TITLE OF THE PAPER: CONTEMPORARY CORPORATE GOVERNANCE ISSUES IN AUSTRALIAN BANKING ENVIRONMENT

AUTHORS

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Abstract

Corporate governance issues become getting attention from the regulators, industrial players and investors due to the financial crises and recent corporate failures. Australia is ranked in the fourth position in terms of having good corporate governance practices after United Kingdom, United States of America and Canada. In Asia, Australia is one of the leading countries which are having good corporate governance codes and practices. However, it does not mean that it has the perfect governance system and thus, the objective of this study is to examine the contemporary corporate governance issues and problems in Australian Banking sector. This paper is written based on the critical review of the literature. This paper raises the corporate governance issues in Australian banking sector related to the regulatory environment, competitive nature of banking industry, profit maximization driven mood, agency conflicts, behavior and culture. It is expected that the issues raised in this paper will open the eyes of the Australian regulators, bankers and researchers for the betterment of corporate governance practices in the future.

1. Introduction

"A stitch in times saves nine" is a proverb which means that it is better to deal with a problem at an early stage, to prevent it from getting worse. Corporate governance system is a way towards off problems at the beginning stage, from getting serious. Solomon (2007) defines corporate governance as "the system of checks and balances, both internal and external to companies, which ensures that companies discharge their stakeholders and act in a socially responsible way in all areas of their business activity". Thus, corporate governance has strong relationship with stakeholders such as shareholders, investors, employees, customers, suppliers, families and large entire community.

In recent year, good corporate governance is considered as an indispensable system to promote morality, honesty, trust, responsibility, accountability and mutual respect among all parties in a company. Companies with better corporate governance systems outperform companies with poorer corporate governance in a number of performance areas. Corporate governance system can vary greatly across countries. Thus, this paper goes on to corporate governance in Australia.

2. Corporate Governance in Australia

The "If not, why not?" approach to corporate governance under the Australia Stock Exchange (ASX) listing rules, which the Australian companies are given alternative to follow the guidelines or not, but the companies should give reasons for any alternative approaches (ASX, 2003). To commence, in Australia, two major corporate governance reforms were implemented: the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004 (CLERP 9) and the Australian Securities Exchange Corporate Governance Council's Principles of Good Corporate Governance and Best Practice Recommendations (Brown & Gorgens, 2009).

Australian Securities Exchange (2010) provides a good corporate governance guideline which covers disclosure of corporate governance practices and recommendations including solid foundations for management and oversight, structure of the board, ethical decision making, financial reporting, timely information disclosure, the rights of shareholders and risk management.

Banks are required to safeguard the depositors' interest as well as the investors. Hence, banks have to ensure that their corporate governance systems are been working smoothly and not deteriorated. Khir, Gupta and Shanmugam (2008) mention about three main unique characteristics of corporate governance in banks: firstly, banks are generally more opaque than other financial institutions. Secondly, banks are exposed to extreme regulations and thirdly, government ownership of banks makes the governance of banks different from other types of organizations. Although corporate governance issues in banks may be different from one country to another the relevant authorities should monitor the niche problems and provide the tailored solutions to meet the needs of the governance problems of their own country.

3. Issues of Corporate Governance in Australia

According to Mallin (2006), "government, business, institutional investors, professional adviser, consultants, academics, the Australian Stock Exchange (ASX) and the media took an interest in governance issues mostly during periods of economic decline". Most importantly, in the late 1980s, attention seems to have been directed more to issues concerning for deficiencies in the legal duties of directors in the corporate regulatory framework (Ahn, Halligan & Wilks, 2002). On the other hand, nowadays, the debate on corporate governance has expanded beyond

its traditional concerns with the protection of shareholders and other financial stakeholders to address what is perceived as the broader social responsibility of companies (Ali & Gregoriou, 2006). The issues such as legal and regulatory issue, behavioral issue, cultural issue, competitive and profit driven banking and agency conflict issue are discussed in the following subsections.

3.1 Country's Legal and Regulatory Framework Issue

Salter, (2000) highlights that "Australia operates on a Federal system with constitutional power allocated between a central Common wealth government and various State and Territory governments". In fact, the regulatory framework for corporate governance and directors' duties in Australia is governed by the Corporation Act 2001, common law rules, the company's constitution and guidelines issued by the Australian Securities and Investment Commission (ASIC1). If the company is a listed entity, it is governed by the Australian Stock Exchange (ASX) Listing Rule (Surgeon, 2003). Therefore, Rama, (2007) reports that Governance Metrics International rated Australia as fourth in its Global Corporation Governance rating after the Anglo-American countries of the United Kingdom, USA and Canada. However, there are still having scarcities in these parts of corporate governance such as lack of shareholder power, specific guidelines setting and the ASX requirement.

3.2 Behavioral Issue

Opportunistic, unduly deferential and collusive behaviors are three issues in Australia nowadays. In researchers' view, good corporate governance cannot be successes if the individual directors allow their behavior to be corrupted or fraudulent to maximize their self-interests. Hence, corporate governance is paramount related with personal faith in religion which can guide human to right path. (Lipton, 2003).

