Critical Evaluation of Minority Shareholders' Rights in General Shareholders Meeting Underthe Saudi Company Law No.1965

Dr. Youseif AlQassam AlZahrani

Received: 6 December 2013 Accepted: 5 January 2014 Published: 15 January 2014

Abstract

Introduction-Generally, listed companies are controlled by two main organs: the board of directors, and general meeting (GM). 1 The GM is considered the supreme authority of the company, its powers stem from the company law and from the constitution of the company; therefore, resolutions of the GM should be compatible with the provisions of company law (CL) and constitution of the company; otherwise, the resolutions shall be subject to being deemed null and void. The same applies to the board of directors, which is considered similar to the executive power of the state and has specific terms of reference; thus GM cannot interfere in the work of the board of directors and vice versa.In this vein, these two organs depend entirely on each other working together to achieve the same objectives, and therefore, balance must be struck between them. Such balance is indicated in the definition of corporate governance by the Cadbury Committee: "Corporate Governance is the system by which companies are run. At the centre of the system is the board of directors whose actions are subject to law, regulations and the shareholders in a GM. The shareholders in turn are responsible for appointing the directors and the auditors and it is to them that the board reports on its stewardship at the AGM". 2

Index terms—

1 Introduction

enerally, listed companies are controlled by two main organs: the board of directors, and general meeting (GM). **??** The GM is considered the supreme authority of the company, its powers stem from the company law and from the constitution of the company; therefore, resolutions of the GM should be compatible with the provisions of company law (CL) and constitution of the company; otherwise, the resolutions shall be subject to being deemed null and void. The same applies to the board of directors, which is considered similar to the executive power of the state and has specific terms of reference; thus GM cannot interfere in the work of the board of directors and vice versa.

In this vein, these two organs depend entirely on each other working together to achieve the same objectives, and therefore, balance must be struck between them. Such balance is indicated in the definition of corporate governance by the Cadbury Committee: "Corporate Governance is the system by which companies are run. At the centre of the system is the board of directors whose actions are subject to law, regulations and the shareholders in a GM. The shareholders in turn are responsible for appointing the directors and the auditors and it is to them that the board reports on its stewardship at the AGM". **??** In this context, the question as to whether the highest organ in the company is the GM or the board of directors must be addressed. This has been reconciled by Gower, who stated, "there is no doubt that the shareholders are supposed to be the supreme organ in the company as they are supposed to raise the Author: e-mail: yosfzah@hotmail.com the initiation, formation and direction of policy and they have a duty or role to protect their investment in the company, and in such a situation, no doubt that shareholders constitute the governing force in the company and the law is emphatic on this where it says that the general meeting is the company, directors are subordinates". **??** Accordingly, the GM and board

of directors have a contractual relationship issued from the provisions of CL and company constitution. Greer L.J. in the case John Shaw & Son Ltd v. Shaw held, "A company is an entity distinct from its shareholders and its directors. Some of its powers may, according to its articles, be exercised by directors; certain other powers may be reserved for the shareholders in GM. If powers of management are vested in the directors, they and they alone can exercise these powers". **??** Therefore, the main functions of GM are that: 5 The shareholders should know about the financial situation of the company, in addition to the serious resolutions taken by the company management; the second concerns the case when the board of directors need to make decisions outside of its capacity, it seeks the approval of the shareholders; the third function is to hold meetings for discussions between the shareholders and directors concerning the plans, policies, and performance of the company, whether these be in the past or the future. **??** Generally speaking, the GM is viewed as the parliament in a democratic state; all members of the company meet for issues of interest to the company. It has, for example, the right to make decisions, to monitor the performance of the company, manage the funds of the company and its interests, as well as the interests of shareholders in general (i.e. not the interests of a specific group of shareholders). GM consists of all its shareholders regardless of their number, or the number of shares they own. **??** Thus shareholders have significant rights at a GM, such as attending the meeting, voting on resolutions, objecting to them, asking questions of the board, etc. 8 these may be done in person or by proxy. **??** GMs are held in order to take resolutions that are in the interests of the company, and they can be held on a regular basis or occasionally. Shareholder meetings vary but there are several particular types: the AGM, which takes place shortly after the end of the company's fiscal year (but ordinary GM may be held whenever the need arises); class meetings, which are for certain groups of shareholders; and the EGM, which is arguably the most serious type of meeting, as it is held to consider important and pressing affairs in the life of the company. The law requires a legal quorum for shareholder meetings to be held.

However, most of the legislation gives shareholders the right to request a GM, as this is a precautionary measure against the failure, negligence or stubbornness of the board to invite shareholders to the GMs, more especially if serious developments or events arise, such as the loss of a large part of the company's capital. It is believed that this procedure safeguards minority shareholders from the domination of the controlling shareholders of the company, and establishes a balance between the interests of the minority shareholders and those of the majority shareholders. 10 7 Yvon Dreano, Jeantet Associes. Shareholders' Rights, the European Lawyer, Mar 2011.

Available at<www.europeanlawyer.co.u k/referencebooks_27_519.html> accessed 8 April January 2012. **??** The main shareholder rights under the OECD are: 1. ensuring adequate methods of ownership registration, 2. conveying or transferring shares, participating in the company's profits, 3. obtaining information on a timely basis, 4. participating and voting in general shareholder meetings. OECD Principles of Corporate Governance, OECD, Paris. 2004. available at<www.oecd.org/docum ent/49/0,3343, en_2649_34813_31530865_1_1_1_1,00.html> accessed 11 April January 2012. 9 Saudi Company Law, 1965 Article 83. **??**0 It is assumed that the GM is the place where the company's shareholders (who are its partners) can view its operational and financial accounts, and where the company directors can be questioned and held to account; it is also the place where financial statements are presented, and where the resolutions that the board of directors cannot issue without the consent of shareholders any directors can be questioned and held to account; it is also the place where financial statements are presented, and where the resolutions that the board of directors cannot issue without the consent of shareholders can be passed. These resolutions include the appointment of the auditor, amending the company's statutes, the appointment of the audit committee and other administrative matters.

2 II.

3 General Meeting Procedures

In accordance with SCL1965, the call to convene a GM by the company's board shall be through the publication of a notice in the Official Gazette and in a daily newspaper distributed within the head office of the company at least 25 days prior to the meeting. **??**1 All JSCs must consult with the Ministry of Commerce and Industry (MOCI) regarding the wording of the announcement and the content of the agenda prior to publication. **??**2 In general, the board of directors generally propose or support a call to convene a GM, **??**3 whether requested by directors, shareholders or the auditor. SCL1965 states that when requesting a GM, the application shall be addressed to the company's board; 14 therefore, shareholders are not allowed to initiate the GM by themselves. In any case, SCL1965 does not hold shareholders to account for requesting a GM; it is a matter for the company's board of directors to judge the seriousness of the reasons for the request and respond accordingly. It should be noted here that the SCL1965 does not include explicit provisions for many of the issues that may arise after the submission of the mentioned application. Such issues include: What is the legal situation if the board of directors refuses the application? Is it possible to appeal against the board's refusal? Is the board's rejection contrary to the provisions of the law and its responsibilities? These questions, together with many others, need clear statutory definition to determine the procedure to be followed, thereby filling such legal gaps. For example, Article 131 of SCL1965 states that the auditor has a right to request a GM if he encounters any difficulty in performing his duties and has not received any assistance from the board of directors; here, the auditor is entitled to request a GM. However, the article does 11 Saudi Company Law, 1965 Article 88, "Notice of general meeting

shall be published in the Official Gazette in a daily newspaper distributed in the locality of the head offices of the company, at least twenty five days prior to the date set for the meeting". Article 88 (2) "If all stock of the company is registered (nominative), a notice sent by registered mail at least twenty five days before the date of the meeting shall suffice." not mention the authorized entity to which the auditor must apply to request the meeting. ??5 The fact remains that neither a shareholder nor the auditor is entitled to call for a GM by themselves in any way or make a request to the court.

On the other hand, when requesting a GM, the SCL1965 requires the request be addressed to the board of directors, which is the authorized body; thus, no other entity, such as the MOCI, the Saudi Capital Market Authority (CMA) or the courts can be approached to convene a GM. Therefore, it is the duty of Saudi legislators to regulate this matter in order to protect minority shareholders from potential abuse by the board of directors, should those minority shareholders request convening a GM, particularly where the board of directors is composed of the majority and holds the company's capital.

From the above, this study suggests expanding the opportunity of the right to request a GM, and that the SCL1965 should provide clear guidelines regarding requesting a GM by a neutral body in order that the GM can proceed in spite of the board of directors refusal. Moreover, currently, there are no clear provisions in the current SCL1965 nor in the CGRS 16 that explain when the board has to call the GM if requested by the shareholders or the auditor; consequently, allowing a GM remains a matter of assessment by the board directors, as they have the right to approve or reject an application without giving a reason at present. This is certainly a major statutory omission that requires urgent legislature in Saudi. ??7 According to the CA 2006 UK, when the board of directors receives a request for a GM from shareholders representing at least 5% of the capital, it is the board's duty to call the meeting. ??8 Any request should clarify the subject matter to be discussed at the meeting, and should provide the text on which a decision is to be taken at the meeting. ??9 Normally, a resolution may be passed at a meeting, but in some cases it may not; for example, in ??5 Saudi Company Law, 1965. Article 131 "3-if the auditor encounters any difficulty in this respect, he shall state that fact in a report to be submitted to the board of directors, if the board fail to facilitate his task, the auditors must call a regular general meeting to look into the matter". ??6 Corporate Governance Regulation of Saudi Arabia. ??7 In this respect, SCL1965 may adopt the Article 125 of Qatar Commercial Company Law, which regulated this more specifically; Article 125 Considering the provisions of the articles (88) and (124) of this Law, the Ministry will invite for the meeting of the general assembly in the following cases: If thirty days pass on the time fixed in the article (122) of this Law, without having invited the general assembly to hold. If seen at any time that there are violations to the Law or the statute of the Company or any great mistake in its management. In this case all the procedures prescribed for holding the meeting of the general assemble will be followed and the company will bear the expenses." instances when it is contrary to the company's constitution or other articles, or if it is deemed defamatory, or is considered to be spurious in content. ??0 Furthermore, the request should be documented and authenticated by the person/s that made it, 21 and, it may be submitted in either an electronic or hard form. Calls for a GM shall be made by the directors within 21 days of the date they receive the request; and the GM must be held within a maximum of 28 days from the date of the notice. 22 Moreover, if the directors have to call a meeting according to the Act, then shareholders have the right to call a GM at company's expense, but if not, then the members who requested the meeting may call a GM. 23 A meeting may be called by the court upon an order from those who have the right to attend and vote at the meeting, whether they be directors or shareholders. 24 In Re El Sombrero Ltd, the court held: "Examine the circumstances of the particular case and answer the question whether, as a practical matter, the desired meeting of the company can be conducted, there being no doubt, of course, that it can be convened and held". ??5 Article 88 of the SCL1965 26 stipulates that the notice to attend the meetings must include an agenda, essentially a statement that includes the issues to be discussed by the shareholders at the meeting, as well as notification of the place and time of the meeting. In general, the board prepares the agenda, s that is the core of its duty; however, the shareholders who have the right to request a GM, also have the right to include issues in their requested meeting, as well as the auditor's right to call a meeting to discuss certain issues.

