers who were free to manage the company resources without any shareholder scrutiny. This model became known as the 'Berle-Means Corporation'. Berle and Means (1932) describe the situation as one where:

> "The property owner who invests in a modern corporation so far surrenders his wealth to those in control of the corporation that he has exchanged the position of independent owner for one in which he may become merely recipient of the wages of capital."
> (Berle and Means 1932, p.355)

Therefore, having strong managers and weak owners was the problem of corporate governance in the United States. Berle and Means recognised this as a major source of agency problems since the shareholders may "not be served by a profit seeking controlling group" (Berle and Means 1932, p.114).

2.5 The Agency Problem

2.5.1 The Principal-Agent Relationship

It wasn't until the 1970s that effort was made to understand better the nature of agency problems. Various economists (Jensen, Meckling, Alchian, and Demsetz) began to rationalise dispersed ownership as a trade-off between agency costs and the benefits achieved (Armour and Gordon, 2008). One of the most important studies in the literature is the one carried out by Jensen and Meckling (1976). In this study, they adopted the agency approach, which sees the shareholders as the principles, whilst the managers are seen as the agents doing work on behalf of the principals. The principals and agents are both seen to be utility maximisers, implying that the agents will not always act in the interests of the shareholders and will try to extract private benefits from their control. In order to reduce the agent actions' divergence from the principal's interests, agency costs must be incurred. Jensen and Meckling (1976) define these agency costs as:

i. Monitoring costs incurred by the shareholders to limit the deviant behaviour of the managers;
ii. Bonding costs incurred by the managers; and
iii. The residual loss from the divergence in behaviour after monitoring and bonding costs have been incurred.

2.5.2 Managing the Agency Problem

- Executive Compensation

By aligning the interests of its managers with those of the shareholders, a company can reduce agency costs considerably. This can be done by either giving managers shares in the company, or devising a share option scheme as part of a remuneration package from which managers can benefit when the share price exceeds the option price. Hence, the managers would be motivated to increase the long-term value of the firm as they would personally benefit from this increase. Another way of reducing agency costs is by awarding managers with bonuses tied to profits. However, the company must be careful when giving such incentives, because if they are not properly designed, they can have an unintended detrimental effect on managerial performance. They may also tempt managers to manipulate the books in order to gain a personal advantage (Lipsey and Chrystal, 2006; Pike and Neal, 2009).

2.6 The Effects of Separation on Board Composition

The Code of Principles of Good Corporate Governance for Maltese Listed Entities (Malta Financial Services Authority (MFSA), 2012) states that the board of directors should be of sufficient size, and composed of executive (inside) and non-executive[1] (outside) directors, including independent non-executives. It also recommends that at least one third of the board members should be non-executive, with the majority of them being independent.

The outside directors are employed to provide supervision. They are independent from management and are more likely to act in the interest of the company and its shareholders. The board is thus more effective the more outside directors there are. The proportion of outside to inside directors depends on the degree of separation of ownership and control. The greater

[1] A non-executive director is a director who is not involved in the daily management of the company, but is responsible for overseeing the activities of the executive directors and for dealing with conflicts of interest

the separation of ownership from control, the higher the number of outside directors on the board. All other things held constant, a higher number of outside directors on the board leads to better decision-making, better performance, and a higher firm value (He and Sommer, 2006).

Unfortunately, this mechanism has its own weaknesses as well. Outside directors are usually chosen by inside directors. Apart from this, inside and outside directors may find their positions reversed in other companies, and this can create “an incentive for back-scratching” (Marks 1999, p.706). In Malta, outside directors usually occupy their position for so long that they are no longer seen to be independent, whilst it is also common to find outside directors working with the same Chief Executive Officer (CEO) on different company boards (Azzopardi, 2012).

2.7 International Corporate Governance

Until the late 1980s, the only corporate governance research carried out focused only on the US. Hence there was the perception that the Berle-Means Corporation, discussed in section 2.4, was a universal model that could be found anywhere in the world. However, by the early 1990s, various studies (such as Prowse, 1992; Kaplan and Minton, 1994) on other countries began to appear. At first, these studies focused on other major world economies, such as the UK, Japan, and Germany. Later on, however, studies focussing on countries other than the ‘big four’ were also carried out (such as Zingales, 1994; Xu and Wang, 1997; Valadares and Leal, 2000). These studies have shown that the widely-held Berle-Means corporations can only be found in the US, the UK, and to a lesser extent in Japan. Hence, this model is the exception rather than the norm. Most of the corporations in other countries are controlled by persons with large shareholdings. These ultimate/controlling shareholders are “in practice physical or legal persons that have no known shareholders” (Becht, 1997). They are usually families (including individuals). In some countries, there are a number of companies controlled by the state, which includes domestic and foreign governments, local authorities, and government agencies. In other countries, like Germany, one finds a number of companies owned and controlled by widely-held financial institutions, such as banks and insurance companies. In other cases, controlling shareholders can be widely-held companies. Other shareholders include pension funds, mutual funds, voting trusts, non-profit organizations, and employees (Denis and McConnell, 2003; La Porta *et al*,1999; Claessans *et al*, 2000; Faccio and Lang, 2002).

2.8 A Different Type of Separation

The agency costs that are incurred due to dispersed ownership – listed in sub-section 2.5.1 – can be overcome by concentrating ownership. However, if control is also concentrated, this can lead to various disadvantages. With concentrated ownership and control, the company must, first of all, forgo the benefits of dispersed ownership (mentioned in section 2.3). Apart from this, there is the possibility that dominant shareholders can collude with management to exploit minority shareholders. Hence, agency problems may still arise, not between the shareholders and managers, but between these dominant shareholders and minority ones (Goginenia *et al*, 2009).

There is still a separation of ownership and control in companies with dominant shareholders (found in European countries). This is, however, different from the separation of ownership and control in widely-held US and UK companies which was discussed in section 2.1. It is important to highlight this distinction, because the terminology used can be misleading. Here we are concerned with the separation of cash-flow rights and voting (or control) rights. Cash-flow rights refer to the right to receive dividends, while voting rights refer to the right to vote during Annual General Meetings (AGMs). Cash-flow rights are used to define “ownership”, whilst voting rights define “control”.

Studies (Faccio and Lang, 2002; Becht, 1997) have reported that the voting rights in most companies in Continental Europe are concentrated in the hands of a few shareholders, while cash-flow rights are dispersed. This is achieved through the use of CEMs. Hence, ownership and control are still separated, but, as already stated above, this is not the same as the separation of ownership and control of the Berle-Means corporations. The separation in cash-flow rights and voting rights in Maltese listed companies will be dealt with when addressing objective 4 identified in Chapter 1 section 1.3.

2.9 Control-Enhancing Mechanisms (CEMs)

This section provides the theoretical basis on the numerous CEMs that allow the ultimate owners of a company to reduce their cash-flow rights while still maintaining their voting rights, which is required in order to continue addressing objective 4. One way to do this is for members of the controlling family to sit on the board or on the management group of the company. This would allow them to reduce their cash-flow rights while still being able to control the company. However, some of the most popular devices that are given the most importance in the literature include:

i. Multiple classes of shares

In many European countries such as Sweden, Switzerland, Denmark, Netherlands, and Finland, companies are allowed to issue dual class shares. These are different classes of shares with different voting power. One share class would have limited voting power and would be offered to the general public. Another share class would have more voting power and would be offered to founders and members of the controlling family. Companies are also allowed to issue non-voting stock, i.e. shares with no voting powers.

ii. Pyramids

A pyramid is where the ultimate shareholder indirectly controls the company through at least one other company. The ultimate shareholder would control all the companies in the pyramid structure and would also be able to transfer assets and profits from one company to another.

iii. Holdings through Multiple Control Chains

A company is said to be controlled through multiple control chains if its ultimate shareholder controls it through a large number of control chains, with at least 5% of the voting rights at each link (Faccio and Lang, 2001).

iv. Cross-Shareholdings

Cross-shareholdings are where the company owns shares in itself, in the controlling shareholder, or in any other company within its control chain.

v. Shareholders Agreements

These refer to formal and/or informal alliances between different types of shareholders.

vi. Voting Right Ceilings

Voting right ceilings are restrictions prohibiting shareholders from voting above a certain threshold, irrespective of the number of voting shares they hold. They are very common in many European countries, except Belgium and the Netherlands (ISS, Shearman & Sterling and ECGI, 2007).

vii. Proxy Voting

Proxy voting allows shareholders to appoint other persons as their proxies in order to vote on their behalf during AGMs. The proxy forms given out by Maltese listed companies are designed in such a way that the majority of inactive shareholders would probably appoint the

Chairman of the meeting (who is usually the Chairman of the company) as their proxy (Azzopardi, 2012).

2.10 Conclusion

Public companies issue shares on the stock exchange in order to raise finance. The persons buying these shares become the shareholders, and thus owners of the company. The overall control of the company is however the responsibility of the directors, who are appointed by the shareholders to represent their interests. The directors sit on the board, and can be either executive or non-executive. The MFSA stipulates that at least a third of board members should be non-executive. These directors will then appoint managers, who are responsible for the day-to-day control of the company. This leads to the separation of ownership and control.

Separation of ownership and control is higher in those widely-held companies where there are a large number of shareholders with very small stakes. Such companies are mostly found in the US and the UK. Companies based in Europe are mostly controlled by large controlling shareholders. Family members of the controlling shareholder can be found on the board of directors and the management group of these companies. Therefore, there is no separation of ownership and control in these companies. However, these companies have another type of separation – the separation of cash-flow rights and voting rights, which is achieved through the use of various CEMs, such as pyramids and cross-shareholdings, discussed in section 2.9.

This chapter gave a review of the relevant literature, while the next chapter discusses the methodology adopted to obtain the required data.

Chapter 3

Research Methodology

3.1 Introduction

This chapter first explains the preliminary study carried out ahead of the dissertation. The chapter then explains the data collected, the reason for its collection, how it was collected, the source of such information, and the reasons for selecting the adopted research methodology.

3.2 Preliminary Study

A preliminary review of studies on the topic was undertaken online and at the library of the University of Malta (UoM) through an analysis of books and articles. Various dissertations have been conducted with respect to corporate governance; however none of them focus on the separation of ownership and control. A study which was underway at the time of the preliminary study – conducted by Azzopardi (2012), includes only a small section on corporate control, and does not delve into the issue of separation of ownership and control.

Preliminary research found that the separation of ownership and control is greatest in companies with a large number of very small shareholders, i.e. those companies that are widely-held. These companies are mostly found in the US and the UK. The first corporate governance research was only carried out on companies in these countries, which led to the perception that this applies to all public companies around the world (Armour and Gordon, 2008). However, during the 1990s, various studies (Prowse, 1992; Zingales, 1994) were carried out on other countries, and reported that various companies – mostly European – have controlling shareholders with large shareholdings. The ultimate owners of these companies control these companies through various CEMs that allow them to reduce their cash-flow rights while still maintaining their voting rights. This causes ownership and control to be separated, but this separation is different from the separation of ownership and control found in widely-held companies, because here we are concerned with the separation of cash-flow rights and voting rights.

3.3 Data Collection

3.3.1 Choosing the Sample

The companies chosen to be included in the sample were Maltese companies that have their equity listed on the MSE, excluding banks (Bank of Valletta plc (BOV), HSBC Bank Malta plc, Lombard Bank Malta plc, and FIMBank plc) and collective investment schemes (Santumas Shareholdings plc). This adds up to a total of 17 listed companies. Out of these 17 companies, 11 were interviewed. These 11 companies are listed in Appendix I.

3.3.2 Secondary Data

The secondary data was obtained mainly from the latest Annual Reports (ARs) of each of the 11 companies. These ARs were downloaded from the company website. ARs represent the official position of the company, and the information found in them has ensured that fewer questions had to be asked during the interviews. The required information was mainly acquired from the Director's Report, the Statement of Compliance with the Principles of Good Corporate Governance, and the Remuneration Report sections, as well as from certain disclosures in the financial statements, such as the related party transactions note and the statutory information note.

Additional information on the shareholders of these listed companies was also required in order to construct the ownership structures presented in Chapter 4 section 4.2. Such information was obtained in electronic format from the Registry of Companies (RoC) database accessible from the MFSA website. This database was only accessible through a username and password, which were provided by KPMG Malta. This access made it possible to obtain information about the companies' authorised and issued share capital, board of directors, and shareholders, as well as access to their Memorandum and Articles of Association. This was essential in addressing objective 1 in Chapter 1 section 1.3.

3.3.3 Primary Data

3.3.3.1 Interviews

The small size of the sample allowed for the qualitative methodology of obtaining data for the study. The primary data was obtained by conducting interviews and the various company officials were required to answer a number of open-ended questions. The interviews were recorded with the permission of the interviewees. These interviews were held at the companies' head offices, and lasted around 30 minutes each. The interviews were semi-structured, and their aim was to obtain data that was not provided in the ARs but that was required to address the objectives outlined in Chapter 1 section 1.3. The same interview schedule, presented in Appendix III, was used to interview all the company officials. During the interviews, additional questions, applicable to the particular company, were also asked as the methodology chosen allowed the author to delve deep into the topic.

The interview approach was chosen because it enables the interviewer to ensure that the questions are fully understood. It also enables the interviewees' answers to be analysed in more detail, and it facilitates two-way communication that allows additional questions to be asked if they are brought up during the interview.

