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A STUDY ON THE PRINCIPLES OF CORPORATE GOVERNANCE WITH SPECIAL REFERENCE TO THE 2010 SEC CODE OF BEST PRACTICES IN GHANA

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Abstract

In 2010, Ghana, a member State of 16 countries in the west coast of Africa, in recognition of the significant role of good corporate governance, formulated an encyclopedic guidelines for effective corporate governance practices in the country. The guidelines were promulgated by the Securities and Exchange Commission (SEC) of Ghana in order to secure greater transparency and to promote best practices in corporate governance. This study aims at providing insight into the five broad areas in regards to the SEC governance principles namely, rights of shareholders, equitable treatment of shareholders, the role of stakeholders, disclosure & transparency, and the responsibilities of the board. The paper also attempts to find out the extent to which Ghanaian banking corporates are responding to the SEC code of best corporate practices. The study used quantitative research methodology relying on secondary data and survey responses from 20 sampled banks including those unlisted and listed at the Ghana Stock Exchange. Using regression and correlation analysis, the results of the study showed a healthy relationship between the corporate governance variables and the SEC governance guidelines and that good governance is an imperative element in explaining the performance of commercial banks in Ghana.

Keywords: *Board directors, Best practice, Corporate governance, Shareholder rights, Stakeholder involvement.*

1.0 Introduction

A corporation once created by a group of individuals known as shareholders and incorporated, it is regarded as an artificial or intangible human being in the eyes of the law. A corporate body, like a person can buy, sell or enter into a contract and sue other persons and be sued as well. The shareholders possess a substantial stake as bonafide owners yet, they may be diffused across the country or outside the country so more often than not it becomes undesirable or highly impracticable for them to oversee to the day-to-day running of their company. Besides, the bonafide owners may not have all the requisite skills, inter alia to manage the affairs of the company in that they appoint certain individuals known as board of directors to run the company on their behalf. The board of directors are given the responsibility of management and control of the company, though the usual practice is that

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the board in turn appoint whole-time executive officers or managers for the smooth conduct of the company. The board is empowered to evaluate the executive officers or managers and to approve of any strategic decisions but they are accountable to the shareholders about their decisions and actions. As a result, a company is managed by a triad of human agents namely; the board of directors, the shareowners/ shareholders, and the executive managers (Sarkar and Sen 2011). On account of the separation of ownership and control of a company, situations do arise wherein the objectives of the board or managers and the shareholders regarding the manner in which a company is operated or run does not necessarily coincide. Good governance in companies promotes corporate fairness, transparency and accountability. It encapsulates the mechanisms required to balance the powers of the board members and then align their interest or objectives with that of the shareholders in order to enhance the fortunes of the organization. Corporate governance, in simple terms, refers to the rules of the game for a company as well as the relationship mechanisms with its shareholders, its lenders, and other stakeholders in the business community at large. (IoD, 2005, p. xii).

James D. Wolfensohn who served as President of the World Bank from 1995 to 2005, once commented that the governance of corporation is now as important as the government of countries to the global economy. The issue of corporate governance, in recent times, has been at the limelight following a sequence of corporate scandals and corporate mis-governance in a number of large and multinational companies across the globe. A major concern borders on the apparent lack of effective control on publicly listed companies, which have brought about the perceived excessive remuneration packages for firm controllers and the resultant mismanagement of corporate resources (Sarkar & Sen, 2011). The effect of such malfeasance and malpractices led to the ruining of many large multinational and global corporations in the like of Enron of US (2001), US Xerox (2000), One.Tel of Australia (2001), Royal Ahold of Netherlands (2003), Tyco International of Bermuda (2002), Parmalat of Italy (2003); and Satyam Computers of India in 2009, to name a few. With this view in mind, the rest of the paper is structured as follows: Section 2 provides the statement of problem, the objectives of the paper is presented in Section 3, and Section 4 presents the review of literature, the methodology of the study is outlined in Section 5. Section 6 discusses the results and analysis of the study. The last section, Section 7, concludes the article with some suggestions.

