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GOSPODARKA I INNOWACJE

LABORATORIUM WIEDZY Artur Borcuch

Volume: 48 | 2024
Economy and Innovation
ISSN: 2545-0573

For more information contact: editor@gospodarkainnowacje.pl

CORPORATE GOVERNANCE AND ITS PECULIARITIES IN JOINT-STOCK COMMERCIAL BANKS

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A R T I C L E I N F O.

Abstract

To reflect the essence of the term" corporate governance", it is necessary to consider the sources of literature. There is no single universal definition applicable to all cases, countries and legal systems. According to Oxford Professor Colin Meyer, corporate governance is an area where several specific facts sink into many opinions.

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Many of the world's leading scholars have defined the term monetary theory, corporate finance, and corporate governance as follows: the term "corporate governance" describes the set. the rights of the Joint-Stock Company are the economic and administrative mechanisms by which the structure of the implementation of ownership and corporate control is formed. That is, we are talking about the influence of shareholders on the management of the resources of a bank or company. The term is still applied primarily and primarily to joint stock structures. That is, the separation of ownership and control functions for existing structures.

The second definition was given by Sir Adrian Cadbury, author of the world's first corporate governance code. It was published in 1992. This followed a series of mishaps in financial markets - the collapse of the Robert Maxwell Empire, the collapse of BBC Bank and the collapse of a major retail supermarket chain. Then the financial community suddenly began to think: Why did it become possible and why did investors not know anything in advance about the negative processes taking place in these structures? Otherwise, they have time to somehow influence the situation in this company and banks, or at least sell their shares and get out of the game without losses.

The answer to this was a mass initiative. Cadbury and Schweppes developed and adopted a code that regulated the basic principles of the company's relationship with investors. In 1998, this code, known as the" combined code", was adopted by the London Stock Exchange.

Thus, Sir Adrian Cadbury said, "the role of corporate governance is to promote the efficient use of resources and to equally demand responsibility for the management of these resources". That is, the point is that the management initiative must necessarily exist, it must be encouraged, encouraged. But, on the other hand, this initiative must be limited and shareholders must do it.

International practice offers many options, for example, the International Finance Corporation (IFC) defines corporate governance as structures and processes for managing and monitoring companies [1].

In accordance with the definition proposed by the organization for Economic Cooperation and

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Development, Corporate Governance is understood as a system of relations between the management of the company, its board of directors, shareholders and other stakeholders - the authorities and the government, employees, customers, suppliers, public, regulatory bodies.

In the understanding of Western law, corporate governance is understood as a system of relations between the owners (shareholders) of an enterprise and its managers, that is, managers. Corporate governance includes a system of elected and appointed bodies that govern the activities of the corporation, reflect the balance of the interests of the owners and are aimed at ensuring the maximum possible profit from all types of activities within the framework of current legislation [2].

Some specialists define the main function of corporate governance as ensuring the work of shareholders/investors who have provided the company with financial resources, as well as, to one degree or another, in the interests of other interest groups (if so). It is manifested in the corporate management system of the company.

Thus, scientists and specialists have different approaches to identifying the concept of corporate governance, revealing its content, role and importance in market conditions. When considering the content of corporate governance, some researchers often pay attention to the most characteristic features inherent in a particular model of corporate governance. Others associate the concept of corporate governance only with its application in joint-stock structures, where the separation of owner interests and management functions is evident [3].

Most definitions of corporate governance have a number of common elements, features, and approaches, notably:

- corporate governance-a system of relations characterized by certain structures and processes;
- participants in corporate relationships have different (sometimes conflicting) interests;
- All participants in the corporate management system should be able to participate in the management of the company and exercise control over its activities;
- The system of corporate relations should be aimed at a fair distribution of the rights and obligations of all entities involved in it in order to increase the efficiency and value of the company in the long term [4].

In the above context, corporate governance refers to a certain circle of participants in corporate relations. They are:

- company managers;
- owners (shareholders/investors;
- other interest groups (the scale of representation of these groups and their composition depends on the characteristics of the economic and social system of a particular country, the system of corporate governance).

These groups can include creditors, employees of the company, local authorities, etc.

Based on the role, role and significance of corporate governance in the social life of people and the state, corporate governance in a broad sense is a system, effective means of forming and regulating economic and social relations in the process of production and production. Distribution of public goods, therefore, we are interested in strengthening and developing at the same time many subjects of this relationship: owners, managers, employees, equipment, suppliers of raw materials and materials, product buyers, investors and creditors, banks, insurance companies, insurance companies, etc. state, regional and local authorities [5].

