

Review paper

International corporate governance standards in Austrian and Italy after financial crisis, corporate scandals and manipulation

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After the recent global crisis, corporate scandals and bankruptcy in US and Europe, there is some certain evidence on weak auditing, risk management, accounting and audit system. This paper chooses a different analytical approach, using qualitative combined with comparative analysis method, and among its aims is to give some systematic opinions on corporate governance criteria as a benchmark for stock markets. Firstly, it classifies limited Western European representative corporate governance (CG) standards into groups, including corporate governance principles from Italy and Austria, so-called relative good CG group, while it uses OECD and ICGN principles as reference. Secondly, it, through analysis, identifies differences and advantages between above set of standards which are and have been used as reference principles for many relevant organizations. Third, it establishes a selected comparative set of standards for Western European representative corporate governance system in accordance to international standards. Last but not least, this paper covers some ideas and policy suggestions. This study also presents opinions for further researches on a detailed plan and policy for controlling and managing risk from the standards suggested for internal control and audit.

Key words: Corporate governance standards, board structure, code of best practice, financial crisis, corporate scandals, market manipulation, internal audit, internal control, external audit

JEL Classification: G00, G30

INTRODUCTION

After corporate scandals happening during and after global monetary and financial crises, it is necessary to re-evaluate code of corporate governance. In reality, many nations re-issue their principles of corporate governance as guidelines for their market and companies. Agrawal and Cooper (2017) provided evidence of effective functioning of internal governance mechanisms following accounting scandals. Accounting scandals are becoming perpetual in nature. They range from the ancient Mesopotamia, to the South Sea Bubble of 1720, to the famous Enron of 2001, down to Parmalat, Tesco, and Toshiba of today (Awolowo et al, 2018).

This paper selects an easy-reading writing style, and it finds out that there is still some academic words need to be explained in further.

LITERATURE REVIEW

Many researches so far are done in the corporate governance area in Europe. Hopt, Klaus J., and Leyens, Patrick C., (2004) pointed recent development trend in Europe Corporate Governance is specialized rules for listed companies and indicate growing convergence in internal control mechanisms independent of board structure. EU (2002) also issues the Code of Best practices and the 2006 Directive requires that each listed company should publish an annual corporate governance statement to what extent the company can comply with that code. Among its key

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principles is the separation of roles between the CEO and the Chairman as it stated "The Chairman and CEO roles should be separate and the CEO should not immediately become Chairman of either a unitary or a supervisory board". And OECD (2009) confirmed that the financial crisis can be an attribute to failures and weaknesses in corporate governance system, including risk management system and executives salaries.

Then, Lakshan and Wijekoon (2012) figured out that while CEO duality is positively related with the likelihood of corporate failure. Board size, auditor's opinion and outside ownership do not appear to be significant determinants.

And Aytekin et al (2013) concluded that researchers and practitioners should give special attention to board development and its functioning in order to develop corporate governance in Turkey, and also in Canada, because this factor is found to be weak compared to other factors. Dibra (2016) implied that corporate governance involves the function of direction rather than control.

Finally, Gopal (2017) mentioned with more emphasis on performance, a closely related issue that has emerged now is the balance in governance roles and responsibilities between shareholders and boards.

But, what are the comparative guidelines of international corporate governance standards for both Austrian and Italy?

2. Findings on Ways of Manipulation during Corporate Scandals

Several Manipulation Techniques found out during corporate scandals involve, but not limited to:

A.1 – The manipulation techniques in the income statement:

In Waste Management Scandal (1998), a Houston publicly traded waste management firm, there is a report of \$1.7 b in fake income.

A.2 - The manipulation techniques in both the income statement and balance sheet:

In the case of Refco financial service company, based in New York, entered the crisis and Chapter 11 in 2005 when its CEO had concealed \$430 b in bad debts.

A.3 - The manipulation techniques relevant to international accounting practice code:

In the scandal case of Global Crossing Ltd., a telecommunication firm, there is a failure in using international accounting standards (GAAP) in making financial reports.

The company did not fairly present financial statements.

A.4 - Other manipulation techniques net belong to above classifications:

In some scandals, there is management manipulation which causes the loss of investments. In the case of Worldcom, a telecomm scandal, directors have used false accounting methods to manipulate stock prices after falling.

Actions on Preventing or Controlling negative manipulation

Among necessary actions to control negative market manipulation are, but not limited to, the mechanism of the board and its committees aiming to increase effectiveness and transparency with investors. Accounting and financial reporting process are also taken into account.

Findings on Construction of Comparative Western European Corporate Governance Standards

These findings will be shown in a detailed analysis of a model indicated in the later sessions.

<B.1> – Relative Good Corporate governance group analysis

After the financial crisis 1997-1998, Good Corporate Governance Principles were issued in 2006 in Thailand, based on valuable information from listed firms and after Code of best practices for Audit Committee and Directors issued in 1999.

Italian 2002 Corporate Governance standards analysis:

Good recommendations involved the description of IC system. For example, the firm appoints a person who run the IC system and report to IC committee, MD, board of auditors.

Besides, it makes a sound point to suggest that IC committee reports to BD every 6 months on the adequacy of the IC system.

A minor point might be noted here is that it does not describe well roles of compliance officer, please refer to the Exhibit 3.

In summary, the 2002 Code and supported documents paid well attention to Board and IC committee.

Austrian Code of Corporate Governance standards analysis:

In the 2012 Code, we recognized it pays attention to Supervisory Board roles. For example, the SB needs at least 3 members. And it also mentions disclosure of fixed and variable remuneration for each individual of MGT board and SB.

