Corporate Governance
An Overview – Around the Globe (1)
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Section A: Introduction

1 – About this paper

A - The purpose of this paper is to give policy makers, private sector leaders, experts and Investors – including foreign Investors - an overview of the main issues and developments in some of leading and emerging countries, providing benchmarks for measuring progress.

- Part 1 Case of UK 2010 & Basel 2 CG 2006
- Part 2 Case of Egypt (Rosc Report 2009)
- Part 3 Case of Finland (Finnish Code) 2008/2009
- Part 4 Case of State of Qatar 2009
- Part 5 Case of Saudi Arabia 2006/2009
- Part 6 Case of UAE 2007/2009
- Part 7 Case of Kingdom of Bahrain 2010
- Part 8 Case of Sultanate of Oman 2002/2010
- Part 9 Conclusion & References

B - Research and experience show that certain key Corporate Governance arrangements are very important and critical to Private-Sector led economic growth, enhanced welfare, increased investment, capital market efficiency and company performance.

C – Egypt & Gulf Area - MENA Countries - in their efforts to stimulate growth, investment and employment, increasingly acknowledge the importance of improved Corporate Governance for the success of the economic reforms underway.

D - Good corporate governance is also important for the sound development of the banking sector. Banks channel public savings to the corporate sector. If banks are not in a position to assess the viability of debtor companies, they risk accumulating non-performing loans and be forced into direct or indirect renationalization to avoid systemic risk.

A common challenge of the banking sector in emerging economies

Is banking capture by corporations. This capture often occurs with the help of the government, pointing to the importance of another aspect of governance, the governance of banks.
2 – Corporate Governance Definition

**Governance is:**
Very formal the process of Governing a country or organization.
(M.Tarek Youssef, 1991)

**Corporate governance is:**
“The system by which companies are directed and controlled…..”
Report of the Committee on the Financial Aspects of Corporate Governance….
(UK - Cadbury Report, London, 1992)…

**Corporate governance is:**
Set of rules that define the relationship between stakeholders, management, and board of directors of a company and influence how that company is operating. At its most basic level, corporate governance deals with issues that result from the separation of ownership and control. But corporate governance goes beyond simply establishing a clear relationship between shareholders and managers”.

"Corporate governance involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders. Corporate governance also 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 2004)

**Corporate governance is:**
"The relationships among the management, Board of Directors, controlling shareholders, minority shareholders and other stakeholders". IFC states,

**Corporate governance is:**
The process carried out by the board of directors, and its related committees, On behalf of and for the benefit of the company's Shareholders and the other Stakeholders, to provide direction, authority, and oversights to management, “It means how to make the balance between the board members and their benefits and the benefits of the shareholders and the other stakeholders”. (M.Tarek Youssef, 2007)

While the conventional definition of corporate governance and acknowledges the existence and importance of 'other stakeholders' they still focus on the traditional debate on the relationship between disconnected owners (shareholders) and often self-serving managers. Indeed it has been said, rather ponderously, that corporate governance consists of two elements:

1. **The long term relationship** which has to deal with checks and balances, incentives for manager and communications between management and investors;

2. **The transactional relationship** which involves dealing with disclosure and authority
3 – Why is Corporate Governance Important?

Good Corporate Governance ensures that the business environment is fair and transparent and that companies can be held accountable for their actions. Conversely, weak Corporate Governance leads to waste, mismanagement, and corruption. It is also important to remember that although Corporate Governance has emerged as a way to manage modern joint stock corporations it is equally significant in state-owned enterprises, cooperatives, and family businesses. Regardless of the type of venture, only Good Governance can deliver sustainable Good Business Performance.

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4 - The Benefits of Corporate Governance

A - The Benefits to Companies

Compliance with the CG principles can benefit the owners and managers of companies and increase transparency and disclosure by:

- **Improving** access to capital and financial markets
- Help to **survive in an increasingly competitive environment** through mergers, acquisitions, partnerships, and risk reduction through asset diversification
- Provide an **exit policy** and ensure a smooth inter-generational transfer of wealth and divestment of family assets, as well as reducing the chance for conflicts of interest to arise (very important for the investors).
• Also, adopting good CG practices leads to a better system of internal control, thus leading to greater accountability and better profit margins.
• Good CG practices can pave the way for possible future growth, diversification, or a sale, including the ability to attract equity investors – nationally and from abroad – as well as reduce the cost of loans/credit for corporations.
• Many businesses seeking new funds often find themselves obliged to undertake serious corporate governance reforms at a high cost and upon the demand of outsiders, often in a time of crisis. When the foundations are already in place investors and potential partners will have more confidence in investing in or expanding the company’s operations.

