
Italy

Summary of Current Shareowner Rights

Percentages cited reflect information gathered by GMI Ratings about 55 companies in Italy as of 31 August 2012.

Shareowners in the Italian financial market have generally strong shareowner rights, although the majority of capital in many Italian companies is held by one shareowner or a group of shareowners who control the majority of voting rights. Furthermore, the board is usually composed of non-independent members appointed by the controlling shareowners, so confrontation and contests most often take place between the controlling and minority shareowners.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
What is the average percentage of independent board members on public company boards (% independent board members)?	31%	According to the Financial Consolidation Act, at least one of the members of the board of directors (two if the board is composed of more than seven members) should satisfy the independence requirements established for all listed Italian companies.
How many companies have fully independent audit committees?	29.1%	
What percentage of publicly traded companies have a controlling shareowner (e.g., family, government, majority block holder)?	40%	Concentration of power with the banks and family-run enterprises is the traditional ownership structure in Italy.
Is voting by proxy permitted?	Yes	Always allowed
Must shares be deposited or blocked from trading in order to vote?	Yes	Shares must usually be deposited (but not blocked) from two days before until the end (or any subsequent meeting postponement) of the shareowners' meeting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Are there share ownership limitations in this market?	Yes	In general, each shareowner has only one vote regardless of the number of shares owned. There are restrictions for a few issuers—the <i>banche popolari</i> (banks). For the <i>banche popolari</i> , if a shareowner holding a vote wishes to appoint a proxy, the proxy must be granted to another shareowner in that company (rather than a non-shareowner). A few companies have issued “saving shares,” which are nonvoting shares that allow the shareowner to have more dividends and other financial rights.
Are there (other) common restrictions on the rights of shareowners to vote in person or by proxy?	Yes	A proxy bearer (or proxy agent) can represent up to 200 shareowners for companies with more than EUR25 million share capital (this restriction may be canceled in accordance with Directive 2007/36/CE). Shareowners who hold more than 2% of shares (or another, larger threshold, as in the legal provisions of the issued share capital) and seek to vote those shares must file their stock with the company and with the Commissione Nazionale per le Società e la Borsa, or CONSOB (security market regulator). According to Italian law, votes cannot be “disjointed” (i.e., portions voted different ways) by the same beneficial owner.

(continued)

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do companies adhere to a majority voting standard in the election of board members?	Yes	According to the principles of the Codice di Autodisciplina (Italian Corporate Governance Code), the appointment of board members must occur according to a transparent procedure. According to the Italian Civil Code, each proposal in the agenda must be adopted by a majority vote. In accordance with a 2008 law, the minority shareowners may present a slate of candidates for the board of directors. At least one director must be elected from the minority slate—the person who obtained the largest number of votes and is not linked in any way with the shareowners who presented or voted the majority or highest-voted slate.
Do companies allow for cumulative voting in the election of board members?	No	
Are shareowners able to affect a company's remuneration policy through shareowner approval (binding or non-binding) of the remuneration committee report, the proxy's Compensation Discussion and Analysis section, or something comparable?	Yes	Remuneration, including management stock option plans of the entire board of directors, must be decided by vote at the shareowner meeting. The board is authorized to decide on additional remuneration of the executives and distribution to board members of any remuneration approved at the shareowners' meeting. The Italian Corporate Governance Code encourages companies to prepare and publish remuneration reports and to put them to a vote at the annual general meeting, but doing so is discretionary.
Are shareowners able to affect remuneration policy through binding shareowner approval of specific equity-based incentive plans or something comparable?	Yes	Shareowner approval is required if the plan could affect the company's capital structure (e.g., dilute shares).
Are shareowners permitted to introduce dissident resolutions (binding or nonbinding) at an annual meeting?	Yes	According to Italian company law, shareowners representing 2.5% of the listed company's capital may introduce new and/or dissident resolutions for the agenda of a shareowners' meeting.

Issue	Current Standard or Usual Practice	Level of Practice Adoption, Exceptions to Usual Practice, and Trends (if any)
Do shareowners have a right to convene a general meeting of shareowners outside the annual meeting process (e.g., an extraordinary general meeting or special meeting) if only 10% or less of the shares are represented in the group requesting the meeting?	Yes	Shareowners' meetings can be convened upon request of shareowners representing a minimum of 10% of the issued share capital or a lesser quota established in the bylaws.
What percentage of companies include golden shares in their capital structure?	9.1%	
Are shareholder rights plans (poison pills) allowed in this market?	Yes	Usually, the poison pill consists of resolutions approved by the (core/controlling) shareowners that grant the board power to increase the company's capital up to five times the amount already underwritten and paid in by the shareowners.
If shareholder rights plans are in use, do they have to be approved by shareowners?	Yes	
Do all shareowners have the right to approve significant company transactions, such as mergers and acquisitions?	Yes	Approval of a capital increase, merger, or transaction that calls for amending the company bylaws requires a 3/4 majority vote (counting abstentions as "against") of shareowners at the meeting.
Do companies require a supermajority vote to approve a merger?	Yes	
Are companies subject to a fair price provision, either under applicable law or as stated in company documents (such as the charter or bylaws)?	Yes	
Are class action suits commonly used in this market?	No	
Are derivative suits commonly used in this market?	No	In accordance with the corporate law reform of 2003, minority shareowners that represent 5% of the issued share capital, or a lower percentage provided for in the bylaws, may take derivative legal action in the name of the company against board members of the company. Such suits, however, are not commonly used.