In order to improve the response rate, the companies were first approached directly by phone. The phone number was obtained from the Contact Us section in the company website. Then, and e-mail was sent to each company. The e-mail address was also obtained from the respective company's website. Following the scheduling of the interview date, the questions to be asked were sent by e-mail to the company. This was done in order for the company to choose the most appropriate person to answer the interview questionnaire and to enable the interviewee to make any necessary research beforehand.

3.3.3.2 Response Rate and Time-Frame

A total of 11 interviews were held. This represents a response rate of 64.71% (11/17). The companies were contacted for the first time on 16th November 2012, while the interviews were held during November, December, and February.

3.3.3.3 Limitations

One of the limitations of this study was that interviews were not held with more companies in the sample. While the response rate of 64.71% is not low, interviews with more companies could have provided a better insight into these companies, and the study would have been more representative of Maltese listed companies. Also, since the respondents were allowed to use their own words in answering questions, sometimes this made it difficult to compare the meanings of the responses. Two other limitations were the fact that the transcription of the recorded interviews was time consuming, and that some interviewees could not provide exact figures when asked for quantitative data, as can be seen from table 4.6 in Chapter 4 sub-section 4.9.3.

3.4 Development of Interview Questionnaire

The questions in the interview questionnaire were formulated by looking at the Literature Review chapter. The objectives mentioned in Chapter 1 section 1.3 were kept in mind, as these questions were formulated with the aim of addressing these objectives. Also, before preparing the questions, an analysis of the latest ARs of each respective company was made in order to see whether certain questions need to be added, removed, or modified.

3.5 Data Analysis

As stated in sub-section 3.3.3.1, the primary data was obtained from the interviews. After the interview, a transcript of the interview was made in order to aid in the analysis of the data obtained, as well as to substantiate any notes taken during the interviews. Secondary data, as stated in sub-section 3.3.2, was mainly obtained by reviewing the latest ARs. The information obtained both from the interview questionnaires and ARs was first summarised company by company, and then analysed question by question. This information is presented and discussed in Chapter 4, and summarised in Chapter 5.

3.6 Conclusion

This chapter has described the research methodology adopted to obtain the necessary data in order to carry out this study. The data obtained was analysed, summarised, and interpreted. The findings are presented and discussed in the next chapter.

Chapter 4

Findings and Discussion of the Findings

4.1 Introduction

This chapter presents and discusses the findings obtained both from the ARs, and from the interviews carried out with the eleven listed companies in the sample. This chapter will explore the theoretical concepts discussed in Chapter 2, and seek to satisfy the objectives identified in Chapter 1 section 1.3 in order to analyse the separation of ownership and control in the listed companies. First, there will be the presentation of the ownership structures of each company in section 4.2, in order to satisfy objective 1 in section 1.3. The chapter will proceed by analysing the shareholdings in the companies, the board of directors, its composition, and the shares held by them, in order to satisfy objective 2. Objective 3 in section 1.3 will be addressed when discussing any agency problems that there might be between management and shareholders, and any conflicts between significant and minority shareholders; while the separation of cash-flow rights and voting rights, and the CEMs used will be dealt with in section 4.9 in order to satisfy objective 4. Figure 4.1 illustrates better the structure of this chapter, by showing each section, and the objective each section seeks to address.

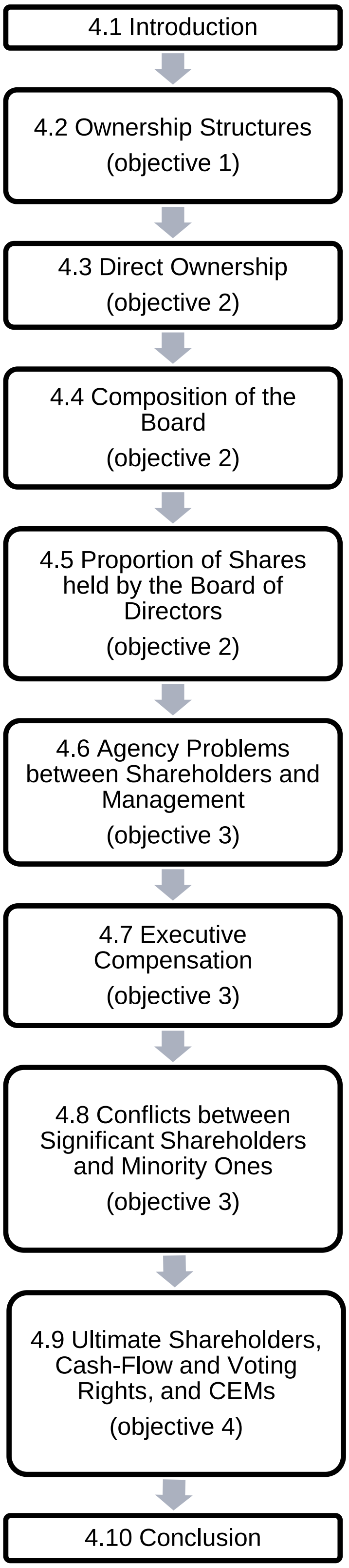


Figure 4.2 - Chapter Overview Flowchart

4.2 Ownership Structures

This section will present the ownership structures constructed for each company in the sample in order to address objective 1 in Chapter 1 section 1.3. The letter (O) means Ownership, and refers to the right to receive dividends (cash-flow rights). The letter (C) means Control, and refers to the right to vote during AGMs (voting rights). The letters (O&C) mean ownership and control.

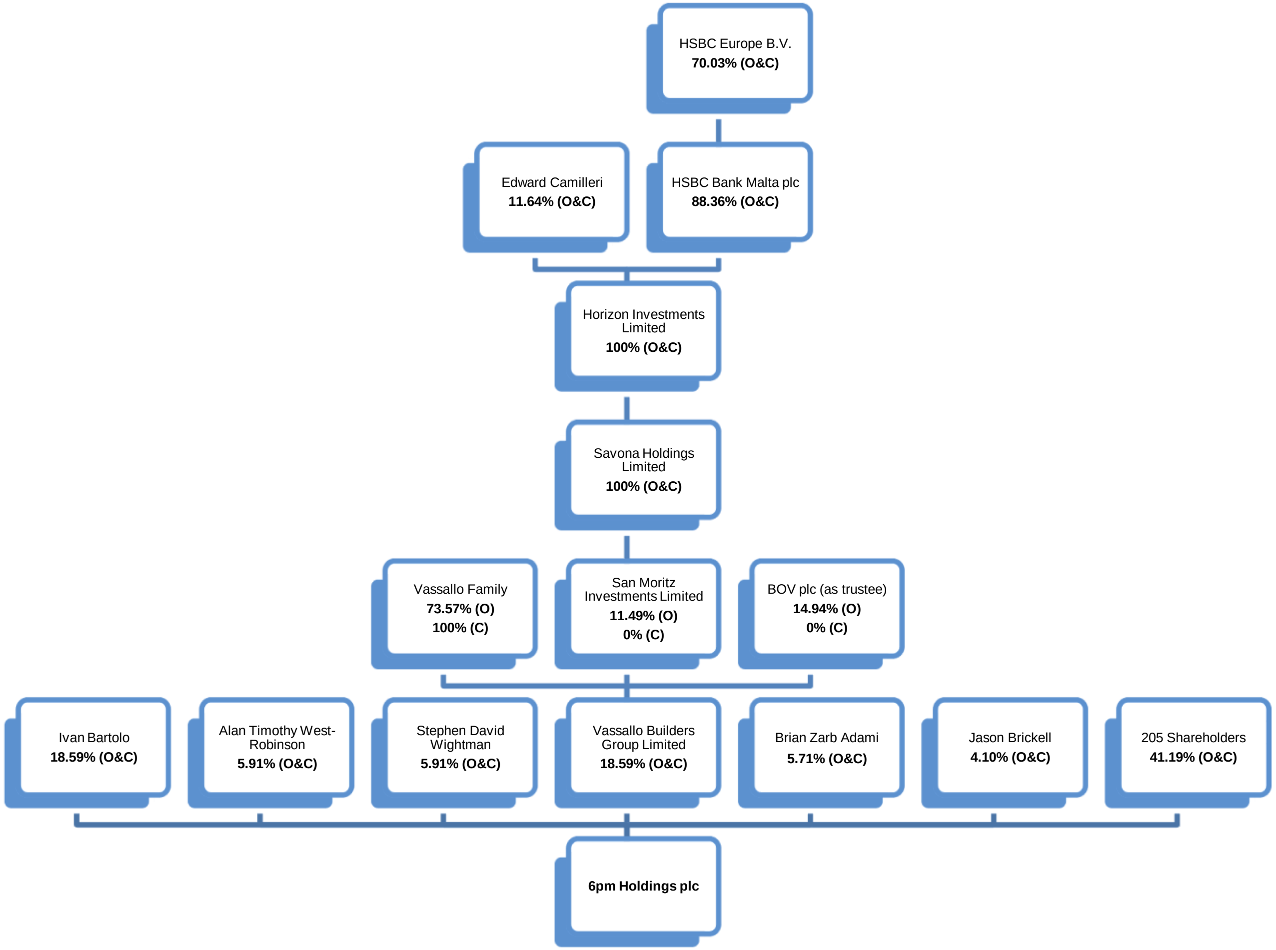


Figure 4.3 - 6pm Holdings plc Ownership Structure[2]

[2] Source: AR 2011, Interview, and RoC Database

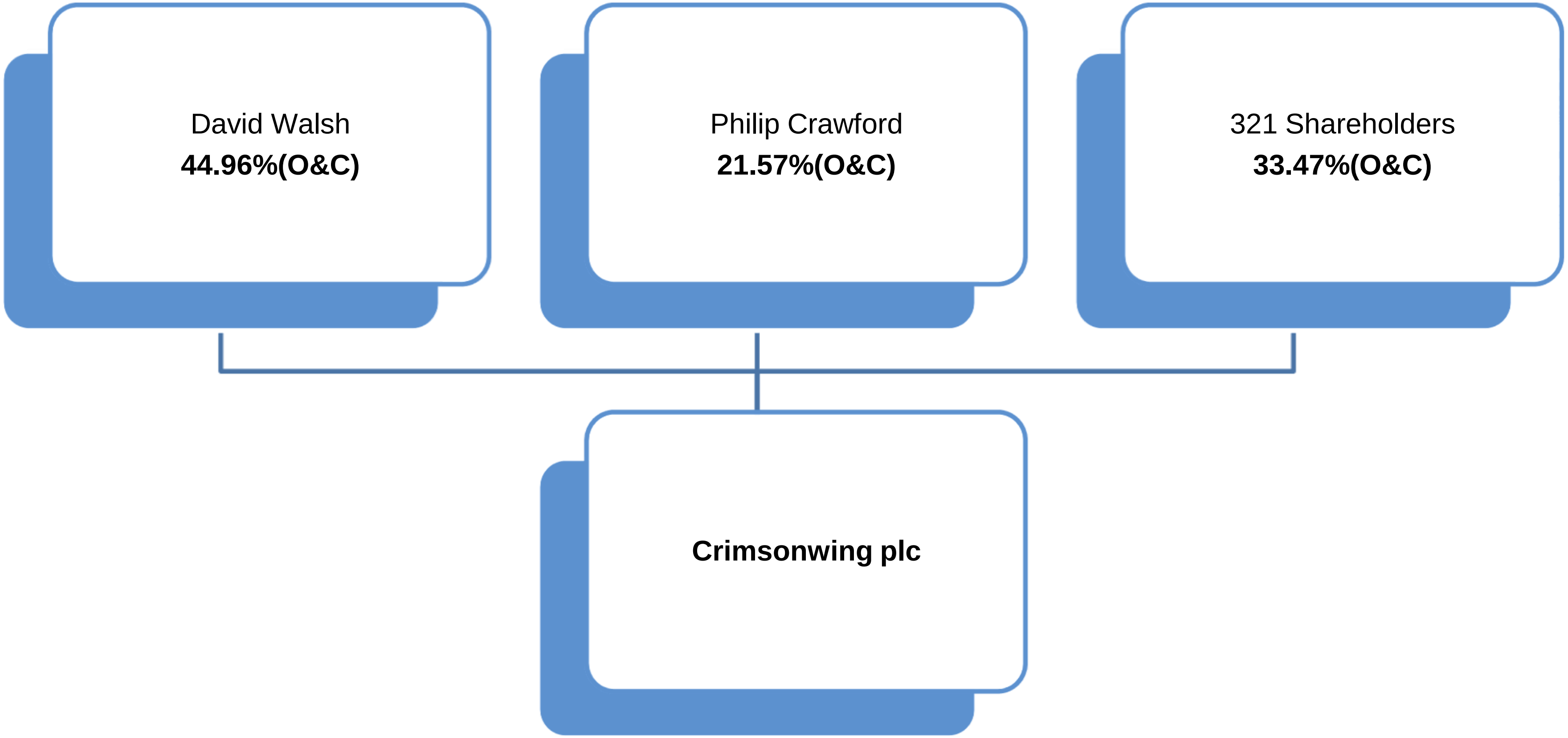


Figure 4.4 - Crimsonwing plc Ownership Structure[3]