In general, topics that are not listed on the agenda (which is drawn up prior to the GM) are not allowed in the meeting in order to focus on the reasons for calling the meeting. Therefore, other issues cannot be raised to the board of directors or the auditor during the meeting, as they would not be adequately prepared to answer and because the shareholders may be distracted from the real issues on the agenda and the reason for the meeting.

However, shareholders do have the right to deliberate on any serious issue that may arise during the meeting, or on matters that deviate from the main topics on the agenda. For example, while considering the report of the board of directors, the existence of serious faults made by an officer of the company, is discovered, the GM may take a decision to isolate him even if the issue of isolation was not listed in the agenda. Although no article in the SCL1965 refers to this point; the GM has the right to decide on a course of action, depending on the shareholders attending the meeting; whereas the SCGRs stipulates that the rights of shareholders that represent 5% or more of the company's capital are allowed to add one or more subjects to the meeting's agenda during its preparation but not during the actual meeting. 27 However, it is not forbidden to raise an issue during the meeting as long as it is related to the agenda, on condition that it receives the approval of a given number of the shareholders attending the meeting and that own 5% of the capital 28 , (or a group of shareholders containing not less than 100 people).

In addition, essential information shall be included in the notice, such as the date, time, and place of the GM, as well as including the subject matter of the business to be considered, in accordance with the articles of the company. ??9 Furthermore, any notice shall clearly state that it is possible for company members to appoint a proxy to attend the meeting and to exercise some or all of their rights, such as speaking, asking questions and voting in the resolutions. ??0 Moreover, when drawing up a notice for an AGM, it must clearly state that the meeting is an AGM. ??1 In accordance with the CA 2006, shareholders who represent at least 5% of the total voting rights, or at least 100 members who hold shares on which an average sum of at least £100 per shareholder has been paid may require the company to give notice, of a resolution to be approved at a meeting, to shareholders who have the right to receive notice of a GM. The written notice can contain a maximum of 1000 words concerning any relevant matter to be considered at that meeting; or any other subject matter shall be argued at that meeting; 32 otherwise, the shareholder who requested the meeting must cover the expenses upon the request of the company and deposit the payment before the circulation the notice. ??3 In fact, the notice of the meeting should contain the following information: the website address, where anyone can find the necessary information about the meeting; a text stating ??7 Corporate Governance Regulations of Saudi Arabia. Articles 5 states, "f) In preparing the General Assembly's agenda, the Board of Directors shall take into consideration matters shareholders require to be listed in that agenda; shareholders holding not less than 5% of the company's shares are entitled to add one or more items to the agenda upon its preparation". ??8 that registered members only are entitled to vote at the meeting, the time of the meeting; information about the forms that can be used in case of appointing a proxy; a statement about the facility the company offers for members to vote in advance or by electronic means; and to mention the right of members to ask questions. ??4 In addition, there is no article in SCL1965 that explains who should chair the GM, it is subject to the company's articles that identify the persons authorized to do so; 35 therefore, the chairmanship of the meeting may be taken by chairman of the board of directors, his deputy, or whoever is assigned by the board of directors; 36 in the event of the absence of those mentioned above, one of the shareholders will be appointed to act as chairman of the meeting. The function of the chairman is to conduct the meeting properly and fairly in accordance with the provisions of CL, the company's articles and in accordance with the interests of the company and its shareholders. ??7 Furthermore, SCL1965 does not require the presence of the directors at the GM with the necessary quorum needed as a condition for convening its meeting; however, the CL in certain countries does require the presence of directors at meetings, or at least some of them, as they manage the company, and are required to answer the shareholders' questions or those of other relevant persons such as the auditor or the representative of the MOCI. Article 60 of the Egyptian Company Act is a notable example that SCL1965 can benefit from; it states that the company's directors should be present at GMs in a number not less than the quorum needed to convene the board meeting. However, non-attendance at meetings for a valid reason is acceptable; and in any case, the meeting is not considered void if it is attended by at least three members of the board, on condition that the head of the board of directors, his deputy, or one of the members 34 See<www.bis.gov.uk/policies/business-law/company-and-partnersh ip-law/company-law/company-law-faqs/shareholder-rights> accessed 10 May January 2010. ??5 Article 22 of the Articles of Association OF Etihad Etisalat Companies stated that "From among its members, the Board of Directors shall appoint a Chairman and a Managing Director. One member may hold both Chairman and Managing Director positions. The Chairman shall be nominated by and selected from amongst the Board Members other than Etisalat Board Members. The functions and responsibilities of the Chairman shall be: (a) to preside over meetings of the Board of Directors and the shareholders General Meetings and to represent the Company before all government authorities and the judiciary". And in the UK, S.319 CA 2006 provides that; Chairman of GM "(1) a member may be elected to be the chairman of a general meeting by a resolution of the company passed at the meeting. (2) Subsection (1) is subject to any provision of the company's articles that states that who may or may not be chairman". S.328 (1) of CA 2006 provides that the proxy can be the chairman of a GM by resolution passed at the meeting. ??6 assigned to management, should attend the meeting, assuming all other conditions required by law have been met. If the quorum of the meeting of shareholders is legally correct, but the quorum of board of directors is not, in this case, GMs may consider punishing those directors who did not attend without an acceptable excuse, with a fine; and in the case of frequent absences, GMs may consider isolating them and electing others. ??8 However, arguably SCL1965 does not indicate the procedures to be followed in the matter of adjourning a GM or who has the right to decide to adjourn the meeting. Therefore, this could lead to a situation in which the company's board carries the resolution, thereby preventing absent shareholders from taking part in making decisions, which will result in weakening the position of the minority shareholders in the company.

In the UK, this point is very well detailed. The chairman must adjourn the meeting when directed to do so by the meeting, or when the quorum does not collect within half an hour before the start of the meeting, or if at any time during a meeting a quorum ceases to be present. ??9 In addition, there are certain cases in which the chairman could postpone the meeting even when a quorum is available: members at the meeting accepting a postponement, or when the chairman decides to postpone the meeting due to some threat, e.g. should an unauthorized person attempt to attending; these measure are merely designed to ensure that the activities of the meeting proceed smoothly and properly. ??0 The decision to postpone the meeting is invalid if the chairman does not take it in a bona fide manner, or if he/she takes into account irrelevant factors, or ignores relevant factors. Such a decision should be acceptable to all parties. ??1 In Byng v London Life Association Ltd, the

Court of Appeal found that overcrowding is no justification for the chairman adjourning the time and place of the meeting. ??2 In any case, the company must ??8 Also the Jordan Company Law No. 22 give at least 7 clear days' notice if the adjourned meeting is to take place more than 14 days after it was adjourned; it must do so to the same attending shareholders and with the same information. ??3 GM is prevented from making amendments to any company's articles that may deprive the shareholder from his basic rights as a partner in the company, such as to prevent the shareholder from attending the GMs, or to participate in voting on resolutions. Also, a GM is not entitled to deprive the shareholder from his share in dividends, to reduce them, or to prevent shareholders from seeing the books or other company documents. On the other hand, GMs cannot move the centre of the company from KSA to any foreign state; this is in order to protect the shareholders' money. In addition, GMs cannot prevent any shareholder from filing a lawsuit against the directors of board, or any one of its members. Consequently, any resolution issued that conflicts with the above is considered void under the law, and thus unenforceable against third parties.

Attending a GM is a right for all shareholders, without exception, and this is clearly stated in SCL1965: every shareholder who has 20 shares or more in a company has the right to attend and participate in the meeting and vote on resolutions. ??4 If the company's articles include anything contrary to this, then it is considered void; 45 however, it is the right of the company's articles to state a rate of less than 20 shares (but not more than twenty shares). Also, everyone who has an interest has the right to attend meetings, such as the representative of the MOCI. ??6 It is believed that stipulating a condition prescribing a certain quorum needed to attend GMs does not mean compromising the basic rights of minority shareholders, the most important of which is the right to attend and vote. Therefore, a shareholder who does not have 20 shares can associate with other shareholders in order to reach the required quorum for a GM. ??7 However, this view is impractical (indeed, almost impossible) because shareholders usually do not know each other beforehand, and there is no independent authority or association for taking care of shareholders' rights in listed companies (as there is in some countries). Thus, demanding such a quorum to attend is a prejudicial to the rights of minority shareholders, implicitly keeping them away from active participation within GMs. ??3 and the representative of the MOCI; the invitation must include the agenda. ??8 The representative of the MOCI has the right to decide whether or not to attend the meeting; the company law of some neighbouring countries, such as Jordan, state that a GM is invalid if it is not attended by a representative of the MOCI, in order to ensure the functioning of the GM procedures in accordance with the law and the company's bylaws. ??9 In the UK, resolutions must be passed at shareholder's meetings. ??0 The AGM must be held in public companies every six months starting from its reference date; this is regardless of any meetings held during that period, and another meeting will call the GM. ??1 According to CA 2006, it is necessary that the notice calling an AGM be given at least 21 days beforehand or at least 14 days beforehand if issued in another GM. ??2 In can happen that the period of notice differs between what is stated in the Act and what is stipulated in the company's articles, 53 shorter or longer. This is if the majority of shareholders (at least 95 per cent) who are entitled to attend and vote at the meeting agree; 54 therefore, the GM can be convened after 14 days if the following conditions are met: 55 the meeting is not an AGM, the shareholders are enabled by the company to vote by electronic means (accessible to all members who have shares and who carry the right to vote at a GM), the period of notice has been reduced to not less than 14 days, or a certain decision has been taken at the previous AGM (or at some GM held since that AGM).