Table 1: A relatively Good Corporate Governance standards

Subjects or parties	Main quality factors	Sub quality factors
Audit committee	Monitor the work of the auditor; audit any consolidated F.S;	Set up by SB; monitor the preparation of accounting procedures;
CEO and The Chair	Included in Board; board delegates powers to chairman;	MD identify main risks;
Corporate Secretary	N/A (for further research and implementation)	N/A (for further research and implementation)
Compliance officer	N/A (for further research and implementation)	N/A (for further research and implementation)
Board of Directors (MGT board)	Take appropriate measures to secure compliance with laws; chairperson of MGT board discuss chairperson of SB about strategy and RM;	Fundamental decisions on goals or strategy reached by all MGT board;
Independent director	Involved in board discussion, join in committee such as IC committee;	Member of executive committee;
Supervisory board to the Management	Acts by SB;	Board supervise general performance of the firm;
Supervisory to the Board of Directors	Develop internal rules of procedures for its work, establishing committees; chairperson of SB prepare meetings of SB;	Provide support to MGT board in governing the enterprise; appoint members of MGT board;
Internal control	AC monitor the effectiveness of the company-wide IC system;	IC committee made up of a majority of independent directors, access with EA the appropriateness of accounting standards adopted;
Internal audit	Once a year, report on audit plan;	Can be conducted by a separate staff unit;
External audit	IC committee, together with EA, access the accounting standard appropriateness;	AC exchange views with EA at meeting w/o presence of MGT board members;
Disclosure and transparency Shareholders	MD ensure the correct handling of confidential information; All directors attend GM;	SB mandate disclosed in CG report Board report to shareholders at GM;
The corporation as a whole entity	The firm has a CG report which mentions the composition and working procedure of MGT board;	MGT board report to SB once a year measures to fight corruption at firm;

And among its advantages is that it mentions general information on GM published on website. Please refer to Exhibit 4.

On the other hand, it has a disadvantage as it does not describe well CEO roles.

Comparison between the Italian and Austrian Corporate Governance Principles

First of all, there is a focus in the 2012 Austrian CG Code setting itself a benchmark for corporations. Moreover, it states roles of SB and criteria for SB members such as professional experience and independence.

Beside, The Italian Code of Good Corporate Governance 2006 pointed Board is in charge of examining transactions with significant impacts on profits, assets and liabilities. It also makes good points

of the board role in verifying controls to monitor performance of the firm.

The 1st Establishment of so-called relatively Good Corporate Governance standards

This following table is built with the summary of above Commonwealth CG standards.

DISCUSSION FOR FURTHER RESEARCHES

Internal audit, internal control, and external audit are necessary to follow the above standard in order to conduct a further plan to control risk to avoid accounting manipulation.

A further detailed plan may be a next step for future researches.

CONCLUSION

To overcome weaknesses from CG during crises, The Belgian Code 2009 suggested Board roles are important and skills, experience and knowledge of new board candidate should be evaluated (see Exhibit 1).

Besides, the Netherlands Code included guidelines for supervisory board (SB) including an orientation and education program for new members of SB.

In consideration of corporate governance issues analyzed in the previous sessions, we proposed the main and sub quality factors in this paper a set of general comparative Western European corporate governance standards in a limited model with selected countries. Though limited, it has some implications for further research and proper recommendations to relevant government and organizations. And it also provides relevant academic and non-academic, lawyer and consultant, board and non-board people with minimum information for further researches.

REFERENCES

- Agrawal A, Cooper T (2017). Corporate Governance Consequences of Accounting Scandals: Evidence from Top Management, CFO and Auditor Turnover. *Quarterly Journal of Finance*, 7(1).
- Allen F, Gale D (1992). Stock Price Manipulation. *Review of Financial Studies*
- Awolowo I, Garrow N, Clark M, Chan D, (2018). Accounting Scandals: Beyond Corporate Governance. *Journal of Modern Accounting and Auditing*. 14(8) : 399 -407.
- Aytekin I, Miles M, Esen S (2013). Corporate Governance: A Comparative Study of Practices in Turkey and Canada. *IUP Journal of Corporate Governance*. 12(2)
- Bellouma M (2012). Governance Mechanisms and Buyer Supplier Relationship in Tunisian Exporting SMEs. *International Journal of Corporate Governance*
- Campa D, Donnelly R (2013). Board Structure and Monitoring Effects in Different Institutional Settings: A Comparison between Italy and the UK. *International Journal of Corporate Governance*
- Dallas L (2011). Short-Termism, The Financial Crisis and Corporate Governance. *Journal of Corporation Law*
- Dibra R(2016). Corporate Governance Failure: The Case of Enron and Parmalat. *European Scientific Journal*. 12(6)
- Essen M, Engelen P, Carney M (2013). Does “Good” Corporate Governance Help in A Crisis? The Impact of Country and Firm Level Governance Mechanisms in the European Financial Crisis. *Corporate Governance: An International Review*
- GopalR (2017). The Corporate Purpose and Governance Failures – A Tales of Two Corporates in India. *SSRN Working Paper Series*
- Hopt KJ, Leyens PC (2004). Board Models in Europe – Recent Developments of Internal Corporate Governance Structures in Germany, the United Kingdom, France and Italy. *ECGI Law Working Paper*. No. 18/2004
- IFRs and US GAPP (2007). *Deloitte*.
- Khwaja AI, Mian A (2005). Unchecked intermediaries: Price manipulation in an emerging stock market. *Journal of Financial Economics*. 78 : 243-241
- Lakshan AMI, Wijekoon WMHN (2012). Corporate Governance and Corporate Failure. *Procedia Economics and Finance*. 2: 191-198
- Niu F (2008). Director Cash Compensation, Ownership Structure and Director Pay for Performance. *International Journal of Corporate Governance*
- OECD Corporate Governance Guidelines (1999). *OECD*
www.cbc.to
www.cii.org/corp_govenance.asp
www.iasplus.com