B - The Benefits to Shareholders

• Good CG can provide the proper incentives for the board and management to pursue objectives that are in the interest of the company and shareholders, as well as facilitate effective monitoring.
• Better CG can also provide Shareholders with greater security on their investment.
• Better CG also ensures that shareholders are sufficiently informed on decisions concerning fundamental issues like amendments of statutes or articles of incorporation, sale of assets, etc.

C - The Benefits to the National Economy

• Empirical evidence and research conducted in recent years supports the proposition that it pays to have good CG. It was found out that more than 84% of the global institutional investors are willing to pay a premium for the shares of a well-governed company over one considered poorly governed but with a comparable financial record.
• The adoption of CG principles - as good CG practice has already shown in other markets - can also play a role in increasing the corporate value of companies.
“If a country does not have a reputation for strong corporate governance practices, capital will flow elsewhere. If investors are not confident with the level of disclosure, capital will flow elsewhere. If a country opts for lax accounting and reporting standards, capital will flow elsewhere. All enterprises in that country suffer the consequences.” (Arthur Levitt, former chairman of the US Securities & Exchange Commission)

Issues involving corporate governance principles include:

- internal controls and internal auditors
- the independence of the entity's external auditors and the quality of their audits
- oversight and management of risk
- oversight of the preparation of the entity's financial statements
- review of the compensation arrangements for the chief executive officer and other senior executives
- the resources made available to directors in carrying out their duties
Governance is Governance it’s different from Management,

It’s about oversight Proactive oversight and it’s required by law (Should Be!).

Governance Problems are as old as Human Civilization.

It is about Mitigating the Commitment Problem (mitigate the risk).
Part One

A - The UK Corporate Governance Model
The New UK Corporate Governance Code - 2010


The First version of the UK Code on Corporate Governance was produced in 1992

By the Cadbury Committee.

(Report of the Committee on the Financial Aspects of Corporate Governance

Indeed, it seems that there is almost a Belief that Complying with the Code in itself constitutes Good Governance

1 - Reasons for setting up the Committee:

The Committee was set up in May 1991 by The Financial Reporting Council,
The London Stock Exchange and the Accountancy Profession to address the
financial aspects of Corporate Governance.

The Committee’s membership and Terms of Reference are set out in Appendix 1.

2 – Most important articles were:

2.1 Both:

   I. In Financial Reporting and
   II. In the Ability of Auditors
To provide the safeguards which the Users of Company Reports
Sought and Expected.

The underlying factors were seen as The Looseness of Accounting Standards

The absence of a Clear Framework for ensuring those Directors kept Under Review
the Controls in their Business & Competitive Pressures Both on Companies and on
Auditors which made it difficult for Auditors to stand up to Demanding Boards.
2-5 Corporate Governance is the system by which Companies are directed and controlled. Boards of Directors are Responsible for the Governance of their Companies. The Shareholders’ role in governance is to appoint the Directors and the Auditors to satisfy themselves that an appropriate Governance Structure is in Place. The Responsibilities of the Board include Setting the Company's Strategic aims, Providing the Leadership to put them into effect, Supervising the Management of the Business & Reporting to Shareholders on their Stewardship. The board's actions are subject to Laws, Regulations and the Shareholders in General Meeting.

2-7 The Role of the Auditors is to Provide the Shareholders with an External and Objective Check on the Directors' Financial Statements which form the basis of that Reporting System. Although the Reports of the Directors are addressed to the Shareholders, they are important to a Wider Audience.

2-8 The Committee's objective is to help to raise the Standards of Corporate Governance and the Level of Confidence in:

Financial Reporting and Auditing by setting out clearly what it sees as the Respective Responsibilities of that Involved and what it believes is Expected of Them.