Certain actions are required under SCL1965: at the end of the meeting, the minutes shall be written down, containing the names of the shareholders (present or represented), the number of shares in possession (in person or agency), the number of decisions taken, the number of votes accepting or rejecting them, and a compendium of the discussions at the meeting as well as any matters asked for by ??8 Saudi Company Law, 1965. Article 88 49 Jordan Company Law, No. 22 of 1997, Article (182), "The Board of Directors shall invite the Controller, Securities Commission and the Company auditors to the meeting of the General Assembly at least fifteen days prior to the date set for the meeting's convention. The auditor shall attend or delegate a person to represent him, failing which he shall be held responsible. The invitation shall be accompanied with the meeting's agenda and all the data and enclosures whose attachment to the invitation sent to shareholders have been stipulated. Any meeting of the General Assembly not attended by the Controller, or any of the Directorate employees delegated by him in writing shall be considered null and void". shareholders. ??6 The minutes shall be written down on a regular basis after each meeting in a special record, signed by the chairman of the meeting, the secretary, and the collector of votes. ??7 In the UK, every JSC is requested to keep minutes of GMs 58 as well as minutes of the proceedings of directors' meetings. ??9 The minutes of GM proceedings, if purporting to be signed by the chairman of that GM or the next GM, are evidence of the proceedings at the meeting. 60 Such minutes must be kept for 10 years at least, and be available for inspection by any member of the company free of charge; they also have the right to order a copy for a nominal fee (otherwise, the company may be punished). ??1 Such provisions do not exist in SCL1965, and thus the minority shareholders may not be able to acquire a copy of the minutes from GMs or directors' meeting, as this is not regulated under the CL.

The company's board has the right to call a GM to convene whenever the need arises; it has the discretion to request to convene meeting but there are some cases in which it becomes necessary under the law to call shareholder meeting, and these cases are: requires reconsideration; the board of directors may not respond, and may even reject the call for a GM. 4. If the number of the members of the board of directors falls below the number stated by law. 5. If requested by a court after an inspection on the company (instigated by shareholders

representing 5% of the capital of the company) unveils violations attributed to a director or the auditor. ??5 As provided in SCL1965, a GM is not considered legal unless attended by shareholders representing at least 50% of the capital, unless the company's articles provides for a higher percentage; if there was no quorum at the first meeting, the call shall be made for a second meeting to be held within 30 days subsequent to the first meeting. The announcement for this shall be in the same way provided for in SCL1965, and the second meeting will be legal whatever the number of shares represented, and the resolutions of that GM are passed by an absolute majority of the shares represented at the meeting, unless the company's articles provides a higher percentage. ??6 In case of any board default vis-à-vis calling a meeting, the board will be found acting contrary to the law, and will then be subject to the penalties provided in SCL1965; 67 and as example, the commercial court issued a judicial resolution against one JSC that did not call for the AGM within six months following the end of the fiscal year, and the court imposed a fine on the board of directors to be paid to the MOCI. ??8 In order to fill the gaps in the statutory provisions that regulate the convening of a GM, it is suggested that the CMA be given the right to call meeting to bring the company to account 69 if the board of directors have failed to call a GM within 15 days of any request made by shareholders who represent at least 5% of company' capital, or made by the auditors. In addition, the CMA should have the right to call a GM if such a meeting is not convened within 30 days of the date set. Therefore, if the number of the board of directors falls below the number prescribed in the law and if it does not call for a GM to consider this issue, and if the CMA thinks that at any time the company has acted contrary to the provisions of the law or the company's bylaws, or if the board has failed to protect the company and its interests, then a GM can be called.1. If

It is important to highlight one essential point, which is that the board of directors is obliged to call an EGM if the company losses reach three-quarters of its capital. ??0 This measure is logical but needs modification; ??5 ??8 The Board of Grievances -Case number 1044/256. On 8 July 2002 ??9 These suggestions adopted from the Company Law of the Qatar state, No. (5) Of 2002, Article 125. ??0 The Saudi Company Law, No.1965. Article 148 "1-if the losses of a corporation total three quarters of its capital, the directors must call an even if we assume that the company has lost half of its capital, according to the provision, there is no need to call an EGM. It is accordingly suggested that the Saudi legislature adopt the phrase 'significant losses' rather than 'three-quarters' of the capital because losing such a proportion of the capital is considered serious and in need to being dealt with urgently; such losses touch everyone but the greatest impact will be on the minority shareholders.

In this respect, under CA 2006 UK, the directors must call an EGM if the company faces a serious loss in capital; thus, if the net assets of the company fall to half (or less) of its called-up share capital, the meeting should be convened not later than 28 days from the earliest day on which that fact was known to a director, and not later than 56 days from that day. Such a meeting shall consider the actions that should be taken to deal with the situation; the directors will be liable to a penalty if they fail to convene this meeting, as required by CA 2006. ??1 III.

4 Absent Shareholders from gms

Shareholder meetings suffer from the phenomenon of absent shareholders. Many of them, especially minority shareholders, do not care to attend meetings, and this absence may lead to shareholders giving up their rights at the GM; also, it can allow the board of directors to dominate the company and become the sovereign and supreme power within the company.

Thus, the role of the shareholder in the company may become different in practice to what is stated in the law. It has been argued that GMs have lost their core task and have become a rump parliament for shareholders, wherein a small group of shareholders, whose shares may not exceed 40% the capital, controls the greater part of the capital of the company. ??2 In fact, various reasons contribute to the absence of shareholders at GMs; some are related to the shareholders themselves and the others are due to the laws governing these meetings. It could be said that the first reason for the absence of shareholders at a GM is the large number of shareholders in the company; the shares may have been offered for public subscription, and not limited to a certain number of shareholders in a certain region of the State. Many listed companies, especially large ones, have thousands of shareholders, and it is difficult to gather them in one place. Many of them may not care to attend, particularly those who own extraordinary general meeting to consider whether the company shall continue(to operate) or be dissolved before the expiry of the term specified in its bylaws" ??1 only a small portion, ??3 and think that they will not represent an effective voice in the presence of shareholders having large a stake in the company's capital.

Most shareholders are distributed widely across the country, living far from the main centre of the company 74 but most JSCs are located in major cities. ??5 It is therefore not logical to expect all shareholders to travel sometimes great distances to attend a meeting that may merely be adjourned for lack of quorum; this may also result in costs higher than the amounts earned from the profit generated. It must be remembered that attending a GM can be costly and time consuming for some shareholders. ??6 Another reason is lack of knowledge on the part of some of shareholders in relation to their rights within the company, particularly their rights at GMs, and too many shareholders believe that GMs deliver resolutions that have already been agreed upon, 77 serving only the interests of the controlling shareholders in the company. ??8 A simple example explains the reluctance of shareholders to attend GMs; that of Herfy Co. ??9 In April 2012, the company held its AGM to discuss a range of topics; firstly, the strange thing to notice is to the use of the phrase 'ratification and approval' of the resolution instead of 'discussion'; the latter indicates an exchange of views, with shareholders making suggestions

on the issues in the agenda. On the other hand, the former calls for the meeting to agree to the company renting land and two residential buildings, 80 to agree to the company renting land and shops, ??1 and to agree to the ??3 ??0 It is worth an annual rental rate of 580 thousand SAR, owned by Mr. Al-Sayed, who has more 20% of the capital, occupying the post of CEO and member of the board of directors. ??1 An annual rental value of 920 thousand SAR, the land and stores company leasing a fully furnished building from the Qitaf company. ??2 The last statement in the notice came as follows: the quorum for the meeting will be satisfied by shareholders representing 50% of the company's capital attending the meeting, which can be met through only two of the owners attending (who already agree); this sends a clear message to shareholders: the quorum is already reached whether you come or not, and therefore your attendance is only to approve the agenda. ??3 The example above explains in a simple way why minority shareholders often do not care to attend GMs. Most of them have the conviction that the GM resolutions are ready for approval and do not need any discussion; 84 consequently, any opposition to the interests of the controlling shareholders will be unsuccessful.

The general principle here is: whoever has the largest number of shares has the greatest influence within the company. Often, minority shareholders in the company have a limited number of shares, and so they do not care deeply about the company's future; this is contrary to those who own more shares and are keen to follow the company on an ongoing basis, in order to protect the money they invested in the company.

