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Master Thesis in Advanced Corporate Finance

Institutional Shareholder Activism in Italy

SUMMARY

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1. INTRODUCTION

Shareholder activism has been described as "*the exercise and enforcement of rights by minority shareholders with the objective of enhancing shareholder value over the long term*" (Low, 2004). Activists try to influence managers and directors, acting as the catalyst for changes in the strategy and governance of the firms – without seeking the corporate control. Institutional shareholders played and play a prominent role in activism. Traditional institutions as mutual and pension funds started the activism struggle. Specialized hedge funds followed, with superior results. Eventually, activist shareholders have been regarded as a possible source of balancing of the agency problem arising in corporations. In outsider financial systems – as the UK and US – they could be active monitors of the managers; in insider dominated systems (e.g.: Continental Europe) they could balance the power of the blockholders.

Italy has an insider dominated financial system. Blockholders, as wealthy families and the State, control the corporations owning the relative majority of the shares and enhancing their voting power through mechanisms such as pyramidal group structures and shareholder agreements. In addition, the control is shielded thanks to the recourse to *fiduciary relations*, based on friendship or family ties. The level of control exerted by the blockholders is above the European average. A consequence is a weak minority shareholders' involvement in the corporate governance. A low level of attendance of the general meetings characterizes Italy.

The institutional shareholder activism was covered by extensive US and UK literature. In addition, studies were provided on insider dominated systems. However, concerning Italy, the empirical evidence is mainly anecdotal. One reason could be the fact that institutional investor activism is a relatively new phenomenon for the country.

The purpose of this work would be to understand whether institutional shareholder activism can have a role in a country characterized by an above average control exerted by blockholders. The *rational apathy* of minority shareholders is a further challenge to any activism effort. In order to investigate the activists’ role in Italy, four case studies will be provided. These cases are characterized by a different behavior of the insurgent, ranging from a confrontational behavior to diplomatic or even relational approaches. The observed outcome will be the activist’s capability to have an impact on the corporate decisions. Of course, defining causal relations is not easy. What will be investigated is the existence of developments in line with the insurgent’s requests and the role played by the activist as one of the possible triggers. The case studies follow a general description of the phenomenon (i.e.: the institutional shareholder activism) and a specific overview of the environment (i.e.: the Italian financial system) that challenges the activists’ action.

This work aims to contribute to describe the shareholder activism in insider dominated countries. In particular, Italy has a not large number of specific studies on activism, if compared to the Anglo Saxon countries. The main limit of this study is that it is focused on public campaigns. The existence of public efforts and their impact are meaningful. In addition, public campaigns make enough information available to draft an analysis. However, evidences from private engagements would provide further insights, especially in a concentrated system.

Structure

Following the introduction (Chapter 1) of this work, Chapter 2 describes the agency problem arising in modern corporations and delineates the role of shareholders. Moreover, the first chapter reviews the relevant literature on the institutional investor activism. Chapter 3 describes the Italian financial system, providing evidences from empirical studies. Chapter 4 presents the phenomenon in Italy, provides the four case studies and their analysis. In addition, recent developments – contributing to shape a more activist friendly environment – are described. Chapter 5 concludes.

2. INSTITUTIONAL SHAREHOLDER ACTIVISM

2.1. The agency problem and the shareholders' role

In the insider financial systems – US and UK – the ownership is dispersed among many shareholders and the corporate control has been delegated to professional managers, creating a principal-agent relationship. The shareholders are the principals and the managers are the agents. Because of the information asymmetries and the fact that both parties are utility maximizers, it is likely that the agents would not always act in the best interest of the shareholders. Shareholders are characterized by the *rational apathy* that prevents them to act as monitors of the managers. This behavior is mainly due to the collective action problem and free riding issues. These conclusions should be adjusted when considering insider financial systems as Italy, characterized by concentrated ownership. Here, the agency problem involves the blockholder as agent and the minority shareholders as principal. Majorities could extract private benefits of the control at the expense of minorities.