2.0 Statement Of Problem

In December 2010, in view of the increasing importance of good corporate governance at the global landscape, the Securities & Exchange Commission (SEC) of Ghana promulgated a new set of governance principles known as *Guidelines on Best Practices for Corporate Governance, herein after referred to as the '2010 SEC code'* for the purpose of this article. It is worth noting that the 2010 SEC code draws its strength from existing laws such as the Companies Code 1963(Act 179)*;* the Securities Industry Law, 1993 PNDLC333; and the Listing Regulations, 1990 (L.I. 1509). It is thus the intention of the commission that corporate organizations will do the needful by way of ensuring that the basic principles of corporate governance are adopted and properly followed by firm controllers across the country.

The board of directors as agents of shareholders are expected to act with the objective of maximizing shareholders wealth but many times the board or managers fail to work in the interest of the owners and the company as a whole due to the abuse of power. There is therefore a nagging suspicion that the board may siphon some part of the corporate wealth by rewarding themselves with excessive compensation packages, etc. at the expense of the primary owners/shareholders and other stakeholders of the company. Adam Smith (1776) in an attempt to describe this impasse averred that being the managers of other people's money rather than their own, it cannot be well expected that they should watch over it with the same anxious vigilance which their partners in a private co-partnery frequently watch over their own.

Therefore the 2010 code of best practices on corporate governance released by the SEC has the propensity of shaping the corporate governance arrangements of companies in Ghana. On account of its catholic nature, it is believed that the code will help deepen good corporate governance if corporate bodies adhere to its suggested guidelines (Agyemang and Castellini, 2013). Against this back drop, this paper seeks to provide insight on the principles of corporate governance enacted by SEC Ghana and then also find out the extent to which commercial banks in Ghana are responding to the SEC code of best corporate practices.

3.0 Research Objectives

- To provide insight on the principles of corporate governance developed and promoted by SEC Ghana in 2010.
- To examine the relationship between the SEC governance principles and the corporate governance practices of Ghanaian banking companies.

3.1 Hypothesis

H1: The 2010 SEC Governance Principles Is Positively Associated With The Corporate Governance Practices Of Commercial Banks In Ghana.

4.0 Literature Review

4.1 Introduction

The practices embodied in the 2010 SEC code are largely based on the principles propagated by the Organisation for Economic Co-operation and Development (OECD) as well as the Commonwealth Association for Corporate Governance, inter alia. The principles of corporate governance as stipulated under *Part I* of the SEC code broadly covers five key areas namely; the rights of shareholders, the equitable treatment of shareholders, the role of stakeholders, disclosure and transparency, and the responsibilities of the board (*SEC Ghana, 2010, p.4)*. Best corporate practices are evolutionary in nature and should be adopted by firm controllers to suit their own present circumstances as there is no single model of good corporate governance.

4.2 The Rights and Privileges of Shareholders

A person shall be deemed to be a shareholder or a member of a company when he or she legally acquires one or more shares of an organisation until all such shares are transmitted by operation of law to another person, forfeited, or until the member dies. It is the duty of the organisation to protect the interest of its members and to maximize the value of shareholders as a company's success is measured by the value of its shares (Khurana, 2011). In Ghana, the basic shareholder rights and or privileges of members of a company are firmly provided in the Companies Code, Act 179, 1963. Therefore, the guidelines on best corporate practices issued by the SEC of Ghana in 2010 is not intended to be a substitute to any extant law but are recommendatory in nature. The SEC code however, highlights some important rights of shareholders in the context of a modern corporation which include but not limited to the right to receive timely notices to attend general meetings and vote either in person or by proxy; the right of shareholders to be well informed about issues on fundamental corporate changes such as extraordinary transactions that will result in the sale/takeover of the company; the right of shareholders to elect members of the board, and share in the profits of the company.

4.3 The Equitable Treatment of Shareholders

Shareholder activism in recent years has drawn the attention of minority shareholders to the significance of transparency, equitable treatment of shareholders and good corporate governance.

The 2010 SEC code recognizes the principle of equitable treatment of all shareholders. For example, the code stipulates that with the exception of foreign-holding thresholds under the ambit of the law there should be no discrimination between foreign and domestic shareholder rights; Minority shareholders should have the opportunity of obtaining effective redress for violation of their rights under the law or governance framework of the firm; All issued shares within any series of a class should have the same value as other shares of the same class already issued, and such information must be available to investors at the time of the share purchase; and the company procedures for general shareholder meetings should treat every shareholder with equal curtsey and eliminate any cross border voting obstacles.