In light of the above, it is believed that many shareholders do not really attend to their role as members, and do not attend GMs regularly, caring only about the annual dividends of the shares or any rise in their market value in order to sell them. Many do not even care who runs the affairs of the company. Unfortunately, at the end of each meeting, minority investors, who may number in the tens of thousands, are shocked to find that one person or a few persons owning a large proportion of the shares support the proposal of the board of directors, rejecting all discussion and destroying the aspirations of all shareholders. This can cool the relationship between the minority shareholders and the board of directors, resulting in the minority shareholders selling their shares and investing in another company.

owned by the son of CEO, who occupies the post of general manager of investment management and member of the board of directors as well. ??2 with an annual rental value of 400 thousand SAR, which is owned by the CEO and his son; the approval of the insurance contract on the property of the company with the Arabian Shield Insurance Co. of SR 1.1 million SAR, one of its members of board of directors is Mr. Khudairi, who is basically the head of the board of directors in Herfy Company. ??3 It is assumed that the board of directors holds shareholder meetings to raise and discuss issues related to the affairs of the company, exchange views, make suggestions, listen to their views as well as to determine the company's position and its future challenges. Therefore, effective shareholder participation would serve to integrate and strengthen the relationship between the company management and its owners, and all shareholder parties. ??4 Another reason behind the absence of shareholders at GMs is their not knowing the date of the meeting, despite its publication in newspapers and on websites. However, companies could use modern technology such as e-mail and mobile phone text messages to notify as many shareholders as possible; this would not cost the company much. Indeed, it would be more practical nowadays to use modern technology to send the invitations, in particular via email, and especially for individual investors; this becomes necessary if the meeting is to be convened in the very near future. ??5 It is believed that distant shareholders could also make use of the company's website, where they should be able to find all the information they need. ??6 A yet further reason for the absence of shareholders is when a GM is held at an inconvenient time, such as on weekdays during business hours, which makes it difficult for shareholders to attend because most of them are working. ??7 Most listed companies hold their AGM in January; the fiscal year usually starts from the beginning of January and ends at the end of December.

JSC meetings are therefore often held on similar dates or even on the same days, and so the shareholders who invest their money in more than one company may not be able to follow all the meetings of all the companies that they have shares in, or they may prefer to attend the meeting of one company over another.

Lack of technical, administrative or legal expertise on the part of shareholders represents another reason for their absence; many of them do not know how to analyse the auditor's report, or the report of the board of directors, and most of them have little experience in how to monitor the actions of the company's board, which requires a certain level of expertise. ??8 Therefore, they feel unable to oppose the board of directors, or protest against a particular issue. ??5 For example, most shareholders are not able to distinguish whether a decision is legal or void. It has been found that many shareholders suffer from lack of investment culture, which is the responsibility of government agencies, universities and JSCs; they should contribute to raising the level of investment awareness among shareholders.

Moreover, there is sometimes a lack of seriousness on the part of the company's board in terms of the participation of shareholders at GMs. It is argued that the law has granted shareholders the right to ask questions of the directors or auditor, but in fact they are not obliged to answer all questions; indeed, the board can refuse to answer questions or to discuss certain points. It can be said that the reason behind refusing to answer a question may be: to safeguard commercial confidentiality; the time available is too short and it is not possible to explain everything; the response is made diplomatically or very briefly, and thus does not answer the question adequately; or they merely direct the shareholder to refer to the company reports.

Consequently, the easiest way to evade a question is to assert that the required information is commercially sensitive and therefore confidential and cannot be disclosed. This will result in the shareholders being reluctant

to attend meetings. However, the final decision as to whether or not to answer a shareholder's question belongs to the chairman of the meeting, who has the final decision in this respect and his decision should be in good faith and in the best interests of the company. Nonetheless, SCL1965 has been criticized for not explaining when the information is harmful to the interests of the company; the auditor may reasonably argue not to answer the questions of shareholders because the disclosure of certain information would harm the company. However, this point opens the door to the board of directors and the auditor to evade answering the shareholders' questions. 89 89 According to OECD principles, all shareholders should have the opportunity to discuss issues and to put questions to the directors and auditors at the GM; however, such rights should be subjected to reasonable limitations. In the UK, this issue is clearer than in the Saudi system; the board must answer any question relating to the business being dealt with at the meeting and put by the shareholders who attend the GM. However, the company may refuse to answer a question if to do so would interfere unduly with the preparation or proceedings of the meeting, or involve the disclosure of confidential information, or if the answer has already been given on a website (in the form of an answer to a question), or if it is undesirable in the interests of the company or the good order of the meeting that the question be answered. See: In brief, the CMA has stated the most common mistakes made by listed companies in this regard, 90 namely: the delay of some companies in calling for a GM (they sometimes call for meeting to be held in less than 25 days); the lack of adequate information about the meeting's agenda, which could affect the decisions of the shareholders,; 91 not choosing a suitable time or place so that the shareholders can attend and participate at their convenience; not discussing all the items before the shareholders; and discussing only what is stated on the ballot papers.

Moreover, the chairman may request an adjournment of any discussion of the agenda until after the ballot, which means that shareholders may be making decisions based on incomplete or incorrect information because they have not been allowed to discuss each item on the agenda apart before they actually vote. Thus, the agendas are not reviewed sufficiently or adequately; the participation of members of the company's board in voting on an item discharges them from liability for the period of their management; not all items on the agenda are discussed; some companies demand the chartered accountant answer the questions of shareholders that are not related to the agenda.

IV.

5 Invalidity the Resolutions at Gms

It is worth mentioning that subscribing to or owning shares means that the shareholder accepts the company's articles, and commits to the resolutions issued by the GMs, in accordance with the provisions of CL and the articles of association, whether he is present or absent, and whether he agrees to or rejects these resolutions. 92 SCL1965 states that GM resolutions (issued within the limits set by law or by the company's articles) are obligatory for the board as well as the shareholders, regardless of whether or not they attend the meeting or agree with the decision. **??**3 Article 97 of SCL1965 states, "1-Without prejudice to the rights of any bone fide third party, all resolutions adopted by the shareholders' meeting contrary to the provisions of these Regulations or of the 90 Shareholders Guide in General Meeting in Joint Stock companies on the Saudi Capital Market. 2011. Available at<www.bakheetgro up.com/pdf/Ebooks/Book_14.pdf> accessed 5 May 2012. **??**1 Corporate Governance Regulations of Saudi Arabia. Article 5 "h) Matters presented to the General Assembly shall be accompanied by sufficient information to enable shareholders to make decisions". **??**2 Saudi Company Law, 1965. Article 96 **??**3 Ibid, However, SCL1965 doesn't show clearly when the resolutions of GM are invalid. However, it can be said that the resolutions issued by a non-competent authority is void; if a resolution is issued by the GM which is the jurisdiction of the EGM, it is considered null by law. Also, the resolution is void if it was suspected of arbitrary change by the controlling shareholders in the company, and the resolution was issued for their own interests, or to issue a decision without a quorum required for meeting. company's bylaws shall be considered null and void. 2-The GAfC and any shareholder who has recorded his name in objection to the resolution in the minutes of the meeting or who was absent from the meeting for any acceptable reason, may request to invalidate a resolution. 3-Nevertheless, an action of invalidation (of a resolution) shall be barred after the lapse of one year from the date of such resolution." SCL1965 in Article 97 accords each shareholder in the company the right to request an invalidation of a resolutions if it is contrary to the provisions of the law or the company's bylaws, provided that the shareholder attends the meeting when the resolution was issued and the objection is recorded in the minutes of the meeting; however, if he was absent from the meeting, he must have an acceptable excuse.

It is argued that restricting the right to object to this condition represents a significant prejudice to minority shareholders. If a GM resolutions has been issued through abuse of power, or is done craftily or by cheating, or is conducted through controlling the shareholders, the shareholder is not entitled to object unless he attended the meeting and objected to it; if he was absent from the meeting, he must bring an acceptable excuse. However, there is no explanation in the law of what constitutes an acceptable excuse. It can therefore be said that it is unreasonable to prevent the shareholder from objecting on the grounds that he agreed to the resolution because he may have agreed under some form of duress, or they were absent from the meeting because he may have a reasonable excuse; this can be regarded as a violation of the rights of minority shareholders, allowing the controlling shareholders to act in accordance with their interests.

The proof that a GM resolution is invalid shall be made by the aggrieved party in person; in practice, proving such a case is no easy task for the shareholder, and this is due to a number of reasons; 94 firstly, the majority

shareholders can defend themselves by arguing that they have exercised the authority conferred upon them by law or the company's articles. Secondly, it is difficult to prove any deviation on the part of the majority, especially if the resolution in question satisfies the conditions of all formal and substantive terms; in this case, the majority can defend themselves by arguing that they are authorized to determine the suitability of the resolution as being in the interests of the company. Finally, not many shareholders have the administrative, legal or technical expertise to determine whether the decision is void or legal. A court judgment may regard the resolution in question as being taken not for the benefit of all shareholders and therefore invalid, but any ensuing lawsuit to declare that resolution null and void cannot be considered after one year has elapsed following the date of issuance of that resolution. ??6 Any challenge to such a resolution does not halt its implementation unless the courts decide otherwise; however, such a procedure is not provided under SCL1965. ??7 This problem can be solved by granting the shareholders holding 15% of company's capital the right to vote against the resolution and to prove that it is unfair and against their interests; this can be done through applying to the court within 30 days of the issue of the resolution. ??8 However, the court has the power to uphold, modify, overrule or defer the implementation of the resolution. The settlement by the court may be achieved by buying the shares of the objectors, or through any other possible manner.

V.

6 Shareholders' Right to Attend

the Gm in Person or by Proxy

Each shareholder is entitled to attend a GM in person or by proxy, and it is a fundamental right for the shareholder, from which he shall not be deprived. ??9 Any action that deprives the shareholder from attending is considered void by virtue of law because it is one of the paramount rights inherent in the ownership of a share. 100 This is in order to protect minority shareholders, not assist them in controlling the company's management and to thwart any domination of the company by majority shareholders.