[3] Source: AR 2012

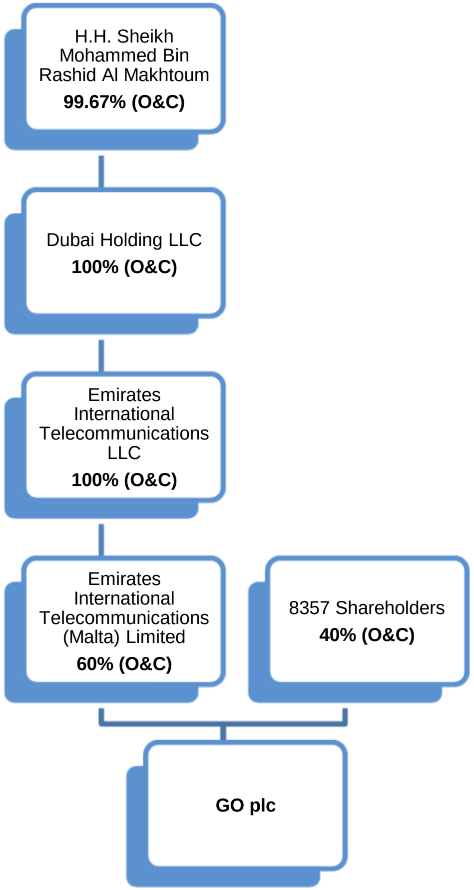


Figure 4.5 - GO plc Ownership Structure[4]

[4] Source: AR 2011 and Interview

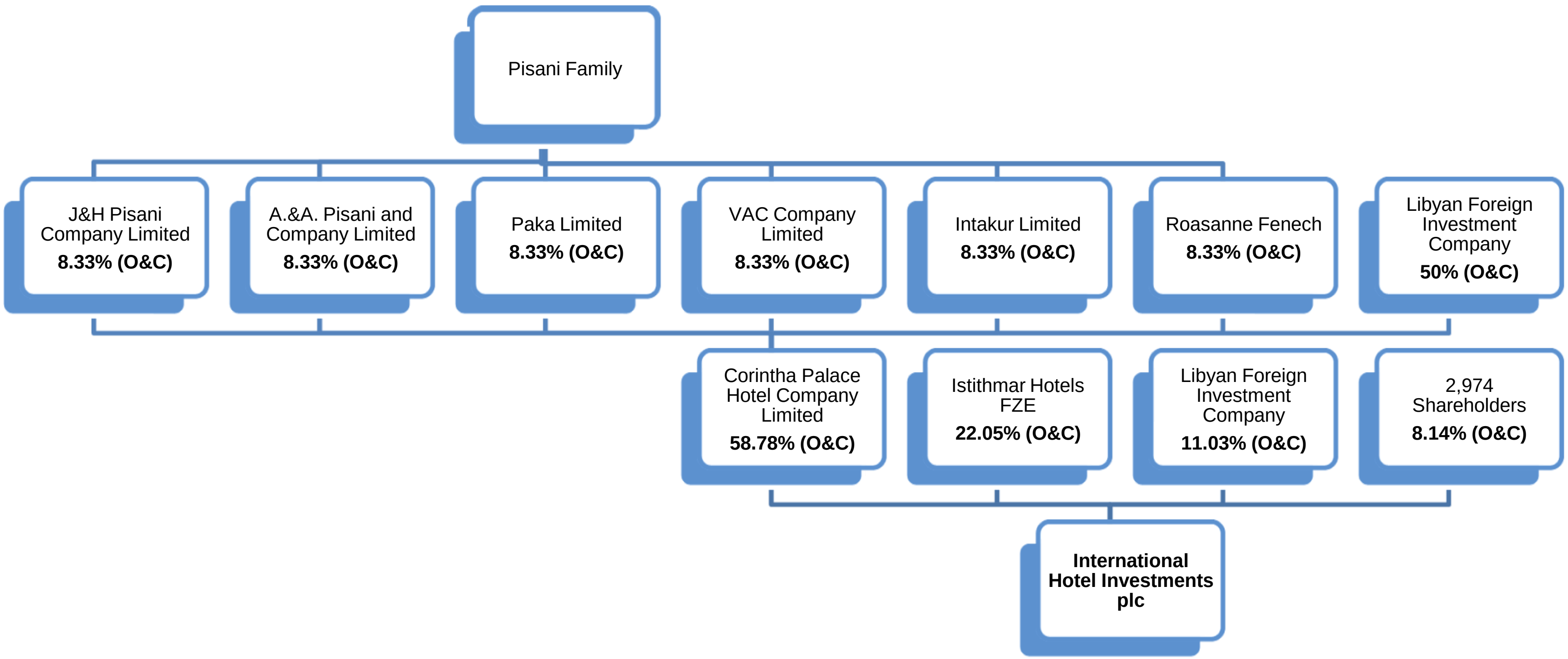


Figure 4.6 - International Hotel Investments plc Ownership Structure[5]

[5] Source: AR 2011, Interview, and RoC Database

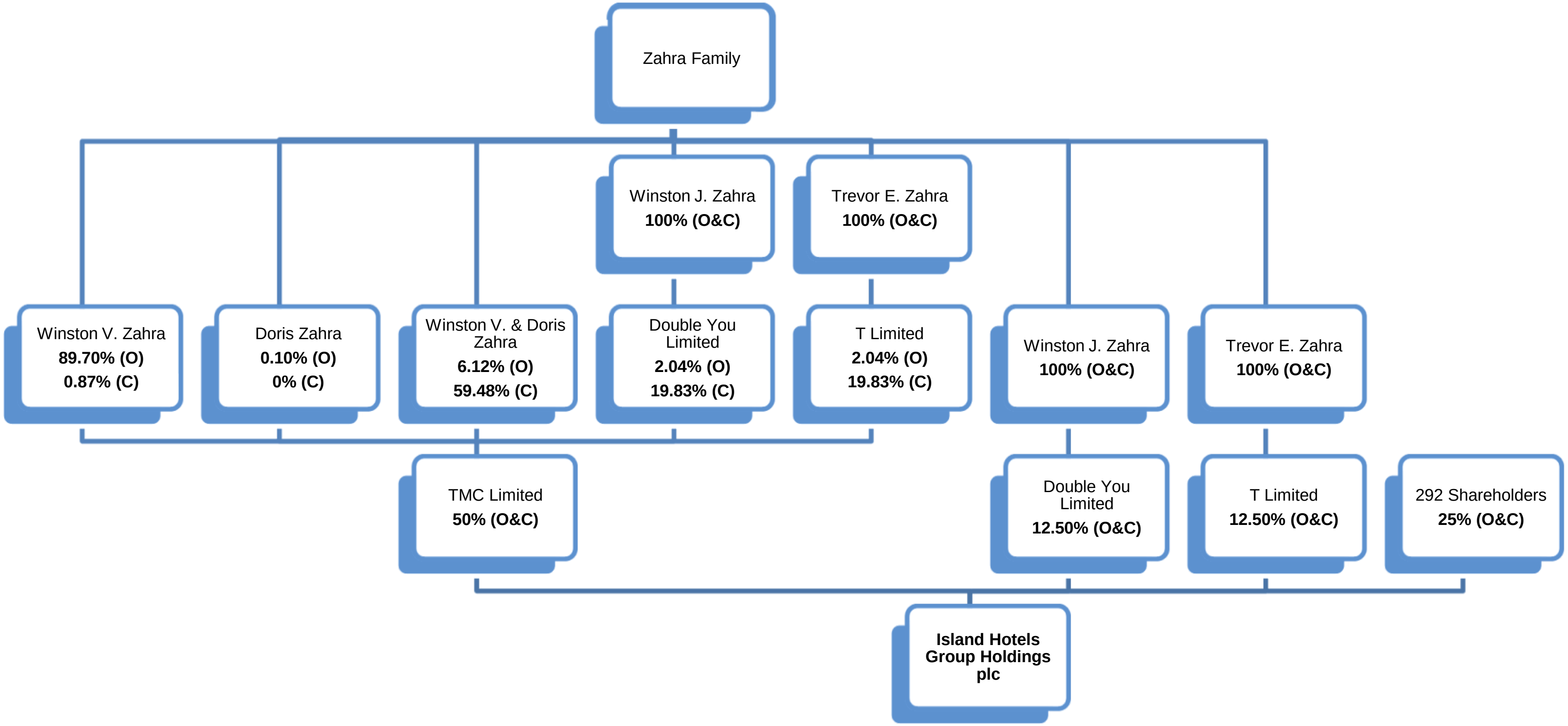


Figure 4.7 - Island Hotel Group Holdings plc Ownership Structure[6]

[6] Source: AR 2011 and RoC Database

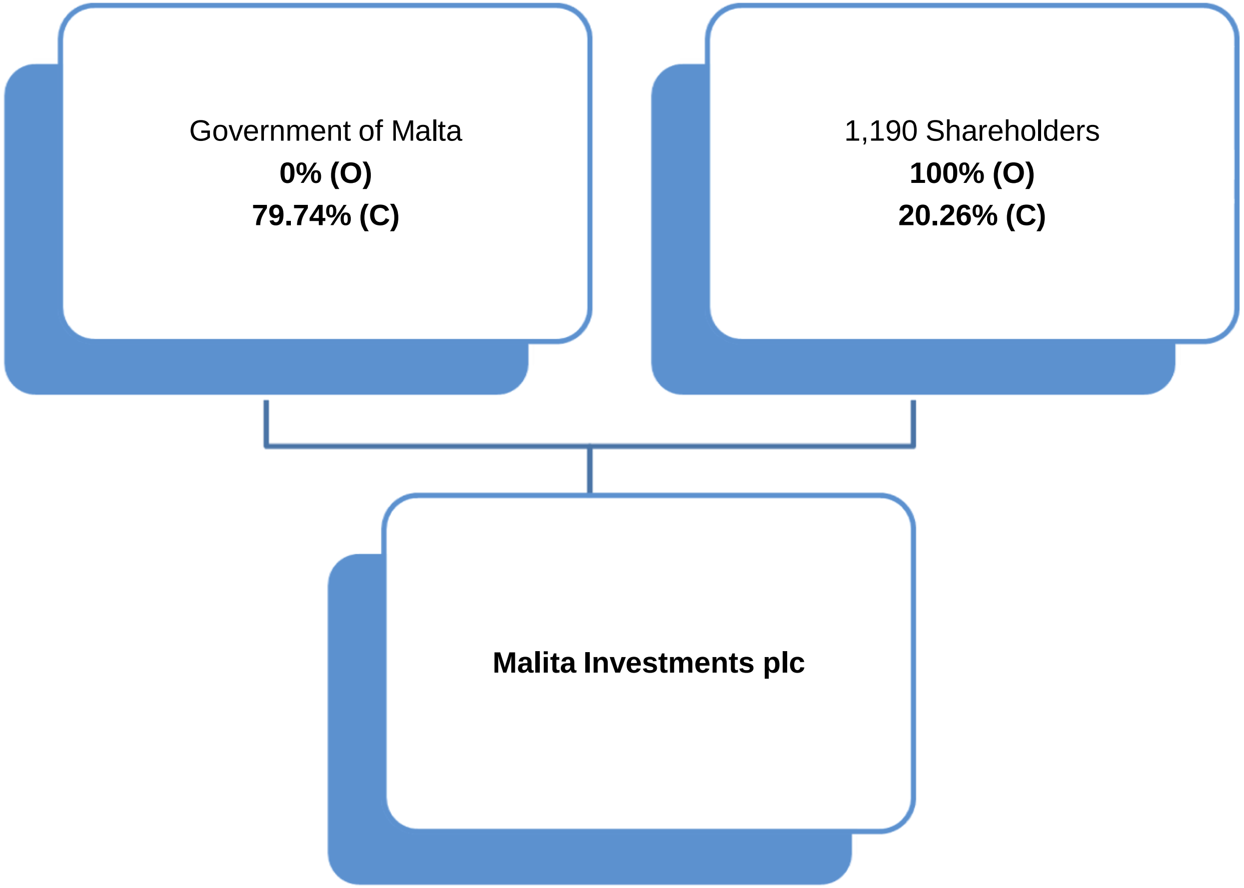


Figure 4.8 - Malita Investments plc Ownership Structure[7]