In both insider and outsider systems, a promising source of monitoring and balancing of the agency problem has been identified in the shareholder activism. Shareholder activists try to influence managers and directors in order to change the status quo of the strategy and governance of the firm, without seeking the control of the company. The actions taken by shareholder activists range from private meetings and engagement with managers to public efforts, including also proxy fights and litigation. These investors deviates from the usual behavior taken by shareholders when they dissent with the management. Generally, shareholders choose the *"exit"* rather than the *"voice"* – i.e.: the "*Wall Street Rule*".

2.2. Institutional Investors and Activism: Hedge Funds compared to Traditional Institutions

Two waves of institutional shareholder activism can be identified: the first (since the end of the 1980s) by traditional institutions, the second (in 2000s) by specialized hedge funds.

Generally, the traditional institutional investor activism is incidental and *ex post* – i.e.: aimed to defend pre-existing holdings. The hedge fund activism is strategic and *ex ante*. Hedge funds invest in undervalued companies with the purpose of engaging in value enhancing activism. The latter type of activism can be considered a profit-oriented investment strategy.

The related literature found no significant medium-long term impact of the traditional institutions' action. Instead, both US and EU studies demonstrated positive returns from hedge funds activism. In addition, these researches noticed that target companies experience an improvement in firm performance. Some Authors also argued that activist hedge funds are not short-term investors, as others stated. The hedge funds' legal and financial advantages makes them an effective vehicle for activism.

2.3. Activism Investing

Activism as an investment strategy

Recently activism has been regarded as an investment tactic, profitable for those who undertake it, and value enhancing for the other shareholders. Investing in activism has been considered an effective solution to the agency conflict in corporations. Activist investing has its roots in value investing and it has been considered a new variant of a classical value approach. Like a classical value approach, it relies on fundamental analysis to identify undervalued companies. But then it breaks with the traditional value investing: instead of waiting that the market recognizes the actual value of the stock, the activist investors themselves intervene and push for the changes that would unlock the hidden value.

In specific cases also classical value investors could behave as activists. Pure value investors might become "*reluctant activists*" if they perceive to have fallen in a "*value trap*" and see no other way to escape from it. In addition, most value investors engage privately with executives, often making the line between value investing and activist investing blurred.

Activism in practice

a. The Targets. It is possible to identify different types of activism, on the basis of the main objectives of activist campaigns. 1) Capital structure activism. 2) Business strategy activism. 3) Sale of target company or its main assets. 4) Corporate governance.

b. The Process. The process begins with the identification of the target. Then, the investor takes a sizeable position in the selected firm. The market tends to react strongly to the presence of activist investors. After certain time, the investor starts a private engagement with the company, sending letters and seeking meetings. Usually activists try to maintain a soft behavior and prefer to keep their engagement private. However, if a quiet approach fails, they can decide to criticize the management in public media campaigns, seeking the support of other shareholders. The ultimate threats are proxy fights and litigation.

c. The Cost of Activism. There are two major categories of costs of activism: transaction costs and financing costs. Transaction costs include search costs, buying/selling costs, and communication and other campaign-related costs. A great portion of the expenses is constituted by the unobservable costs of activism: time and effort of the fund manager. Financing costs are typically incurred in order to build up a sizeable equity position in the target company. They consist in the funding capability and in the liquidity sacrifice.

2.4. The Corporate perspective. How companies should deal with activism

Ideally, in order to prevent activism, companies should avoid to appear vulnerable and they should have a shareholder oriented approach. Corporations should actively build-up a supportive investor base. In order to avoid being targeted, firms should maintain efficient capital structure, stable dividend policies, optimal business portfolio focused on core competencies. Furthermore, strategic guidelines and takeover defenses have to be actively reviewed. Moreover, managers should seek supervisory board and non executive directors' support.

3. THE ITALIAN FINANCIAL SYSTEM

3.1. Overview of an insider dominated system

Italy has an insider financial system characterized by the presence of controlling blockholders, strong connections among companies and a weak role of the market. The agency problem among Italian companies generally occurs between a strong blockholder able to control the firm and the weak minority shareholders. In most of the cases the blockholders are wealthy families and the Italian State. The presence of these two type of controlling shareholders is stronger in Italy than in many other European countries.

