

6. CORPORATE GOVERNANCE AND BOARD CONFIGURATION IN GREECE

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6.1. Introduction

6.1.1. Perceptions of Board Accountability

Corporate governance is widely considered as a key factor of the market's efficiency and integrity as well as corporate performance. According to a substantial and dynamic approach, adopted by the OECD Principles of Corporate Governance, initially developed in 1999 and reviewed in 2004, corporate governance is defined as: "A set of relationships between the company's board, its shareholders and other stakeholders" (Principles of Corporate Governance, 2004).

Furthermore, in light of the global financial crisis, there has been an increasing realization that optimal standards of corporate governance are necessary to ensure transparency, accountability but also to improve value creation. In that regard, the mechanisms of corporate governance connected with the board of directors have long been considered of growing importance for organizational performance, as they constitute the critical link between the shareholders of a company and the managers (Stiles and Taylor, 2002). The framework of board members' activities and functions clearly demonstrates the multidimensional role they are vested in providing accountability, monitoring and supervising but also on strategy formulation (Carter-Lorsh, 2004; Tricker, 2016; Clarke, 2017). According to Tricker (2016) boards' responsibilities and duties are associated with both internal and external mechanisms of corporate governance: in the inputs of the company to ensure statutory – regulatory compliance while setting and formulating strategy and in the outputs to review and monitor key executive performance while reviewing financial policies in compensation or budgets.

This wider functional perspective of boards' duties, pointed out in Corporate Governance Codes and best practices worldwide (UK Corporate Governance Code, 2014; OECD Principles of Corporate Governance, 2015d; ASX Principles of Good Corporate Governance, 2014; American Law Institute, 1994) focuses on the mechanisms of independence and objectivity by which boards of directors fulfill their duties, enhanced by the establishment of the fiduciary duties of loyalty and care (Bagley, 2015; Linklaters, 2005).

Furthermore, research on boards' effectiveness and the impact on company performance is a profound theoretical and practical question depending on different indicators of internal governance, that reflect a unique environment of board strategy

and performance (Pey and Pettigrew, 2005). The attempt to evaluate the contribution of corporate governance inside boards to company performance raises problems of definition, methodology and evidence (Clarke, 2017). According to Hermes (Hermes, 2006), the research on corporate governance and performance is identified by three different categories: opinion-based research, focus list research and performance engagement funds, and governance ranking research.

Under this perspective, the dominant theoretical framework that identifies the link between board and organizational performance is undoubtedly agency theory, which conceives the separation of finance and management as a fundamental agency problem (Jensen & Meckling, 1976; Jensen, 1994), associated with the simplistic aspect of the firm as a nexus of contracts by individuals, motivated by self-interested utility maximization (Alchian-Demsetz, 1972; Coase, 1937; Jensen & Meckling, 1976; Bainbridge, 2008). According to agency theory, boards of directors act as a control mechanism to monitor the actions of self-interested behaviors of executives (Daily et al., 2003; Hillman and Dalziel, 2003). Stiles and Taylor argue that “non-executive directors, because of their supposed independence and objectivity, provide an important check and balance to the power of the chief executive and his or her executive team” (Stiles and Taylor, 2002). In fact, the participation of external directors (non-executive and independent directors) is considered as an effective mechanism to confront agency problems arising actually or potentially between different constituencies of the company, in two levels: between controlling shareholders and managers and/or between majority and minority shareholders (Armour, Hansman & Kraakman, 2017; Pargendler, 2016). Furthermore, agency theory implies that organizational performance is positively connected with the monitoring role and duties of directors (Brown, 2005; Hilb, 2005).

Whereas agency theory reflects adequately the control and monitoring role of directors in the internal corporate governance framework, a multi-theoretic approach to corporate governance is essential for widening the focus on directors’ resource service and strategy roles (Daily et al., 2003). In that regard, resource dependence theory examines the interdependencies of organizations implying the board’s function to contribute adequate resources to organizations (Brown, 2005). The theoretical origin of resource dependence theory is based on the assumption that connecting firm with external resources helps to reduce uncertainty and increase the efficiency of the firm (Bielefeld, 1992). According to this approach, board members’ function is to bring adequate resources to the organization (Brown, 2005) and to connect the firm with external resources such as suppliers, buyers, policy makers and other social groups (Hillman et al., 2000). Resource dependence theory is connected with board efficiency and organizational performance particularly in public and non-profit organizations (Kanter and Brinkerhoff, 1981; Koufopoulos and Gkliatis, 2008) reflecting the political dimension of non-profit organizations. An indication is the finding from Koufopoulos and Gkliatis (2018) who suggest that when the organization becomes larger an increased board size is expected; the reason is possibly the greater need to control external contingencies - due to its size – as the theory states.

