

The Comparative China Corporate Governance Standards after Global Crisis

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Abstract

The 2006 Taiwan Conference on Corporate Governance showed that the current company system needs not only back-end CG solution such as “golden parachute” but also internal mechanisms. There are also a few researches which have been done in the field of international corporate governance standards. This paper chooses a different analytical analysis style and one of its aims is to give some certain systematic conclusions on China corporate governance (CG) system.

First, it separates China standards into two groups: China 2001 and Taiwan 2002 CG principles covered in group 1 and, group 2, including corporate governance principles from Hong Kong conclusion paper and KPMG guides, while it uses OECD principles as reference.

Next, it separated independent contents with analysis and identified differences between these above set of standards which are and have been encouraged to use as reference principles for many organizations.

In addition, it aims to build a selected China comparative set of standards for corporate governance system in the post-crisis and scandal time. Last but not least, this paper illustrates some ideas and policy suggestions.

Keywords: *corporate governance standards, board structure, code of best practice, financial crisis, corporate scandals, market manipulation, internal audit*

JEL Classification: *G00, G3, G30*

Introduction

After Asia’s 1997-1999 crisis, Taiwan Securities and Future Commission began to enhance the importance of corporate governance in public companies. Therefore, here, we attempt to make a comparative analysis on different Corporate Governance approaches in China region. Despite of trying to select an easy-to-read writing style, there are still some academic concepts that need to be explained in further detail.

This paper is organized as follows. As previous CG papers, research literature and theories are introduced in the first two sections. Then, section 3 presents our research methodology. Next, section four illustrates the familiar four groups of empirical findings. Finally, the fifth section turns to our conclusion and policy suggestions. Additionally, there are exhibit sessions which cover some summary of this paper’s analysis and models from international organizations such

as auditing firm. Besides, a glossary note is provided with information for reference and as a means of reducing repeating terminology.

Research Literature Review

During the post crisis and post scandals time, there are lots of researches and surveys on importance of corporate governance and its reasonable structure and participants such as shareholders. Jonathan M. Karpoff, Paul H. Malatest, and Ralph A. Walkling, (1996) identified that low financial results attract shareholder corporate governance proposals. Ryan (1988), Gordon (1993), and Pozen (1994), pointed that shareholder proposals can drive managers to make specific valuable changes. On the other hand, N. Balasubramanian, Bernard S. Black, and Vikramaditya Khanna (2010) found a cross-sectional positive relationship between CG and shareholders' rights in an Indian research.

Next, the Taiwan CG Best Practice Code (2002) stated that all directors, supervisors, employee and shareholders must perform their functions to enhance corporate governance. Additionally, Richard H. Fosberg, and Michael R. Nelson (1999) found that the dual leadership structure might enable the firm to lower the agency costs. And Pi and Timme (1993) showed some evidence that banks with a dual leadership structure were more profitable than companies with a unitary leadership structure. Justin Lu and Jonathan Batten (2001) presents a view that OECD CG implementation in post-crisis time in Asia will be hindered by obvious cultural differences, and long-term change needs a cultural shift in the philosophical and financial bases of the corporation. Besides, Bengt Holmstrom, and Steven N. Kaplan (2003) pointed that the failures in corporate governance system caused past changes in The Sarbane-Oxley Act 2002. They argued that the bigger risk facing US corporate governance system might be the overregulation.

Theory of Corporate Governance, Scandal and Market Manipulation

Theory of Manipulation

There are different views on market and stock manipulation which are suggested to prevent their negative impacts in securities market in state and company laws. Firstly, Kenneth M. Breen, Keith W. Miller, Morgan J. Miller, and Thomas A. Zaccaro (2008) pointed that the possibility of manipulation relating to short-selling opportunities might be considered in relevant regulations. Lambert and Sponem (2003) argued that earning manipulation can be a tool to fulfill the role of efficient operating of companies in Anglo-Saxon corporate governance context. They also found that in companies with weak financial context, management controllers and operational managers can manipulate profits under pressure from shareholders. In addition, there is evidence in the stock market which discloses that market manipulation can be used either to increase market value of the firm to benefit management team, or be used in stock price downturn for some private speculation. Beatriz García Osma, and Encarna Guillamón-Saorín (2009) suggested that strong governance may result in lower manipulation. Therefore, we can see that the technique of market manipulation can be done with relevance of several individuals or groups.

Theory of Corporate Governance and Financial Crisis

First, OECD (2004) stated that corporate governance structure identifies the distribution of rights and duties of different participants such as board, managers, shareholders and other stakeholders in the corporation. The UN Global Compact and IFC (2009) offered ten principles

to govern the company in fields of Human rights, Labor Standards, Environment and Anti-corruption. The Economist Intelligence Unit (2002) stated in their report that corporate governance is about facilitating corporate fairness, transparency and accountability. After Asian crisis, in 2002, KPMG Ltd. identified strong corporate governance is a foundation for preserving reputation and values, such as investor confidence, capital access, employee satisfaction, customer loyalty and organizational sustainability. And Thailand Stock Exchange, until 2006 defined corporate governance as a set of structures and processes between board, management and shareholders to strengthen the co.'s competitiveness, growth and long-term shareholder value, together with interests of other co.'s stakeholders.