SCL1965 has regulated this right, enabling each shareholder who owns 20 shares or more to attend a GM; the company is not permitted to require a higher rate. ??01 This restriction means that if the number of shareholders is large, the attendance procedures must be well organized. ??02 Minority shareholders are allowed ??6 Saudi Company Law, 1965. Article 97 ??7 The Jordan Companies Law No. 22 of 1997. Article (183) "B-The Court shall have jurisdiction to look into and settle any case that may be presented for the purpose of contesting the legality of any of the meetings of the General Assembly, or contesting the decisions issued at any one of these meetings. Such contesting shall not halt the implementation of any decision of the General Assembly unless the Court decides otherwise. Such a case shall not be entertained after the lapse of three months from the date of the meeting" ??8 to unite in order to provide a quorum and to elect a representative for the meeting. Should minority shareholders not be allowed to do this, they would be deprived of an important right; it is the duty of the Saudi legislature to allow each shareholder to attend a GM, regardless of the number of shares he has. ??03 This right includes all shareholders, regardless of the type of shares, except for the owners of preferred shares if they have no right to vote. ??04 This right also includes shareholders who have not paid the full value of their shares; it is not required for a person in becoming a shareholder in the company to pay the full value of the share. The company may not provide in its articles any limitation that deprives the shareholder of certain rights related to ownership, such not being given access to profits or not being allowed to attend and vote at GMs until completing the full value of the share. ??05 The natural person is the representative of the artificial person that owns a share in the company, even if the natural person is not a shareholder in the company. In addition, a guardian or custodian may attend on behalf of an incapacitated or legally incompetent person because attending GMs is considered a form of business administration of their client's money; this is included in their power as a guardian. ??06 If the shares are owned by more than one person, they must appoint a representative. ??07 It should be noted that if the shareholder's shares are mortgaged, then the right of attendance is for the debtor mortgagee, i.e. the shareholder, not the creditor mortgager; this is because the creditor here only possesses the share, and thus, the creditor mortgager may not benefit from the mortgaged shares at no charge to himself without the permission of the mortgager. If it is agreed that it is the right of the creditor to possess all the rights related to the share, such as the right to attend a GM, then he shall have all the rights that were nominated for the debtor. ??08 On the other hand, SCL1965 does not require the shareholder to attend a GM by himself; he has the right to delegate someone else to attend the GM when unable to attend for some reason, but only under certain conditions; Article 83 of SCL1965 stipulates, "1-The 103 this is provided for in many modern legislations, According to the companies' laws of Qatar (Art. bylaws of the company shall specify the (class of) shareholders entitled to attend general meetings. Nevertheless, every shareholder who holds twenty shares shall have the right to attend, even if the bylaws of the company provide otherwise. 2-A shareholders may, in writing, give proxy to another shareholder other than a director to attend the general meeting on his behalf."

The conditions for power of proxy must first be written and formally documented; the company often publishes a form for power of attorney within the agenda, requesting ratification from the Chamber of Commerce, a bank, the employer of the shareholder, or the courts. Secondly, the proxy should be a shareholder in the company in order to safeguard the secrets of the company, and not to reveal them to others. This condition does not exist in the legislation of many countries, giving the shareholder the right to authorize non-shareholders. ??09 Thirdly, the authorized proxy should not be a member of the board; the shareholders are those who monitor the work of

board. Also, in order to prevent fraud when voting on the resolutions of the meeting, a member of board may be a shareholder in the company, and might purchase the votes of shareholders in order to dominate the decisions of the GM and to vote for his interests. The SCGRs have added a fourth condition: that the agent shall not be an employee in the company. **??**10 Notwithstanding the significance of this matter, the above provision is the only one that refers to the question of proxy regarding the attendance of the shareholders at GMs. In the provisions of proxy vis-à-vis attendance under the current SCL1965, there are deficiencies and comprehensive regulation is needed for minority shareholders to realize the benefits to be gained from participating in GMs, and from exercising their rights guaranteed to them by law. For example, SCL1965 and SCGRs do not specify the number of shares represented by the shareholder as being in person or in proxy for others, as found in some legislations (such as in Syrian company law), which determine the ratio of the number of votes represented by the shareholder in person or in proxy on behalf of a shareholder to 5% of the capital of the company. **??**11 However, the aim of this measure is to maintain a balance between the votes of all the shareholders, and not to limit the shares to a few people who may control 109 S. 324 (1) of the UK CA 2006 states that "A member of a company is entitled to appoint another person as his proxy to exercise all or any of his rights to attend and to speak and vote at a meeting of the company". **??**10 Corporate Governance Regulations of Saudi Arabia. Article 6 "c) A shareholder may, in writing, appoint any other shareholder who is not a board member and who is not an employee of the company to attend the General Assembly on his behalf". 111 Syrian company Law. No. 29. 2011. Article 178(2). the meeting. Also, other issues may arise: How long is the proxy? Is the power of attorney valid for all GMs or for one meeting only? Does it include all kinds of meetings or only certain types? Also, can the company assign a certain shareholder to receive the agencies or not?

In this vein, CA 2006 contains more details regarding such issues. **??**12 The shareholders who have the right to attend the GM and vote can appoint another person to attend the meeting if they do not wish to attend in person, and this proxy may be a shareholder or not. In fact, some or all of the rights of the shareholder may be exercised by the proxy, such as attending, discussing and voting at a GM. 113 The shareholder is entitled to appoint one proxy (or more) for a meeting providing he holds different shares, 114 and each proxy has a vote. 115 Appointing proxies by shareholders can be processed in writing or in a way that the company approves. 116 In the proxy form, it is usually mentioned that the chairman of the meeting acts as a proxy for the shareholders. 117 Voting by proxies is done according to certain regulations and procedures as stated by the appointing shareholder. If a proxy does not vote in the manner stated in the instructions, this shall not result in the meeting being invalidated; 118 legally, the situation would be that the proxy is subject to the common law as an agent. 119 The notice calling a GM must stipulate clearly that the shareholders have right to appoint proxies. However, the validity of the GM or of anything done at the GM shall not be affected if the company fails to do this; this only can be considered as a fault that may lead to a fine for the company official involved. 120 In the company's articles, a provision that requires the instrument appointing a proxy to be deposited two days prior to the day of the determined or postponed meeting is considered void provision. 121 It is stated clearly in S. 326 that in any invitation made by the company in relation to the appointment of specified person(s), all shareholders of the company, who have the right to vote, should receive a copy of the invitation; otherwise, the company becomes subject to a fine. This procedure guarantees the protection for shareholders against the directors who seek avocation in the voting. **??**22 Any action made by proxies at a GM is considered valid on condition that the proxy is not given a notice of termination of his authority before starting the meeting. **??**23 VI.

7 Shareholder's Right to Discuss the Auditor's Report

Auditors are usually recommended by the board, which determines their remuneration as well; in fact, the auditor is appointed indirectly through the board, based on the recommendation of the audit committee. **??**25 Thus, this contributes to maintaining a close relationship between the auditors and the board of directors, rather than as it is supposed to be, i.e. between the shareholders and the auditors; as a result, the auditor is not fully independent in his work, rather there will be interference by the company's board **??**22 **??**25 The Audit Committee is a committee derived from the Board of Directors, and its members are appointed from the board members and staff of the company, and may be independent persons from outside the company. This committee is mandatory for all joint stock companies, based on the decision of the Minister of Commerce No. 903, dated 14 January 1994. The responsibilities of the Audit Committee are summarized in reviewing the financial statements of the company, reviewing all accounting policies that the Company applies, verifying the internal control system of the company, preparing the recommendations for the selection of the auditor and determining his fees, emphasizing the independence of the auditor, working to solve the problems that may arise between the company's management and the auditor, preparing recommendations for the appointment of the head of the internal audit department and his assistants, and assessing the efficiency of management performance and effectiveness, to make sure that the management of the company is committed to implementing the rules of corporate governance. But, practically, this committee is strongly subject to the influence and domination of the board of directors.

because of their power in terms of appointment reappointment or dismissal. **??**26 This normally results in a week level of control on the part of the auditor, as an agent of the shareholders, over the work carried out by the company's board.

It is thus believed that the auditor's work is subject to the board and does not fully represent independent work. 127 A simple example of the seriousness of the control of directors over auditors is that the auditor could

declare to the shareholders false or incomplete information, the auditor would not be in a position to tell the truth to the shareholders, as he is under the control of the board of directors and can have no influence over it. 128 In order to strengthen the principle of noninterference on the part of the board in the auditor selection process, the Egyptian legislature states in the Companies Act that the board of directors may not be authorized to appoint the auditor, or determine his fees without specifying a maximum. 129 However, this matter can be resolved by preventing the board from interfering in the selection of auditors and determining their remuneration; this could be done through the formation of an independent committee to be selected by the shareholders, and preferably by those who have experience in this field but not by the owners of large quotas in the company (in order not to create a conflict of interests between them and the auditors). After choosing a candidate as a potential auditor and determining his fees, their recommendations in this regard will be put to the vote; 130 this, undoubtedly, would ensure the integrity of the selection process for the auditor, and his independence from the company's board.

In the same vein, according to Article 130 of SCL1965, auditors are appointed for a full fiscal year, and can be re-assigned more than once. All auditors should be independent of JSCs, and independent of each other, as well as authorized by the CMA. Therefore, the process of appointing the auditor occurs indirectly through the board, and the effect of the board in reelecting the auditor is quite clear; thus, the auditors tend to agree with the policy of board, and overlook any irregularities they discover, otherwise they know that they will not be re-appointed, or even dismissed.

Practically, it is difficult for the GM to be conducted and controlled effectively and continuously due to the phenomenon of the absence of shareholders; also, many shareholders do not have the culture or experience, particularly in accounting or law; these would qualify them for controlling and supervising the company's business effectively. Therefore, the legislation gives this task to one or more auditors, who are professional, competent, qualified and independent, and are appointed by the GM, in order to assist in controlling and supervising the board's business; 124 they are also charged with auditing and verifying the budget, and with calculating the profits and losses for the fiscal year to which they are assigned, as well as monitoring the application of the provisions of law and company's articles.