Furthermore, the multidimensional organizational approach of the firm has influenced team production theory, initiated by Alchian- Demsetz (Alchian- Demsetz, 1972), presenting the company as a nexus of institutional arrangements for governing multiple relations between all factors that influence directly or indirectly the organization and performance of the firm. According to Blair and Stout (Blair – Stout, 1999; Kaufman & Englander, 2005) other groups, such as long-term employees, creditors, managers and the government make contributions to the firm and should be considered as residual claimants as well as shareholders. They argue that the board of directors should serve as a “mediating hierarchy” between the different constituencies of the firm, providing an adequate foundation in both law and practice.

6.1.2. Board Effectiveness and Company Performance: A Dynamic Approach

Furthermore, academic research on corporate governance regarding the board of directors and company performance has demonstrated methodological problems. According to Hermes research focusing on a single standard such as the composition of a board may not be associated with the performance of the company (Hermes, 2006). In that regard, he emphasizes that “the selection of a set of governance standards introduces a subjective element into governance ranking research” and concludes that the “most valuable research should seek to identify a relatively small set of governance standards directly related to performance”. Similarly, Pettigrew argues that academic research should focus on the direct evidence on mechanisms that link input variables such as board composition to output variables such as board performance (Pettigrew 1992).

In that regard, empirical research should not only focus on board structure such as board size, leadership, board committees as well as board composition, referring to all attributes and skills of board members that are commonly identified as fundamental elements of board effectiveness. In addition, more substantive research is required about behavioural processes, in order to link board structure and characteristics to the board and company performance (Pey & Pettigrew, 2005; Carter & Lorsch, 2004; Finkelstein and Mooney, 2003). This suggests consideration of the dynamic capabilities and focus on the interdependencies between board structure and decision – making. As Dalton and Dalton argue, regarding the impact of board independence on performance “structural independence does not equal performance independence” (Dalton and Dalton, 2005).

However, the usual board standards employed in empirical researches are board size, CEO duality, the number of independent members (insider-outsider ratio) and gender duality (Finkelstein and Mooney, 2003; Johnson, Daily and Ellstrand, 1996), while actual board behavior is not explored (Huse, 2005; Huse and Gabrielson, 2004).

This dynamic perspective highlights that empirical research on boards and directors is a complex task (Hermalin and Weisbach, 2003), due to the methodological problems to capture board processes and mechanisms, operating in a unique environment. Inevitably, each board operates under unique strategic and legal

conditions comprising different pressures, which will lead to different drivers and indicators of board performance (Pey and Pettigrew, 2005).

6.2. Legal Overview of the Corporations in Greece

6.2.1. Board of Directors in Greek Listed Companies

In Greece, the corporate governance framework of companies limited by shares – Societes Anonymes- (SA's) permitted to be listed on a regulated market according to the listing rules (articles 1-10 of L. 3371/2005 on Capital Market) has raised increased interest especially during the decade of the 2000s. This was a result of the crisis of the Athens Stock Exchange in 1999 identified by a remarkable loss of the total market capitalization (Spanos, 2005; Xanthakis, Tsipouri & Spanos, 2005) as well as the international pressures for a more “market- based and shareholder-oriented model of governance” (Koufopoulos et al., 2008).

Specifically, the reform in the legal status of corporate governance was initiated by the publication of a White Paper entitled “Principles on Corporate Governance in Greece – Recommendations for competitive competitiveness” in 1999 (Principles on Corporate Governance, 1999), by the Committee of Corporate Governance under the coordination of the Hellenic Capital Markets Commission (HCMC), aiming to the establishment of corporate governance practices in a voluntary basis. These practices referred mainly to the role of shareholders in CG including their duties, responsibilities and equitable treatment, disclosure and transparency as well as the composition of boards with executive and non-executive members. This initiative was followed by the establishment of a “Code of conduct for companies listed on the ATHEX and their affiliated persons” in 2000 (HCMC, Rule 5/204/2000) with the purpose to promote transparency and disclosure of listed companies (Spanos et al., 2008), while in 2001 the Federation of Greek Industries developed the principles of CG.