3.1 The Code of Best Practice (on pages 58 to 60) is directed to the boards of directors of all Listed Companies registered in the UK, but we would encourage as many other Companies as possible to Aim at Meeting its Requirements.

3.2 The principles on which the Code is based are those of Openness, Integrity and Accountability.

3.3 (A) Integrity: Means both straightforward Dealing and Completeness. What is required of Financial Reporting is that it should be: Honest and that it should Present a balanced picture of the state of the company's affairs. The Integrity of Reports depends on the Integrity of Those who Prepare and Present Them.

3.4 (B) Accountability: Boards of Directors are Accountable to Their Shareholders and Both Have to play their Part in making that Accountability Effective Boards of Directors Need to do so
through the Quality of the Information which they provide to Shareholders, and Shareholders through their Willingness to exercise their Responsibilities as Owners.

3.7 We recommend that listed companies reporting in respect of years ending after 30 June 1993 should state in the Report and Accounts whether they comply with the Code and Identify and give reasons for any areas of Non-Compliance.

3.12 We recommend that our sponsors, convened by the Financial Reporting Council, should appoint a new Committee by the end of June 1995 to examine how far Compliance with the Code has progressed, How far our other recommendations have been implemented, And whether the Code needs updating in Line with Emerging issues.

B - The new Code issued 28 May 2010

1 - Main Principles of the new Code

Section A: Leadership

Section B: Effectiveness

Section C: Accountability

Section D: Remuneration

Section E: Relations with Shareholders

2 - The new Code applies to accounting period on or after 29 June 2010 and, as a result of the new Listing Regime Introduced in April 2010, Applies to all companies with a Premium listing of equity shares regardless of whether they are incorporated in UK or elsewhere.

The financial crisis which came to a head 2008-09 triggered widespread re-appraisal, locally & internationally, of the Governance systems which Might have alleviated it.

Sir David Walker was asked to review the Governance of banks & financial institutions.

And the financial reporting council (FRC) decided to bring forward the Code review scheduled for 2010 so that Corporate Governance in other listed Companies could be assessed at the same time.
3 - Two principal's conclusions were drawn by The FRC from its review.

First that much more attention needed to be paid to following the Spirit of the Code as well as its letter

Secondly that the impact of Shareholders in Monitoring the Code could & should be Enhanced by better interaction Between the boards of listed companies & their Shareholders.

4 - After, Nearly Two Decades Indeed, it seems that there is almost a Belief that Complying with the Code in itself constitutes Good Governance.

The New Code recommends that, in the interests of greater Accountability,

All Directors of the companies (350) should be subject to Annual Re-election.

As with all other Provisions of the Code, Companies are free to Explain rather than Comply, if they believe that their existing arrangements Ensure proper Accountability & underpin Board Effectiveness or that a transitional period is needed before they introduce annual Re-Election.

5 - The Comply or Explain Approach is the Trademark of Corporate Governance in the UK.

The Code is not a Rigid set of Rules it consists of Principles ( Main & Supporting ) and Provisions .The Listing Rules require companies to Apply the Principles and Report to Shareholders on how they have done so .

The Principles are the core of the Code and the way in which they are applied should be the Central Question for a Board as it determines how it is to operate According to the Code.
B - Basel Committee Principles
On Corporate Governance 2006

1. Board Members should be qualified for their positions, have a clear understanding of their role in Corporate Governance & Be able to exercise sound judgment about the affairs of the bank.
2. The Board of Directors should approve and oversee the Bank’s strategic objectives and corporate values that are communicated throughout the Banking Organization.
3. The Board of Directors should set and enforce clear lines of Responsibility and Accountability throughout the organization.
4. The Board should ensure that there is appropriate Oversight by Senior Management consistent with Board Policy.
5. The Board and Senior Management should effectively utilize the work conducted by the Internal Audit function, External Auditors, and Internal Control functions.
6. The Board should ensure that compensation policies and practices are consistent with the bank’s corporate culture, long-term objectives and strategy, and control environment.
7. The Bank should be governed in a Transparent Manner.
8. The Board of Directors and Senior Management should understand the Bank’s operational structure, including where the bank operates in jurisdictions, or through structures, that impede transparency (i.e. “know-your-structure”).