Up to now, there are different analytical views on corporate governance and its importance.

Research Methodology

Firstly, we analyze and compare corporate governance principles in each of the two different groups including: 1) Group 1 – China CG representative standards including China mainland and Taiwan Corporate Governance Principles which have a few modifications in corporate governance principles after the crisis period; and 2) Group 2 - Relatively good corporate governance group including Hong Kong corporate governance principles and KPMG Guide for Directors.

We also use, but not limited to, international standards of corporate governance such as: OECD, ADB and Mc Kinsey corporate governance principles and surveys as reference.

Then, we make some suggestions on the so-called comparative China corporate governance principles which are aiming to create a common and sharing background for public and private corporations interesting in different aspects of corporate governance subjects.

In general, it can be considered as the recommendation to relevant countries' government and other relevant organizations for public policy and necessary evaluation. For a summary of our standards, see Exhibit and the below tables 1 and 2 in relevant sections.

Empirical Findings

Findings on Corporate governance issues after financial crisis, corporate scandals and market manipulation

There are several popular issues including: a weakness in information disclosure and transparency of corporations, as well as the matter of roles, values and participation of independent directors in the corporation.

Also, we can find out another corporate governance (CG) issue. It is the lack of practices for connecting and participation of different types of shareholders such as individual, institutional and foreign shareholders. Another problem is the separation between conflicts of interests of controlling shareholders and other types of shareholders.

Moreover, the construction of operational processes of supervisory board is among interesting matters in post-crisis and post-scandal periods. Last but not least, the effectiveness of board, committees and internal regulations are also needed to audit.

Generally speaking, Chinese enterprises follow a socialist market economy theory and are in the transformation and corporatization stage which shows very fast growing GDP number, so it needs lots of effort on operational improvement.

Findings on Ways of Manipulation during Corporate Scandals

Several Manipulation Techniques found out during corporate scandals involve, but they are not limited to:

The manipulation techniques in the income statement:

Here, there is the involvement of management in preparing financial statements which contributed to transaction manipulation. For example, the case of Sunbeam showed that the earning was manipulated for smooth income purposes, by allowing contracts or customers paid in months later.

The manipulation techniques in both the income statement and balance sheet:

We can find here evidence from Tobu Railway Company scandal, a Group company with subsidiaries, which is involved in using accounting techniques to hide liabilities or losses in financial statements. Or another case, famous Enron scandal, had to be verified for its hiding of \$ 1 billion losses.

The manipulation techniques relevant to international accounting practice code:

In our previous paper series on Corporate Governance, we indicated that there is a gap to manipulate the asset values and its depreciation time by utilizing international accounting standards. Also, a switching of inventory method, allowed by laws to some extent, is also taken into account for transaction manipulation.

Other manipulation techniques net belong to above classifications:

Market Manipulation can happen in an event in which groups of participants such as shareholders concern in manipulation. For example, Fairfax Financial Holdings Ltd., Toronto, (2006) found that some group of hedge funds tend to manipulate market. Or the using of initial sale in transaction manipulation can be another example for this category.

Actions on Preventing or Controlling negative manipulation

Necessary actions to prevent or control negative market manipulation are, but not limited to, designing proper measures to provide sound results on both positive and negative effects of market manipulation action and information. Additionally, there is the fact that the analysis techniques used in review of big corporations' financial statements such as Enron needed to be enhanced. On the other hand, the competence of the Board and the control and reporting system also need to be strengthened.

Findings on Construction of Comparative International Corporate Governance Standards

1. Group 1 - China and Taiwan Corporate Governance standards analysis

The China CG Principles

After financial crisis 1997-1999, in 2001, China SEC issued Code of CG.

It is said that one of its significant advantages is to clarify full rights of shareholders, including but not limited to, participation in major matters, and their duties in the invested company.

Additionally, similar to Japan Code, China Code considers the Company as a whole when it makes conditions of fully disclosure of basis for pricing of related-party transactions. Besides, it also gives another party "affiliates" in provision regarding to preventing them from transferring capital and assets of the co. through different means.

And different from some other Asian Codes, it stated the independence of the co.'s assets and controlling shareholders' invested assets which has to be recognized in proper accounting and management procedures.

Generally speaking, The China 2001 Code has a meaningful objective and solid focus on shareholder and their participation in the company. Besides, it is good to point that directors should have relevant training on their roles and duties, as well as buying liability insurance for directors which does not cover liability for violating laws. However, it still has not pointed well the conflicts of interest. (see Exhibit 1).

The Taiwan 2002 Corporate Governance Best Practice Principles

After the impact of the 1997-1999 crisis, until 2002, Taiwan TSE provided The 2002 Best Practice CG Code.

