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SHAREHOLDER ENGAGEMENT AS A GOVERNANCE MECHANISM IN NIGERIA

Introduction

Many shareholders still perceive their role as largely passive, confined to just owning shares, having their name entered in the register of members, receiving dividends, reviewing annual reports, and occasionally attending and voting at general meetings. This narrow understanding reduces shareholding to a mere financial entitlement rather than recognizing it as a governance function.

Although this perception reflects common practice, it is fundamentally flawed. Share ownership is not merely a right to profit or corporate surplus. Under the Companies and Allied Matters Act 2020 (CAMA), shareholders possess statutory and strategic powers capable of shaping corporate direction, holding directors accountable, influencing major transactions, and safeguarding long-term value of the company.

The case of **Garofalo v Crisp; Re Valorem Holdings Ltd^[1]** highlights how active shareholder engagement can be critical in enforcing accountability and mitigating regulatory and reputational risk. Upon discovering that the CEO had authorized exports to Russia in breach of sanctions and prior commitments, a co-shareholder initiated an unfair prejudice action and obtained injunctive relief. The court's decision to remove the CEO and reconstitute the board underscores the effectiveness of timely shareholder intervention in addressing governance failures.

The importance of shareholder engagement is further reinforced in the Nigerian Code of Corporate Governance (NCCG) 2018. Principle 22 of the Code recognizes shareholder engagement as a core element of corporate responsibility and mandatorily require companies to demonstrate how they actively engage with shareholders, including by developing and publishing a shareholder engagement policy on their websites.

Despite this framework, the powers available to shareholders often remain dormant, not because they do not exist, but because they are misunderstood, underutilized, or perceived as impractical to exercise.

This article emphasizes that shareholder engagement is not optional or decorative; it is a fundamental governance mechanism firmly embedded within Nigeria's corporate legal framework.

The Legal Foundation of Shareholder Engagement in Nigeria

Corporate governance in Nigeria primarily operates under the framework of Companies and Allied Matters Act (CAMA) 2020. Authority within a company is divided between two principal organs:

- The Board of Directors, responsible for managing the day-to-day affairs of the company; and
- The Shareholders, which constitute the ownership body and they exercise residual control.

Although directors oversee the management of the company, they do so as agents of the company. Shareholders, while not involved in daily operations, exercise constitutional authority through statutory rights that influence governance outcomes. These rights are typically exercised through voting at general^[2] meetings and approving significant corporate^[3] decisions

Within this structure, shareholder engagement functions as a system of checks and balances.^[4] It refers to the capacity of shareholders' to utilise their rights to vote, communicate with the board and management, and participate in deliberations on matters affecting corporate performance and long-term value.

Mechanisms of Shareholders Engagement

The CAMA has embedded shareholder engagement into the corporate structure through several mechanisms:

1. General Meetings (AGMs and EGMs)

Sections 237–238 of CAMA establish Annual General Meetings and Extraordinary General Meetings as formal platforms for shareholder participation. At these meetings, shareholders:

- Vote on resolutions
- Appoint and remove directors
- Approve auditors
- Consider financial statements
- Question management

These meetings are not ceremonial; they serve as important forums for corporate governance.^[5] In **Barron v Potter [1914] 1 Ch 895**, the court confirmed that shareholders in a general meeting may exercise a company's residual powers where the board is incapable of acting.

2. Sections 80–81 of CAMA

3. Sections 44, 131, 184 and 711 of CAMA

4. Danielson, M. G., Hogan, K. M., & Olson, G. T. (2024). Shareholder theory, stakeholder theory, and the capital budgeting decision. *Corporate Ownership & Control*, 21(2), 37–44. <https://doi.org/10.22495/cocv21i2art3>

5. Principle 21 NCCG (2018) – "General Meetings are important platforms for the Board to engage shareholders to facilitate greater understanding of the Company's business, governance, and performance.

They provide shareholders with an opportunity to exercise their ownership rights and express their views to the Board on any areas of interest."