Furthermore, the significance of self- regulation in corporate governance is highly illustrated by the “Hellenic Corporate Governance Code for listed companies” published by the Federation of Greek Industries in 2011 and reviewed in June 2013 by the Hellenic Corporate Governance Council (Hellenic Corporate Governance Code for listed companies, 2013). The aim of the Code is to introduce best corporate governance practices in a non-compulsory basis in fundamental aspects of corporate governance: board structure and leadership, shareholders’ rights and activism, internal control function, establishment of board committees (nomination, remuneration, audit committees).

Furthermore, the Code introduces specific practices for listed companies, inspired by the OECD Principles on corporate governance, in order to recommend mechanisms of board accountability and transparency, both in context and substantially, especially in case of conflicts of interest, to facilitate shareholder information and to enforce internal control processes. As aforementioned, compliance to the recommendations of the Code is voluntary, while the Code’s main contribution to confronting the critical issue of the

efficient implementation and application of soft law rules of corporate governance Codes' (Hopt, 2012), consists in adopting the “comply or explain” mechanism, according to the provisions of art. 43 par. 3 e' L. 2190/1920 on SA's, as amended by article 2 par. 2 L. 3773/2010. This mechanism, which has been transposed on Greek legal system according to the rules of the Directive 2006/46/EC, requires listed companies that intend to implement the Code as a reference framework to a) disclose the use of the Code as a reference framework and either (b) comply with the special practices of the Code or (c) explain the reasons for non-compliance with specific provisions.

Furthermore, the legal and regulatory framework of corporate governance has been substantially reformed by the provisions of L. 3016/2002 on Corporate Governance, which established hard rules in the internal corporate governance of listed companies in the following issues:

1. The duties of board members (art. 2), requiring explicitly that all board members of listed companies have the principal obligation and duty “to pursue constantly the enhancement of the long-term economic value of the company and to promote the general corporate interest”. Academics argue the imprecise and incoherent character of the provision (Athanasidou, 2003; Aygitides, 2013; Perakis, 2002), especially as regards the definition of the term “general corporate interest”, as it would be rather difficult to consider a priori the situations of potential conflicts of interest between “the general corporate interest” and the personal interests of directors. Moreover, they argue that the ratio of this provision should not be to introduce stakeholder value theory in the Greek legal system. According to this approach, shareholder value theory is considered as the dominant theoretical foundation of corporate governance (Aygitides, 2013; Livada, 2010), implying that board members in listed companies are invested with the principal duty to improve the financial performance of the firm as an entity, as regards both the stock market value and the financial earnings to shareholders.
2. Board composition, providing as mandatory the participation of non-executive and non-executive independent directors, in accordance with the “Eu Recommendation of 15 February of 2005 on the role of non-executive or supervisory directors of listed companies and on the committees of the supervisory board”.

These rules aim to ensure structural independence and objectivity as regards the composition of the board that should contribute to board balance, protection against conflicts of interest as well as the effective functioning of the board (Hopt, 2015; Keay & Loughrey, 2015). In fact, these statutory requirements determine the essential elements as regards the external qualification of non-executive members, including non-executive independent members. Specifically, according to art. 3 par. 1 L. 3016 /2002 at least one-third of the members of the board of directors should be non-executive directors, of which at least two members non- executive- independent directors. In that regard, these rules set the general framework of executive and non-executive directors' duties: executive members are invested with the daily management of the company as their

primary occupation, while non-executive members are defined as those members without any executive responsibilities. The quality of board members as executive or non-executive is determined by the board of directors and validated by the general meeting of shareholders.