It pays lots of attention to shareholders and directors importance, especially to the roles of the independent directors, as well as provided details on information disclosure. Moreover, it indicated that the co. as a whole should maintain environmental protection and communication with relevant stakeholders such as bankers, creditors, consumers, and employee.

Different from most of Asian Codes, there is an inspector at the GM who will examine documents by BD and SB. Also, it shows a good view on criteria for BD meeting such as sound recording and video taping.

However, it would be better to present clear views on the chairman of the co. and the chairman of the GM. See Exhibit 2.

Comparison between the China and Taiwan Corporate Governance Principles

Different from most of Asian Codes, there is a focus on controlling shareholders in the China 2001 code. For example, it prevents them from damaging other shareholders' legal rights by means such as assets restructuring. Moreover, it clarifies roles of directors when participating in BD meeting such as; presenting clear opinions on topics with responsible manner. Also, it makes a sound point when it suggests the BD may establish a corporate strategy committee. (see Exhibit 1 and Exhibit 2).

On the other hand, the 2002 Taiwan Code considers roles of Supervisory Board as a vital element in corporate governance structure. It indicates that a supervisor needs to understand duties and functions of BD and Managers, as well as to attend regular meeting of BD. Through its 2002 CG Code, it signifies the compliance with laws and regulations. And it strengthens the role of information transparency as one of co.'s missions. Next, it makes sense when pointing that a shareholder should be in a good faith with other shareholders or make MGT involving in illegal earning transactions. But it has to identify actions from compliance division in more details.

Table 1. China CG representative standards

Subjects or parties	Main quality factors	Sub quality factors
Audit committee	Responsible to BD; at least one with expertise in accounting or finance;	Established by BD; AC oversee EA and IA interaction;
CEO/General manager and The Chair	The Chair, not a CEO, attend GM and inquire shareholders' opinion;	N/A (for further research and implementation)
Corporate Secretary	Be in charge of information disclosure; provide consultation; contact shareholders;	BD and MGT actively support CS work;
Compliance officer	May engage legal counsel to ensure legal framework;	N/A (for further research and implementation)
Board of Directors	Operate in independent manner; faithfully, honestly and diligently; Composition ensure effective discussion and timely decision making;	Liability of compensation if violating laws and causing damages to co.;
Independent director	Independent from major shareholders;	May receive liability insurance as GM resolution;
Supervisory board to the Management	professional knowledge in law or accounting;	meet periodically;

Table 1 (cont.)

Supervisory to the Board of Directors	accountable to all shareholders; professional knowledge in law or accounting; meet periodically; professional knowledge and skill, time and energy;	Liability of compensation if violating laws and causing damages to co.; honest, fair and practical attitude;
Internal control	Comprehensive and effective;	SB supervise BD and managers to perform operations;
Internal audit	No subordinate relationship between Co.'s IA and controlling shareholders or their IA;	Evaluate problems of IA system and efficiency of operation;
External audit	Engaged or replaced based on recommendation from AC;	Can be an independent CPA;
Disclosure and transparency	Set efficient communication channel with shareholder;	Explicit and Concrete Principles of Authorization for BD in GM;
Shareholders	Fair treatment to all shareholders;	Participate in major events of company;
The corporation as a whole entity	Ensure the CG Code have provisions to guarantee full exercise of shareholders' rights; Clarify with directors rights and obligations;	Design measures to prevent affiliates from misappropriating co.'s capital and assets;

Source: appraised by Author

2. Group 2 – Relative Good Corporate governance group analysis

After the financial crisis 1997-1998, Hong Kong Exchanges and Clearing Limited showed some improvement in their 2004 Conclusion of Corporate governance Codes.

Hong Kong's 2004 Conclusion on Corporate Governance Code:

In the 2004 Code, so-called, it stated that companies can issue their own Code of Practice. It also enhanced roles of corporate secretaries in implementing good CG and in keeping minutes of BD meeting and other committees meeting.

Good recommendations involved in the 2004 Code include, but not limited to, specific roles of AC with the Corporate Governance Report in which it might identify the reasons why the BD takes different views on appointment or removal of EA.

A minor point might be the fact that it will provide better views if it indicates more on roles of supervisory board.

For a summary on corporate governance factors, please refer to the Exhibit 3.

In summary, the 2004 Code strengthens the duties of AC in relation with EA, as a key representative body of the corporation.

KPMG - Hong Kong Guideline for Directors analysis:

After financial crisis 1997-1999, and the consultation paper of HKSE in 2002, KPMG in Hong Kong provide guide for directors on a corporate governance system.

According to the code, the responsibilities of the co. to customers are recognized.

It is also recommended that disclosure should be made as soon as practicable. And the co. should disclose transactions with a "connected person" such as chief executive, controlling shareholder as well. However, the Code pays little attention to the role of CEO.

See Exhibit 4 for a summary of some characteristics of CG system mentioned in the Code.

The 1st Establishment of a so-called relatively Good Corporate Governance standard

This following table is designed with the consideration of comparative analysis of two above-selected organizations.

