Corporate Governance Standards & Reforms for Government Owned Entities in MENA

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Corporate Governance Defined

"Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as the board, managers, shareholders and other stakeholders, and spells out the rules and procedures for making decisions on corporate affairs. By doing this, it also provides the structure through which the company objectives are set, and the means of attaining those objectives and monitoring performance."

Source: OECD Principles of Corporate Governance

Importance of Corporate Governance For Government Owned Entities

- Levels the playing field between Government Owned and private enterprises by improving the process of decision making
- Improves GOEs performance and competitiveness
- Hence improves budgetary and fiscal performance
- Increases transparency in corporate structures and operations
- Reduces the opportunities for political interference in the interactions amongst government, management and stakeholders, including the general public
- Contributes to better public sector governance in general, and to fight corruption.

International Standards on Corporate Governance

1. The OECD Guidelines on Corporate Governance of State Owned Enterprises (SOEs)

2. The IFAC Public Sector Committee Study on Governance in the Public Sector

3. The Uhrig review of the Corporate Governance of Statutory Authorities and Office Holders

The OECD Guidelines on Corporate Governance of State Owned Enterprises

I. Ensuring an Effective Legal and Regulatory Framework for State-Owned Enterprises

The legal and regulatory framework for state-owned enterprises should ensure a level-playing field in markets where state-owned enterprises and private sector companies compete in order to avoid market distortions. The framework should build on, and be fully compatible with, the OECD Principles of Corporate Governance.

II. The State Acting as an Owner

The state should act as an informed and active owner and establish a clear and consistent ownership policy, ensuring that the governance of state-owned enterprises is carried out in a transparent and accountable manner, with the necessary degree of professionalism and effectiveness.

The OECD Guidelines on Corporate Governance of State Owned Enterprises…….(cont'd)

III. Equitable Treatment of Shareholders

The state and state-owned enterprises should recognise the rights of all shareholders and in accordance with the OECD Principles of Corporate Governance ensure their equitable treatment and equal access to corporate information.

IV. Relations with Stakeholders

The state ownership policy should fully recognise the state-owned enterprises' responsibilities towards stakeholders and request that they report on their relations with stakeholders.

V. Transparency and Disclosure

State-owned enterprises should observe high standards of transparency in accordance with the OECD Principles of Corporate Governance.

The OECD Guidelines on Corporate Governance of State Owned Enterprises…….(cont'd)

VI. The Responsibilities of the Boards of State-Owned Enterprises

The boards of state-owned enterprises should have the necessary authority, competencies and objectivity to carry out their function of strategic guidance And monitoring of management. They should act with integrity and be held accountable for their actions.

The IFAC Public Sector Committee Study on Governance in the Public Sector

1. Openness

Openness is required to ensure that stakeholders can have confidence in the decision-making processes and actions of public sector entities, in the management of their activities, and in the individuals within them.

2. Integrity

Integrity comprises both straightforward dealing and completeness. It is based upon honesty and objectivity, and high standards of propriety and probity in the stewardship of public funds and resources, and management of an entity's Affairs.

3. Accountability

Accountability is the process whereby public sector entities, and the individuals within them, are responsible for their decisions and actions, including their stewardship of public funds and all aspects of performance, and submit themselves to appropriate external scrutiny. In effect, accountability is the obligation to answer for a responsibility conferred.

The Uhrig review of the Corporate Governance of Statutory Authorities and Office Holders

The review identified a number of elements that are central to the governance of entities, irrespective of whether they operate in the public or private sector.

Understanding success: Those in control of an entity need to be clear about what the entity is to achieve and communicate that effectively to management. This involves the establishment of a clear sense of purpose and the development of clear expectations of performance.

Organising for success: Once an entity has developed an understanding of what it needs to achieve, it should be organised appropriately:

– *Implementing the right organisational structures:*

– *Power must be: in existence, delegated, limited and exercised:*

– *Clarity of roles:*

Making sure success is achieved: Governance is about ensuring individuals responsible for performance understand what outcomes they are required to achieve and are provided with the capacity to achieve them.

Hawkamah-OECD Task Force on Corporate Governance of SOEs

- Recognising the importance of Corporate Governance for SOEs , Hawkamah jointly with the OECD established a Task Force on Corporate Governance of State Owned Enterprises.

- Objectives
  - to take stock of the existing Corporate Governance Framework of State Owned Enterprises in participating MENA Countries

  - to develop a MENA Policy Brief on Corporate Governance of SOEs

  - to identify priorities and propose concrete recommendations.

The Survey Questionnaire

- A questionnaire was developed based on the International Codes and Best Practices on Corporate Governance of Public Sector Enterprises
- The survey questionnaire was sent to 13 MENA Countries (ministries and regulatory agencies from Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Morocco, Oman, Pakistan, Qatar, UAE, Yemen Saudi Arabia)
- Received a response from 5 countries Bahrain, Egypt, Iraq, Oman, Lebanon and Pakistan
- Draft Policy brief ready which contains specific Policy recommendations for reform in the SOE Governance area.