Two main ways have been historically followed in order to separate the control form the ownership in the Italian corporations. The first has been the recourse to *fiduciary relations*, involving in the ventures the founder’s family or friends. The second solution has been the use of *control enhancing mechanisms* (CEMs) that allow the blockholders to have stronger voting power compared to the cash flow rights. The most common CEMs implemented among Italian companies are pyramidal corporate groups and shareholder agreements. Concerning the Italian blue chips, the controlling shareholder has often taken advantage of the shareholdings of friend groups or companies, creating a network of shareholdings that, together with the diffusion of interlocking directorates among these firms, has enhanced the controlling shareholder’s voting power. Historically, the Italian investment bank Mediobanca has played the role of white squire in this system.

Given the high control exercised by the blockholders, the shareholder general meetings of Italian firms only formalize the decisions taken outside by the majority shareholders. Minority shareholders’ attendance at the general meetings is low in Italy, in absolute terms and also if compared to the rest of Europe. In addition to the structural causes of this outcome, a further technical issue should be considered: until end of 2010, Italy was a record date system. In order to process the vote, shareholders were forced to block the transferability of their shares a few days before the meetings, deterring investors to vote.

3.2. Recent empirical evidences on the ownership and control of the Italian listed companies. Recent empirical data on the general meeting attendance.

Empirical evidence on Italian listed companies is provided: from the 2010 Annual Report of the Italian market regulator CONSOB (analyzing data from 1998 to 2010) and from a study performed by the shareholder consulting company Georgeson Shareholders (analyzing data from 2005 to 2010). Both the studies presented similar trends.

The researches confirmed the high concentration of the ownership and control of the Italian firms. In addition, they showed that in most of the cases relevant shareholders control corporations *de facto*, i.e.: without holding the majority of the voting shares but enough to lead the general meeting, thanks to: 1) a very low general meeting attendance by minorities and 2) in many cases the use of CEMs (mainly shareholder agreements).

Despite the high control exerted by blockholders and the almost passive role exerted by Italian institutional investors, an interesting trend has been identified. In the last years, foreign institutional investors increased their ownership in Italian companies and also the attendance at the shareholder meetings. It could be affirmed that international institutions lead the minorities' engagement in the Italian corporations' governance. This trend is relevant for activists, seeking the support of other institutional investors.

3.3. Control Enhancing Mechanisms

The CEMs are deviations from the proportionality between ownership rights and control rights (the proportionality would be: "*one share-one vote*"). If compared to the other European countries, Italy has an above average presence of companies using CEMs. Shareholder agreements and pyramid structures has been identified as the most common mechanisms used in Italy. Since the 1990s, the number of shareholder coalitions within listed companies has increased at the expenses of the pyramid structures.

3.4. The Voto di Lista System for Board Elections

Because of the low general meeting attendance, minority shareholders risk to lose their monitoring function with respect to the controlling blockholders' actions. However, the Italian company law provide some tools, as the *Voto di Lista* mechanism for board elections, that could enhance the effectiveness of the minorities participation, despite their weak voting power. This mechanism allows minority shareholders to appoint at least one minority member of the board of directors and of the board of statutory auditors. Shareholder activists can profit from this potentially effective instrument to increase their voice, being even more incisive with respect to their stake of ownership in the company.

However, recent studies showed that minority shareholders do not take full advantage of this theoretically powerful provision – confirming the *rational apathy* of minority shareholders in Italy.

3.5. Some considerations on the Italian system

Defensive and offensive activists could play a role in Italy. However, the structural characteristics of the financial system make complicated to shareholder activists to have some influence over the company managers and the controlling blockholders. A key weakness is the low general meeting attendance. Not all the activists campaigns would end into a proxy fight, but a reliable threat of a contest in the shareholders meeting would make more effective the activist effort. Notwithstanding, activists could leverage the existing minority shareholder rights – as the VDL elections system – to obtain a stronger position when engaging with the companies.

4. INSTITUTIONAL SHAREHOLDER ACTIVISM: THE ITALIAN PERSPECTIVE

4.1. Activists' presence in Italy

Italy presents an unfriendly environment for shareholder activists. However, the available empirical evidence on institutional investor activism, mainly anecdotal, demonstrates that activism in Italy exists and in certain cases could also play a role in the corporate decisions.