Table 2. A relatively Good Corporate Governance standards

Subjects or parties	Main quality factors	Sub quality factors
Audit committee	Separate secretary keep meeting minutes; build non-audit services policy with EA;	AC Chair can answer at GM;
CEO and The Chair	Chairman approve board meeting agenda; propose separate resolution at GM; Both have written roles;	Chair ensure directors receive adequate, reliable information;
Corporate Secretary	provide access and services to all directors; keep meeting minutes;	Have effective communication with shareholders;
Compliance officer	Disclose name in interim report in securities transactions;	N/A (for further research and implementation)
Board of Directors	Meeting notice at least 14 days; balance of skills and experience;	Director may find independent professional advice;
Independent director	Can Attend A board meeting held to solve conflict with shareholder;	N/A (for further research and implementation)
Supervisory board to the Management	Act by BD or other professional advice;	N/A (for further research and implementation)
Supervisory to the Board of Directors	Professional consult accessed by committees;	N/A (for further research and implementation)
Internal control	Annually reviewed by directors covering operational , compliance and RM;	Procedures to handle price sensitive information;
Internal audit	AC ensure coordination between IA and EA;	N/A (for further research and implementation)
External audit	Discuss AC scope of audit;	Independence, skills , knowledge reviewed by AC;
Disclosure and transparency	Disclose any information enabling public to evaluate the co.'s position and avoid false market on co.'s securities;	Disclose transactions between companies and "connected person";
Shareholders	Elect new directors at GM with biographical notes;	Voting by poll;
The corporation as a whole entity	Set code of conduct regarding to securities transactions;	Has development programs for directors;

Source: appraised by Author

3. The 1st Establishment of a so-called comparative International Corporate Governance standards

A so-called Limited Comparative International Corporate Governance Set of standards

Based on the above analysis, we consider building comparative standards for a comparative International Corporate Governance system.

Table 3. The Comparative China Corporate Governance standards

Subjects or parties	Main quality factors	Sub quality factors
Audit committee	Responsible to BD; at least one with expertise in accounting or finance;	Established by BD; may invite intermediary org. to give professional ideas; AC oversee EA and IA interaction; improve communication between BD and EA;
Nominating committee	Written duties and authority;	Established by BD; may invite intermediary org. to give professional ideas;
Numeration or Compensation Committee	Consult chairman or CEO remuneration proposals; approve performance-based compensation;	Established by BD; may invite intermediary org. to give professional ideas;
CEO and The Chair	The Chair approve board meeting agenda; propose separate resolution at GM;	The Chair, not be a CEO, attend GM and inquire shareholders' opinion;
CFO	Helped by AC to raise concerns in a forum;	N/A (for further research and implementation)
Corporate Secretary	Be in charge of information disclosure; provide consultation; contact shareholders;	BD and MGT actively support CS work;

Table 3 (cont.)

Compliance officer	May engage legal counsel to ensure legal framework;	N/A (for further research and implementation)
Board of Directors or Management Board	Operate in independent manner; Composition ensure effective discussion and timely decision making;	Liability of compensation if violating laws and causing damages to co.; faithfully, honestly and diligently; if BD or Managers resign, SB will investigate causes; cooperate well with inspector in GM;
Independent director	Independent from major shareholders;	May receive liability insurance as from GM resolution;
Supervisory board to the Management	Institutional investors join in supervisory for MGT; Act by BD;	professional knowledge in law or accounting;
Supervisory to the Board of Directors	professional knowledge in law or accounting; meet periodically; co. set a channel for SB to communicate with employees, shareholders;	Liability of compensation if violating laws and causing damages to co.; accountable to all shareholders; cooperate well with inspector in GM;
Internal control	Comprehensive and effective;	SB supervise BD and managers to perform operations;
Internal audit	Evaluate problems of IA system and efficiency of operation;	No subordinate relationship between Co.'s IA and controlling shareholders or their IA;
External audit	discuss AC scope of audit;	Engaged or replaced based on recommendation from AC; can be an independent CPA;
Disclosure and transparency	Explicit and Concrete Principles of Authorization for BD in GM;	Set efficient communication channel with shareholder;
Shareholders	Fair treatment to all shareholders;	Participate in major events of company;
Stakeholders	Ensure shareholders' legal rights following state laws;	Co. provided information to banks and creditors to assess its financial position;
Accountability	BD show balanced, comprehensible assessment on co.'s position;	truthfully, accurately, completely and timely information disclosure;
Leadership	BD has duty for leadership and control;	Board leadership by chairman;
Employee	Enhance professionalism and knowledge of the law	AC consider hiring employees from EA; treat employees fairly and equitably;
3 rd parties and conflicts of interests	A board meeting held to solve conflict with shareholder or director;	Specific Written agreements with equality, compensation and voluntariness principles;
The corporation as a whole entity	Clarify with directors rights and obligations; fulfill the function of supervisors;	Design measures to prevent affiliates from misappropriating co.'s capital and assets;
The Code	Ensure full exercise of shareholders' rights	Disclose corporate governance structure and rules;

Source: appraised by Author

Conclusions

In the previous analysis, we found out several key corporate governance issues including, but not limited to, the lack of an effective board as well as necessary mechanisms to build better disclosure system. The 2006 Taiwan Conference on CG also identified despite of its active growing capital market, that the quality of independent directors is not enhanced well.