[7] Source: Financial Statements 2012

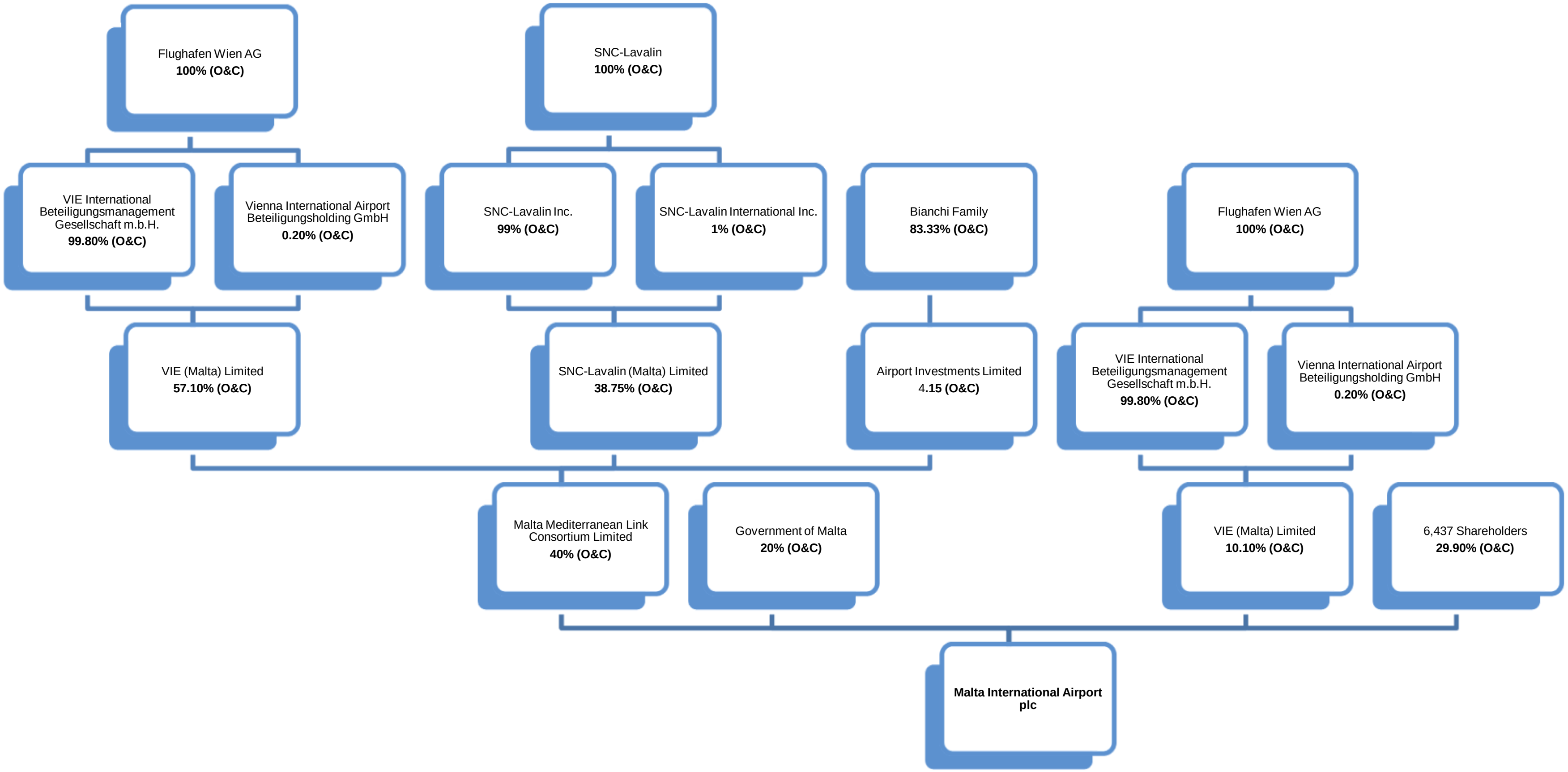


Figure 4.9 - Malta International Airport plc Ownership Structure[8]

[8] Source: AR 2011 and RoC Database

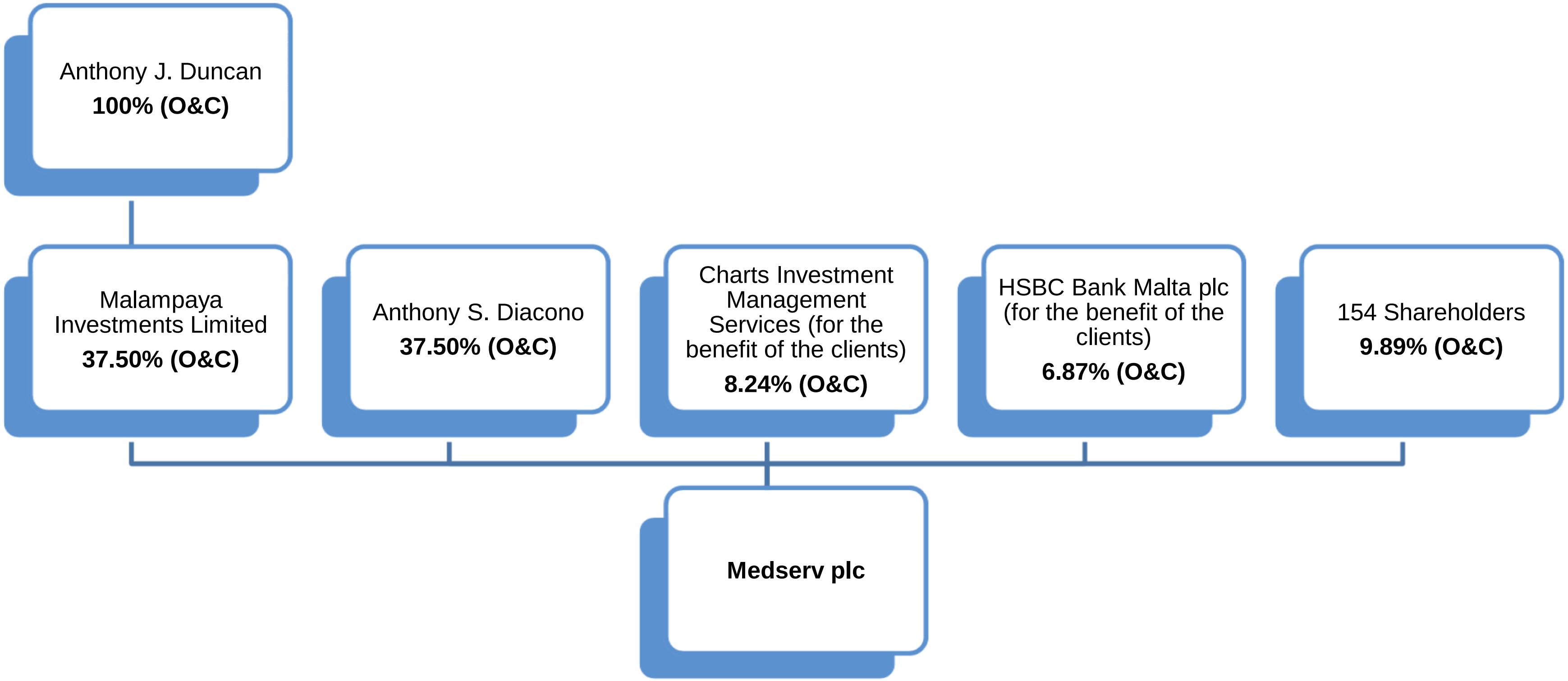


Figure 4.10 - Medserv plc Ownership Structure[9]

[9] Source: AR 2011 and RoC Database

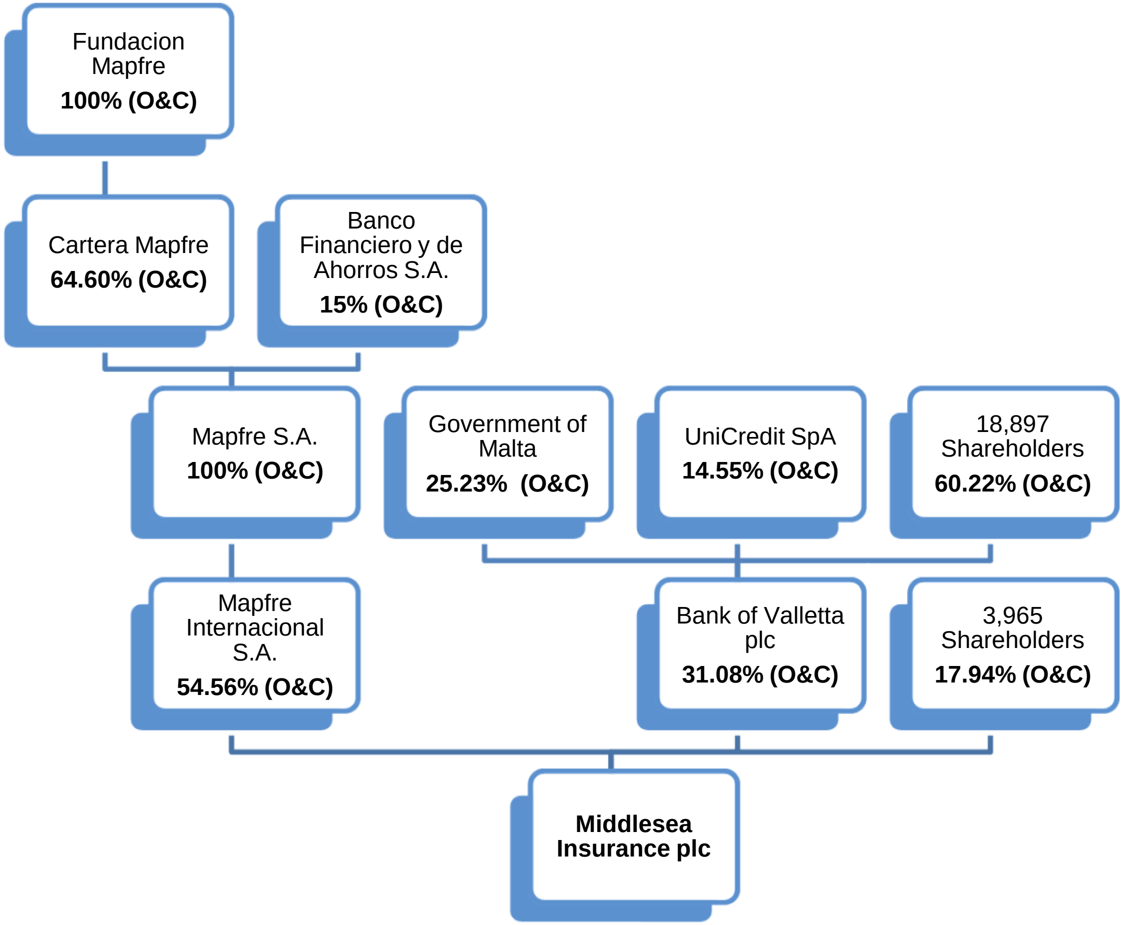


Figure 4.11 - Middlesea Insurance plc Ownership Structure[10]

[10] Source: various ARs, Interview and RoC Database

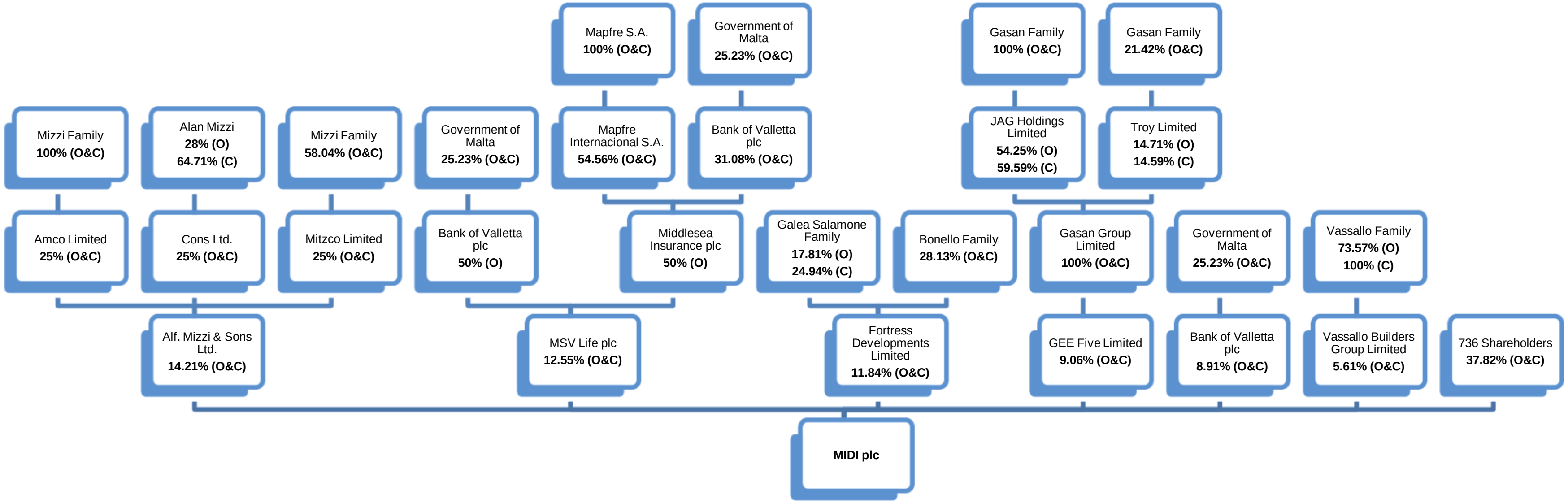


Figure 4.12 - MIDI plc Ownership Structure[11]