Shareholder activist in Italy are almost all non-Italian shareholders. Indeed, they are mainly foreign institutional investors. Most of them are hedge funds. Several Authors argued that the lack of domestic activist institutional investors is due to the fact that Italian institutional investors are not enough independent and suffer conflicts of interests. Domestic mutual funds are owned and strictly controlled by banks and insurance companies. This has discouraged Italian mutual funds to engage against current or potential banking or insurance clients.

In general, the activists' efforts at Italian companies rarely reach the shareholder meeting. The shareholder proposals are an uncommon item in the meeting agendas of the Italian firms. In order to provide an evidence of the rare use of this tool by the activists, a research was performed on the database of a leading shareholder advisor, confirming the statement. It seems fair to argue that the shareholder proposals have been almost unused by the activists because of the stronger voting power held by the majority shareholders. Nevertheless, activists could leverage the Voto di Lista (VDL) mechanism to obtain higher voice and to influence the management, without suffering the majority shareholders' strong voting power. However, some empirical evidence was provided by an Author regarding the scarcity of the use of the VDL elections by activist shareholders.

4.2. Case Studies

In order to analyze the institutional shareholder activism in Italy, a study of four representative cases is provided[1]. These cases are characterized by public disclosure of the key developments and by a large press echo. The selected cases are the activism efforts of: Algebris Investments at Assicurazioni Generali; Amber Capital at Banca Popolare di Milano; Hermes Focus Asset Management Europe at Italmobiliare; Knight Vinke Asset Management at Eni. All the shareholders are UK or US based funds, specialized in value investing and activism.

The proposed cases allow to analyze the institutional shareholders' activist behavior in companies presenting some of the typical characteristics of the Italian market. Italmobiliare (family controlled, large use of CEMs) and Eni (State controlled) are illustrative examples of the ownership features depicted in the previous chapter. In the Generali case, one of the core issues raised by the activist was the influence of Mediobanca, a white squire for the Italian system. The activism at Banca Popolare di Milano is a specific case for Italy. The company is a cooperative (mutual) bank, governed through the "*one-member, one-vote*" principle and controlled by some shareholder associations. The activist adapted its behavior to the specific environment and created its own shareholder association.

Two out of the four cases (the Generali case and the first phase of the Italmobiliare case) are characterized by the recourse to the shareholder general meeting by the activist as part of a highly confrontational approach. In the other two cases (Banca Popolare di Milano and Eni) the activist adopted a behavior to some extents less confrontational and it did not bring its claims in a shareholder meeting vote. After the general meeting failure, also the activist at Italmobiliare adopted a softer behavior.

[1] The main sources used to draft the cases are: researches on the news database Factiva and on the main newspaper; the target companies' and the activists' documents available on their web sites, including press release, letters sent by the activists and the companies' replies, reports on the items in agenda at the shareholder meetings and minutes of the meetings; researches on the broker reports database of Thomson ONE Analytics; the main proxy advisors' reports; academic studies.

Algebris Investments – Assicurazioni Generali

In fall 2007, the UK based hedge fund Algebris Investments (Algebris) publicly attacked Assicurazioni Generali (Generali) – the biggest Italian insurer, one of the largest in Europe. The fund criticized the governance structure of the company, in its opinion source of market undervaluation. Algebris asked: 1) to decrease the executives' compensation; 2) to modify the governance structure: moving from two CEOs to a single chief executive; from one executive chairman to a non executive one; and appointing senior managers with higher international experience; 3) to solve the conflict of interests that Algebris argued was existing between the major shareholder Mediobanca and Generali.

