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Corporate Governance Structure and Practices: Case Study of Malaysian University Holdings Companies

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Abstract

This paper aims to examine and evaluate the structure and practices of governance of Malaysian public university holdings companies owned by eight Malaysian public universities (IPTA). Data was gathered by using three methods; survey, semi-structured interview, and documentation review. The board structure and board sub-committees practices of these case organisations were evaluated against the best practice recommendation of (i) the Malaysian Code on Corporate Governance (MCCG) 2012 (ii) the Green Book, and (iii) other relevant acts. Overall, this study finds that the practice and structure of corporate governance of the holding companies are excellent. However, there are companies that did not comply with certain parts of the recommendations of Malaysian Code on Corporate Governance 2012 (MCCG) and the Green Book. The study also observed that the practice of governance between the university companies is not uniform.

Keywords: Corporate governance, University holdings company, Malaysia, Case study

1. INTRODUCTION

Corporate governance deals with the ways corporations are managed and governed (Doupnik & Perera, 2015, p.676) that involves a set of relationships between a company's management, its board, its shareholders and other stakeholders (OECD, 2015, p.9). The purpose of corporate governance is to build an environment of trust, transparency and accountability necessary for fostering long-term investment, financial stability and business integrity, thereby supporting stronger growth and more inclusive societies (OECD, 2015, p.7). Good corporate governance has been argued as vital to the growth and financial stability by underpinning market confidence and financial market integrity (OECD, 2004). Weak corporate governance may result in reduced performance and could lead to business failure. Corporate scandals that had happened around the globe have exposed some of the weaknesses of a corporate governance system that is very crucial and urgent to be addressed. This issue has received considerable attention from various parties including governments, regulators, investors, the general public and the academia. While there are a considerable number of studies that have been conducted on corporate governance (see, for example, Volonte, 2015; Baysinger & Butler, 2014: Bekiris, 2014; Mobbs, 2013: Masulis, Wang & Xie, 2012) the central attention has been given to the governance system and structure of public listed companies. Very few studies have empirically conducted to examine and assess the governance structure and practices of organisations other than the public listed companies. Hence, this study aims to examine and evaluate the governance structure and practices of university holdings companies owned by Malaysian public universities. Specifically, this paper attempts to address the following question: Does the governance practices of university holding company is in line with the best practices recommended by the Malaysian Code on Corporate Governance

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(MCCG) 2012 and the Green Book on Enhancing Board Effectiveness (the Green Book)?. The findings of this study are expected to provide input to the regulatory bodies for improvement of existing policies on governance of university-owned companies and may provide new insight to the corporate governance literature.

2. CORPORATE GOVERNANCE

Corporate governance provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined (OECD, 2015, p.9). Corporate governance has been defined in many ways. One of the definitions is "the rules and practices that govern the relationship between the managers and shareholders of corporations, as well as stakeholders like employees and creditors" (OECD, 2004, p. 184). It also can be defined as a "system by which businesses are directed and controlled" (Cadbury, 1992). There are a considerable number of studies that have been conducted on corporate governance aspects, such as board structure, in various contexts or countries. One of the research stream on corporate governance focuses on the association between the aspects or practices of corporate governance (e.g. board structure and CEO turnover) with firm performance (Andersen & Gilbert, 2014; Masulis, Wang & Xie, 2012; Abdullah & Ku, 2013). Another stream of research focuses on determinants of corporate governance aspects/elements (e.g. CEO choice/turnover) (Guo & Masulis, 2015; Ishak, Ku Ismail, & Abdullah, 2012). Most of the prior studies, however, focus on the corporate governance aspect and system of public listed companies. Very few studies attempted to explore and examine the governance structure and system of other types of institutions or organizations. As mentioned earlier, this paper aims to examine and evaluate the governance structure and practices (i.e. the board structure and board-sub-committee) of university holdings companies owned by eight Malaysian public universities against, mainly, the Malaysian Code on Corporate Governance (MCCG) 2012 and the Green Book.

