

## **RBS Shareholder Committee Campaign Update 3 - 8 March 2017**

This note has been issued to the campaign supporters:

Thank you for help and support so far. I am writing to update you on progress, which is, sadly, typical of RBS and very disappointing. I expect some of you will not read all of this long email and quite understand if you only read part, but for those who wish to I have laid out full explanation below.

168 shareholders have signed a requisition for a shareholder resolution for an AGM resolution requiring RBS to form a Shareholder Committee. The forms were submitted on 30 December 2016.

We want RBS to have a new committee made up of representative of shareholders including individual shareholders. The purpose would be for committee members to advise RBS of the views of shareholders on important issues and to highlight to shareholders any matters which might negatively affect their interests. It is important that RBS collect such views in a structured manner and to have a formal means of communicating with its shareholders.

RBS have refused to put the resolution to the AGM, citing legal drafting concerns. RBS is not intending to propose an alternative resolution addressing their drafting concerns. The board has made it clear that they do not want to establish a Shareholder Committee, and hence we think their objection is not really to the specific drafting of the resolution.

There are two issues here:

1. Democracy. The resolution should be put to a vote at the AGM.
2. The merits or otherwise of a shareholder committee.

**We are trying to stop this unreasonable obstruction of shareholder democracy. It is a basic principle of Company Law that shareholders can requisition resolutions which must be put to a vote of shareholders.**

If the directors do not like a requisition, then they can advise shareholders to vote against it. But they should not be using tenuous technical excuses to avoid putting it to shareholders.

Their grounds for rejection are flimsy (see note 1). ShareSoc/UKSA took great care to ensure that the requisition was valid and would not create practical problems with implementation. The requisition provided RBS with wide discretion on how they implement the proposal. (see note 2)

ShareSoc Chairman Mark Northway had this to say: *"It is disappointing that, instead of leading from the front on corporate governance, RBS have instead chosen to try to thwart this initiative."*

In November, the government issued its Green Paper entitled "Corporate Governance Reform", indicating a strong desire to see UK PLC behave in a way that better reflects the long-term interests of shareholders and of stakeholders generally. This same government currently owns 73% of RBS. And yet the board of RBS has rejected, on spurious grounds, a properly requisitioned shareholder resolution proposing the creation of a shareholder committee (one of the proposals contained within the Green Paper). Some joined up thinking is needed here, and the boards of UK PLC, most particularly that of RBS, clearly need to be made to understand whose interests they represent.

We are lobbying MPs, the Minister, BEIS, UKFI, institutional asset owners and asset managers and key opinion formers as well as RBS to try and change the mindset of the RBS Board. There is still a chance this may work.

A number of campaigners will be attending the AGM (probable date 12 May) and will be asking questions at the AGM.

If you wish to register your disapproval of what RBS has done then I suggest you write to Jan Cargill, Head of Governance at RBS and ask her to forward your concerns to the RBS Chairman Howard Davies. Jan's email is [jan.cargill@rbs.co.uk](mailto:jan.cargill@rbs.co.uk)

Cliff Weight met with the Jan Cargill and Penny Hughes (the NED who chairs the sustainable banking committee, whose remit includes shareholder and other stakeholder engagement) on 6 March. The meeting confirmed that RBS have no intention of changing their mind and will not willingly table the resolution.

ShareSoc are now considering taking legal steps to force RBS to comply. We will keep you updated on progress.

**Best wishes**  
**Cliff Weight**  
**RBS Campaign Manager**

#### **Note 1**

RBS accepts that the resolution was properly delivered under CA 2006 S153 with the requisite number of member signatures, but is refusing to distribute and / or to present the resolution to the AGM on the basis that it is "inconsistent with the law and with the company's constitution".

In a meeting, representatives of RBS suggested that the proposed resolution breaches CA 2006 S172, and that this is the basis for claiming inconsistency with the law. They further claimed that the resolution is inconsistent with the company's articles, by dint of being too broadly drafted. This notwithstanding the fact that it is a special resolution.