In general, the auditor's report is subject to elementary approval by the board. Unfortunately, the provision above gives the board considerable power to influence the independence of the auditor, where the auditor has a choice, either to respond to the dictations and conditions of the board of directors, or to reject their employ. **??**31 It could be argued that determining a legal duration of the duty for the auditor of longer than a year would serve to address this shortcoming, and give the auditor greater stability and independence; then the board's influence over the auditor would be weakened. The maximum duration for the appointment of the auditor could be three years (or more) during which he would not be re-elected. This is actually what is stipulated in the Swiss Companies Act; **??**32 According to the French Companies Act, 133 the auditor shall be appointed for longer than a period of six continuous fiscal years, where any contrary agreement between the company and the auditor will be considered void; it may not be agreed in advance to extend the duration of the appointment for a period exceeding six financial years, nor shall this period be shortened to less than six continuous financial years. **??**34 SCL1965 gives JSC shareholders the right to discuss the auditor's report, and to ask him questions in order to understand his annual report; the auditor is obliged to answer shareholders' enquiries. The auditor is in charge of delivering any information he obtains to the shareholders clearly and accurately. In general, the auditor must preserve the interests of the company and its stakeholders by making sure that the deeds of the board are in conformity what is stated in the documents of the company.

In the same vein, one of the drawbacks of SCL1965 is that it does not give more details about auditor issues; we find only five articles that regulate the function of the auditor and they are very brief (Articles 129 to 133). The law does not expressly refer to the auditor's duties; detailing these duties is important as the shareholders need to know their rights and duties toward the auditor. **??**31 See Farmer, T.A., Rittenberg, L.E., and Trompeter, G., M., Investigation of the Impact of Economic and Organisational Factors on Auditor Independence, Auditing, (1987) P: 1-14. the Spanish Companies Act stipulates that the duration shall be not less than 3 years and not more than nine years, but not re-elected after the end of the period cited from: Ahmed AlMelhem.Kuwaiti Commercial Companies Law and the Comparative. Kuwait University Press, Kuwait, 2009, P: 678. **??**32 Cited from: Bruno Becchio and others, Swiss Company Law(2 Ed, Kluwer Law International, 1996) **??**33 Article 224 (1) of French Company Law. **??**34 So the task of the auditor at the company ends by the force of law with effect from the date of the AGM adopting the accounts of the sixth financial year, and if his contract is not renewed for a further period of six new financial years.

In the UK, it is quite different; CA 2006 considers the auditor to be of great importance, and the provisions relating therein appear more accurate and highly professional; 135 Ss. 498 to 502 regulate the provisions relating to the duties and rights of auditors. It is hoped that the Saudi legislature, in the new CL, will give this matter due consideration and make the duties more detailed and clear, due to the auditor's importance in protecting the interests of the company and its shareholders against any violation. In order for the auditors do their job effectively, it is believed that the Saudi legislature should provide for the independence of auditors, fully from board of the company, and emphasize that auditors shall gain all the necessary academic qualifications; the final point to be stipulated is to give the auditor all the powers he needs to perform his work effectively.

8 VII. Shareholder's Right to Vote at Gms

The shareholders have the right to vote in their interests, provided this does not damage the best interests of the company. This right is considered one of the rights of property inherent in the ownership of the share, and one of the basic tools that ensure the active participation of shareholders in determining the company's affairs and making decisions related to it. ??36 In Carruth v ICI Ltd, Lord Maugham said, "The shareholder's vote is a right of property, and prima facie may be exercised by a shareholder as he thinks fit in his own interest." ??37 Moreover, shareholder voting is a fundamental feature of a sound corporate governance system. ??38 The OECD emphasizes, "The corporate governance framework should protect and facilitate the exercise of shareholders' rights?4) participate and vote in general shareholder meetings". ??39 Furthermore, any resolution issued at a GMs or anything in the company's articles that prevents the shareholders from exercising their right to vote is invalid by law. SCL1965 confirms this right, ??40 and the SCGRs provide that voting is a fundamental right for the shareholder and cannot be cancelled in any ??35 ??40 Article 108 of the SCL1965 "1) A Shareholder shall be vested with all the rights attached to shares; specifically ?the right attend meetings and participation in the deliberations and vote on the resolutions (proposed) thereat".

way. JSCs should avoid any action that may lead to hindering the right to vote, and should ease and facilitate exercising the shareholders right to vote. ??41 This right is deemed a principal feature in good corporate governance practice by the SCGRs. ??42 The right to vote is given to each shareholder in the company whose name has been registered in the record of shareholders, which is prepared prior to convening a GM. Only shareholders are entitled to attend and vote, and a shareholder can vote in person or by proxy via another shareholder; therefore, company employees are not entitled to vote on the resolutions of meetings, neither are the creditors of the company because they are not partners and do not have shares in its capital. Non-shareholders are not entitled to vote on any GM resolutions, even if is stipulated in the company's bylaws (unless they are agents or representatives of a corporate body). Pursuant to SCL1965, each shareholder who owns 20 shares in the company has the right to vote regardless of the type of shares, whether mortgaged, owned by a group of shareholders or legal persons, or owned by incapacitated people.

It should be pointed out that under the Saudi system, a shareholder only has the right to vote at a meeting in person or by proxy; other means of voting are not regulated by SCL1965 or SCGRs; shareholders are not permitted to vote by telephone, post or electronic means. ??43 VIII.

9 Shareholder Agreements

The shareholders in JSCs can conclude agreements between each other designed to unite their opinion within the company, including determining how to vote according to a certain way or to abstain. ??44 Thus, minority shareholders conclude formal or informal agreements to enhance their influence inside the GM, ??45 and to maintain their presence and rights against the majority shareholders in the company. 146 141 Corporate Governance Regulations of Saudi Arabia. Article 5 "a) Voting is deemed to be a fundamental right of a shareholder, which shall not, in any way, be denied. The company must avoid taking any action which might hamper the use of the voting right; a shareholder must be afforded all possible assistance as may facilitate the exercise of such right". ??42 In general, voting agreements should not be prejudicial to the interests of the company or its shareholders, and not contrary to CL or the constitution of the company; otherwise, they will be deemed invalid. ??47 In the case of Russell v Northern Bank Development Corporation Ltd, Lord Jauncey held, "Shareholders may lawfully agree inter se to exercise their voting rights in a manner which, if it were dictated by the articles, and were thereby binding on the company, would be unlawful". ??48 Unfortunately, as in many other issues, SCL1965 does not provide clear provision on these issues, and it does not explain whether the shareholders have the right to engage in agreement with others to vote on a particular matter or not. ??49 This is usually left to the court, which has the authority to approve the legitimacy of the agreement or to cancel it. Usually, the agreement is valid as long as it does not deprive the shareholder of the right to vote, based on the fact that this right is a personal right that cannot be waived, i.e. it is not possible to restrict the freedom of the shareholder, or to prevent him from exercising his right. On the other hand, the agreement is void if it is designed to vote for a particular party in return for private gain.

The decision of the Court of Cassation in Lebanon asserts that the concerns of shareholders about the company's interests, including the election of the most effective members of board, requires prior deliberations among shareholders, inevitably leading to personal agreements before GMs in order to vote in favour of a particular candidate. The shareholders' agreement on one member to be a nominated is a legal agreement; often, the agreement is verbal but this does not matter. ??50 IX.

10 Restricting the Right to Vote

Initially, each shareholder has absolute freedom to vote on GM resolutions, and may abstain from voting; the shareholder is not obliged to vote in any way and thus the shareholders position in the JSC is different from that of the directors, who are in fiduciary position. ??51 ??51 In the case of Northern Counties Securities Ltd v Fackson and Steeple Ltd. Walton J. held that "when a shareholder is voting for or against a particular resolution he is voting as a person owing no fiduciary duty to the company and who is exercising his own right of property to vote as he thinks fit... he is voting simply in exercise of his own property right." [1974] 1 WLR 1133 that is

suited to their interests, but not contrary to law, or the company's bylaws, nor in any way that damages the company or other shareholders.

In general, the shareholder's freedom in casting his vote (or not) should not be taken lightly and he should interact with what is happening at the GM; shareholders are basically partners in the company, and at the very least, there is a moral obligation to vote in good faith, compatible with the interests of the company (otherwise, the decision can be challenged before the competent authorities). The right to vote is restricted in certain respects by Saudi legislation in order that GM resolutions are in the public interest of the company, and not in the interests of a certain class of shareholders.

One of these restrictions is that the shareholder who does not have 20 shares is not entitled to attend GMs or to vote on resolutions unless the company's articles state so. **??**52 Members of the company's board are not permitted to vote on resolutions pertaining to their relief from liability for the administration. **??**53 This is considered an axiom that should be present in any legislation; it could be that a board member has shares that help him evade responsibility. Directors are also prevented from participating in a vote on GM resolutions that are GMs issued on business licensing or contracts that are conducted for the company, as they may have related benefits (whether directly or indirectly) in them. **??**54 However, an additional defect in SCL1965 is that it gives directors the right to vote in a GM resolution that benefits them, such as on bonuses and salaries; for example, 35 listed companies ended their fiscal year for 2011 with a loss, but 33 ones of them gave rewards and incentives to board members estimated at about 121 million Riyals; 155 the members of one board waived their rewards, while the other company did not give any rewards to the directors. One of these companies was founded more than 20 years ago and has not given any profits to its shareholders, but it still continues to give rewards to its board of directors. **??**56 For instance, the CEO of Savola Co. received 15.65 million SAR in bonuses and salaries for the year 2011, while the CEO of Herfy Co. received about 5.9 million SAR during the year 2011 in salaries, bonuses and allowances, compared with 5.2 million SAR he obtained in 2010; in the same company, the General Manager of Investment (the son of the CEO) received more than one million SAR in salaries, compensations and rewards. **??**57 It is believed that the Egyptian legislature avoids this problem; it states that directors are not entitled to vote on resolutions that determine their salaries and rewards, or that discharge them of their responsibility for the administration. **??**58 Again, SCL1965 gives directors the right to vote on GM resolutions that include special benefits for certain shareholders, such as those deciding their relative proportions of profits. Also, in the case of the formation of a nomination and remuneration committee, and audit committee within the JSC, which is often decided through the company's board, voting is usually done at GMs, where directors have the right to vote on the committee members, their term of office, and the committee's duties. This is regarded as contrary to the rules of fairness and transparency in the world of CG; such committees must be independent and subject to no influence from the members of the board.