Independent directors are non-executive members that should be invested with certain independence criteria, required by article 4 par. 1 L. 3016/2002, in order to ensure the independence of mind and action, most importantly in tasks where there is a potential for conflicts of interest. In that regard, independent non-executive members are not permitted to own more than 0.5% of the company's share capital or to have a relation of dependence with the company or persons related to the company. Independent members are appointed by the general meeting of shareholders. The board is obliged to determine whether individual candidates meet the criteria of independence before their election by the general meeting of shareholders. The appointment of non-executive independent members is not required according to L. 3016/2002, whenever board members are appointed as representatives of minority shareholders.

Although the ratio of this regulatory framework is consistent, as aforementioned, with key objectives of corporate governance in the Greek legal system, it raises problems of legal implementation as regards the precise description of the role and duties of non-executive and non-executive - independent directors (Athanassiou, 2003; Livada, 2016; Tellis, 2004; Tountopoulos, 2005). Specifically, the duties of non-executive independent directors are not specified in the provisions of L. 3016/2002, which refer explicitly only to the power of independent directors to prepare and submit separate reports to the general meeting of shareholders (art. 4 par. 2 L. 3016/2002). Moreover, pursuant to art. 7 par. 2 L. 3016/2002, one to three non-executive directors are invested with the supervision of internal auditors. According to academics, the ratio of these provisions implies regard to the monitoring function of non-executive and non-executive independent directors towards the executive directors as well as the internal audit service (Athanassiou, 2003; Livada, 2016; Rokas, 2012; Tountopoulos, 2005). According to this approach, non-executives are invested with the general duty to supervise the executives in the management of the company, which is in accordance with the general conception of the role of non-executive independent members as a legal mechanism to control agency problems, implying conflicts of interest among different corporate constituencies, such as conflicts between controlling shareholders and managers or between majority and minority shareholders (Armour, Hansman & Kraakman, 2017b; Bainbridge, 2012; Pargendler, 2016).

3. Furthermore, the provisions of Law 3016/2002 establish the organization of internal control departments in listed companies in order to support effective control of the company by the management as well as decision making by investors (Standard and Poor's, 2005). The organization of internal operation regulation implies that boards of directors should at least structure the company's services between the board and the management.

Undoubtedly, the legal status of corporate governance in Greece has significantly improved in harmonization with EU legislation and corporate governance practices, the

hard law rules of L. 3016/2002 establishing minimum requirements of board accountability mainly as to the introduction of external non-executive directors and non-executive independent directors. However, these rules provide only for the fundamental elements and formalities of boards' structure and composition in listed companies, while critical issues of corporate governance practices that promote substantially board accountability and efficiency, such as boards' specific monitoring and strategic function, boards' size and tenure, CEO duality and board committees, are not explicitly been treated. This raises legal issues of board members' compliance to the accomplishment of their duties, implying regard to their liability status according to the general principles of L. 2190/1920 on director liability (Athanassiou, 2003; Tsene, 2017). Furthermore, we argue that the structural independence of non-executive directors, as well as board performance, should be more substantially ensured, as to facilitate company effectiveness and sustainability.

6.2.2. Legal and Self-Regulatory Features of Board Members and Function

The hard law rules of L. 3016/2002 are complementary to the essential features of the board of directors' function and composition according to the general rules of Greek company law on all companies limited by shares (L. 2190/1920) whether or not admitted in a regulated market - which are essentially mandatory. Specifically, the board of directors is a collective corporate organ, which is considered as the main administrative and decision – making body, elected by the general meeting of shareholders (art. 34 par. 1 sub b, L. 2190/1920) for a limited period of time which is defined in the company's articles of association or determined by the general meeting of shareholders. The tenure of the board should not exceed the period of six years (art. 19 par. 1 sub. 1 L. 2190/1920) or could be determined for a shorter period in the company's articles of association. Board members can be re-elected in their positions (art. 19 par. 2 sub. 1 L. 2190/20). Similarly, under Greek company law, the number of directors may be explicitly decided by the general meeting of shareholders or determined by the statute of the company's articles of association, within the minimum requirement of three members stipulated in art. 18 par. 2 L. 2190/1920.

The boards of directors in all SA's, whether or not admitted for trading in a regulated market, are unitary, according to one- tier system that prevails in the Greek legal system of companies. In that regard, boards are invested with decisional, monitoring and advising duties in the management of the company (Alexandridou, 2012; Livada, 2010; Perakis, 2007). The members of the board are collectively responsible for the management and the representation of the company in accordance with the legal interests of the company, including planning and executing business decisions, setting the company's strategic and long-term goals and providing adequate resources and information to the company.