To lower its impact, The 2001 China Code and 2002 Taiwan Best Practice Principles enhances recommendations on disclosure and transparency policies as well as connection between Board and SB.

Besides, the Hong Kong Code and KPMG Guide also play a vital role in guiding the Board toward setting a good CG system although it needs to give more views on internal and risk contents.

As the above Code stated, the company can issue their own Code of Practice which are established either by their own business industry, or by generally accepted standards. In consideration of corporate governance issues analyzed in the previous sessions, we proposed the main and sub quality factors in this paper *a set of general China corporate governance standards* in a limited model with selected above countries. Though limited, it has some implications for further research and proper recommendations to relevant government and organizations. And it also provides relevant academic and non-academic, lawyer and consultant, board and non-board people with minimum information for further researches.

Exhibit

Exhibit 1 – The China Code of Governance 2001 (a short summary appraised by Author)

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	Comprised of solely directors; independent director with accounting professional;	Established by BD;	Chaired by independent director; review IA system; replacement of EA; inspect financial information and its disclosure;		
Nomination committee	Comprised of solely directors;	Established by BD;	Chaired by independent director; seek and set election procedures for qualified directors; review candidate for directorship and MGT;		
Compensation or Remuneration committee	Comprised of solely directors;	Established by BD;	Chaired by independent director; study evaluation standard, review remuneration schemes for directors and MGT;		
CEO or Lead director;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
The Chair	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	BD chair may take roles of BD member when they are absent at office;	<u>Not mentioned clearly in the Code;</u>	As understood from the Code;
CEO and The Chair relationship	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Corporate Secretary (CS)	Organize meeting minutes accurate and complete;	Independent form controlling shareholders;	Be in charge of information disclosure; provide consultation; contact shareholders;	<u>Not mentioned clearly in the Code;</u>	
Compliance officer (compliance)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Board of Directors	faithfully, honestly and diligently; adequate time	BD resolution not violate laws and administrative	Liability of compensation if violating laws and causing damages to co.; set agenda for GM; May solicit for	<u>Not mentioned clearly in the Code;</u>	

	and energy to perform tasks; Composition ensure effective discussion and timely decision making;	regulations; Operate in independent manner; adequate knowledge, skill and quality;	shareholders' voting rights in GM; Have pre-decided agenda before BD meeting; can attend SB meeting;		
Executive director (Eds)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Non-executive director (NEDs)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
(Senior) Independent director	Independent from major shareholders;	May postpone BD meeting if 2 or more independent directors deem materials inadequate;	May solicit for shareholders' voting rights in GM; Protect total interests of co.; majority in committees;	Perform duties in compliance with laws and co.'s articles;	
CFO (senior financial officer)	<u>Not mentioned clearly in the Code;</u>	Independent form controlling shareholders;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Management team (senior)	Duties specified in co.'s articles of association;	Independent form controlling shareholders; compensation for MGT linked both to co. and individual's performance;	Liability of compensation if violating laws and causing damages to co.; legitimacy viewed by SB; can attend SB meeting; evaluated by BD; legal liabilities inspected by BD;	<u>Not mentioned clearly in the Code;</u>	
Supervisory board	accountable to all shareholders; professional knowledge in law or accounting;	Operate in independent manner; right to know co.'s operating status; SB meeting records are stored as important docs;	Liability of compensation if violating laws and causing damages to co.; supervise corporate finance, legitimacy of directors; may hire intermediary org. to provide professional views; may report to BD or GM if found violation of laws; can attend SB meeting; evaluated by peer review;	<u>Not mentioned clearly in the Code;</u>	
Internal control	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	IC system monitored by AC;	<u>Not mentioned clearly in the Code;</u>	
Internal audit	<u>Not mentioned clearly in the Code;</u>	No subordinate relationship between Co.'s IA and controlling shareholders or their IA;	Operate in independent manner; AC oversee EA and IA interaction; can attend SB meeting;	<u>Not mentioned clearly in the Code;</u>	As understood from the Code;
External (Independent) audit /registered public accounting firm;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	Engaged or replaced based on recommendation from AC; AC oversee EA and IA interaction; can attend SB meeting;	<u>Not mentioned clearly in the Code;</u>	