It should be noted that SCL1965 contains no explicit provision in the case a shareholder voting on a resolution that is of personal interest to him. If we assume that the company rents real estate from one of its shareholders (who does not work in the company), is that shareholder entitled to vote on the resolution? Lebanese law explains this question clearly; it stipulates that the shareholder shall not vote for himself or for whom he represents when the decision is of interest to him; it states, "The shareholder is precluded from voting in his personal name or as proxy, Whenever the matter concerns vesting him with a specific advantage or that the meeting is required to take a decision in respect of a dispute between himself and the company". 159 X.

11 Cumulative Voting

This is a method of voting for selecting members of the board of directors, and gives each shareholder the ability to vote in accordance with the number of shares he owns, where he is entitled to use them to vote for one candidate or to distribute them to the selected candidates without a duplication of these votes. **??**60 This method increases the chances of minority **??**57 See<www.alyaum.com/News/art/45799.html> accessed 18 May 2012. **??**58 Egypt Companies Law No 159 of 1981. Article 74 "Members of the board of administration should not take part in voting on the decision of the general assembly concerning the fixation of their allocations or gratification or discharging their responsibilities on management". **??**59 161 The main objective in such a method is to protect their interests against any overreaching by controlling shareholders, 162 and to ease tensions between the board and minority shareholders. 163 In fact, the greater the number of vacancies, the higher the possibility of minority shareholders securing some representation by focusing their multiple votes on the same one or few candidates. 164 Cumulative voting is provided for the SCGRs but not in SCL1965, which is not mandatory for the companies listed. As an illustrative example of this: if a company has three vacant seats on the board of directors on which to vote, and there are seven candidates, then each shareholder can vote as follows: shareholder A owns 350,000 shares and shareholder B owns 120,000 shares; shareholder A can distribute his shares as follows: 120,000 shares to the first, third and fourth candidates, while the shareholder B can give all his shares to the seventh candidate.

In contract, in most corporations, board directors are elected through 'straight' voting, which means that each shareholder is entitled to cast votes equal to the number of shares held for each nominee position. 165 The consequence of this is that a majority shareholder with 51% of the company's voting shares could fill every director position, while a single minority shareholder with as much as 49% of the voting shares would be unable to elect even one nominee to the board. 166 Nevertheless, there is no deterrent hindering the MOCI and the CMA from requiring companies to apply this method. For example, the shareholders in the National Industrialization

Company, at an AGM in 2011, voted not to approve the adoption of cumulative voting for electing directors. The refusal of the company shareholders' attending the meeting was by a majority of 75% (who did not agree on the mechanism of cumulative voting) against 25% (who voted for approval); the total attendance was about 60% of the shares of the company. 170 The reason given for rejecting this application of cumulative voting was that voting to choose the directors should be conducted in accordance the company's articles and that the traditional method is compatible with the law. 171 It is noted that this company consists of 5 family companies and a government investor that make up more than half of the capital, and they are the ones who manage the company; 172 therefore, the application of such a voting would lessen their opportunity to be members of the board of directors, something that might be a danger to their interests.

Consequently, the main reason for rejecting the application of this technique is that the selection of directors is mainly based on the criterion of ownership of shares, where most members of the board have large portions of the shares in this company. Also, most JSCs do not prefer the application of cumulative voting; the justifications given differ from one company to another. Some of them argue that nothing in the company's articles requires the application of cumulative voting in selecting directors at GMs, it is not stipulated in SCL1965, and whenever it is stipulated by the competent authorities, it is applied immediately. Some companies say that the application of this method

The MOCI and the CMA encourage all JSCs to apply cumulative voting in the election of members of the board, in order to give minority shareholders the largest possible participation in the company's board. 167 In 2011, the number of companies that applied this method was 20 out of the 163 companies in the Tadawul; 168 many JSCs have rejected this application. Their arguments regarding the disadvantages of cumulative voting usually include: 169 a good board should not be captured by any special interest group; the board should possess mutual confidence and respect; disharmony could harm the energy of management; confidential information could be leaked; and shareholders with narrow, selfish interests could abuse cumulative voting.

is still under study and it needs time to prove its success. **??**73 In summary, the Saudi legislature must adopt cumulative voting as a compulsory method for many reasons but chiefly: the level of protection of minority shareholders under SCL1965 in general is weak, and remedies against oppressive actions do not exist. It is believed that in the current circumstances, applying this method would give a voice to minority shareholders inside the company and would improve their level of protection in general. **??**74 XI.

12 Electronic Voting

Electronic voting is an Internet-based system, through which shareholders can log in and register their votes on company resolutions. **??**75 Nowadays, in many developed countries, distance voting has become very common, such as in the USA, the UK, Japan, Australia and South Korea. **??**76 Many corporations have tried to shift from the traditional form to electronic shareholder meeting, especially at the AGM. **??**77 There are certain benefits to electronic voting at GMs for both company and shareholders: it is fast, easy and cheap. **??**78 It reduces the cost of convening a GM, and maximizes the number of shareholders having the opportunity to exercise their rights, to participate in deliberations and to make important decisions at GMs. Shareholders have many ways to vote electronically but they should all be considered as enabling the shareholder to be present at the GM for the purposes of quorum and determining a majority vote.

In the context KSA, too few shareholders are willing to physically attend GMs, due to the reasons mentioned earlier in this article. **??**79 In order to solve this shareholders in GMs; it frees the shareholder from having to travel. Also, it maintains the secrecy of the votes, and helps to prevent disclose of the results to any member of the administration or other shareholders before the end of voting, thereby circumventing any influence on their behaviour during the voting process. **??**86 It should be pointed out that this type of voting is not regulated by SCL1965 or by the SCGRs; however, JSCs are not obliged to apply online voting. **??**87 According to some press releases, there have been attempts by some senior members of JSCs to hinder the success of electronic voting in their company, in order to neutralize the power of minority shareholders in making decisions and participating in determining any future direction for the company. **??**88 They argue that the electronic voting is not effective and is costly for the company, which will have to pay the Tadawul 40 SAR (£6737.42) per year; thus the participation of shareholders is still weak.

It is the duty of the Saudi legislature to compel listed companies to apply this method, as it is important in protection of minority shareholders; there is no impediment to applying it and it will serve to solve many of the problems in JSCs, such as the absence of shareholders from GMs, which often leads to adjournment; the dominance of the controlling shareholders in the company; and the lack of an effective role of shareholders at GMs like, such as controlling the board and bringing them to account when they make a mistake that affects the interests of the company. **??**89 Providing such a voting facility through the Internet will help shareholders to participate in the activities and affairs of the company more effectively, as this will save them time and money in terms of travel and accommodation costs for the sake of attending a GM. **??**90 Therefore, minority shareholders will be able to participate more strongly in the life and the affairs of the company through employing this facility. **??**91

13 Conclusion

As we have seen, the GM is considered the most important part of any JSC; it is the highest authority, where the major plans of the company are made, and where their implementation is monitored. The shareholders of the company are the main component of GMs; they play an important role in the life of the company. They have a wide range of rights within the GM, which allow them to monitor the performance of the company and follow-up the members of the board and the auditors, making sure that they fulfil their duties towards the company, such as appointing directors or isolating them; this is all in order to achieve the interests of the company.

The law and the constitution of the company grant the shareholders a set of rights and responsibilities both inside and outside the GM on the basis that they own company shares; thus, it is they who mainly generate the capital. As a result, the GM is the most suitable body for monitoring the commitment of the board of directors and the auditors towards the company and its shareholders. The shareholders' rights in the GM cannot be exercised in full without attending the first meeting; therefore, the right of the shareholder in terms of attendance is one of the most important rights, as it is the gateway to exercising other related rights, such as discussing company officers, adding items to the agenda and voting, amongst others.

Minority shareholders must have a strong belief that attending a GM is necessary to protect their interests and the interests of their company in general. Participation in the GM delivers their voice to the company's management effectively. Thus, we must remove all obstacles that prevent them from attending and participating in an effective and influential way. The door should not be left open for the board to do everything it wants in the company without any real control preventing it from doing so.

It is clear that the role of minority shareholders in KSA is weak; it is true that they are so large in number that they cannot be ignored but their influence is minimal. Therefore, the competent authorities should seriously consider this matter in order to activate the role of minority shareholders, and should develop legal rules that are more effective and clear. For example, the shareholders should have the right to call for a GM to convene through the courts or the competent authorities in the case of the board not responding to their request for a GM. Also, all JSCs should be in contact with their shareholders through modern technology, such as by

Figure 1:

1 2 3 4

[1]S. 303 (5) of the UK CA 2006. 21 S. 303 (6) of the UK CA 2006.

[2]See Section 324 to 331.

[3]Abdulrahman A. M. Al-Twaijry, John A. Brierley and David R. Gwilliam, An examination of the role of audit committees in the Saudi

[4]See<alphabeta.argaam.com/?p=20227> accessed 19May 2012. 174 However, cumulative voting could be upon the request of a certain number of shareholders, or according to the articles of the company like in Brazil.

[Note: 2 Cadbury Committee, Report on the Financial Aspects of Corporate Governance. Gee, London, July 1992.]

Figure 2: 1

Figure 3:

[Note: 19 S. 303 (4) of the UK CA 2006.]