Furthermore, self-regulation and specifically the provisions of the Hellenic Code of Corporate Governance of June 2013, have introduced special practices, as recommendations regarding board structure, size and function as well as board

committees (audit, nomination and remuneration committees), that apply in addition to the legal requirements of L. 3016/2002. These self-regulatory provisions aim to introduce specific practices for listed companies that contribute to enforcing board accountability, transparency as well as the effective functioning of the board.

The following features reflect the fundamental characteristics of board structure, size, gender, function and CEO duality, deriving from the hard law (L. 2190/1920; L. 3016/2002) and the self-regulatory provisions of the Code of Corporate Governance.

6.3. Analysis of Corporate Board Practices in the Country

6.3.1. Board Structure, Size and Gender Equality

The general provisions of L. 2190/1920 on Societes Anonymes require, as aforementioned, that the board's size and composition should be determined by the statutes of the company's articles of association, comprised of a minimum number of three members, while no maximum limit is set.

Furthermore, the mandatory rules of L. 3016/2002 on corporate governance establish, as aforementioned, the composition of the board of listed companies with at least 1/3 non-executive members, of which two members should be non-executive independent. In addition to hard law, the Code on Corporate Governance emphasizes on enforcing board independence of action and mind, as both a formal and a substantial quality of non-executive members, including independent members. In that regard, the Code endorses corporate governance best practice to "require a higher proportion of non-executive and non-executive independent board members than required by Law 3016/2002 to ensure adequate board balance, optimal committee composition and protection against conflicts of interests".

Therefore, the Code recommends that the majority of board members should be non-executive (including independent directors) and at least two executive members. The number of independent members is not defined in the Code. However, in determining the relation of independence, the provisions of the Code require explicitly the consideration of additional criteria, than in L. 3016/2002, providing for instance that independent members should not be associated with the company or its major shareholders either directly or indirectly through its subsidiaries. Moreover, the independent member should not have been an external auditor or a partner or employee of a company that provides external auditing services to the company or its subsidiaries within the last 3 years.

Furthermore, the Code's contribution to determining independence as a substantial element of board accountability and performance, consists in that it underlines that independence is not a "panacea", that is a single standard of critical importance but should be associated with the consideration of capabilities, knowledge and leadership qualities. This is essential in order to enforce effectively value creation inside the company but also as regards the stakeholders.

This dynamic approach in the effective fulfillment of the boards' responsibilities is reflected in the composition of the board, as aforementioned, but also in the size of the board, the Code recommending that it should comprise of seven to fifteen members, while the general principles of Greek company law require only a minimum of three members. These specific provisions embrace a rather large size of boards in listed companies that could possibly raise problems of board effectiveness.

Regarding gender diversity, the Code emphasizes the general principle to achieve optimum diversity in the composition of the board and the senior executive team. This "aims at the efficient achievement of the company's targets on the basis that the company gains access to a wider talent pool; thus increasing the company's competitiveness, productivity and innovation". However, no gender quota is defined, the Code recommending the publication of the diversity policy in the website as well as a specific reference in the corporate governance statement.

Furthermore, regarding the tenure of board members, Greek company law establishes, as aforementioned, a maximum term of six years, while the Code recommends as regards listed companies a shorter period of four years, that contributes to board balance and ensures that board members' appointment is regularly approved by shareholders.

6.3.2. *CEO duality*

The Code contains specific principles regarding the role and profile of the Chairman of the board in listed companies as well as CEO duality. Firstly, the Code refers explicitly that the chairman is invested with leadership responsibilities in the organization and function of the board's meetings, ensuring the equitable treatment and the effective communication with shareholders.

Moreover, CEO duality is explicitly mentioned, however, the Code's recommendation is not to separate the roles of the chairman and the CEO, following best practices in other corporate governance systems and codes. This position is explained, according to the provisions of the Code, by the cultural characteristics and identities of Greek listed companies.