Malaysian Codes on Corporate Governance 2012 (MCCG) and the Green Book

Various guidelines and codes of corporate governance have been issued by the governments and regulators in order to guide and assist companies to establish and practice good corporate governance. Malaysian Codes on Corporate Governance (MCCG) 2012 is the primary guidelines of corporate governance principles and codes for companies in Malaysia. Meanwhile, the Green Book on Enhancing Board Effectiveness or the Green Book, which was issued in 2006 by a special committee established by Malaysian Government through Government-Linked Transformation's or GLC's transformation program, meant to provide guidelines to government-linked companies (GLC) in enhancing board effectiveness of the GLCs.The following are among the main recommendations relating to board structure, one of the integral parts of corporate governance, which are stipulated in the MCCG 2012 and/or the Green Book:

(i) The numbers of the board of directors are not more than ten directors.
(ii) At least one-third of the board members are independent/external directors.
(iii) The number of executive directors is not more than two directors.
(iv) The role of chairperson of the board of directors and the chief executive officer/managing director of a company should be separated.

With regards to the board subcommittee, both MCCG 2012 and the Green Book recommended the board of directors to establish several sub-committees to be able to address specific issues more effectively. Among the sub-committees that are suggested by the MCCG 2012 and/or the Green Book are audit committee, remuneration committee, and nomination committee. Treasury Circular No. 9, 1993 provides guidelines on the establishment of audit committees for government companies to provide further monitoring and controls to the companies so that the interests of the government as a shareholder can be fully protected.

3. METHODS

3.1 Case organisations

The case organisations consist of eight university holdings companies (Company A, B, C, D, E, F, G and H) owned by eight public universities in Malaysia. The name of the companies and the universities are anonymous to protect the identity of the organisations. These companies are established, as one of the ways, to enable Malaysian public university to generate their income and reduce their financial dependent over the government fund or grants.

3.2 Data collection and analysis

The study was carried out in 2015. Three methods were employed for data gathering; semi-structured interview, survey, and documentation review. 15 semi-structured interviews were conducted with 19 interviewees consist of a representative of top management and representative of the board of the case organisations. The interview questions were developed to instigate discussion on corporate governance practices and issues. All interviews, except with chairman of two case organisations, Company C and Company H's board of directors, were tape-recorded and last between one to one and half hour. Interview note was also prepared for each interview particularly for non-recorded interview sessions to ensure all important data and information are captured and retained for the purpose of analysis. All interviews were then transcribed and analysed using thematic coding whereby five themes were used to analyse this data. Synthesis for each of the theme was then prepared by using direct quotations from the interviews.

Survey was employed to collect data related to governance structure and practices of the case organisations. The questionnaire was developed based on the following sources (i) Green Book on Enhancing Board Effectiveness 2006 (ii) Malaysian Code on Corporate Governance (MCCG) 2012 (iii) Corporate Governance Guide, 2nd Edition, Bursa Malaysia, and (iv) Companies Act 1965. To ensure the clarity of the questions constructed the questionnaire, which has six sections, was reviewed by Head of Internal Audit of one public university before being distributed to the respondents. The questionnaire was distributed to the chief executive officer of the case organisation. All questionnaires were answered and returned. Data from the questionnaire was analysed descriptively to identify similarity and differences of the governance structure of the case organisations studied. Meanwhile, documents that were reviewed consist of (i) documents issued by the case organisations such as annual report, minutes of the meeting, and company policy, and (ii) documents/data obtained from Malaysian Company Commission, The General Audit Report on Management of Federal statutory body's activities and Management of the subsidiary company.

4. FINDINGS AND DISCUSSION

Two vital components of corporate governance structure, the board structure and the board sub-committee, of the case organisations, are explored and examined against the two guidelines. The findings are presented and discussed in the following sub-sections.

4.1 Board structure

Board structure as one of the vital component of corporate governance practices of university holding companies is presented in Table 1. The characteristics of corporate governance examined in this study are board size, board independence, ministry representative on the board of directors (BOD), vice chancellor in BOD, CEO duality, the existence of audit committee and percentage of subsidiaries where its chairman is a member of holding's BOD. In term of board size, the university holding company with the largest board size is Company D. The number of directors in its BOD is 9 members. The smallest board size is 5 members from Company E and Company H. Overall the number of directors for these companies are not more than ten as per the recommendation of MCCG 2012 and the Green Book.

In term of board independence, Company C, Company D and Company H fulfil the requirement of MCCG 2012 and the Green Book where more than one third of BOD members are from outside. Meanwhile, the percentage of independent directors in the remaining companies are less than what was recommended by the two guidelines. However, efforts to adhere to the recommendation regarding the number of independent directors are being sought, for example by Company G and B as explained by the chief executive officer of the two companies:

"*In fact, we are in the process of finding one more (Independent director)".*

(CEO - Company G)

"We short of one independent. You see, there should be nine directors, there is only eight, and we are looking for one more".