The activist adopted a confrontational behavior, targeting as main objectives of its campaign the chairman, Mr. Bernheim, and the major shareholder, Mediobanca. Algebris saw the annual general meeting as the occasion to obtain some representation in the target company. Indeed, Algebris (holding 0.52% of Generali share capital) submitted a minority slate of nominees for the internal auditors appointment – on election at the April 2008 shareholders meeting. Algebris slate was defeated by another minority slate, submitted by the Italian fund managers' association Assogestioni. However, the activist obtained the support of more than 200 international institutional shareholders and the backing of the most influential proxy advisors. Soon after the elections, Algebris sent a denunciation at the attention of the newly elected board of internal auditors asking the intervention regarding some investments made by the target company. The internal auditors rejected the activist's accusations.

After the 2008 activism efforts, Algebris sold almost all the stake in Generali without achieving any of the stated objectives. Recently, part of the changes asked by the activist have been implemented by the company. In April 2010, the company appointed a sole Group CEO. In April 2011, Assicurazioni Generali adopted a governance model characterized by a non-executive chairman. In addition, the company established an Investment Committee and a Governance Committee.

Amber Capital – Banca Popolare di Milano

In 2007, the US fund Amber Capital (Amber) publicly engaged the Italian bank Banca Popolare di Milano (BPM). BPM is a cooperative bank, governed through the "*one-member, one-vote*" principle. Furthermore, shareholders, in order to have voting rights, should be registered and accepted by the company.

In August, Amber, together with two other BPM institutional shareholders, Fidelity International and Dkr Capital, wrote a letter to the management complaining about the governance. The activists sent the letter also to the Bank of Italy. The trigger for the public criticisms was a merger attempt failed because of the opposition from some board members. The activists claimed that the strategic impasse was the outcome of BPM atypical governance structure. At that time, the board of directors was composed by 20 members, 16 of which appointed from the majority slate, submitted by Amici della BPM – an employees association controlled by the unions. Because of the cooperative governance form, the bank was controlled by less than 3% of the capital (i.e. the employees). Institutional investors, with 55.4% of the capital, had only 284 votes and no board representation, while employees could take advantage of 8,164 votes and control the board.

In addition to the governance issues, Amber Capital requested to be accepted by the company as a voting shareholder. The board of directors responded negatively because a provision prohibited fiscal heaven based investors to vote. Amber controlled its stake through a fiscal heaven based subsidiary.

In early 2008, Amber changed its approach, adopting a non-conventional strategy. Amber founded a new BPM shareholder association, called BPM 360 Gradi – aimed to represent the interests of BPM institutional investors. The main requests of the Association were: 1) a more balanced board-representation – that would allow the bank to pursue external grow strategies; 2) the ease of the recognition as voting shareholder; 3) the publication of the shareholder contacts in the stockowners list, to allow cooperation among non-represented investors. Interestingly, the association's representatives supported the mutual company form, not willing to challenge the “*one-member, one-vote*” principle. Amber initiative was in line and ostensibly interconnected with the aims of two important stakeholders of BPM: the chairman Mr. Mazzotta and the Bank of Italy. Mr. Mazzotta openly criticized the unbalanced governance of BPM. In December 2008, the Bank of Italy launched an official enquiry on the BPM governance.

Some key developments for the activist have occurred starting from June 2008. The BPM board of directors modified the acceptance rules, removing the “*fiscal heaven-black list*” acceptance criteria. Furthermore, the company decided to disclose the stockowners’ contacts in the shareholders’ list. In January 2009, Amber and other eight funds were accepted as voting shareholders. In July 2008, the Bank of Italy requested to BPM to allow greater board representation to the minorities through a change in the bylaws. Some unions openly disagreed with the Central Bank’s. However, On 13 December 2008, an extraordinary general meeting modified the bylaws allowing a board greater representation of the minorities[2].

The activist obtained some changes in line with what requested. However, the final results were mixed. At the April 2009 board elections, neither Amber Capital nor the BPM 360 Gradi association submitted their own slate of nominees. According to the CONSOB database, as of 16 December 2008, Amber decreased its stake in BPM under the 2% disclosure-threshold.