From the point of view of sources of funds for doing business in the corporate governance system, it is

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necessary, first of all, to identify the following stakeholders with different possibilities of influencing the management of a commercial bank, as well as pursuing different goals:

1. Majority shareholders;
2. Minor shareholders;
3. Major creditors;
4. Small creditors;
5. Regulatory authorities.

Most shareholders have the greatest potential to influence the management of the organization and achieve the intended goals. The accumulation of property in the hands of large shareholders creates conditions and conditions to prevent violations of the interests of major shareholders by managers. This is determined by the fact that large shareholders have access to information and more opportunities to control the activities of managers. Most shareholders can delegate their representatives to the board of directors and implement a policy to control the activities of managers. Finally, large shareholders, through their representatives on the board of directors, have the opportunity to hire and fire managers, influence them in setting remuneration conditions and setting the amount of wages, which creates the necessary conditions to protect the interests of most shareholders, often to the detriment of the interests of minor shareholders [6].

In countries with an imperfect legislative base, it is beneficial for investors to become a major shareholder, since a large share serves as a means of managing their capital and protecting it from expropriation. The accumulation of property among large shareholders, at the same time, sometimes leads not only to a violation of the interests of minor shareholders, but also to a violation of the principles of corporate governance, which large shareholders can use to withdraw companies associated with them. funds received from the company [7].

As for minority shareholders, they, as a rule, have limited opportunities to influence the level of corporate governance. They are due to many factors that remain outside the sphere of effective management of a bank or enterprise, and, first of all, due to the significant asymmetry of information between managers and shareholders with small shares. As a result, minority shareholders often do not have the opportunity to control the activities of managers. In addition, the high costs of monitoring the activities of managers by minor shareholders cause the problem of the so-called "free drive": each of them relies on the other, which allows managers to avoid control by minor shareholders. Finally, in most countries, legislation does not adequately protect the rights of minor shareholders and prioritizes the rights of major shareholders.

Like large shareholders, large creditors can learn more about the company and have a greater impact on management. Large creditors will have more rights if the company goes bankrupt or fails to fulfill its obligations. Large creditors may also review the terms of lending, which in some cases helps to avoid bankruptcy of the company. However, there are also a number of problems here. First, the effectiveness of the influence of creditors on management (although not for small creditors) depends on the country's legislative base and the institution of bankruptcy. If the legislation does not clearly define bankruptcy or failure to fulfill certain obligations, large creditors lose the opportunity to influence corporate governance through this mechanism. Second, large creditors may also be interested in seizing the company's assets in their own interest, as do large shareholders [7].

The next group of people investing in business are small creditors, who have the ability to control the management of the organization as opposed to minor shareholders. This group of participants in the corporate relations system gives the organization borrowed capital on payment and payment terms. If the company does not fulfill its obligations to these counterparties, small creditors, as a rule, try to return the invested funds using an existing pledge for debts. If this procedure fails, bankruptcy

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proceedings are carried out, as a result of which the company is reorganized and a new management is appointed. Thus, the possibility of influencing the activities of company executives by small creditors depends on the effectiveness of legislative institutions and the bankruptcy institution.

At the same time, there are a number of obstacles to the influence of such creditors on the debtor in the corporate management system. First of all, there is a problem that each of them relies on the other ("free rider"). In many countries, legislation gives companies the right to dispose of property before a court decision on this issue is made, which weakens the ability of creditors, even guaranteed for their debts, to influence the management of the company [8].

As for regulatory bodies, they have a wide range of means of influencing the corporate management system in commercial banks and other sectors of the economy. Regulators often have great authority to purchase a blocking share or significant portion of the company's capital, as well as resources to provide investments and other loans at low interest rates. Regulatory bodies can contribute to the creation of a specific environment aimed at the development of corporate governance in general with the help of legislation, while the interference in the management of the company should be limited, since excessive state control can have a negative impact. the conditions of the decline of the competitive environment and the breakdown of the market.

Market competition is an effective lever to influence management, as it encourages companies to minimize costs, improve the corporate management mechanism to find cheap sources of external financing. However, many, including Western experts, in their research conclude that despite the fact that market competition can be one of the main factors of economic efficiency in the world, it is unlikely to independently solve the problems of corporate governance.

As you know, there is another form of competition - this is the possibility of being absorbed by another company, and this factor of economic life contributes to the proper development of corporate governance. A mismanaged company may receive an offer to sell its business, and shareholders dissatisfied with the current state of management may decide to sell the company. In this case, the new owner of the company, in turn, takes measures to replace management (in practice, this happens quite often). Thus, the merger and merger market encourages managers to act in the interests of shareholders so as not to be fired in the event of a change in ownership. However, the study shows that active resistance from managers and the presence of a non-liquid stock market often impede the movement of the mergers and acquisitions market, with the possible exception of the United States and the United Kingdom, where the stock market is larger. developed and stable [9].

The above stakeholders are the main economic entities of corporate governance in any type of business. However, corporate governance has its own characteristics, depending on the type of activity of the organization.

The spread of corporate management, including in the banking sector, is due to the fact that by the beginning of the 21st Century, World Economic Development began to be characterized by the active development of corporate integration of business entities. The reasons for this phenomenon are primarily seen in the desire of firms to reduce the cost of production, distribution and sale of products, achieve profit increases, increase the level of profitability of investments, strengthen their competitive advantages in world markets and the national economy.

