

Implementing corporate governance on Non-listed Companies

By

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I am very honored to have been invited as a speaker at this MENA regional Corporate Governance meeting “Advancing the corporate governance agenda in the MENA region”.

I will focus in my presentation on the implementation of corporate governance on Non-listed Companies.

On the 19th and 20th of April 2005, I had the chance to participate at “*The International Experts meeting on Corporate Governance of Non-Listed Companies*” that was organized by the OECD and was held in Istanbul. The presence of participants from 36 countries around the globe, from different economies, different culture contributed greatly to a better understanding of corporate governance problems and possible solution for non-listed companies.

Corporate governance and the variety of non-listed companies (NLC)

The general definition of “non-listed companies” used in the discussion was: “Closely held companies whose shares, unlike those publicly held companies, do not trade freely in impersonal markets, either because their shares are held by a small number of persons or because they are subject to restriction that limit their transferability”.

We can distinguish a variety of non-listed companies such as the family owned companies (which constitute the largest number of NLC), state-owned companies, group-owned companies, private investor-owned companies, joint ventures, and mass privatized companies.

As a start we agreed that non-listed companies do not need a separate set of corporate governance principles or guidelines.

Internal and external mechanisms of good corporate governance

During our discussions, we have stressed on the importance of creating effective **internal and external measures** that can be employed to solve the complex governance problem on the NLC and the need for improved institution to stimulate social welfare and economic growth.

Internal mechanisms include ownership structure, the board of directors, managerial compensation, financial transparency and adequate information disclosure. They usually

arise from the relational contracts among the business participants such as managers, shareholders, and other stakeholders.

External mechanisms on the other hand are market-based techniques designed to reinforce the internal governance structure of the firm. For instance trust and reputation concerns may be very important to private equity provider.

We can also note that institution like chamber of commerce, syndicates, private association strengthened to ensure that firms abide by the legal and regulatory corporate governance framework (i.e. : Lebanese Businessmen Association (RDCL) code of business ethics).

Professional management

In the discussion on professional management, different approaches to the composition and the role of management on boards in NLC were viewed. However we have agreed that corporate governance problems could be minimized by the appointment of competent rather than independent professional outside director.

On another hand a vital way to foster professionalism and competency is to provide training, education and support to directors and than to all human resources of the company.

Transparency requirements

Imperfection in the financing of non-listed firms often arises because of information asymmetries between controlling and non-controlling shareholders: the controlling shareholder generally has much better information than the non-controlling investors. In order to enhance governance for both listed and non-listed companies we should give non-controlling shareholders full and timely access to information.

The driving forces for changing corporate governance practices in non-listed companies

Access to capital and implication for corporate governance:

The financing structure of non-listed companies can also bring major benefits. The basic structure of the debt contract gives managers a strong incentive to ensure the company's success and ability to meet the repayment requirements since any default would eventually deprive him from control.

The role of banks and credit agencies could help implement good corporate governance by demanding that NLC comply with best practices norms as part of the risk assessment process. We can note that the Basel II accord, with its overriding aim of improved risk assessment procedure by individual banks could speed up this implementation strategy for many NLC.

Succession planning and conflict resolution:

We have also highlighted that since there is no real market for the shares of NLC, a common concern is protecting non-controlling shareholders from expropriation by controlling shareholders. Case study showed that it is imperative to take the interest of non-controlling shareholders into account in business decision. This can be accomplished for instance by the formalization of the board's decision making process and the establishment of a family council. This council is also a mechanism for anticipating internal strife and disruption of the company's business operation before they occur and for conflict resolution.

Implementation of corporate governance in the MENA region:

I personally think that the starting point for a successful implementation of corporate governance in the MENA region would be raising and building awareness on the strategic benefits of its application especially for NLC.

In order to create awareness we need to demonstrate the concrete benefits of solid CG. We should stress for example on the correlation between corporate governance and company performance, between good CG and the companies access to capital, between Good CG and the low debt interest rate an organisation is paying. Companies have to see clearly that CG raise corporate value and lower the financing costs. It should be clearly understood that corporate governance reduces disputes between successors and contribute to company sustainability in the long run.

- Presenting pilot studies or success stories in governance application can serve as well as an effective enforcement.
- Good education, effective training are crucial to the application of CG practices and for the continuity of corporations.
- Awards would work well in environment as ours, where personality and personal legacies are highly regarded.
- Rating agencies, institutional investors and the media have a key influence on corporate governance application since investor are more receptive to the business environment in which the company evolves.
- Changing mentalities which is a very long process should start from university and than followed up through business association, chamber of commerce, training and seminars.

Corporate governance is not just a box ticking exercise, companies need an exchange of practical guidance in order to conceive and implement successful governance mechanism. Instead of a menu of corporate governance options it would be more

appropriate to present a best practice guidelines applicable to family business, SME's....These will serve as a benchmark for appropriate customization in different companies.

In conclusion, the question I would like to ask you all:

Where are your companies now? And where do you want it to be?

Corporate governance should be considered as an obligation not a luxury. Its spirit is going to expand further and deeper in the future.

Improving the image of our companies will improve the image of our country.

Thank you

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