Hermes Focus Asset Management Europe – Italmobiliare

Hermes Focus Asset Management Europe (Hermes), the fund manager owned by the British Telecom Pension Scheme, was protagonist of a highly confrontational campaign against Italmobiliare, an holding company 47.3% controlled by the Pesenti family. Italmobiliare is the majority shareholder (60.3% ownership) of Italcementi, a leading group in the cement and construction

[2] Previously, the board of directors was composed by 16 member picked from the majority list and by not more than four directors coming from the minorities. After the bylaws changes, the board size has been reduced to 16 members in total, plus two directors appointed by the business partners (i.e.: Crédit Industriel et Commercial and of the Cassa di Risparmio di Alessandria foundation). The majority list appoints 50%+1 members (of the total of 16+2 members) and the rest of the board comes from the minority lists.

materials industry (Hermes has been a shareholder also at Italcementi). In addition, Italmobiliare has significant investments in the financial and publishing sectors.

Since January 2008, Hermes publicly criticized the group, claiming that Italmobiliare and Italcementi were undervalued on the market because of: 1) the lack of transparency in the governance due to the Pesenti familiar ownership; 2) the non efficient investment policy – complex conglomerate, run as a "*family office with a high risk profile*"; 3) the group's pyramidal structure and Italmobiliare and Italcementi shareholders' capital structure – characterized by the large presence of saving shares (at Italmobiliare 42.4% of the total capital; at Italcementi 37.3%).

Hermes decided to bring the debate in the shareholder general meeting. It obtained to add a shareholder proposal to the agenda of the upcoming 2008 annual meeting. The proposal concerned the optional conversion of the outstanding saving shares into ordinary shares, with a 1 to 1 exchange ratio (without any cash settlement). This would dilute the Pesentis voting rights from 47.3% to 27.2%. In addition to the shareholder proposal, Hermes submitted two minority slates for the elections of the board of directors and of the internal auditors.

In the report explaining the saving share conversion proposal, Hermes asked: 1) to implement a professional investment strategy at Italmobiliare, introducing the role of chief investment officer. Among others, the activist criticized the investment in an Irish subsidiary, Italmobiliare International Finance; 2) to reduce of the saving shares, through buybacks or a conversion. 3) to increase the number of independent directors; 4) to solve the Pesenti family conflict of interests. 5) Regarding specifically Italcementi, it requested to restructure the Italian assets; to purchase the residual floating shares of the listed subsidiary Ciment Français or to merge the company with Italcementi; to sell non-core financial stakes in Mediobanca and RCS.

At the directors and internal auditors 2008 elections, Hermes lost against another minority slate, submitted by the Strazzera family (owner of around 10% of the ordinary shares) that appointed its candidates at both the boards. In addition, the strong voting power of the Pesentis prevented the shareholder proposal to be approved. However, Hermes declared to be willing to be a long term shareholder of the group and to have a dialogue with the Pesentis. The activist kept a softer public behavior.

The following year, at the April 2009 annual general meeting the Hermes representative recognized some positive developments at the group, in line with the requests: 1) the proposal of a merger between Italcementi and Ciments Français; 2) an acceleration of the restructuring of Italcementi Italian assets; 3) a decrease in the exposure in the Irish subsidiary Italmobiliare International Finance. However, the merger Italcementi - Ciments Français did not occurred because the company could not reach an agreement on deal condition with some bondholders. On June 2009, the activist decreased its stake in Italmobiliare below the 2% threshold. Nevertheless, it continued its engagement with the company. At the 2011 directors and auditors elections – the next elections after the 2008's – Hermes, together with the activist investor Amber Capital, was able to elect one minority internal auditor. The two institutions were able to appoint the statutory auditor because their slate was the sole minority slate. The Strazzera family submitted a slate only to the directors elections (the sole minority slate submitted). No public activism was noticed behind 2011 elections.

Knight Vinke Asset Management – Eni

The US based activist investor Knight Vinke Asset Management (Knight Vinke) targeted the Italian integrated energy company Eni. The target company is 30.3% owned by the Italian State. Since 2007, Knight Vinke has been one of the largest shareholders of the company holding almost 1% of the shares. The investment in Eni represented almost one third of the activist's portfolio.