The **Barron v Potter** case arose from a breakdown between two directors that rendered board action impossible; while informal attempts to appoint the directors were invalidated, the court upheld the validity of shareholder-appointed directors. The decision underscores the role of general meetings as a critical governance mechanism and a safeguard against managerial paralysis.

2. Appointment and Removal of Directors

Under Sections 271 and 288 of CAMA, shareholders have the power to appoint and remove directors. This is one of the most powerful governance tools available to shareholders, a right which is recognized and protected in Principle 23 and Section 22 of the NCCG (2018) and the SEC Code of Conduct for Corporate Governance for Public Companies (2011), respectively. Board composition directly influences corporate strategy, risk management, and ethical standards. The possibility of removal reinforces director accountability.

3. Minority Protection and Oppression Remedy

Section 343 of CAMA empowers shareholders to seek judicial relief where company affairs are conducted in a manner that is oppressive or unfairly prejudicial, ensuring that governance influence is not confined to majority shareholders. Accordingly, corporate governance Principles require the Board to maintain an even balance in shareholder engagement by ensuring that minority shareholders are treated equitably and protected from abuse of power by majority shareholders.^[6] This protection is reinforced in the case of **Mainstreet Bank Registrars Ltd and Ors v. Temitope O. Oshinuga (2024) LPELR-62980 (SC)** where the Supreme Court affirmed that minority shareholders may institute proceedings under recognized exceptions to the rule in *Foss v Harbottle*,^[7] particularly in cases involving illegality or abuse of control. The framework underscores the role of minority shareholders as an important check on majority power.

4. Derivative Actions

Section 346 CAMA allows shareholders to institute actions on behalf of the company where directors fail to act. This transforms shareholders into guardians of corporate integrity and enforcers of fiduciary duties. In **Patrick Ajudua v Securities and Exchange Commission (SEC) & Oando Plc (unreported Suit No. FCT/HC/BW/CV/347/2020)**, a shareholder challenged the suspension of Oando Plc's Annual General Meeting by the SEC. The High Court held the suspension unlawful and ordered that the AGM be convened within 90 days. The case affirmed that shareholders' rights to participate in governance processes cannot be arbitrarily curtailed and that regulatory oversight must respect statutory shareholder rights.

Shareholder Engagement as a Governance Mechanism

When effectively exercised, shareholder engagement strengthens corporate governance in several ways:

a. Accountability

Through voting and structured dialogue, shareholders hold directors accountable for executive compensation, strategic decisions, and risk oversight. General meetings serve as periodic public reviews of board performance.

b. Influence

Engaged shareholders may advocate for reforms in governance structures, ESG initiatives, and operational strategies. Companies that maintain open communication channels with shareholders are better positioned to anticipate investor expectations and mitigate potential conflict.

c. Stability

Proactive shareholder engagement reduces the likelihood of hostile activism or proxy battles. Globally, shareholder campaigns have reshaped governance structures - as illustrated by the 2021 campaign in which Engine No. 1 secured board representation at ExxonMobil to advance climate-related reforms. Such developments demonstrate that constructive engagement can recalibrate corporate governance while preserving operational stability.

Conclusion and Recommendations

In Nigeria, shareholder engagement is still evolving and often limited to formal participation at general meetings. Directors may view it as interference, while shareholders frequently underestimate their rights.

However, the legal and regulatory framework of CAMA, the NCCG (2018), and the SEC Code clearly positions shareholders as central to corporate governance.

Shareholder engagement should therefore not be seen as activism, but as a necessary governance function. When exercised constructively, it enhances accountability, strengthens transparency, and supports sustainable value creation.

For Nigerian companies, the path forward is clear: move beyond minimal compliance toward meaningful engagement. Far from undermining management, active shareholder participation strengthens the legitimacy of board decisions and aligns corporate strategy with long-term investor interests.

Ultimately, effective shareholder engagement remains one of the most important safeguards for promoting trust, accountability, and sustainable corporate performance in Nigeria.