Major SOE Governance Reforms

Country	Major SOE Governance Reforms
Bangladesh	Corporatization of State-Owned Banks and restructuring of 21 SOEs to be privatized.
Brazil	The establishment of the Inter-ministerial Corporate Governance Commission and Federal Government Management of Participations Commission – CGPAR in charge of matters related to the corporate governance of the Federal SOEs
China	Developing further the system of state-owned assets supervision and administration which was established in 2003.
Chez	Decree No. 1532 proposing to establish an Interdepartmental Committee formation of a General Model for Managerial Remuneration System.
Finland	Re-organisation and centralisation of the ownership function leading to establishment of a holding company in 2008.
Hungary	Establishment of National Asset Management Council (NAMC) and the Hungarian State Holding Company (HSHC), which – with few exceptions – exercises the ownership rights in SOEs.

Major SOE Governance Reforms …cont'd

Country	Major SOE Governance Reforms
Mozambique	Publication of the Corporate Governance Best Practices Guide for SOEs by IGEPE-Institute for the Management of Government Shares.
Namibia	The promulgation of the State Owned Enterprise Governance Act, 2006 (Act No. 2 of 2006). The establishment of State Owned Enterprise Governance Council (SOEGC).
Norway	White Paper No. 13 confirming that the Norwegian State shall be an active, long-term and predictable owner of some important Norwegian companies with a follow-up Document on The Government's Ownership Policy highlighting Corporate Social Responsibility.
Oman	Code of corporate governance issued by the Capital Market Authority for all listed companies, including SOEs.

Major SOE Governance Reforms …cont'd

Country	Major SOE Governance Reforms
Pakistan	The Securities and Exchange Commission of Pakistan (SECP) has drafted the "Public Sector Companies (Corporate Governance) Regulations" to provide a governance framework for SOEs operating in corporate form.
Portugal	Resolution of the Cabinet of Ministers (RCM) 49/2007 setting the principles of good corporate governance for SOEs.
Seychelles	The Cabinet of Ministers endorsed the guideline which is based on the OECD principles.
Sweden	Thorough evaluation of all SOEs leading to changes in strategy, restructurings and privatization.

Suggested Corporate Governance Reforms in the Public Sector in MENA

- Government Owned Enterprises play a critical role in the economy of any country as they are often present in strategically important sectors such as banking, oil and energy, infrastructure, utilities and telecommunications.

- Thus, it is important for policy makers to ensure that these companies remain profitable and sustainable.

- Better performing SOEs will result in improved budgetary and fiscal performance.

- Good governance revolves around five important areas i.e. Good Board practices, having an effective control environment and practices, transparency and disclosure, shareholder rights and most important of all Commitment to good corporate governance practices.

Suggested Corporate Governance Reforms in the Public Sector in MENA…..contd

- Some of the suggested reforms to improve the CG of GOEs are as follows:

1. GOEs are becoming significant players in their respective domestic stock markets hence **disclosure and transparency** is key.

1. **Developing Code of Corporate Governance**: Jordan, Egypt, Bahrain, Lebanon (for SMEs), Qatar, Morocco, Saudi Arabia and the UAE have passed a Code of CG for Listed companies however very few of the countries of the region have a CG Code in place applicable to GOEs.

2. **Defining the ownership policy** of an GOE as well as disclosing **it** is also an area that requires attention.

3. **Defining the legal status of GOEs is crucial** (Dubai World- investors were unaware of the legal status and ownership till there was a debt repayment standstill).

Suggested Corporate Governance Reforms in the Public Sector in MENA…..contd

4. **Separation of ownership from regulation** and other state function, including industrial policy. The separation of the ownership function ensures a level-playing field with the private sector and provides for a healthy environment for competition.

5. **Accountability (reporting and Audit).** The ownership entities are accountable on how they carry out their ownership functions and therefore must report on the overall performance of GOEs held by them and on their own performance. This accountability should be towards bodies representing the interests of the general public. (It could be the parliament or Public Accounts Committee).

6. **Stakeholders rights** should be clearly defined.

7. **Nomination of Boards**. nomination committees should be put in place. The Board provides strategic direction to en entity and the relevant mix of skills and high competence is a pre requisite for the success of any board in steering the entity towards achieving its goals.

Conclusion

- Improving corporate governance of SOEs can lead to mutually reinforcing objectives of efficiency gains, improvement in the quality of public services, decrease in the fiscal burden and public debt, and attraction of foreign investment.

- Corporate Governance Codes should be equally applicable to GOEs as they are to Listed Companies.

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