In the fall 2009, Knight Vinke disclosed its activism effort oriented to prompt changes in the structure of the Eni group. The activist publicly criticized the conglomerate nature characterizing the firm. Differently from its peers, Eni holds in the same group both upstream and a downstream businesses. The upstream activities include: the gas and oil exploration and production, refining and marketing; petrochemicals; engineering. The downstream activities include: the gas supply and marketing; the gas transportation and distribution business including a 50% stake in the Italian listed company Snam Rete Gas (SRG); and the gas equity stakes including the 33% stake in the Portuguese listed company Galp Energia (Galp).

After meetings and letters, at a conference organized in late September 2008 Knight Vinke presented a Sum of the Parts valuation of Eni. The activist claimed that the conglomerate structure had lead the company to be undervalued on the stock market. The activist pointed out that the upstream business was fast growing but unstable and risky; the downstream had a slower growth, but steady returns and low commodity price risk. The insurgent added that that structure had lead Eni to be financially constrained, as demonstrated by the dividend cut occurred in 2009. The activist proposed two alternative restructurings to the target company. A) The first, preferred by the insurgent, consisted in splitting Eni in two specialist companies, a GasCo (including SRG) and a OilCo, through a spinoff of one or the other to Eni's shareholders. B) The second, consisted in the spinoff of a NewCo, composed by SRG and the international gas infrastructure.

Relevant to notice, Eric Knight, founder and CEO of Knight Vinke, affirmed that his fund would not force the company with a proxy fight or any other effort in the shareholder meetings. The activist aim would be to promote the public debate. The company CEO, Paolo Scaroni justified the conglomerate structure with the existence of synergies between the gas marketing and the oil and gas exploration and production. Knight Vinke continued its media campaign.

As of the date of this study, some change occurred towards the restructuring of Eni. 1) The management declared that the company would be open to sell SRG – even if this event would require time and the occurrence of a number of conditions. 2) Eni was in talks with potential buyers for the stake in Galp, and on early October 2011 at a presentation to the analysts, the company communicated that negotiations were still open. 3) as agreed with the European Commission, Eni divested its stakes in the international pipelines. However, the restructuring remains an open issue.

4.3. Evidences from the Case Studies

a. The public debate

The first evidence regarding the four cases is the large media echo raised by the activists' action. Public shareholder activism represented a relatively new approach to corporate governance in Italy and the financial community was highly interested. The reaction of the financial community and the press echo contributed to persuade the target companies to reply and even to have a public dialogue with the activists.

b. The confrontational recourse to shareholders' vote

The Generali and Italmobiliare cases were characterized by the confrontational approach and by the decision of performing a sort of proxy context (i.e.: proposing candidates at the VDL elections as part of a public activism strategy). The voting results were unsatisfying for the insurgents. In the Italmobiliare case, the reason of the defeat could be the low meeting attendance characterizing Italy. Regarding the Generali elections, the confrontational behavior of Algebris could be a reason that lead the Italian investors to support the other minority slate – to not break the "*unspoken rules of conduct*" of the Italian system.

The final outcome of the Generali and Italmobiliare cases was different. At Generali, after losing the elections, Algebris kept a publicly confrontational behavior and soon sold most of its ownership, justifying the exit as a consequence of the lack of responsiveness to its claims. Hermes had a different approach. The activist changed its behavior towards a non confrontational one, at least in public. One year after the 2008 voting failure, the insurgent acknowledged that some achievements had been obtained. This statement appears important: the activist itself recognized to have had a certain impact on the corporate decisions.

Moreover, at the directors and auditors board elections of 2011, Hermes succeeded to elect a minority statutory auditor. This time, the Strazzera family – that some saw as management friendly – submitted a slate only to the directors elections. An explicit private settlement or an unspoken understanding following the change in the activist's behavior could be fairly assumed.

c. Diplomatic and Relational approaches

In the other two cases – Eni and BPM – the activists were less confrontational and did not use the shareholder meeting's vote. Knight Vinke CEO affirmed that the fund would not bring its claims in the general meeting and referred to Algebris' effort at Generali as an opposite activism model. The activist did not attack the management or the controlling shareholder, but tried to build a dialogue. As of the time of this work, the activist obtained that the management demonstrated an open attitude towards the less radical form of restructuring requested. However, any major changes would require time and it would be hard to directly link them to the efforts of the activist. Nevertheless, Knight Vinke held the merit to have raised the debate on the Eni restructuring.