The corporate sector of the economy, especially when entering the highest form of development using network structures, creates conditions for optimal management of it at the micro and macro levels. The fact of the merger of corporations with banking, financial and commercial structures is especially significant, in which each economic unit has the opportunity to engage only in activities that bring maximum profit. The Corporation provides additional benefits from the mobilization of large capital and the specialization of all its participants, facilitates access to financial resources and transactions with securities, strengthens control over the use of resources, provides the opportunity to receive

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constant and objective information about the economic situation, increases the efficiency of coordinating actions, connecting funds and obtaining real assistance.

In accordance with these processes, forms of corporate governance in economic entities and banking structures have developed accordingly. And lending activities began to be carried out primarily in joint-stock banks. For this reason, the issues of corporate organization of banking and corporate governance have become the focus of the banking community and have been embodied in very representative forums and congresses [10].

In several publications of Russian and Uzbek experts, modern corporate governance in banks is usually listed as a system of key players interacting with each other listed below:

1. Regulatory and regulatory bodies-limit regulatory boundaries, including the concentration of risks in the banking sector and other parameters of risk management, control its financial stability and effectiveness, check compliance with regulatory documents;
2. Shareholders-have the right to appoint persons responsible for the corporate governance process;
3. Bank Board-determines risk management policies and other types of banking policies, determines strategic directions of banking activities, appoints management personnel, sets operational policies and is responsible for ensuring the well-being of the bank;
4. Management staff-organizes the system and mechanisms for implementing the policy developed by the banking Council in operational work, for which it must meet professional requirements, which also implies compliance with moral standards, the presence of the necessary experience and qualifications for managing the bank. ;
5. Internal audit and Audit Commission-provides an independent assessment of the bank's compliance with internal control systems, checks the introduction of accounting practices;
6. External audit-evaluates the risk management policy (it is important that Bank inspectors do not repeat the work performed by external auditors, for this, certain contacts must be established between them, and the activities of auditors must be risk-oriented. traditional audit of balance sheets and profit and loss reports);
7. Investors/depositors-understanding responsibility and requiring proper disclosure of information while responsible for their decisions;
8. Rating agencies and media-public awareness and risk highlighting;
9. Analysts - process risk-based data and advise customers.

Corporate governance refers to the general management of a bank's activities carried out by its shareholders, the board of directors, including the complex of their relations with the bank's executive body and other stakeholders (employees, customers, partners, counterparties, regulatory bodies of banking activities and regulatory bodies, state and governing bodies) in parts:

1. Determination of strategic goals and effective management system of banking activities;
2. Creation of incentives for labor activities by the bank's governing bodies and its employees, ensuring the implementation of all the actions necessary to achieve the strategic goals of the bank's activities;
3. Achieve a balance of interests of the sole shareholder, members of the board of directors and executive bodies of the bank, as well as other interested parties;
4. Ensuring compliance with the legislation of the Republic of Uzbekistan, bank charter, code of business etiquette and other internal documents of the Bank.

Thus, corporate governance is a special system of managing and monitoring the activities of banks. Its

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structure determines the distribution of rights and obligations between all participants in the company: managers, shareholders, as well as all other persons who are involved in the financial interests of this activity. Corporate management forms an organizational structure, within the framework of which the main tasks are set, ways of solving them are determined and monitoring is carried out [12].

The role of corporate governance in banks has increased, especially due to the emergence of new financial instruments called off-balance sheets, which expose banks to new risks at a high level. Both within one bank and in the banking system as a whole, the correlation between different types of risks increased and became very complicated. To manage risks at this level and maintain competitiveness, each bank seeks to find its own, most effective way of corporate governance.

Established as a Joint-Stock Company, the bank's activities are directly managed by shareholders, the bank's board and management. A large part of the responsibility falls on the board as a body representing and protecting the interests of shareholders. Board members are required to protect the bank's assets as their trustees and thus prioritize the interests of the bank, shareholders and depositors over their interests [13].

Banking should be aimed at increasing corporate profits and increasing shareholder capital, which is the result of an increase in the price of one share. Shareholders hire qualified managers, specialists who are responsible for the most effective management of invested funds. This is where the so-called" conflict of interest " arises, which is when the interests of shareholders and the interests of managers can not only be incompatible, but also contradict each other. For example, bank shareholders are always interested in receiving dividends, which are constantly paid for a certain period of time. From a managerial point of view, the funds allocated for the payment of dividends can be invested in other purposes in order to get more profit. Disputes of this type occur especially often when choosing projects: shareholders prefer to invest in less risky, but not very profitable funds, and managers, although more risky, but give more financial results.

In order to minimize conflict situations, a bank board is formed, which must protect the interests of depositors and shareholders. In fact, the success of such protection is determined by how much the interests of management employees are related to the general interests of the bank.

In my opinion, although conflict of interest is one of the peculiarities of corporate governance, it is advisable to consider its features and diversity in the prism of foreign experience in connection with the conditions of the national economy of Uzbekistan.

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