[11] Source: AR 2011, Interview and RoC Database

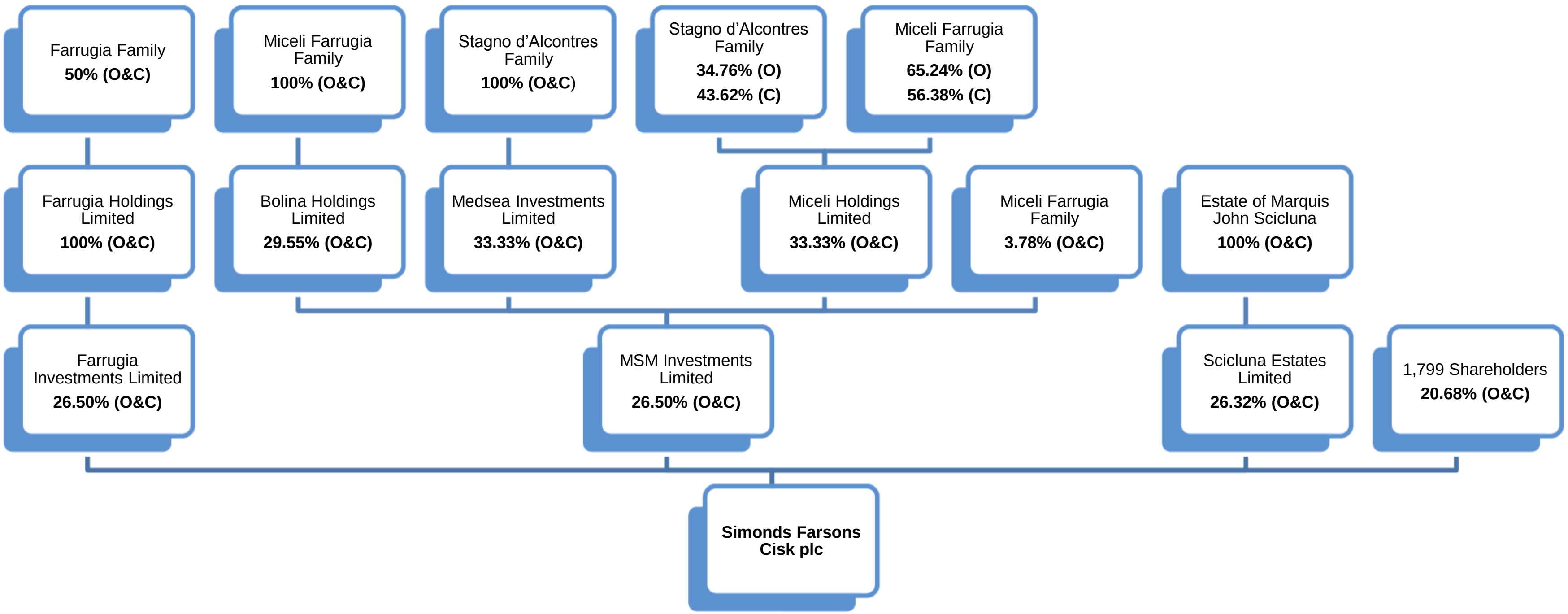


Figure 4.13 - Simonds Farsons Cisk plc Ownership Structure[12]

[12] Source: AR 2012, Interview and RoC Database

4.3 Direct Ownership

This section addresses objective 2 in Chapter 1 section 1.3. Here, the size of the ownership stake of the direct shareholders of the companies is analysed to determine whether the listed companies are widely-held (i.e. owned by a large number of very small shareholders), or owned by significant shareholders who hold a substantial number of shares.

Company Name	**Size of the Largest Stake**	**Size of the second Largest Stake**	**Size of third Largest Stake**	**Sum of the 3 Largest Stakes**
International Hotel Investments plc (IHI)	58.78%	22.05%	11.03%	91.86%
Middlesea Insurance plc (MSI)	54.56%	31.08%	-	85.64%
Medserv plc (MDS)	37.50%	37.50%	8.24%	83.24%
Malita Investments plc (MLT)	79.74%	-	-	79.74%
Simonds Farsons Cisk plc (SFC)	26.50%	26.50%	26.32%	79.32%
Island Hotel Group Holdings plc (IHG)	50.00%	12.50%	12.50%	75.00%
Malta International Airport plc (MIA)	40.00%	20.00%	10.10%	70.10%
Crimsonwing plc	44.96%	21.57%	-	66.53%

(CW)				
GO plc (GO)	60.00%	-	-	60.00%
6pm Holdings plc (6PM)	18.59%	18.59%	5.91%	43.09%
MIDI plc (MDI)	14.21%	12.55%	11.84%	38.60%

Table 4.1 - Direct Stakes[13]

As can be seen from the table 4.1, the direct ownership of the listed companies is closely held by a very small number of large shareholders. In fact, the three largest shareholders own an average of 70.28% of the companies in the sample. Two (2/11, 18.18%) companies have just one major shareholder, with this shareholder having at least a 60% stake in the company. The 79.74% stake that the Government of Malta has in MLT is the largest direct stake in the sample, making it the company with the most heavily concentrated ownership.

The company with the relatively most dispersed ownership is MDI. Together, the largest three shareholders of MDI own just 38.60% of the company. The largest direct stake in MDI is just 14.21%, making it the smallest when compared to the largest direct stakes in the other companies.

Thus, as can be easily seen, the ownership of Maltese listed companies is far from widely dispersed. These companies tend to be dominated by a majority shareholder, or shareholders with a smaller, but still significant, stakes. Hence, it is clear that the Berle-Means Corporation model discussed in Chapter 2 section 2.4 is not applicable in the case of Malta. The shareholders of the Maltese listed companies are powerful and it is very difficult for them to be exploited by the directors or the management team. In fact, these shareholders are in a position to directly appoint one or more directors to the board in order to represent them. These findings are consistent with the findings of Azzopardi (2012) noted in Appendix II.

[13] Source: various ARs

4.4 Composition of the Board of Directors

The Board of Directors is made up of directors appointed by shareholders to represent their interests. Its composition, structure and independence are very important to the way the company is controlled, and to the way the corporate governance of the company is managed. This makes its composition very relevant to this study and its examination is sought in Chapter 1 objective 2.

Company Name	**Total number of directors on the Board**	**Total number of non-executive directors**	**Total number of independent non-executive directors**	**Proportion of non-executive directors on the Board**
GO plc (GO)	8	8	8	100%
Malita Investments plc (MLT)	4	4	3	100%
Middlesea Insurance plc (MSI)	9	8	4	88.89%
Simonds Farsons Cisk plc (SFC)	8	7	6	87.5%
Island Hotel Group Holdings plc (IHG)	7	5	4	71.43%
International Hotel Investments plc (IHI)	9	6	6	66.67%

Malta International Airport plc (MIA)	8	5	5	62.50%
Crimsonwing plc (CW)	5	3	3	60%
Medserv plc (MDS)	5	3	3	60%
MIDI plc (MDI)	8	4	4	50%
6pm Holdings plc (6PM)	6	3	3	50%
Total	**77**	**56**	**49**	**72.73%**

Table 4.2 - Board Composition[14]

As already mentioned in Chapter 2 section 2.6, the Code recommends that at least a third of the directors are non-executive. As can be seen from table 4.2, all eleven companies (100%) in the sample comply with this provision. From a total of 77 directors, 56 (72.73%) of them are non-executive directors. Executive directors are thus in the absolute minority. This is a very positive sign for the shareholders, since as noted in section 2.6, this means that the actions of the executive directors will be overseen by the non-executives, and the probability of the shareholders being exploited is reduced. Section 2.6 also states that the Code also recommends that the majority of the non-executive directors must be independent. Table 4.2 shows that only one company (1/11, 9.09%) is not in compliance with this provision, this being MSI.

4.5 Proportion of Shares held by the Board of Directors

The shareholders are the owners of the company, while the Board of Directors is responsible for its overall management. Thus, after analysing the

[14] Source: various ARs and Interviews

composition of the board in section 4.4, analysing the directors' interests in the share capital is very important in order to continue addressing objective 2 in section 1.3. The higher the proportion of shares held by the directors, the closer the link between the shareholders, directors, and managers, and therefore, the less the separation between ownership and control.

In carrying out the following analysis, the shares held in the company – directly or indirectly – by the directors and their family members, as well as the beneficial interests of the directors and their family members in the shareholders of the particular listed company, have been considered together. This was done in order to include the total number of shares held by the directors, because some directors have shares held in the name of their family members, as well as shares held indirectly through other companies.

Company Name	**Shares held by the Directors**
Island Hotel Group Holdings plc (IHG)	75.00%
Medserv plc (MDS)	75.00%
Crimsonwing plc (CW)	67.19%
6pm Holdings plc (6PM)	43.89%
MIDI plc (MDI)	42.97%
Simonds Farsons Cisk plc (SFC)	40.00%
International Hotel Investments plc (IHI)	29.39%
GO plc (GO)	0.54%
Middlesea Insurance plc (MSI)	0.07%
Malta International Airport plc (MIA)	0.05%
Malita Investments plc (MLT)	0.02%

Table 4.3 - Proportion of shares held by directors[15]

As can be seen from Table 4.3, a total of three (3/11, 27.27%) listed companies have the majority of their shares (in excess of 50%) held by the

[15] Source: various ARs, Interviews, and Ownership Structures

directors of the company. The companies where ownership is least separated from control are IHG and MDS, where the directors of the company hold three quarters of the companies' issued share capital.

Then there are four (4/11, 36.36%) listed companies where the directors, despite not owning the majority of the shares, still own a substantial proportion (between 20% and 50%) of the issued share capital. The directors of the other four (4/11, 36.36%) companies hold an insignificant proportion of shares (less than 1%).

4.6 Agency Problems between Shareholders and Management

This section aims to address objective 3 in section 1.3 by analysing the existence of agency problems that may arise between the shareholders and the management of the company if the shareholders feel that management is not acting in their best interests.

When asked whether agency problems exist in their company, nine (9/11, 81.82%) interviewees said that they never encountered such problems. Hence, it seems that agency problems are not an issue in these companies. In the case of MLT, the Accounts Manager believes that problems do not arise because the directors, management, and the shareholders all have the same aim, which is that of maximising profits and minimising costs. Hence, they are all pulling the same rope. The interviewee from MDI believes that problems are avoided due to the fact that the major shareholders are all represented by their appointed directors on the board.

On the other hand, the other two (2/11, 18.18%) interviewees said that problems between management and shareholders do in fact exist in their respective companies. These are 6PM and CW. In the case of 6PM, certain problems arise between management and the minority shareholders, mainly due to the fact that the minority shareholders, despite having a very broad idea, would not know be aware of the detailed ongoings of the company.

According to its Managing Director, CW prefers to re-invest the money instead of distributing dividends. Also, due to the difficult economic conditions it had to face, the company had to deal with a severe fall in the share price, which increased from €0.50 to €0.60, but then fell to €0.18 over a short period of time. The lack of dividends distributed and the fall in the share price has led to problems between the shareholders and management.

4.7 Executive Compensation

In Chapter 2 sub-section 2.5.2, share option schemes and profit-related bonuses were identified as incentives that can be used to motivate directors and managers to act in the interests of the shareholders. This section assesses the popularity of such mechanisms in the listed companies in order to continue addressing objective 3.

- Share option schemes

It is clear that share option schemes are not considered to be an integral part of remuneration packages of directors and senior managers in the listed companies. This is because none (0%) of the listed companies operate an employee share option scheme.

One company which used to operate a share option scheme was CW. During 2007, when the company became incorporated as a public company, these share options were converted into shares. So, nowadays a large number of its employees are also shareholders, each owning a very small stake in the company. At the moment, according to its Managing Director, the company is working on a new share option scheme for its employees. However, it is not yet finalised.

Also, the Group Finance Director of IHI said that the company may eventually introduce share option schemes in the future. However, there aren't any definite plans as of yet.

- Profit-related Bonuses

Rather than being profit-related, the bonuses offered by a number of listed companies are mostly performance-related, meaning that these bonuses do not necessarily depend on profits, but may depend on other variables as well. 90.91% of the companies do not offer any performance-related bonuses to their directors, with MIA being the only company that pays performance-related remuneration to its non-executive directors. On the other hand, GO and SFC are the only two (2/11, 18.18%) companies that offer performance-related bonuses to their senior management personnel.

The senior management personnel of GO are each entitled to a cash performance bonus calculated on the basis of personal performance objectives and the level of the Group's Earnings Before Interest, Taxation, Depreciation and Amortisation (EBITDA). In addition, the Board of Directors may approve additional bonuses for outstanding performance and achievements. The senior management personnel of SFC are also eligible for an annual performance bonus. This is linked to agreed performance targets and their achievement.

There is also one other company (1/11, 9.09%), MDS, that pays bonuses. However, such bonuses are not performance-related; they are paid at the discretion of the Board of Directors.

These findings show that neither share-option schemes, nor bonuses are very popular. This is probably because – as seen in section 4.6 – agency problems are not serious in Maltese listed companies, and these companies do not see the need to employ these incentives. However, bonuses seem to be a bit more popular than share-option schemes when it comes to remunerating employees in the listed companies. This may be because bonuses are a direct incentive for managers to achieve the required targets, and are tangible rewards for the contributions made. On the other hand, if the company performs well, there is still no guarantee that the share price will rise. Also, if too many shares are given out, the value of the stock can become diluted, making it less valuable.

4.8 Conflicts between Significant Shareholders and Minority Ones

When the shares of a company are concentrated in the hands of a very few shareholders, as is the case in the listed companies, these significant shareholders are able to directly appoint directors to the board, and are also able to position their own people in the management of the company. The minority shareholders, as stated in Chapter 2 section 2.8, may feel that they are being exploited by these significant shareholders, and certain problems and conflicts may arise between them.