ShareSoc have asked RBS to provide their reasons in writing, but so far RBS has only said "*your resolution is inconsistent with Board's duty to promote the success of the company for the benefit of all its members. For example, your resolution would make some shareholders insiders/put them in a privileged position, the committee would be subject to some shareholders' special interests, and its members would have no duty as a matter of company law to be anything other than mouthpieces for their appointers. This places the directors in an impossible position with respect to their s 172 duty. The principal security for shareholders as a whole is that powers are vested in fiduciaries – the resolution seeks to require the directors to abandon this and abdicate matters to the committee.*"

#### **Note 2**

The RBS AGM resolution is quite simple. It reads as follows

**That the Directors establish a Shareholder Committee, the members of which will include representatives of large shareholders willing to serve and a representative of retail shareholders, and that the Directors be instructed to use any and all means to implement this resolution, subject to appropriate conditions to ensure that the CA 2006 S172 duty to act fairly between members is not breached.**

## Recent press coverage

[http://www.heraldscotland.com/business/15063935.RBS\\_told\\_do\\_not\\_thwart\\_democracy/?ref=rss](http://www.heraldscotland.com/business/15063935.RBS_told_do_not_thwart_democracy/?ref=rss)  
<https://www.law360.co.uk/articles/886147/rbs-rebuffs-calls-for-new-shareholder-committee>

## Dec 30 press coverage, included

[Shareholders backed by ShareSoc and UKSA urge RBS to create 'shareholder committee' to improve corporate ...](#)  
International Business Times UK - ?Dec 29, 2016?

[RBS investors call for governance changes to improve transparency](#)

The Guardian - ?Dec 30, 2016?

[RBS Investors Demand Governance Changes & Shareholder Committee To Raise Transparency](#)

Forbes - ?Dec 30, 2016?

[RBS investors mount campaign for shareholder committee](#)

Telegraph.co.uk - ?Dec 29, 2016?

[RBS: Small shareholders demand a say in bank bosses' pay](#)

BBC News - ?Dec 29, 2016?

[RBS urged to create investor committee to prevent re-run of 2008](#)

Financial Times - ?Dec 29, 2016?

[Pale and male: RBS shareholders cite poor governance](#)

FT Adviser - ?Dec 30, 2016?

[RBS Investors Propose Shareholder Committee](#)

CFO - ?19 hours ago?

[RBS asked to create investor committee to avoid repeat of crisis-era mista...](#)

Reuters UK - ?Dec 30, 2016?

[RBS shareholders recommend committee to improve corporate governance](#)

DIGITALLOOK - ?Dec 30, 2016?

[RBS Trades Higher Over Investor Committee Plans](#)

[Financial Sector Update for 12/30/2016: RBS, JPM, BAC, WFC, C, USB](#)

Nasdaq - ?Dec 30, 2016?

[RBS investors fall in line with U.K. Business Secretary, call for special committee seeking more control](#)

Big News Network.com - ?19 hours ago?

[DAILY BRIEFING: RBS investors demand a shareholder committee to sniff out 'poor stewardship'](#)

This is Money - ?Dec 29, 2016?

[Investors call for committee to scrutinise RBS board](#)

Herald Scotland - ?Dec 29, 2016?

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## BACKGROUND INFORMATION

### Shareholder Committees

1. The primary role of the Shareholder Committee is to improve the agency model of corporate governance by increasing the engagement and oversight of shareholders in the operation of the companies owned by them.
2. ShareSoc have been campaigning for many years for the establishment of Shareholder Committees. ShareSoc have written a detailed paper on the subject. See [Shareholder-Committees](#) .
3. The MP, Chris Philp, wrote an excellent paper on shareholder committees in Sept 2016 and this has received wide publicity. See [Restoring Responsible Ownership](#). ShareSoc have a number of concerns about the practicalities of a few of his suggestions and have written to him to explain how the Shareholder Committee can be implemented better.
4. The Nov 2016 Government Green Paper on Corporate Governance mentions Shareholder Committees as a way forward that could be mandated or could be adopted via the UK Corporate Governance Code or voluntarily. See [Green Paper](#).

## **Royal Bank of Scotland (RBS)**

1. RBS is a hugely underperforming company and since 2007, long term investors have lost 95% of the value of their investment, largely due to failures in corporate governance. RBS is 70% owned by the Government via UKFI, so it is important to all the people in the UK that RBS has good corporate governance. Therefore, RBS should be in the forefront of adopting Shareholder Committees.

2. We therefore submitted a resolution to the AGM. Legally, we can do this so long as we have over 100 shareholders supporting the motion who hold collectively 10,000 RBS shares (about £22,000 at today's price).

## **Other Companies**

ShareSoc hope that other companies will follow the RBS example and voluntarily adopt Shareholder Committees. If companies resist, then it is our intention to submit AGM resolutions to other companies.

## **Updates**

Regular updates on the RBS Campaign will be made via the ShareSoc blog, Twitter and a separate RBS Campaign page on the [www.ShareSoc.org](http://www.ShareSoc.org) website.

## **Campaign Manager**

The RBS Campaign is being run by ShareSoc Director, Cliff Weight.

The resolution, from 168 shareholders, was jointly coordinated by ShareSoc and the UK Shareholders Association (UKSA).

Thank you for your support and help.  
Cliff Weight, Director, ShareSoc