However, it is recommended that in case of CEO duality-implying the combination of the roles of chairman and chief executive in one person – or if an executive chairman is appointed, the company should appoint an independent vice-president. It should be mentioned at this point that, in determining the quality of an executive chairman, the Code stipulates that a former chief executive should be considered as executive chairman if appointed within three years of his retirement.

The ratio of this provision is to "safeguard the independence of board by ensuring that non-executive members are adequately informed and engaged in board oversight and decision making". In that regard, the independent vice-chairman's responsibilities include the coordination of non-executive board members as well as the evaluation of the chairman by the board.

Undoubtedly, this flexible approach takes into consideration the critical importance of board and CEO relationship and the interdependencies between management and the executives towards the board of directors. The aim is to confront actual or potential agency problems between the management of the company and/or the executives motivated by self-interest utility maximization towards the board of directors, ensuring the adequate objectivity and independence in the accomplishment of its function.

6.4. Analysis of Board Governance in the Greek Context

6.4.1. Methodology, Sample and Data Collection

The current study consists of all the Greek companies listed in the Athens Stock Exchange (ATHEX) from the 31st of December of 2009 and up to 31st of December 2016. This study is a continuation of the annual studies that took place by the Hellenic Observatory of Corporate Governance (HOCG, 2008; HOCG, 2009; HOCG, 2011). The ATHEX website (www.ase.gr) was the main source used for the data collection. In addition, all companies' data concerning corporate governance was double checked by downloading their annual reports for the respective years. Before moving to the description of the variables addressed, we have to make an important note about the number of companies.

6.4.2. Variables Analysed

Number of Companies was measured for each one of the years by checking the ATHEX website and any relevant announcements that report IPOs, suspensions and any companies being delisted.

Board size is captured by the absolute number of directors on December 31st of each year.

Board composition is captured by the number of executives (internal) and non-executives (external) sitting on the board on December 31st of each year. The non-executives are categorized either as dependent (affiliated) or independent.

Gender of the members of the board is ascertained by examining the names and surnames of all the board members.

Foreigners on the board are determined by examining the origin of the members' surname.

6.4.3. Descriptive Findings

In 2009, the number of listed companies was 279, while 8 years later the number has decreased by almost 48%, equals to 188 companies. Among them, 15 listed companies are currently on under temporary suspension of trading. This clearly reflects the impact that the 2008 global crisis has had on the Greek economy, which is continued almost a decade later.

Figure 6.1. Number of listed companies from 2009 to 2016

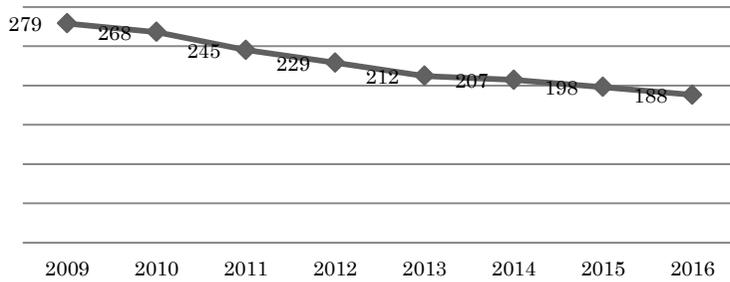
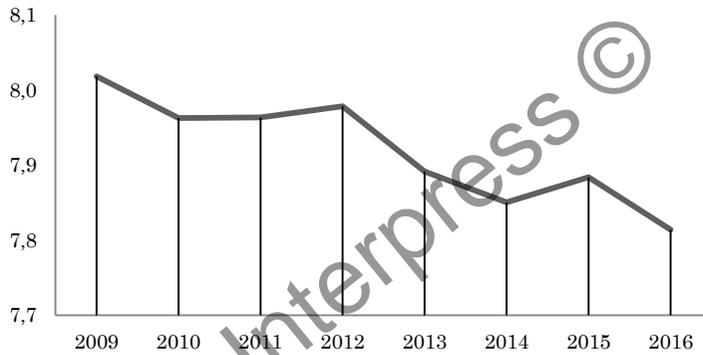


Figure 6.2. Average board size



The average board size of the firms listed in ATHEX was relatively low and quite similar between 2009 and 2016. In 2009 an average of 8.02 directors was observed with a standard deviation of 2.62 (n=279). The graph shows a steady decrease in the average board size throughout the years with 7.81 directors and a standard deviation of 2.47 in 2016 (n=188). It is quite interesting that the most frequently observed board size was 7 throughout the years.