Accounting personnel	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	Conduct independent business accounting for asset transactions related to controlling shareholders;	<u>Not mentioned clearly in the Code;</u>	As understood from the Code;
Disclosure and transparency	Explicit and Concrete Principles of Authorization for BD in GM;	Set efficient communication channel with shareholder; economical, convenient, comprehensible and speedy information access;	Co. fully disclose basis of pricing for related party transactions; Transparent procedure for BD election; disclose performance and compensation of BD and SB;	<u>Not mentioned clearly in the Code;</u>	
Shareholders and Minority Stockholder	Ensure full exercise of shareholders' rights; each GM item has sufficient amount of time for discussion;	Fair treatment to all shareholders; shareholders' legal rights following state laws and co.'s articles of association; Director election fully reflects opinions of minority shareholders;	Participate in major events of company; Initiate litigation if any breach of laws found in AGM meeting or BD resolution; Utilize IT means, select time and place for GM to attract the max no. of shareholders; may appoint proxy to vote;	<u>Not mentioned clearly in the Code;</u>	
Accountability	Equal access of information to all shareholders;	truthfully, accurately, completely and timely information disclosure;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Leadership	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	Act by BD;	<u>Not mentioned clearly in the Code;</u>	
Employee	<u>Not mentioned clearly in the Code;</u>	Independent form controlling shareholders;	Co. respects legal rights of employees; give feed back on operating and financial decision affecting employees' benefits;	<u>Not mentioned clearly in the Code;</u>	
3 rd parties and conflicts of interests	Respect legal rights of banks, customers, creditors, suppliers, community;	Specific Written agreements with equality, compensation and voluntarity principles;	Fully disclose basis of pricing for related party transactions;	<u>Not mentioned clearly in the Code;</u>	
Code of ethics (conduct)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Group and subsidiaries	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Institutional investors	Good faith;	Help co. to further reform personnel;	Join in appointing BD, compensation and decision making process; Help co. to transform operational and managerial mechanisms;	<u>Not mentioned clearly in the Code;</u>	

Controlling shareholders	Not interrupt co.'s business in accordance with laws; adequate time and efforts when be director of co.;	See principle "first restructuring, then listing";	Serve the co.'s social function; nominate candidates for directors or supervisors; not engage in similar business to that of invested co.;	<u>Not mentioned clearly in the Code;</u>	
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Exhibit 2 – Evaluation of Taiwan 2002 Corporate Governance Best Practice Principles

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	One or more independent directors;	Responsible to BD; at least one with expertise in accounting or finance;	Adopt regulations of functions, duties, qualification; communicate with CPAs of the co.; examine IA and IC and accounting system;	<u>Not mentioned clearly in the Code;</u>	As understood from the code;
Nomination committee	<u>Not mentioned clearly in the Code;</u>	Responsible to BD, if have;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	As understood from the code;
Compensation or Remuneration committee	<u>Not mentioned clearly in the Code;</u>	Responsible to BD, if have;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	As understood from the code;
CEO or Lead director/General manager;	<u>Not mentioned clearly in the Code;</u>	Should not be the chairman;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
The Chair	<u>Not mentioned clearly in the Code;</u>	Not a general manager;	Attend GM and inquire shareholders' opinion;	<u>Not mentioned clearly in the Code;</u>	
CEO and The Chair relationship	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Corporate Secretary (CS)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	Sign meeting minutes;	<u>Not mentioned clearly in the Code;</u>	
Compliance officer (compliance)	<u>Not mentioned clearly in the Code;</u>	Engage legal counsel to ensure legal framework;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	As understood from the code;
Board of Directors	self-discipline and prudential attitude; ability to lead and make decision; delegation of BD power;	Structure, independence, and Responsibility disclosed; industrial knowledge; fair, open election;	if BD resign, SB will investigate causes; May receive liability insurance as GM resolution; take law, finance training courses before directorship; arrange GM agenda; BM may be at any time; Sign meeting minutes;	In compliance with company's articles of incorporation and laws; enhance decision making ability of BD;	
Executive director (Eds)/ Managing directors	<u>Not mentioned clearly in the Code;</u>	Proactively perform duties;	Specific delegation from BD to Managing directors or chairman;	<u>Not mentioned clearly in the Code;</u>	

Non-executive director (NEDs)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
(Senior) Independent director	Competence, integrity; elected in GM; knowledge of law, finance, accounting;	In compliance with company's articles of incorporation and laws;	May receive liability insurance as GM resolution;	<u>Not mentioned clearly in the Code;</u>	
CFO (senior financial officer)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	if CFO resign, SB will investigate causes;	<u>Not mentioned clearly in the Code;</u>	
Management team (senior)	Selected and supervised by BD;	Responsibility disclosed;	if Managers resign, SB will investigate causes; cooperate well with inspector in GM;	<u>Not mentioned clearly in the Code;</u>	
Supervisory board	Convene proper meetings;	Composition, duties disclosed; independent; co. provide necessary assistance and document to perform his/her duties;	Take legal, finance courses and training; may receive liability insurance and be liable to co.; may retain attorney or accountant to review finance or operation; pay attention to IA annual report; submit audit reports at GM;	<u>Not mentioned clearly in the Code;</u>	
Internal control	Comprehensive and effective;	SB supervise BD and managers to perform operations;	Strengthen RM by evaluating independent supervisors; co. conduct risk evaluation;	to reduce financial and operational risks; reduce credit risks;	
Internal audit		Special concern from MGT on personnel;	BD review IA annual report; Evaluate problems of IA system and efficiency of operation;	Ensure a sound CG system;	
External (Independent) audit /registered public accounting firm;	Professional, responsible;	Be an independent CPA;	Co. evaluate EA independence no less than once annually;		
Accounting personnel	<u>Not mentioned clearly in the Code;</u>	Treat all shareholders fairly;	Co. set a proper MGT system for accounting and finance;	<u>Not mentioned clearly in the Code;</u>	
Disclosure and transparency	Faithfully; in accordance with laws; proper and timely disclosure;	Set a web page to disclose operation, finance information; use Market Observatory Post System;	Appoint a person to maintain co.'s website; Appoint a spokesperson making statement of co. independently; disclose director training; Disclose GM meeting minute on web;	<u>Not mentioned clearly in the Code;</u>	
Shareholders and Minority Stockholder	Keep Record of meeting minutes; co. protects rights and interests of shareholders;	Rights and relationship disclosed; trust independent directors; audio-record and video-tape of GM;	Recommend independent supervisor; join in key decision of co.; vote for directors or supervisors at GM;	<u>Not mentioned clearly in the Code;</u>	