4.4 The Role of Stakeholders in Corporate Governance

Corporations are often said to have obligations not only to its shareholders but to all of its constituents invariably referred to as stakeholders, including potential investors, employees, customers, suppliers, government and the communities in which the organisation operates (Institute of Directors, 2005). Best practices suggest that shareholders value is enhanced when a corporations engages effectively with all the aforementioned stakeholders. Alexander et. al, (2007) averred that financial reporting as a management function concerns all constituents of an organisation but not just the shareholders and so is the issue of stakeholders' role in corporate governance. The involvement of stakeholders in good governance extends to the equity investor group, including holders of convertible securities; the loan creditor group which consist of holders of debentures and providers of short-term finance; suppliers and trade creditors; customers; employees; governmental authorities who deals with the supervision of commerce and the issue of taxation and the general public including consumers, special interest groups, environmental protection societies and political parties. According to the Commonwealth Association of Corporate Governance (CACG), each of these stakeholder-groups require access to regular, reliable and comparable information in sufficient detail for them to assess the stewardship of management to enable them to make informed investment decisions (CACG, 1999).

4.5 Disclosure and Transparency

Many companies are beginning to realize the need for transparency and disclosure as an important corporate governance measure in order to achieve growth and profitability and to survive competition. The 1963 Companies code requires companies to be transparent to its shareholders and to further disclose the financial information in their audited accounts presented before its members in general meetings. The code has specify the content of such accounts and also various decisions related to the competence of the auditors who are employed to audit the financials of the concerned firms. The 2010 SEC code also indicates that companies in Ghana are to maintain and disclose their financial information in accordance with the standards adopted and implemented by the Institute of Chartered Accountants (Ghana). These standards are virtually the international financial reporting standards (IFRS) and the international standards on auditing (ISA) which are accepted worldwide and believed to be of high quality accounting and auditing standards respectively (The World Bank, 2005; Burton & Jermakowicz, 2015).

4.6 The Responsibilities of the Board

As pointed out in the introductory section of this paper, the individuals who are elected by the shareholders of a company are collectively known as Board of Directors (BoDs). The role of BoDs is very crucial as they lead, manage and control the affairs of an organisation and facilitates numerous activities. The listing regulations of the GSE mandates companies to establish and maintain an audit committee of the board in the case of public listed companies. The basic responsibilities of the board are extensively provided in the 1963 Companies Code of Ghana. These provisions are specified in Sections 179 to 189 of the companies' code and it includes but not limited to the number, appointment, competence, removal and retirement of directors as well as the directors' share qualification and the vacation of office of directors. The 2010 SEC code has also elaborated on the responsibilities and accountability of the BoDs and has addressed in detail the issues related to the Board such as the separation of the roles of the CEO and Board chairperson, the responsibilities of the board, definition of independent directors, financial literacy of members of the audit committees, annual performance assessment of the board, its committees, chairpersons and individual directors (Agyemang & Castellini, 2013, p.165).

5.0 Methodology

The study adopted quantitative and qualitative methodology and a descriptive research design to provide insight on the principles of corporate governance enacted by SEC Ghana and then also find out the extent to which commercial banks in Ghana are responding to the SEC code of best corporate practices. It was confined to the three (3) prominent national banks and 17 private sector banks whether or not listed at the Ghana Stock Exchange (GSE). Data was collected through interviews and structured questionnaire administered to 140 respondents using purposive sampling technique. The sample was made up of Seven (7) banks whose stocks are traded at the GSE and Thirteen (13) non-listed banking companies. Additionally, secondary data were garnered from related topics in articles and periodicals on corporate governance including annual reports of the sampled banks. Data was analyzed with the Statistical Package for Social Sciences (SPSS), the results were duly interpreted and then the hypotheses were tested to make a claim of acceptance or rejection.