Despite the fact that the companies are characterised by majority and significant shareholders, when asked whether such problems and conflicts exist in their company, nine (9/11, 81.82%) interviewees said that these problems and conflicts do not exist. Four of these nine respondents (4/9, 44.44%) identified the fact that minority shareholders are also represented on the board as the reason why problems and conflicts are avoided. These four respondents were from 6PM, MSI, IHI, and IHG.

In the case of 6PM, there are two non-executive directors out of the six on the board that represent and protect the interests of the minority shareholders. One of these directors is a minority shareholder himself, while the other is not even a shareholder. The minority shareholders of MSI are also able to elect two directors to the board. The minority shareholders of IHG are represented by the four independent non-executive directors shown in table 4.2, while the minority shareholders of IHI also have a director on the board to represent their interest (Mr. Frank Xerri de Caro), despite not having sufficient shares to appoint a director. According to the latest AR, Mr. Xerri de Caro is an independent non-executive director, and also acts as the Chairman of the Audit Committee.

The Group Finance Director of IHI has also stated that problems and conflicts are avoided because the interests of the minority shareholders may intersect with those of the significant shareholders. For example, if the company does not distribute any dividends, all of the shareholders would be affected, not just the minority ones. If the company pays out dividends, both large and small shareholders would be happy. This fact was also pointed out by the interviewees from MSI, MDI, and GO, with the latter also stating that rather than causing problems and conflicts, the minority shareholders are only interested in safeguarding their investment.

The Assistant Company Secretary of SFC said that problems and conflicts between significant and minority shareholders have never occurred in the company because the minority shareholders have always shown faith in the running of the company by the board, which is appointed by the significant shareholders. The fact that the company has performed well, and managed to grow substantially along the years, helps ensure that such problems and conflicts do not occur. He also stated that there is certain goodwill between the company and the minority shareholders which can be seen from the fact that the overwhelming majority of minor shareholders have taken up any rights issues made by the company in the past. On the other hand, MDS avoids conflict because minor shareholders are allowed to voice their opinions, while the major shareholders (who are also executive directors) are always willing to listen.

There were only two interviewees (2/11, 18.18%) that stated that problems and conflicts exist in their respective companies. These were CW and MDI.

In the case of CW, the two major shareholders (who own about 66% of the shares – as can be seen in table 4.1) are also directors on the board. Therefore, if they decide to take a certain decision, there is nothing the minor shareholders can do to reverse it.

In the case of MDI, problems may arise because the minority shareholders do not have a director to represent them. The company acts in a democratic way where the majority rules. This means that the major shareholders are given more importance as they have a higher amount of shareholding and have invested more money in the company. The minority shareholders may feel neglected because they are not given the attention they desire.

Some companies have put in place mechanisms and procedures to protect the interests of the minority shareholders and avoid the possibility of any conflicts. Two companies (2/11, 18.18%) said that their minority shareholders have the right to put items on the agenda of the AGM and to table draft resolutions. In fact, during GO's last AGM, there were six or seven items on the agenda that were put there by the minority shareholders. Other mechanisms identified include the AGM, the right to ask questions, and regular contact through the office of the Company Secretary.

4.9 Ultimate Shareholders, Cash-Flow and Voting Rights, and CEMs

This section and sub-sections 4.9.1, 4.9.2, and 4.9.3 explore the concepts reviewed in Chapter 2 sections 2.8 and 2.9, in order to address objective 4 in section 1.3. Sub-section 4.9.1 examines the ultimate shareholders and the cash-flow rights and voting rights held by them. Sub-section 4.9.2 talks about the separation of cash-flow and voting rights, while sub-section 4.9.3 discusses the popularity of various CEMs used.

The studies conducted by La Porta *et al* (1999) and Claessans *et al* (2000) have used both a 20% and a 10% cut-off level. For the purposes of this study it was decided that a 10% cut-off level will be used.

Table 4.4 below shows the ultimate shareholder/s – defined in section 2.7 – that have a voting stake of 10% or more in each of the listed companies. There is a total of 22 ultimate shareholders with a voting stake of 10% or more. The third and fourth columns show the cash-flow rights and voting rights each ultimate shareholders has in the listed company, while the last column shows the CEMs used by the ultimate shareholders to enhance control in the company.

Company Name	**Ultimate Shareholder(s)**	**Cash-Flow Rights**	**Voting Rights**	**CEMs**
6PM	• Ivan Bartolo • Vassallo Family	18.59% 13.68%	18.59% 18.59%	• None • Pyramids and Non-voting Shares
CW	• David Walsh • Philip Crawford	44.96% 21.57%	44.96% 21.57%	• None • None
GO	• H.H. Sheikh Mohammed Bin Rashid Al Makhtoum	59.80%	60.00%	• Pyramids
IHI	• Libyan Foreign Investment Company • Pisani Family • Istithmar Hotels FZE	40.42% 29.39% 22.05%	61.03% 50.00% 22.05%	• Pyramids and Multiple Control Chains • Pyramids • None

IHG	• Zahra Family	75.00%	75.00%	• Pyramids and Multiple Control Chains
MLT	• Government of Malta	0.00%	79.74%	• Shares with Deferred Rights
MIA	• Flughafen Wien AG • Government of Malta	32.94% 20.00%	50.10% 20.00%	• Pyramids and Multiple Control Chains • None
MDS	• Anthony J. Duncan • Anthony S. Diacono	37.50% 37.50%	37.50% 37.50%	• Pyramids • None
MSI	• Fundacion Mapfre • Bank of Valletta plc	35.25% 31.08%	54.56% 31.08%	• Pyramids • None
MDI	• Bank of Valletta plc • Mizzi Family	17.14% 6.61%	21.46% 14.21%	• Pyramids and Multiple Control Chains • Pyramids
SFC	• Estate of Marquis John Scicluna • Miceli Farrugia Family • Farrugia Family • Stagno d'Alcontres	26.32% 14.60% 13.25% 11.90%	26.32% 26.50% 26.50% 26.50%	• Pyramids and Non-Voting Shares • Pyramids and Non-Voting Shares • Pyramids • Pyramids

	Family			

Table 4.4 - Ultimate Shareholders, Cash-Flow and Voting Rights, and CEMs[16]

4.9.1 Ultimate Shareholders

Since, as already found in sections 4.2 and 4.3, the listed companies are characterised by significant shareholders, where possible, an attempt was made to identify the ultimate shareholders of the company, i.e. the shareholders behind the shareholders of the listed company. This was done with the aid of ownership structures presented in section 4.2.

At a 10% cut-off level, all the listed companies have at least one ultimate shareholder. This means that all companies have at least one shareholder with at least a 10% voting stake in the listed company, making all listed companies closely-held, and confirming the finding of section 4.3 that the Berle-Means Corporation model discussed in Chapter 2 section 2.4 is not found in Malta.

The majority (13/22, 59.09%) of the 22 ultimate shareholders at the 10% level are families and individuals, making most of the listed companies family-controlled. Two (2/11, 18.18%) listed companies have the Government of Malta as an ultimate shareholder (MLT and MIA). Table 4.4 also shows that the German model of bank control mentioned in Chapter 2 section 2.7 is not common, with only two (2/22, 9.09%) ultimate shareholders being a bank (BOV).

4.9.2 Cash-Flow Rights and Voting Rights

The aim of this sub-section is to address objective 4 by seeing whether there is separation between cash-flow rights and voting rights. Cash-flow rights and voting rights were calculated using the method explained in Appendix IV. The

[16] Source: various ARs, Interviews, and RoC Database

same method is used to calculate the figures produced in columns 3 and 4 of table 4.4. These calculations are found in Appendix V.

4.9.2.1 Separation of Cash-Flow Rights and Voting Rights

There is a small element of separation in the majority of the listed companies, with only three (3/11, 27.27%) companies having their cash-flow rights equal to their voting rights. The other eight (8/11, 72.73%) companies have their voting rights exceeding their cash-flow rights through the use of various CEMs. Table 4.5 shows the cash-flow and voting rights, and the separation ratio of these eight companies

Company Name	**Cash-Flow Rights**	**Voting Rights**	**Separation Ratio**
6pm Holdings plc (6PM)	13.68%	18.59%	1.36
GO plc (GO)	59.80%	60.00%	1.00
International Hotel Investments plc (IHI)	34.91%	55.52%	1.59
Malita Investments plc (MLT)	0.00%	79.74%	0.00
Malta International Airport plc (MIA)	32.94%	50.10%	1.52
Middlesea Insurance plc (MSI)	35.25%	54.56%	1.55
MIDI plc (MDI)	11.88%	17.84%	1.50
Simonds Farsons Cisk plc (SFC)	13.25%	26.50%	2.00
Total	**201.71%**	**362.85%**	

Table 4.5 - Companies with Separated Cash-Flow Rights and Voting Rights[17]

$$\text{Separation Ratio} = \frac{362.85\%}{201.71\%} = 1.80$$

[17] Source: Ownership Structures and RoC Database

As can be seen from the above table and calculation, the overall separation ratio between cash-flow rights and voting rights is 1.80. This means that with 1% of cash flow rights, one would have 1.80% voting rights. Thus, it can be concluded that the cash-flow rights and voting rights are not much separated from each other.

4.9.3 Control-Enhancing Mechanisms (CEMs)

Chapter 2 section 2.9 defined CEMs as those mechanisms that allow ultimate shareholders to enhance control by reducing cash-flow rights, while still maintaining their voting rights. The popularity and use of different types of CEMs in the listed companies is analysed in this sub-section in order to continue addressing objective 4 in section 1.3.

- <u>Multiple classes of shares</u>

Different classes of shares seem to be rare in the listed companies. This is because the share capital of nine (9/11, 81.82%) companies is made up of one class of ordinary shares where every share carries equal voting rights. In fact, the ARs of these companies state that all the shares have the same rights and entitlements and rank *pari passu* between themselves.

The other two (2/11, 18.18%) companies are MLT and MIA. MLT has issued two classes of ordinary shares: Ordinary ‘A’ Shares and Ordinary ‘B’ Shares. The company’s prospectus states that the holders of the ordinary ‘A’ shares are not entitled to receive dividends declared until 31st December 2014. Dividends distributed until this date shall be given to the holders of the ordinary ‘B’ Shares. The Ordinary ‘A’ and ‘B’ Shares shall rank *pari passu* in all respects after this date.

MIA has its share capital divided into three classes of shares: Ordinary ‘A’ Shares, Ordinary ‘B’ Shares, and Ordinary ‘C’ Shares. The Ordinary ‘A’ and ‘B’ shares entitle their holders to the same rights, benefits and powers in the company except for their transferability. This is because the Ordinary ‘A’ shares are freely transferable, whilst the Ordinary 'B' shares are non-transferable for a period of fifteen years starting from 26th July, 2002. The Ordinary 'C' shares carry no voting rights, do not receive any dividends, and may only be held by the Government of Malta.

- <u>Pyramids</u>

As can be seen from table 4.4, pyramids are the most-used CEM, with fourteen ultimate shareholders (14/22, 63.64%) enhancing their control in the listed company through at least one other company.

- <u>Multiple Control Chains</u>

Table 4.4 shows a total of four ultimate shareholders (4/22, 18.18%) enhancing control in a listed company through more than one control chain. Thus, holdings through multiple control chains seem to be popular too.

- <u>Cross-Shareholdings</u>

None of the companies in the sample own shares in themselves or in any of their controlling shareholders. However, there is one company (MSI) that owns a small number of shares in one of its shareholders (BOV). The Company Secretary of MSI stated that such shares are owned as equity investment.

- <u>Shareholder Agreements/Alliances</u>

Out of the eleven company officials interviewed, ten (10/11, 90.91%) of them stated that the company was not aware of any formal or informal alliances or agreements between certain types of shareholders during the AGM. However, the Chief Financial Officer of 6PM stated that sometimes there are what are called "political alliances", which are discussions at board level to decide on the person who should be elected as director.

The only company where such agreements do take place is MSI. The Memorandum and Articles of Association of this company stipulate that every

11% shareholding elects a director. Since Mapfre S.A. owns 54.56% of the shares, it can elect 4 directors and would have 10.56%[18] of the votes remaining. BOV owns 31.08% of the shares, so it can elect 2 directors and would have 9.08%[19] remaining. The 10.56% and 9.08% are then combined in order to allow Mapfre S.A. and BOV to elect another director between them. The remaining 8.64%[20] of the shares would go to the public.

- Voting right ceilings

Voting right ceilings that restrict a shareholder from voting above a certain threshold are not used in the listed companies. Voting in the listed companies can take place either by ballot or by a show of hands. In the case of a ballot, one share is equivalent to one vote. However, if a vote is taken by means of a show of hands, every person has one vote, irrespective of the number of shares held by that person. It is interesting to note that there is a clause in the Articles of Association of SFC, which states that every hand shown during the show of hands must be weighted by the number of shares. However, this is not the case in other listed companies, where a vote taken by means of a show of hands can serve as a sort of voting right ceiling, since one person is only allowed to have one vote, and each share is not necessarily equal to one vote.

- Proxy Voting

By means of proxy voting, a shareholder can appoint another person (a proxy) to vote instead of him/her during the AGM. The appointed proxy is either given instructions on how to vote, or else is allowed to vote as s/he wishes. Appointing the Chairman of the meeting as a proxy would increase the control of the board of directors without increasing their ownership, leading to a further separation between cash-flow rights and voting rights.