Current Engagement Practices and Shareowner Rights Developments

Traditionally in Italy, shareowner power has been concentrated in the banks and family-run enterprises. An evolving market structure—defined by an acceptable level of liquidity, a shift of power toward investment institutions, and an active takeover market—suggests Italian investors will soon see a more even distribution of rights. Although shareowner engagement is still not strong, this shift is expected to accelerate engagement and activism in the Italian market. To date, most change has been driven by controlling shareowners forcing out underperforming old-style managements but with little input from minority shareowners.

New laws provide mechanisms for minority shareowners to appoint board directors. Indeed, all Italian issuers must have at least one director (the one with the most votes) who is from the minority slate and who is not linked in any way with the majority shareowners.

A number of Italian issuers have made a substantial effort not only to disclose their corporate governance systems but also to modify their systems to conform to provisions of the Italian Corporate Governance Code. Some have gone so far as to publish detailed information not required by the code.

A few Italian financial institutions, known as *banche popolari*, are governed by a special set of regulations and corporate governance rules that are markedly different from those that other issuers follow. The special requirements for the *banche popolari* are not considered to be in compliance with the best international corporate governance principles.

In 2012, Italian investors were treated to a rarity in the Italian equity markets—a proxy fight. The proxy battle came to a head at the July annual general meeting (AGM) of Italian construction giant Impregilo. The Salini and Gavio families each owned just under 30% of Impregilo going into the meeting. Salini Construction ultimately prevailed, removing the Gavio-backed board and installing a board nominated by privately held Salini Construction, including CEO Pietro Salini.

Legal and Regulatory Framework

In Italy, the rights of shareowners are protected by three core sets of rules and regulations: the Italian Civil Code, Legislative Decree No. 58/1998 (Consolidated Financial Act), and the Corporate Governance (CG) Code of 2006. The CG Code was adopted by a committee of the stock exchange to set and define the corporate governance principles applicable to Italian listed companies.

Adoption of and compliance with the CG Code is voluntary. The Borsa Italiana, which organizes and manages the Italian stock exchange, monitors both the implementation of the CG Code by issuers and the ongoing development of the regulatory framework. A listed company adopting the CG Code, in whole or in part, must annually make a “comply or explain” statement. The company discloses information to the relevant market about which recommendations of the CG Code have been implemented and how they have been implemented and also explains why the company has not complied with certain sections. Article 124-bis of the Consolidated Financial Act (disclosure obligations concerning codes of conduct) requires issuers to annually disclose information about the adoption of codes of conduct promoted by management companies of regulated markets or by trade associations of market participants. Issuers also disclose their compliance with the obligations resulting from those codes, including an explanation of reasons for failing to comply with certain principles.

Regulation implementing the Corporate Governance Code of 2006 was not issued until May 2007, so compliance with and enforcement of some principles of the new laws have been delayed.

Under Italian laws and regulations, shareowners representing at least 10% of the issued share capital (or a lower quota as established in the bylaws) have the right to request a shareowner meeting outside the annual general meeting; they also have the power to add agenda items to the shareowner meeting agenda.

Shareowners representing one-tenth of 1% (0.1%) of the issued share capital (5% for non-listed companies), or a lower quota as established in the bylaws, have the power to challenge a decision adopted at the shareowner meeting.

Furthermore, for listed companies, minority shareowners representing 5% of the issued share capital (or a lower percentage as established in the bylaws) have the right to bring legal action in the name of the company.

Protection for Italian shareowners increased in 2008 with amendments to the Consolidated Financial Act. Bylaws of all Italian issuers must now include specific processes that ensure

equitable appointments to the board of directors. Among directions to be included in the bylaws are the following: a plan for how and on what basis board members shall be elected, a definition of the minimum participation shares required of a candidate for nomination to the board, and language stating that at least one board member must be elected from the minority slate (whoever received the most votes) and that the minority candidate(s) must not be linked in any way, even indirectly, with the shareowners who presented or voted the majority (or highest-voted) slate.

With the release of the CG Code, boards of directors were urged to initiate activities that promote the broadest possible shareowner participation in shareowner meetings. Boards also have been charged with facilitating shareowners' ability to increase their rights and with maintaining consistent communication with the shareowners.

Another result of amendments to the Corporate Governance Code in 2006 and 2008 is that a board of directors must make a "best effort" to ensure that shareowners have access to any corporate information that is material to the shareowners' ability to understand and exercise their rights. For that purpose, the issuer must establish an easily identifiable and accessible dedicated section of the corporate website containing such material information. This section must detail the procedures provided for shareowner participation and voting rights at shareowner meetings. It also must provide documentation relating to items on the agenda, including the relevant professional qualifications of individuals listed as candidates for the positions of board member and auditor.

Key organizations with information relevant to shareowner rights in Italy include the following:

Borsa Italiana SpA (organizes and manages the Italian Stock Exchange) (www.borsaitaliana.it)

Commissione Nazionale per le Società e la Borsa (CONSOB, the security market regulator) (www.consob.it)

Banca D'Italia (Central Bank of Italy) (www.bancaditalia.it)

Assogestioni (National Association of Asset and Investment Managers) (www.assogestioni.it)

Assonime (an association of Italian companies including the listed issuers) (www.assonime.it)