6.0 Results And Analysis

6.1 Demographic Statistics

The demographic categories of the respondents were based on gender, position and level of education as well as the demographic profile of the sampled commercial banks. The field data presented in table 4.1 (Please see appendix 1.0) reveals that majority of the 140 respondents of the study were male representing almost 73%. Forty-two (42) representing 30% of the respondents had Bachelors' degree, followed by 39 (27.9%) Masters' degree holders. Respondents with professional qualification such CA, etc. were 35 representing 25% of the total respondents. Doctorate degree holders were 14 which represents 10% and only 10 respondents (25%) were diploma holders. It is therefore conspicuous that all the respondents had gone through formal education up to the tertiary level. Table 4.2 also shows that the sample demographics for the selected banks consist of 17 private banks representing 85% and 3 large public banks representing 15%. The study observed that all the sampled banks faithfully applied IFRS standards in preparing their financial statements for the financial years ending December 2013, December 2014, December 2015, December 2016 and December 2017 respectively. Please see appendix 1.0

6.2 Board Responsibilities in Good Corporate Practices

Multiple regression analysis was used to examine the relationship between responsibilities of the board and good corporate governance practices. The result (Please refer to table 4.3 in appendix 1.0) for the multiple correlation coefficient 'R' = .598 points out that there is a positive relationship between the dependent variable; Board responsibilities and the independent variables; Code of ethics, Split of CEO/Chairman roles as well as the maintenance of books of accounts. Moreover, table 4.4 (please see appendix) indicates that the F-test value of 14.988 is significant at .000. Thus, p value is significant at .000 which less than 0.05. This also explains that the correlation between the dependent variable and the independent variable is statistically significant and the regression model is therefore valid, (i.e. $F(3,136) = 14.988$, $p< .0005$).

6.3 The Rights of Shareholders in Good Corporate Practices

The result of the Pearson correlation reveals that there is a significant positive relationship between shareholders right and all the corporate governance variables namely, the right to receive timely notices to attend general meetings and vote either in person or by proxy; the right to be well informed about issues on fundamental corporate changes such as extraordinary transactions that will result in the sale/takeover of the company; the fundamental right of shareholders to elect members of the board, and share in the profits of the company. Please see table 4.5 at the appendix.

6.4 Equitable Treatment in Good Corporate governance

The correlation analysis result in table 4.5 (please see the appendix) demonstrates strong correlation coefficient of .587 between equitable treatment of shareholders and all the corporate governance variables including protection of minority shareholders; no discrimination of foreign and domestic shareholders. There is therefore a substantial evidence in support of the hypothesis that there is a significant positive relationship between the SEC governance principles and the corporate governance practices of Ghanaian banking companies.

6.5 Stakeholders' Role & Disclosures in Corporate Governance

It is evident from the empirical results of the Pearson correlation (as shown in table 4.5 at the appendix) that there is a positive association between fair compensation for employees and stakeholders involvement in the practice of good corporate governance. Similarly, the study revealed that there is a strong positive relationship between disclosures in performance evaluation and the transparent corporate practices of the banking firms in Ghana. The null hypothesis is thus rejected as there is a significant relationship between the SEC governance principles and the corporate governance practices of the commercial banks in Ghana.

7.0 Conclusion

The study has provided some insights in the corporate governance practices with reference to commercial banks in Ghana through the use of survey responses and secondary data. The corporate governance practices of the sampled banks were evaluated in the light of the guidelines on best corporate practices issued by the Securities & Exchange Commission (SEC) of Ghana. The SEC guidelines consist of five main principles namely, the rights of shareholders, the equitable treatment of shareholders, the role of stakeholders, responsibilities of the board, disclosure and transparency. The study finds that each of these governance principles which formed part of the survey instrument had a significant positive correlation with the corporate governance practices of the selected banks. Besides, the results of the regression analysis showed a healthy relationship between the responsibilities of the board and all corporate governance variables. The study suggests that regulatory authorities should organize workshops to educate firm controllers (i.e. management and the boards of the banks) about the need to observe good corporate governance as it can help in curbing corporate short comings such as defective leadership, wrong strategies and persistent poor business performance although good governance per say is not a panacea for a firm's success.