Figure 4:

Figure 5:

[Note: requested by shareholders representing at least 5% of the company's capital; this right is one of the guarantees granted by the law for minority shareholders. 62 2. If requested by the GAFC upon the request of a number of shareholders representing 2% of the capital at least, or upon the decision of the MOCI to call a GM if one month has passed after the date set for the meeting without it being called to convene. 63 3. If the auditor requests the meeting to convene when he faces difficulty in the performance of his work; 64 if the board of directors does not respond, he shall be entitled to call a GM to convene directly. At this point, SCL1965 does not clarify how the auditor invites the shareholders to a GM, something that is regarded as a lack in the legislation and that 56 Saudi Company Law, 1965. Article 97 57 Saudi Company Law, 1965. 58 S. 355(1)(b) of the UK CA2006 59 S. 248 of the UK CA2006 60 S. 356(4) of the UK CA2006 61 S. 356 of the UK CA2006 62 Saudi Company Law, 1965. Article 87 63 Ibid. 64 Saudi Company Law, 1965. Article 131]

Figure 6:

Figure 7:

[Note: 72 Cheng, Yong. "On Protection of Rights and Interests of Minority Shareholders in Listed Company." International Journal of Business Administration 3.2 (2012): p. 56]

Figure 8:

Figure 9:

Figure 10:

Figure 11:

Figure 12:

Figure 13:

[Note: 102 Safwat Behnsawi, Saudi commercial system, Egypt: Dar Al-nadah Publishing, 1970, p: 186.]

Figure 14:

128), Egypt (Art.59), and Emirate
(Art.127), Bahrain (Art.173)
104 Corporate Governance Country Assessment Kingdom of Saudi
Arabia. 2009. P: 22. Available at: ww.worldbank.org /ifa/rosc_c
g_saudia_arabia.pdf.
105 The Companies (Model Articles) Regulations 2008, No. 3229. Part 3.
Article 41 ”

Figure 15:

Figure 16:

136 Chris Mallin. Institutional investors and voting practices: An
international comparison. Corporate Governance: An International
Review, 9, 2001. pp: 119.
137 [1937] A.C. 707
138 Chris Mallin &. Andrea Melis. Shareholder rights, shareholder voting,
and corporate performance. Journal of Management & Governance.
2010.
139 (OECD).

Figure 17:

Figure 18:

Materials in Company Law, 9 th Edn. Oxford; Oxford University Press. 2010. pp: 230
147 Ben Pettet. Pettet's Company Law: Company and Capital Markets Law. Third Edition. England. Pearason Education Limited. 2009. pp: 93
148 [1992] 1 W.L.R. 588
149 See: Survey on Corporate Governance Frameworks in the Middle East and North Africa, OECD, 2005. P. 12. Available at< www.oecd.org/dataoecd/4/62/49012924.pdf> accessed 15 May 2012.
150 Aziz Al-akali, Commercial Companies: Jordan, Amman, Maktabat Dar Althkafah Publishing, 2010. P: 297.

Figure 19:

Figure 20:

Figure 21:

XII.

Figure 22:

See: Andreas Grimminger, Daniel Blume. Board Processes in Latin America ,Board Nomination, Selection and Handling of Conflicts of Interest, External Frameworks and Internal Practices in Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Panama and Peru. 2011. P: 5.

problem and as part of the process of improving the protection of shareholders, the CMA has applied a new mechanism, which is considered as a step forward in activating the role of shareholders at GMs, as it enables them to vote on GM resolutions without being physically in attendance.

On 17 March, 2011, 180 the Tadawul, with the approval of the CMA and the MOCI, and in cooperation with brokerage firms, built an electronic system to facilitate voting at GMs for listed companies; it is called Tadawulaty. **??**81 It is an advanced service that is available for use by registration on the Tadawul website, on the websites of brokerage firms, or through attending in person. In fact, this service is not compulsory for JSCs at the moment but, according to Tadawul, 20 meetings have utilized electronic voting in 2011, and the number has since increased to 42. **??**82 The shareholder can cast distance votes on all GM resolutions through the company website, which therefore may be considered a variant of traditional voting. **??**83 Voting is open for the shareholders to cast their vote before actual meeting (for a specified period of time). The shareholder who practices electronic voting has the right to attend GMs, change his previous vote, cancel it, and vote again. The number of voters and the total number of shares they own will be added to the number of people attending the GMs in order to determine the attendance percentage and the quorum for convening the meeting.

The first trial was applied on The National Shipping Company of Saudi Arabia (Bahri), 184 on 29 March 2011; it was a successful experiment. 200 shareholders owning at least 12% of the capital of the company cast distance votes on the GM items; it experiment helped in reaching the quorum for the GM from the first time, where the quorum was more than 60% of the capital of the company. **??**85 Thus, this method aims to facilitate the participation of shareholders at GMs, to raise the efficiency and effectiveness of these meetings, and to reduce the chances of a GM not being convened for lack of quorum. This mechanism helps to overcome the obstacles that may prevent the participation of Shareholders should have the right to make decisions at all times; the Saudi legislature should allow them to vote by post, telephone or the Internet, and all JSCs should facilitate the voting process for the benefit of shareholders. Such tools will help to reduce the absence of shareholders at GMs, and reduce the domination of the company board on resolutions, allowing the minority shareholder to participate in building company policy. The greater the role of shareholders in GMs, the more effective, credible and more attractive the company becomes to local and foreign investors. Finally, educational bodies need to be established to spread investment culture among shareholders and defend their interests.

So far, it should be noted that this study has detailed the fundamental rights of shareholders in JSCs, either financial or managerial rights. When they exercise their rights in the appropriate manner, they protect their interests. The main aim of these rights is to protect the interests of the company and its shareholders. However, this raises certain questions: if the company or its shareholders face harm or damage caused by a mistake by the company's board or by a third party, what is the role of the GM or board of the company in terms of compensation? In this context, given the shortcomings of the GM, how can shareholders protect the company from damage or potential damage? In addition, what is the function of company law in protecting the interests of the company and its shareholders, particularly the minority shareholders who stand in a weak position against the majority shareholders who control and run the company?

Global Journals Inc. (US) Guidelines Handbook 2014 www.GlobalJournals.org

[Ch] , Ch . p. 900.

[Article (198)] , *Article* 198. 103 (2) .

[Sameha and Kalyoubi ()] , Al Sameha , Kalyoubi . *Commercial Companies. Egypt: Dar Alnadah PubLishing* 1993. p. 489.

[S ()] , *S* 2006. 304 (1) .

[S ()] , *S* 2006. 305 (1) .

[S ()] , *S* 2006. 306 (2) .

[S ()] , *S* 2006. 324 (1) .

[S ()] , *S* 2006. 324 (2) .

[S ()] , *S* 2006. 325 (1) .

[S ()] , *S* 2006. 327 (2) .

[See<www (2012)] , See<www . May 2012.

[See<www (2012)] , See<www . May 2012.

[Sheikh ()] 'A Guide to the Companies Act'. Saleem Sheikh . *Routledge -Cavendish* 2006. p. 591.

[June and Striegel ()] 'Amendments to Ohio's General corporation Law. Cincinnati Law Review, 55 U'. A June , Striegel . *Cumulative Voting, Yesterday and Today: the July*, 1986. 1986-1987. 1266 p. 1266.

[Arabian corporate sector Corporate Governance: An International Review ()] 'Arabian corporate sector'. *Corporate Governance: An International Review* 2002. 10 (4) p. 294.

[Saudi Company and Law ()] *Article 88*, Saudi Company , Law . 1965.

[O'sullivan ()] *Auditors' Liability: Its Role in the Corporate Governance Debate, 23 Accounting and Business Res*, Noel O'sullivan . 1993. p. .

[Available at: ww.worldbank.org /ifa/rosc_cg_saudia_arabia.pdf. 168 Such as Mobily, Tabuk Agriculture Development, Ace Insu
'Available at: ww.worldbank.org /ifa/rosc_cg_saudia_arabia.pdf. 168 Such as Mobily, Tabuk Agriculture Development, Ace Insurance, Almarai, Jarir Bookstore , Nama Chemicals, Petro Rabigh, Saudi Groups, Saudi Arabian Cooperative Insurance'. *Report on the Observance of Standards and Codes (ROSC)*, 2009. Al Jouf Cement. p. 19. (Corporate Governance Country Assessment Kingdom of Saudi Arabia)

[Baums and Wolfgang ()] Theodor Baums , &. Johann Wolfgang . *General Meetings in Listed Companies: New Challenges and Opportunities*, 2000. p. 12. Institute for Banking Law, Goethe University (Working Paper)

[Baums and Wolfgang ()] Theodor Baums , &. Johann Wolfgang . *General Meetings in Listed Companies: New Challenges and Opportunities*, 2000. p. 12. Institute for Banking Law, Goethe University (Working Paper)

[See<www (2012)] *com/Investor-relation/Governance.aspx?lang=en-US> accessed 19*, See<www . May 2012.

[Corporate Governance Regulations of Saudi Arabia adopt the cumulative voting as optional style. Article 5 "B) in voting in the *Corporate Governance Regulations of Saudi Arabia adopt the cumulative voting as optional style. Article 5 "B) in voting in the General Assembly for the nomination to the board members, the accumulative voting method shall be applied*, 18 May 2012.

[Zhao and Brehm] 'Cumulative voting and the conflicts between board and minority shareholders'. Aiwu Zhao , Alexander J Brehm . *Managerial Finance* 37 (5) p. .

[Zhao and Brehm] 'Cumulative voting and the conflicts between board and minority shareholders'. Aiwu Zhao , Alexander J Brehm . *Managerial Finance* 37 (5) p. .

[Bhagat et al.] 'Cumulative Voting: The Value of Minority Shareholder Voting Rights'. Bhagat , Sanjai , James A Brickley . XXVII. 1984. Pg. 339. *Journal of Law & Economics*

[Charkham and Et Simpson ()] *Fair Shares: The Future of Shareholder Power and Responsibility*, J Charkham , A Et Simpson . 1999. Oxford University Press. p. 63.

[Gordon ()][Gordon [1]ICSA Guidance on the Implementation of the Shareholder Rights Directive <www.icsa.org.uk/assets/files/pc
'Institutions as Relational Investors: a New Look at Cumulative Voting'. Jeffrey N Gordon . *Columbia Law Review* 1994. 94 (1) p. 142.

[Almelhem ()] *Kuwaiti Commercial Companies Law and the Comparative*, Ahmed Almelhem . 2009. Kuwait: Kuwait University Press. p. 346.

[The Companies (Model Articles) Regulations ()] *The Companies (Model Articles) Regulations*, 2008. 38. (Part 4. Article)