[18] 54.56% - (11%x4) = 10.56%
[19] 31.08% - (11%x2) = 9.08%
[20] (10.56%+9.08%) - 11% = 8.64%

Company Name	Proportion of Shareholders	Number of Shareholders
Medserv plc (MDS)	40%	60-65
Malta International Airport plc (MIA)	12%	770-775
6pm Holdings plc (6PM)	10.90%	23
International Hotel Investments plc (IHI)	10%	295-300
Middlesea Insurance plc (MSI)	8%	315-320
GO plc (GO)	3.5%	290-295
Island Hotel Group Holdings plc (IHI)	1.45%	4
Crimsonwing plc (CW)	0%	0
MIDI plc (MDI)	A substantial amount	N/A
Simonds Farsons Cisk plc (SFC)	Very few	N/A
Malita Investments plc (MLT)	No AGM held	N/A

Table 4.6 - Proportion and Number of Shareholders appointing the Chairman as Proxy[21]

Table 4.6 shows the proportion and number of shareholders who appointed the Chairman of the meeting as their proxy during the last AGM and allowed him to vote as he wished. The highest proportion of shareholders that appointed the Chairman as their proxy can be found in MDS. This 40% proportion translates into about 60-65 shareholders. The highest number can be found in MIA with 770-775 shareholders appointing the Chairman as their proxy.

[21] Source: Various Interviews

The interviewee from MDI stated that there was a substantial amount of shareholders that appointed the Chairman, but no exact proportion or number could be provided. No proportion of shareholders could be provided by MLT since their first AGM is yet to be held.

The 10% of shareholders of IHI represent shareholders that together own between four and five million votes. This is quite a substantial amount. The Group Finance Director of IHI associated this high amount with the fact that the shareholders are treated very well by the company, and so it is easy for them to put their trust in the Chairman.

In the case of SFC, only very few individual shareholders appointed the Chairman as their proxy, while there were no shareholders in the case of CW. This may indicate willingness on the part of the shareholders to participate in the voting themselves rather than appointing the Chairman to decide for them.

4.10 Conclusion

This chapter presented and discussed in detail the findings and results obtained in order to address the objectives of this study. The next chapter will give further concluding remarks, recommendations, and areas for further research.

Chapter 5

Summary, Conclusion and Recommendations

5.1 Introduction

This concluding chapter presents a summary of the findings in section 5.2. Section 5.3 then puts forward some recommendations, while Section 5.4 mentions some areas which deserve further study. Finally, section 5.5 concludes the chapter.

5.2 Summary

The main aim of this dissertation was to analyse the separation of ownership and control in those non-bank listed companies that have their equity listed on the MSE. This was done by addressing and achieving the objectives that were identified in Chapter 1 section 1.3.

The methodology adopted to reach the objectives included a careful examination of the latest published ARs of each company, information from various documents obtained from the RoC database, and semi-structured interviews with various company officials.

The findings presented and discussed in Chapter 4 show that ownership and control are not really separated in listed companies. The ownership structures – presented in section 4.2 to address objective 1 – show that listed companies have a number of majority and significant shareholders that are able to directly appoint their own directors to the board, or else sit on the boards themselves. Section 4.3 – which addresses objective 2, also reports that the three largest shareholders own an average of 70.28% of the companies in the sample. These shareholders tend to place their own personnel at the board and management levels of the company. This results in large proportions of shares held by the directors of the company. In fact, section 4.5 reports that the directors of seven (7/11, 63.64%) listed companies hold a stake of more than 25% in their respective companies. Therefore, the Berle-Means Corporation model explained in Chapter 2 section 2.4 is not applicable in Malta.

Despite this little separation of ownership and control, non-executive directors are still in absolute majority. In fact, in addressing objective 2 of the dissertation, table 4.2 in section 4.4 reports that from a total of 77 directors, 72.73% (56/77) of them are non-executive directors. However, this is not in line with the literature reviewed, because theoretically, as noted in Chapter 2 section 2.6, the greater the separation of ownership from control, the higher the number of outside directors on the board should be.

In addressing the 3rd objective, sections 4.6 and 4.8 report on problems and conflicts that may arise between shareholders and management, as well as between significant shareholders and minority ones. Since there is minimal separation between ownership and control, section 4.6 reports that agency problems between shareholders and management have never arisen in nine (9/11, 81.82%) companies. Chapter 2 sub-section 2.5.2 states that share-option schemes and profit-related bonuses can be used to manage agency problems. Section 4.7 reports that none (0/11) of the companies offer share-option schemes to their employees, while only two (2/11, 18.18%) companies pay performance-related bonuses to their senior management personnel. Also, despite companies having significant shareholders, section 4.8 reports that conflicts between these shareholders and minority ones have not occurred in nine (9/11, 81.82%) companies. This is mainly because minority shareholders are represented on the board as well, and because their interests may be the same as those of the significant shareholders.

In addressing objective 4, sub-section 4.9.1 shows that all (11/11) the listed companies are closely-held by ultimate shareholders at the 10% cut-off level. 59.09% of these ultimate shareholders are families and individuals. There is also a separation ratio of 1.80 between the cash-flow rights derived from dividends, and voting rights of the ultimate shareholders. This is mainly caused by pyramid structures, which are used by 63.64% of the ultimate shareholders, making them the most-used CEM to enhance control in Maltese listed companies. Control through multiple control chains is also quite popular, being used by four (4/22, 18.18%) ultimate shareholders, whilst proxy voting is used a lot in seven (7/11, 63.64%) companies.

5.3 Recommendations

Despite the fact that listed companies are owned by significant shareholders, they still have hundreds or even thousands of shareholders who each own very small proportions of shares, as can be seen from the various ownership structures presented in Chapter 4 section 4.2. Even though, as reported in Chapter 4 sections 4.6 and 4.8, agency problems between shareholder and management, and conflicts between significant shareholders and minority ones are not common in listed companies, these companies must still be careful when dealing with their shareholders, especially minority shareholders. Companies must ensure that these minority shareholders are treated well, feel represented, and have their interests safeguarded. This can be done by listening to them and allowing them to voice their opinions, mainly during AGMs, through meetings, and through the Company Secretary.

Companies must regularly inform all shareholders of what is happening, because agency problems may arise if they feel neglected. Also, when possible, companies are recommended to give out cash dividends to their shareholders, because, as seen in Chapter 4 section 4.6, a lack of dividends can be a source of agency problems. Otherwise, problems and conflicts may lead to a number of shareholders selling their shares, which may result in a sharp fall in the share price. Avoiding or reducing agency problems would reduce expenditure on agency costs mentioned in Chapter 2 sub-section 2.5.1, and thus, it is in the interest of the company, its managers, and its shareholders. It is also recommended that regulatory authorities, such as the MFSA, make sure that the interests of existing and potential investors are legally protected.

5.4 Areas for Further Research

As noted in Chapter 1 section 1.2, to the author's knowledge no study has been carried out which analyses the separation of ownership and control in Maltese listed companies. Other studies can focus on other areas related to this issue. Such areas include:

- investigating in detail the reasons why most listed companies are still closely-held by dominant shareholders despite the fact that they are public companies;
- analysing the effects that the extent of separation of ownership and control can have on other aspects of the company, such as firm performance, valuation or share price; and
- comparing and contrasting Malta with other foreign countries with respect to the separation of ownership and control.

5.5 Conclusion

This chapter has concluded the dissertation which aimed to analyse the separation of ownership and control in non-bank Maltese listed companies. This chapter started off by giving an overall summary of the study, which has shown that Maltese listed companies are closely-held by significant shareholders, most of them being families and individuals. These shareholders tend to directly appoint themselves or their relatives as directors on the board, who in turn are able to appoint management personnel. This leads to a lack of separation in ownership and control, which reduces the occurrence of agency problems between management and shareholders. Despite the presence of shareholders with significant holdings, conflicts between these shareholders and minority ones are not common. There is also a very small separation ratio between cash-flow rights and voting rights, which is mainly achieved through the use of pyramids. This chapter then proceeded by giving some recommendations and identifying areas for further research in sections 5.3 and 5.4.

Appendices

Appendix I – List of Maltese Companies with Equity Listed on the MSE (Excluding Banks and Collective Investment Schemes)

1. 6pm Holdings plc (6PM)
2. Crimsonwing plc (CW)
3. GO plc (GO)
4. International Hotel Investments plc (IHI)
5. Island Hotels Group Holdings plc (IHG)
6. Malita Investments plc (MLT)
7. Malta International Airport plc (MIA)
8. Medserv plc (MDS)
9. Middlesea Insurance plc (MSI)
10. MIDI plc (MDI)
11. Simonds Farsons Cisk plc (SFC)

Appendix II – A Better Look into Some Studies

- <u>La Porta *et al* (1999)</u>

La Porta *et al* (1999) carried out one of the most influential studies in corporate governance. This study focuses on the twenty firms with the largest stock market capitalisation of equity in 27 wealthy economies from around the world. They define ownership by the voting rights, rather than cash-flow rights, and define ultimate controllers as those shareholders whose direct and indirect voting rights exceed 20%.They try to identify the ultimate shareholders first with 20% and then with 10% of the voting rights. At the 20% cutoff, all UK firms, 90% of Japanese firms and 80% of US firms in the sample are widely-held. This means that these firms do not have a shareholder with 20% of the votes. These countries are followed by Australia, Ireland, Canada, France, and Switzerland. At the 10% cutoff the UK and the US remain the only outliers. The controlling shareholders of the firms are mostly families or the State. The German model of bank control is not common in other countries. Pyramids are also identified as the most-used device that separate voting rights from cash-flow rights. La Porta *et al* (1999) also report that the level of dispersion of ownership is correlated with the protection of shareholders from expropriation by managers. Civil law countries (Continental Europe) offer poor shareholder protection. Shareholders are less willing to invest their money, causing ownership to be concentrated. Common law countries, such as the US, offer better shareholder protection leading to a more diffused ownership.

- <u>Claessans *et al* (2000)</u>

Claessans *et al* (2000) examine the separation of ownership and control of 2,980 corporations in nine East Asian Countries. They define ownership using cash-flow rights and control using voting rights. Just like La Porta *et al* (1999), Claessans *et al* (2000) also classify the corporations according to their market capitalisation, and use 20% and 10% voting thresholds to define control. Control in the firms is enhanced mostly by pyramids and cross-shareholdings. More than two-thirds of the firms are controlled by a single shareholder, and the management group of 60% of them comprises of family members of the controlling shareholder. This study also reports that the economic development of the country and the age and size of the respective firms affect the concentration of control.

- Faccio and Lang (2002)

Another important study is the one carried out by Faccio and Lang (2002), which analyses 5,232 corporations in 13 Western European countries. Faccio and Lang (2002) report that most of these firms are either widely-held (36.93%), or family-controlled (44.29%). This study finds that widely-held firms are mostly found in the UK and Ireland, whilst family-controlled firms are more prominent in Continental Europe. Also, a number of large state controlled firms can be found in Austria, Finland, Italy, and Norway. The study also reports that dual class shares and pyramids are the most-used devices that separate cash-flow rights from control rights, but separation of ownership from control can only be found in a few countries.

- Azzopardi (2012)

A study which focuses on the local scenario is the one carried out by Azzopardi (2012). This study – which analyses 20 Maltese listed companies – focuses on the relationship between the board and the management, but it has a short chapter dedicated to corporate control. The study reports that nine of the companies have absolute majority shareholders (more than 50% interest), while six other companies have shareholders that own between 30% and 50% of the company's share capital. Azzopardi (2012) also reports the need for more minority shareholder protection due to the agency problems that may arise between dominant shareholders and minority ones, since these dominant shareholders are able to directly appoint directors to the board. Of all the directors in the listed companies, this study reports that only 15.75% of them are executive directors.

Appendix III – Interview Schedule

I am David Muscat, a Bachelor of Accountancy (Hons.) student currently reading through the last year of the degree programme. In the course of my academic studies and assessment I am preparing a dissertation titled “Separation of Ownership and Control in Non-Bank Maltese Listed Companies: An Analysis”. As part of my research, I am conducting interviews that will help me in my analysis and allow me to reach my objectives.

1. Who are the ultimate shareholders of the Company?
2. Do the shareholders have a say in the day-to-day management and control of the Company? If yes, in what way?
3. What proportion of shares, if any, is held by:
    a. Directors of the Company
    b. Senior management of the company
    c. Government of Malta
    d. Private Companies
    e. Public Companies
    f. Banking Institutions
    g. Insurance Companies
    h. Stockbrokers
    i. Mutual Funds
    j. Individuals
    k. Other?
4. Do you see ownership as being separated from control in the company? Why or why not?
5. How many directors are considered to be independent within the meaning of the Code of Principles of Good Corporate Governance? Which are they?
6. How does the Company deal with conflicts of interest that may arise amongst the Directors?