Accountability	<u>Not mentioned clearly in the Code;</u>	Treat all shareholders equally;	Co. protects shareholder rights and concern stakeholders interests;	<u>Not mentioned clearly in the Code;</u>	
Leadership	<u>Not mentioned clearly in the Code;</u>	BD has ability to lead and manage crisis;	Act by BD;	<u>Not mentioned clearly in the Code;</u>	
Employee	Enhance professionalism and knowledge of the law	<u>Not mentioned clearly in the Code;</u>	Handle matters following BD resolution;	<u>Not mentioned clearly in the Code;</u>	As understood from the Code;
3 rd parties and conflicts of interests	<u>Not mentioned clearly in the Code;</u>	Co.'s manager not a manager of its affiliated firms;	Co. know duties over asset, personnel of its affiliated firms;	<u>Not mentioned clearly in the Code;</u>	
Code of ethics (conduct)	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Group and subsidiaries	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Institutional investors	<u>Not mentioned clearly in the Code;</u>	Meet with listed co. in accordance with laws;	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	
Controlling shareholders	<u>Not mentioned clearly in the Code;</u>	<u>Not mentioned clearly in the Code;</u>	Co. disclose information on major shareholders ownership;	<u>Not mentioned clearly in the Code;</u>	

Exhibit 3 – Evaluation of HK 2004 Code of CG

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	Ensure board response timely with MGT letters from EA;	Meet at least once a year with auditor; AC Chair can answer at GM;	Separate secretary keep meeting minutes; build non-audit services policy with EA;	<u>Not mentioned clearly by the Code;</u>	
Nomination committee	Majority be independent NEDs;	Written authority and duties; NC Chair can answer at GM;	Review BD composition, skills, experience; assess independence of NEDs; recommend new BD member appointment;	<u>Not mentioned clearly by the Code;</u>	
Compensation or Remuneration committee	Might include NEDs;	Access to professional advice; CNC Chair can answer at GM;	Consult chairman or CEO remuneration proposals; approve performance-based compensation;	<u>Not mentioned clearly by the Code;</u>	
CEO or Lead director;	<u>Not mentioned clearly by the Code;</u>	Not same individual as the chair;	Written roles;	<u>Not mentioned clearly by the Code;</u>	
The Chair	Ensure directors receive adequate, reliable information;	Not same individual as the CEO;	Written roles; ensure all directors know brief matters before meeting; approve board meeting agenda; propose separate resolution at GM;	Ensure board act in best interests of co.;	

CEO and The Chair relationship	<u>Not mentioned clearly by the Code;</u>	Roles separated;	Know difference between Board MGT and day-today business MGT;	<u>Not mentioned clearly by the Code;</u>	
Corporate Secretary (CS)	Have effective communication with shareholders;	Disclose name in interim report in securities transactions;	Write board meeting agenda; Set CG procedures; provide access and services to all directors; keep meeting minutes;	<u>Not mentioned clearly by the Code;</u>	
Compliance officer (compliance)	<u>Not mentioned clearly by the Code;</u>	Disclose name in interim report in securities transactions;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Board of Directors	Meeting notice at least 14 days; balance of skills and experience; at least 1/3 be independent NEDs;	Take decision objectively, effectively; active join in meeting;	BD meeting at least 4 times a year and regularly; directors can include matter in meeting agenda; Director may find independent professional advice;	<u>Not mentioned clearly by the Code;</u>	
Executive director (Eds)	Duties of care and skill and fiduciary duties;	constructive relation with NEDs;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Non-executive director (NEDs)	sufficient calibre; Duties of care and skill and fiduciary duties;	Effectively contribution; constructive relation with EDs;	If independent, Can Attend A board meeting held to solve conflict with shareholder; independent judgement on policy, strategy matters;	<u>Not mentioned clearly by the Code;</u>	
(Senior) Independent director	<u>Not mentioned clearly by the Code;</u>	Independent judgement;	Can Attend A board meeting held to solve conflict with shareholder;	<u>Not mentioned clearly by the Code;</u>	
CFO (senior financial officer)	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Management team (senior)	Complete and reliable information;	Disclose remuneration of senior MGT;	Give adequate information to BD; senior MGT given independent access to BD and directors; receive clear direction from BD;	<u>Not mentioned clearly by the Code;</u>	
Supervisory board	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Professional consult accessed by committees;	<u>Not mentioned clearly by the Code;</u>	
Internal control	IC, RM Monitored by AC;	Procedures to handle price sensitive information;	Annually reviewed by directors covering operational , compliance and RM;	<u>Not mentioned clearly by the Code;</u>	
Internal audit	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	AC ensure coordination between IA and EA;	<u>Not mentioned clearly by the Code;</u>	
External (Independent) audit /registered public accounting firm;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Independence, skills , knowledge reviewed by AC; discuss AC scope of audit;	<u>Not mentioned clearly by the Code;</u>	