3.3 Cultural Issue

Hafidhuddin and Tanjung (2006) define culture as "normis, thought, character, habits, belief and customs". In the 21st century, religion in Australia is demographically dominated by Christianity Obviously, all banks in Australia adapting western culture of operating the business activities. According to Dellaportas et al., 2007, culture is the glue that holds on organization together. Culture also could influence members' behavior. The strength of an organization's culture determines how much control it has over its employees. In the Australian banking industry, the culture influences the bank decision making, negotiating and disclosure information.

In summary, the banks in Australia have to faces three cultural issues: decision making, negotiating and disclosure culture issue. Alternatively, corporate governance can be built if beneficial culture is created. To tackle this problem, smiling should be practice.

3.4 Competitive and Profit Maximization Driven Banking in Australia

The Australian banking industry is a particularly interesting environment to examine the existence of corporate governance, and also to evaluate the impact of potential corporate governance codes. One of the aspects of good corporate governance in banks includes the existence of positive partnership with customers and suppliers. Thereby, the survival of banks could give benefits to community generally and to customers especially. However, to maintain the good and excellent corporate governance in banking industry is not easy because of the main objective of banking industry itself and the involvement of competition among the banks[1].

First and foremost, the primary objective for banking industry is to maximize the profit. In particular, the Reserve Bank of Australia (RBA) revealed that banks charged exception fees of almost 1.2 billion dollar in the 2008 financial year. The big four banks in Australia: Commonwealth Bank, ANZ, Westpac and National Australia Bank, plus another Australian banks: Bank of Queensland, Bendigo and Adelaide Bank, Suncorp, HSBC and Citibank, are expected to be targeted for alleged wrongful and unfair overcharging.

Corporate governance is a significant factor considered by banking institutional when making decision to improve their earning. It is because (Thomson & Jain, 2006) define corporate governance as a "corporate management that can be supervised and made accountable to its members, employees, creditors and the community". Contrary to this case which is the customers were burden with this exception fees. Plainly, most of Australian banks involve in this issue and in recent years, they try to abolish that business fee to make their business customer more. Undeniable, when the banks fulfill the customers' needs, the banks can survive for a long term

[1] http://www.smh.com.au/business/fee-gouging-banks-face-huge-class-action-20100512-uw8h.html

successful. To sum up, the issues of the implementation corporate governance in banking industry are the materialistic objective of banking industry. Indeed, people could not change the nature of banking industry but, people can improve the nature by injecting the good, excellent and ethical corporate governance.

3.5 Agency Issue

The agency issue in Australia is quiet similar with other countries, i.e. the problem arises due to the separation of shareholders' ownership and management's control. Basically, the challenge in corporate governance implementation is demarcation of responsibility and accountability between the board of directors and the management. According to Jensen and Meckling (1976), agency conflict exists when there is the owner is separated from management. Due to this separation, agency problems will arise (Millson & Ward 2005). Thus, the suggested mechanism is having a good corporate governance through which this conflict of interest can be resolved to a certain extent (Gursoy & Aydogan 2002). Cheung and Chan (2004) highlights that the ultimate goal of corporate governance is to monitor the management decision making in order to ensure that the agents' decision are in line with shareholders' interests, and to motivate managerial behavior towards enhancing the firms' wealth.

3.6 Other Issues

Firstly, the issue is related to the director training. Banks spend-large amounts of money in developing and training staff and spend very little on similar programs for those who are in control bank. This training should in a continuing basis. There are two slots for the director training: theory and practical. In theory slot, the practitioners could present the ASX Principles of Good Corporate Governance and Best Practice Recommendations. The learning outcome for first slot is that directors can explain the theoretical foundation of Australia corporate governance. In the second slot: practical, the directors are exposed to the true cases that have already happened in Australia. Then, they are supposed to discuss and find out the reasons of the failure or collapse of companies. In addition, training is more beneficial if the staffs and directors join the same training. The purpose is to make them know each other and it is one of the ways to mitigate the agency costs. The challenge in corporate governance implementation in this issue is commitment of dedicated and qualified directors and employees who want to learn the corporate governance codes.

Secondly, issue of gender diversity within Australia workforce. The Council reviewed a recent report released by Goldman Sachs JB were titled "Australia's Hidden Resource: The Economic Case for Increasing Female Participation" dated 26 Nov 2009, which focused on the economic impact of improving gender diversity within Australia's workforce ("Proposed Amendments to the ASX Corporate Governance Council). According to Imam Bukhari, Prophet said that "No society would gain success if their affairs are submitted to women". Nevertheless, the Holy Quran has strongly disallowed of appointing a leader who has no clear identity.

4. Conclusion

Understanding of corporate governance is crucial to convince people to understanding the management of banking system especially. This will lead to better development of corporate governance structure. Eventually, government and society should take part in developing of corporate governance whether in Islamic banking or conventional banking. The success of the corporate governance will become futile without having strong support infrastructure. In Australia, the corporate governance system needs a lot of support from various infrastructures and these include shareholders, directors, employees, investors, suppliers, other stakeholders or even the general public who will feel the impact of the system. These infrastructures are of the essence to complement the organization planning and provide support to the administration of corporate governance system. Without good corporate governance system, the company or organization cannot gain confidence of the public.

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