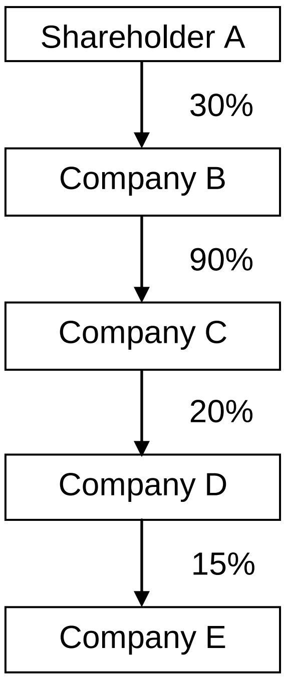
7. Does the company offer any profit-related bonuses or share option schemes as part of a remuneration package to its directors or senior management? Why or why not?
8. Agency problems may arise between shareholders and management, where the ownership of the company is separated from the management.
    a. In your opinion, do such problems exist in this Company?
    b. How and in which areas may such problems arise?
    c. Are there any mechanisms or procedures in place to deal with or reduce such problems that may arise?
9. Problems and conflicts can also arise between significant shareholders and minority ones, mainly because minority shareholders may feel that they are being exploited by the significant shareholders.
    a. In your opinion, do such conflicts exist in this Company?
    b. How and in which areas may such problems arise?
    c. Are there any mechanisms or procedures in place to deal with or reduce such conflicts that may arise?
10. Has the company issued any non-voting shares or shares with preferred, deferred or other special rights?
    a. If yes, what are these rights?
    b. Are these reserved for a specific group of persons?
11. Are there any formal or informal agreements/alliances between certain shareholders that the company is aware of when it comes to voting to elect directors during the AGM?
    a. If yes, what kind of agreements?
    b. Between which types of shareholders?
12. Does the company impose voting rights ceilings on certain shareholders during AGMs? If yes, on which types of shareholders?
13. Does the company own shares in itself, in any of its shareholders, or in any other company within its control chain? If yes, what number of shares and in which companies?

Appendix IV – Control-Enhancing Mechanisms (CEMs)

Cash-flow rights refer to the right to receive dividends, while voting rights refer to the right to vote during AGMs. Cash-flow and voting rights are calculated using the same method used by La Porta *et al* (1999), Claessans *et al* (2000), and Faccio and Lang (2002). In these three studies, cash-flow rights are calculated by multiplying together all the ownership stakes along the control chain, whilst voting rights are measured by the weakest link of voting rights in the chain. Cash-flow rights are used to define “ownership”, whilst voting rights define “control”.

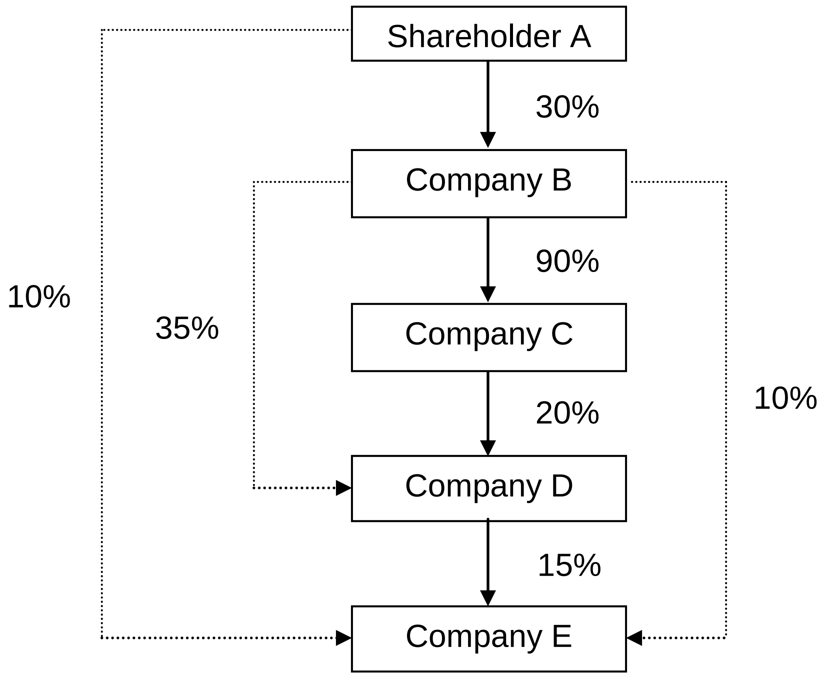
Throughout this appendix it is assumed that there are no deviations from the one-share-one-vote rule. “Shareholder A” is always the ultimate shareholder.

- <u>Pyramids</u>



Shareholder A owns and controls 30% of company B. Company B owns 90% of company C, company C owns 20% of company D, while company D owns 15% of Company E. Therefore, shareholder A controls company E through companies B, C, and D. The total cash-flow rights of shareholder A in company E are 0.81% (30% * 90% * 20% * 15%). The total voting rights of shareholder A in company E are 15% [minimum (30%; 90%; 20%; 15%) = 15%].

- <u>Holdings through multiple control chains</u>



Here, the situation is the same as above, but this time, shareholder A also has a 10% direct stake in company E. Also, company B has a direct ownership stake of 35% in company D and 10% in company E. In order to calculate the total cash-flow rights of shareholder A in company E, we must also add the direct ownership stake and the ownership stakes from the two multiple control chains. The direct ownership stake gives cash-flow rights of 10%. The first chain from company B to company D gives cash-flow rights of 1.575% (30% * 35% * 15%). The second chain from company B to company E gives cash-flow rights of 3% (30% * 10%). Therefore, the total cash-flow rights of shareholder A in company E are 15.385% (0.81% + 10% + 1.575% + 3%).

In order to calculate the total voting rights, we must also add the direct voting rights and the voting rights from the two multiple control chains. The direct voting rights amount to 10%. The voting rights from the chain company B-Company D are 0% [min(30%; 35%; 0%)]. Here, we do not take into consideration the 15% voting rights of company D in E since this has already been taken into account when calculating the voting rights from the first chain. The control chain from company B to company E is 10% [min(30%; 10%)]. Therefore the total voting rights of shareholder A in company D are 35% (15% + 10% + 0% + 10%).

Appendix V – Calculation of Cash-Flow Rights and Voting Rights in Table 4.4

1. **6pm Holdings plc**
    - Vassallo Family
        - Cash-Flow Rights: 73.57% x 18.59% = 13.68% (O)
        - Voting Rights: minimum(100%, 18.59%) = 18.59% (C)

2. **GO plc**
    - H.H. Sheikh Mohammed Bin Rashid Al Makhtoum
        - Cash-Flow Rights: 99.67% x 100% x 100% x 60% = 59.80% (O)
        - Voting Rights: minimum(99.67, 100%, 100%, 60%) = 60.00% (C)

3. **International Hotel Investments plc**
    - Libyan Foreign Investment Company
        - Cash-Flow Rights: (50% x 58.78%) + 11.03% = 40.42% (O)
        - Voting Rights: minimum(50%, 58.78%) = 50% + 11.03% = 61.03% (C)
    - Pisani Family
        - Cash-Flow Rights: 50% x 58.78% = 29.39% (O)
        - Voting Rights: minimum(50%, 58.78%) = 50% (C)

4. **Malta International Airport plc**
    - Flughafen Wien AG
        - Cash-Flow Rights: (57.10% x 40%) + 10.10% = 32.94% (O)
        - Voting Rights: minimum(57.10%, 40%) = 40% + 10.10% = 50.10% (C)

5. **Medserv plc**
    - Anthony J. Duncan

  - Cash-Flow Rights: 100% x 37.50% = 37.50% (O)
  - Voting Rights: minimum(100%, 37.50%) = 37.50% (C)

6. **Middlesea Insurance plc**
   - Fundacion Mapfre
     - Cash-Flow Rights: 100% x 64.60% x 100% x 54.56% = 35.25% (O)
     - Voting Rights: minimum(100%, 64.60%, 100%, 54.56%) = 54.56% (C)

7. **MIDI plc**
   - Bank of Valletta plc
     - Cash-Flow Rights: (50% x 12.55%) + (31.08% x 50% x 12.55%) + 8.91% = 17.14% (O)
     - Voting Rights: minimum(31.08%, 50%, 12.55%) = 12.55% + 8.91% = 21.46% (C)
   - Mizzi Family
     - Cash-Flow Rights: (100% x 25%) + (28% x 25%) + (58.04% x 25%) = 46.51% x 14.21% = 6.61% (O)
     - Voting Rights: minimum(100%, 64.71%, 58.04%, 25%, 14.21%) = 14.21% (C)

8. **Simonds Farsons Cisk plc**
   - Estate of Marquis John Scicluna
     - Cash-Flow Rights: (100% x 26.32%) = 26.32% (O)
     - Voting Rights: minimum(100%, 26.32%) = 26.32 (C)
   - Miceli Farrugia Family
     - Cash-Flow Rights: (100% x 29.55%) + (65.24% x 33.33%) + 3.78% = 55.08 x 26.50% = 14.60% (O)
     - Voting Rights: minimum(100%, 29.55%) + minimum(56.38%, 33.33%) + 3.78% = 66.66%
       Minimum(66.66%, 26.50%) = 26.50% (C)

- <u>Farrugia Family</u>
    - Cash-Flow Rights: (50% x 100% x 26.50%) = 13.25% (O)
    - Voting Rights: minimum(50%, 100%, 26.50%) = 26.50% (C)
- <u>Stagno d'Alcontres Family</u>
    - Cash-Flow Rights: (100% x 33.33%) + (34.76% x 33.33%) = 44.92% x 26.50% = 11.90% (O)
    - Voting Rights: minimum(100%, 33.33%) + minimum(43.62%, 33.33%) = 66.66%
      Minimum(66.66%, 26.50%) = 26.50% (C)

Appendix VI – The Separation of Ownership and Control

This appendix will discuss the responses obtained when the interviewees were asked whether they see ownership as being separated from control in their respective company. Six out of the eleven (6/11, 54.55%) interviewees responded with an outright no. This is because the major shareholder/s is/are able to directly appoint the majority members of the board in order to directly represent their interests, or because the majority shareholders are board members themselves (as is the case in CW and MDS as can be seen from table 4.3 in Chapter 4 section 4.5). The same six (6/11, 54.55%) interviewees also said that the shareholders have a say in the day-to-day management and control of the company. This say is not exerted directly, but is exerted through the appointed directors.

When asked about the separation of ownership and control, the GO interviewee said that, although the majority shareholder appoints directors directly to represent them, there was still a fine line between being a shareholder and being a director. This means that despite the fact that a director may sometimes put his own interest first when making certain decisions, at the end of the day, his aim is to maximise the value for all the shareholders.

Only two (2/11, 18.18%) interviewees said that ownership is separated from control in the company. These companies are IHG and MLT. The Group Chief Financial Officer of IHG said that there is a separation because the company operates at a very high level of corporate governance, and so, despite the controlling family having a 75% stake in the company, it does not retain the majority of the board members (3 directors out of a total of 7 shown in section 4.4 table 4.2). This is, however, contrary to the findings in section 4.5.

In MLT, ownership and control seem to be separate, since the Government of Malta has no control in the operations of the company, despite having a stake of about 80% in the company as noted in table 4.1 in section 4.3. There are no directors that represent the Government, since all the directors are non-executive as can be seen from table 4.2 in section 4.4, and there are no Government workers working in the company either. The day-to-day control is in the hands of the Accounts Manager, subject to approvals by the Board and the Chairman, who are appointed by the Government of Malta.

Appendix VII – The Chairman and the Chief Executive Officer (CEO)

Two positions found at the top of the management structure are those of the Chairman and the CEO. The Chairman is responsible for the running of the board, whilst the CEO's responsibility is the running of the company's business. Principle 2 of the Code of Principles of Good Corporate Governance for Maltese Listed Entities (MFSA, 2012) provides that the two positions must be occupied by two different persons, and if this is not the case, an explanation must be provided by the company.

As can be seen in its AR, IHI is the only company where the roles of the Chairman and of the CEO are performed by the same person (Mr. Alfred Pisani). So, in this regard, the company is not complying with the Code. As a result, in accordance with provision 3.1 of the Code, IHI appointed Mr. Frank Xerri de Caro as senior independent director. Mr. Alfred Pisani is also the Chairman and CEO of IHI's majority shareholder (Corinthia Palace Hotel Company Limited), which is 50% owned by the Pisani family, as can be seen from figure 4.5 in section 4.2. Corinthia started way back in 1962, and its operations were always spearheaded by Mr. Alfred Pisani. So, according to the Group Finance Director of IHI, he has always been seen and respected as the leader by the other directors and other employees. Along the years, the company has grown and improved with him occupying the two positions, and the interviewee stated that the directors believe that the situation should remain as is. According to the Group Finance Director, the two positions will most probably be occupied by two different individuals once Mr. Alfred Pisani decides to step down.

As disclosed in their respective ARs, the CEO of four (4/11, 36.36%) companies does not sit on the Board of Directors. These companies are GO, MSI, MDI, and SFC. This means that in these four companies, those responsible for the overall executive running of the company are not able to influence the decisions taken by the board.

Two of the eleven (2/11, 18.18%) companies do not have a CEO. These are MLT and MDS. MLT has disclosed in its prospectus that the overall direction, administration and management of the company are in the hands of all the directors of the board, including the Chairman. In the case of MDS, its latest AR states that the executive management of the company is in the hands of the executive directors, including the Chairman, and the Chief Operating Officer. The rest of the companies (4/11, 36.36%) have their CEOs sitting on the Board of Directors, meaning that the persons occupying these positions are in a better position to influence the decisions taken at board level.

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