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Appendix 1.0

Table 4.1 Demographics profile of respondents

Demographic Factors	**Description**	**Total (n=140)**	**Percentage Total (100%)**

1. Gender	a. Male b. Female	102 38	72.9 27.1
2. Educational Level	a. Professional b. Doctorate Degree c. Master's Degree d. Bachelor's Degree e. Diploma/others	35 14 39 42 10	25.0 10.0 27.9 30.0 7.1
f. Designation	a. Area/Branch Manager b. CEO/Executive Director c. Audit Officer d. Finance/Accounting officer e. Risk/Compliance Officer f. Operations/Corp. Banking officer	10 6 20 45 30 29	7.1 4.3 14.3 32.1 21.4 20.7

Source: Field Data, 2018

Table 4.2: Banks Sample Demographics: Sector, Listing Status and the Use of IFRS Standards

Bank Sector	**Listing Status**	**Number of Banks**	**Percentage (%)**	**Accounting Standards Used for Financial Year(s)**				
				2013	**2014**	**2015**	**2016**	**2017**
Private	**5**	**17**	**85.00%**	**IFRS**	**IFRS**	**IFRS**	**IFRS**	**IFRS**
Public	**2**	**3**	**15.00%**	**IFRS**	**IFRS**	**IFRS**	**IFRS**	**IFRS**
Total	**7**	**20**	**100.00%**					

(Source: Field data, 2018)

Table 4.3: Model Summary[b]

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate
1	.598[a]	.348	.332	.86625

a. Predictors: (Constant), Code of ethics, Split CEO/Chair roles, Books of accounts.

b. Dependent Variable: Board Responsibilities

Table 4.4: ANOVA[b]

Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	33.741	3	11.247	14.988	.000[a]
	Residual	102.052	136	.750		
	Total	135.793	139			

a. Predictors: (Constant), Code of ethics, Split CEO/Chair roles, Maintenance of books of accounts.

b. Dependent Variable: Board Responsibilities

Board Responsibilities and Good Corporate Practices

Model		**Unstandardized Coefficient**		**Standardized Coefficient**	**t**	**Sig.**
		B	**Std. Error**	**Beta**		
1	(Constant)	3.635	.845		4.302	.000
	Code of Ethics	.206	.137	.113	1.507	.134
	Split of CEO/Chairman Roles	.555	.125	.336	4.452	.000
	Keeping Book of Accounts	.398	.104	.287	3.822	.000

a. Interpretation

From the above table, the results show that the unstandardized coefficient **B_1,** for Code of ethics was equal to 0**.206.** This means that code of ethics as good governance principle is positively associated with the responsibilities of the board. The unstandardized coefficient **B_2,** for Split of CEO/Chairman roles was equal to 0**.555.** This is evident that Split of CEO/Chairman roles as good governance principle is positively associated with the responsibilities of the board. Lastly, the unstandardized coefficient **B_3** for maintenance of adequate books of accounts was equal to 0**.398.** This is evident that the maintenance of adequate books accounts as a good governance principle is positively associated with the responsibilities of the board.

The results of the regression analysis above supports the assumption that there is a strong positive relationship between good corporate practices and responsibilities of the board directors of commercial banks operating in Ghana. Therefore, the alternate hypothesis that there is an association between good corporate practices and board responsibilities is accepted.

Table 4.5 Results of Correlation Analysis

SEC Governance Principles/Guidelines	***Corporate governance variables***	***Average Pearson Correlation***	**Sig. (2-tailed)** ***p=.000<.05***	**N**	Hypothesis After testing
Shareholders Rights	1.Voting at meetings, 2.Election of board members	.637	.000	140	Supported
Equitable Treatment of Shareholders	1. No discrimination of foreign and domestic shareholders; 2.Protection of minority shareholders.	.587	.000	140	Supported
Role of Stakeholders	1. Fair compensation for employees, 3.Reporting unethical practices.	.600	.000	140	Supported
Disclosure & Transparency	1. Going concern disclosure, 2.Performance evaluation disclosure.	.645	.000	140	Supported

Table 4.4 Correlations of Voting and Shareholders Right

		Shareholders Right	Voting at Meetings
Shareholders Right	Pearson Correlation	1	.637**
	Sig. (2-tailed)		.000
	N	140	140
Voting at Meetings	Pearson Correlation	.637**	1
	Sig. (2-tailed)	.000	
	N	140	140

**. Correlation is significant at the 0.01 level (2-tailed).

Table 4.4 and figure 1.0 above indicates that there is a significant positive relationship between shareholders right and their ability to timely receive notices to attend meetings and vote, $r(138) = .637$, $P = .000$. $p < .01$ *and* r is positive.