(CEO - Company B)

All university holding companies have an audit committee in board except Company A.

Table 1. Board Structure of University Holding Companies

	Company A	Company B	Company C	Company D	Company E	Company F	Company G	Company H
CG1	8	8	8	9	5	6	8	5
CG2	12.5%	25%	50%	44.5%	20%	1.7%	25%	40%
CG3	2	4	2	2	4	3	4	2
CG4	No	No	No	No	Yes	No	No	No
CG5	5	2	2	3	0	2	2	1

Definitions:
CG1= Total number of members on the BOD
CG2= Percentage of independent directors in BOD (independent directors are not LPU/LGU members)
CG3= No. of executive directors
CG4= CEO Duality
CG5= Number of university executives on the BOD

The Green Book also recommends that the number of executive directors on BOD should not exceed two directors. Based on Table 1 four holding companies, Company A, Company C, Company D, and Company H meet this requirement. The role of chairman and chief executive officer/managing director is separated in all companies but is not practised in Company E as the same person was holding both positions (CEO duality). Besides MCCG 2012 and the Green Book, the Investment Guidelines for public universities 2004 is another guideline that should be followed by the university holding companies. The investment guideline among other recommends of not more than two public university's officers to be appointed as members of the company's board of directors" (paragraph 3.2.5B). As shown in Table 1 all companies except Company E have university executives as the board members.

4.2 Board Sub-Committee

With regards to the board subcommittee, both MCCG 2012 and the Green Book recommended the board of directors to establish several sub-committees to be able to address specific issues more effectively. Among the sub-committees that are suggested by the MCCG 2012 and/or the Green Book are audit committee, remuneration committee, and nomination committee. As shown in Table 2 all university holding companies, except Company A, have established the audit committee. Meanwhile, four companies that are Company B, Company D, Company E, and Company G have the remuneration committee. There are only three companies (Company B, E, and G) have established the nomination committee. In line with the recommendations of MCCG 2012 and the Green Book three companies, which are Company B, E, and G have established all the three board sub-committee as per the guidelines.

Table 2. Board Sub-Committee

	Audit Committee	Remuneration Committee	Nomination Committee	Risk Management Committee	Investment Committee	Other Committee
Company A	-	-	-	-	-	Yes
Company B	Yes	Yes	Yes	-	-	Yes
Company C	Yes	-	-	-	Yes	-
Company D	Yes	Yes	-	-	Yes	-
Company E	Yes	Yes	Yes	Yes	Yes	-
Company F	Yes	-	-	-	Yes	-
Company G	Yes	Yes	Yes	-	-	Yes
Company H	Yes	-	-	Yes	-	-

In addition to the three committees as recommended by the MCCG 2012 and the Green Book, several universities holding companies have also established a risk management committee (Company E and H) and an investment committee (Company C, D, E, and F). Even though it does not have the three sub-committee as recommended by MCCG 2012 and the Green Book, Company A have established an appointment committee of consultants, contractors and professional services, and procurement and purchase of assets committee. In addition to the three committees as per the recommendation of MCCG 2012 and the Green Book, Company B and G also established a tender committee and a remedial, grievance & disciplinary committee respectively. Management commitment and awareness to have a sound governance structure are as explained, for example, by a representative from one of the case organisations:

"After we start (the business) we have our policies and authority, which is clear because we have the audit committee, the remuneration committee, and the investment committee. There is a complete report in the Good Governance Green Book. "

(Managing director - Company D)

5. CONCLUSION

Overall, the study finds that the practice and structure of corporate governance of the holding companies are excellent. However, there are companies that did not comply with certain parts of the recommendations of MCCG 2012 and the Green Book, for examples, on the number of executive directors on BOD and the board sub-committees. The study also observed that the practice of governance between the university companies is not uniform. Given the nature of the case study approach employed in the study, the findings documented in this study are not appropriate to be generalised to other companies or contexts. However, the findings of this study may assist the relevant public universities and the Higher Education Ministry, by providing insight on the current governance practices of the companies, in improving the existing corporate governance policies and practices of university-owned companies. The findings of the study also provide new insight into the corporate governance literature on university-owned companies. Future studies on university-owned companies may include all companies owned by a public university to provide more evidence on the issue of corporate governance. In addition, examining the association or impacts of the governance practices on the performance of the university-owned companies would also provide a fascinating insight to the related regulatory bodies.

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