Accounting personnel	<u>Not mentioned clearly by the Code;</u>	Disclose name in interim report in securities transactions;	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Disclosure and transparency	Formal, transparent procedure of new director election;	CG report may be a summary on CG disclosed in annual report;	Co. disclose quarterly and interim reports; give reasons for resignation of directors; disclose industry specific ratios;	<u>Not mentioned clearly by the Code;</u>	
Shareholders and Minority Stockholder	Voting by poll;	BD maintain an ongoing dialogue with shareholders;	Elect new directors at GM with biographical notes;	<u>Not mentioned clearly by the Code;</u>	
Accountability	<u>Not mentioned clearly by the Code;</u>	Set code of conduct regarding to securities transactions;	BD show balanced, comprehensible assessment on co.'s position;	<u>Not mentioned clearly by the Code;</u>	
Leadership	<u>Not mentioned clearly by the Code;</u>	BD encourage shareholders participation in GM;	BD has duty for leadership and control; board leadership by chairman;	<u>Not mentioned clearly by the Code;</u>	
Employee	<u>Not mentioned clearly by the Code;</u>	Co. Disclose relationships with employees;	AC consider hiring employees from EA company;	<u>Not mentioned clearly by the Code;</u>	
3 rd parties and conflicts of interests	<u>Not mentioned clearly by the Code;</u>	Disclose relationships with suppliers, customers;	A board meeting held to sole conflict with shareholder;	<u>Not mentioned clearly by the Code;</u>	
Code of ethics (conduct)	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	Co. Set code of conduct regarding to securities transactions;	<u>Not mentioned clearly by the Code;</u>	
Group and subsidiaries	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	BD conduct review of effectiveness of IC system of co. and subsidiaries;	<u>Not mentioned clearly by the Code;</u>	
Institutional investors	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Controlling shareholders	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	<u>Not mentioned clearly by the Code;</u>	
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties. The issuers can choose to comply with the Code.				

Exhibit 4 – Key Notes on KPMG – Hong Kong CG Guidelines After 2002

Items	Note
Corporate Governance	Sufficient Transparency, directors responsibility, controlling shareholder accountability, adequate disclosure, all parties fairness
Directors Number	At least two directors, by The Hong Kong Companies Ordinance
NEDs	Not involved in day- to –day MGT; provide advice with specific area expertise; receive fees;
Eds	Be employees and MGT staff and receive salaries;
Chairman	Direct discussion toward a consensus view; summarize decision; leading role in deciding board composition and sub-structure of committees;
Special Purpose committees	Solve Due diligence, strategic plans, review of litigation;

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O comparație a standardelor de guvernare corporatiste din China după criza globală

Rezumat

Conferința din Taiwan privind Guvernarea Corporatistă organizată în anul 2006 a arătat faptul că sistemul actual din companii necesită nu numai soluția guvernării corporatiste ca o clauză contractuală benefică, ci și mecanisme interne. Există de asemenea câteva cercetări realizate în domeniul standardelor internaționale ale guvernării corporatiste. Articolul de față alege un stil de analiză diferit și printre obiectivele sale se află acela de a oferi câteva concluzii sistematice cu privire la sistemul guvernării corporatiste din China.

În primul rând, lucrarea separă standardele din China în două grupuri: standardele guvernării corporatiste China 2001 și Taiwan 2002 sunt cuprinse în primul grup, cel de-al doilea grup incluzând

principiile guvernării corporatiste din documentul de definitivare de la Hong Kong și îndrumările KPMG, în timp ce utilizează principiile OECD drept referință.

În continuare, se separă conținuturile independente de partea de analiză și sunt identificate diferențele dintre cele două grupuri de standarde menționate mai sus care sunt și au fost prezentate drept principii de referință multor companii care sunt încurajate să le utilizeze.

În plus, articolul își propune să conceapă un set de standarde comparative pentru guvernarea corporatistă din China post-criză. Nu în ultimul rând, articolul de față ilustrează unele idei și sugestii de politici.