In the BPM case, Amber adapted itself to the specific model of BPM, and founded a shareholder association. With this move, the activist decided to be relational rather than directly confrontational. The activist never attacked the cooperative governance form, but requested gradual changes. Amber obtained that the company modified the acceptance rules and disclosed the shareholders' contacts. It is important to notice that the company declared that the changes were due to the pressures received by the market, providing an almost direct link with Amber's action. Regarding the other request made by Amber, the Bank of Italy's action (i.e.: the bylaw change request) was in line with the activist's claims. The fund decreased its stake in BPM under the 2% threshold just after that these changes had been implemented. Moreover, neither Amber nor the new shareholder association submitted a slate of nominees at the 2009 board elections. An Author reported that sometime after the activist's campaign at BPM, the target company decided to make a cross investment in Amber itself. A non-public settlement could be assumed.

4.4. Recent developments and expectations on the support to the Activists

The concentrated ownership structure of Italian companies and the low shareholder meeting attendance has provided a non-favorable environment for shareholder activists. However, there are some trends that could lead to higher support to insurgents in the future. Indeed, the ownership and meeting attendance of foreign institutional investors was increasing in the last years.

Activists operating in Italy are expected to benefit of a boost in the already increasing trend in the shareholder meeting attendance after the implementation of the EU Shareholder Rights Directive 2007/36/EC (SHRD), transposed into Italian law on 27 January 2010. Nevertheless, being the shareholder meeting participation below the European average, any meaningful improvement would require time. The SHRD has granted to stockholders more information and lower costs to vote in the meetings. One of the main changes in the legal framework has been the abolition of the share-blocking system, replaced by a record date at seven business days before the first call of the meeting. This provision has eliminated the costs associated with blocking the transferability of the shares before the vote. The new provisions following the Italian implementation of the SHRD impacted on the 2011 proxy season. Greater shareholder meeting attendance was recorded among minority investors.

The implementation of the SHRD, together with the already existing trend towards a higher involvement of international institutional investors in the corporate governance, could increase the responsiveness to shareholder activism in Italy. However, any meaningful change would require time and must face cultural and structural obstacles.

5. CONCLUSION

Several studies argued that institutional shareholder activism can have a role in balancing the agency problems arising in both insider and outsider financial systems. In Italy, corporations have an ownership concentration above the European average and most of the minority shareholders are *rationally apathetic*. Such context could be fairly defined as unfriendly for activists.

This work analyzed the role of institutional shareholder activism in Italy providing a general overview of the phenomenon, empirical data on the environment and its trends, and four representative case studies. The Italian case studies confirmed the dynamics of activism investing described by the general literature. In addition, the selected activists' campaigns showed that, in order to have an impact on Italian blockholders' decisions, activists should adapt their behavior towards a less confrontational style. The described efforts of bringing the activists claims in the shareholders meeting, as part of a confrontational strategy, failed. In these cases, the activists were unable to elect a minority member, even though their claims had been considered well-founded by many. More diplomatic or relational approaches could somehow impact on the majority shareholder's decisions. Generally, providing a direct link between the occurred changes and the activist's action is not possible, but there are evidences that the activist could influence the decision-making process. Nevertheless, even in the cases where some impact could be assessed, the final outcomes are mixed. Above all, it seems that a long term orientation is important. Any changes in a insider dominated system, as the Italian one, would require time and are expected to be evolutionary rather than revolutionary.

It seems that, under certain conditions, activists were able to influence the governance of Italian corporations. Nevertheless, they would exercise a stronger impact if they found more support from other institutional investors. The key issue in performing activism in a country as Italy is to be able to exert moral suasion on the blockholder – i.e.: the decision-making subject. However, the other minorities' backing would be instrumental to this.

This work provided evidence of the activists' capability to have certain influence in Italy. In addition, it described a trend towards a greater involvement of the minorities in the governance of Italian corporations. These issues offer a worthy reason to study this topic in the future. Further research would benefit from an investigation of both the public and private dynamics of institutional shareholder activism in Italy.