Figure 6.3. Male directors

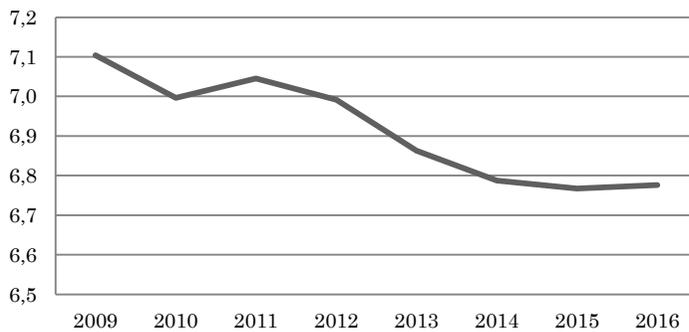
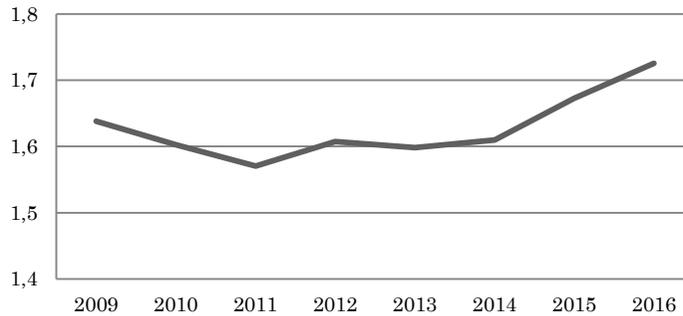
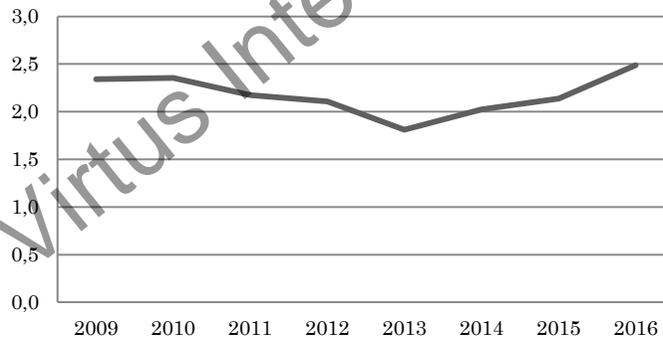


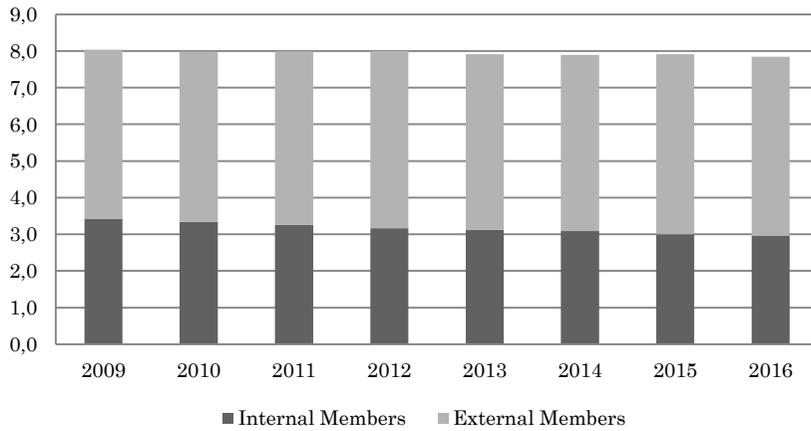
Figure 6.4. Female directors

Gender analysis shows that boards are predominately male dominated with an average of 7.1 male directors (1986 male directors) and 1.6 female directors in 2009 (251 female directors). In 2016, male directors have been decreased to nearly 6.8 (1279 male directors), while the female directors have been slightly increased to approximately 1.7 (198 female directors). Overall, the total number of board members in 2009 was 2237 (n=279), while in 2016 was 1477 (n=188). Therefore, it is implied that women are under-represented in the boards of the firms listed in the ATHEX.

Figure 6.5. Foreigner directors

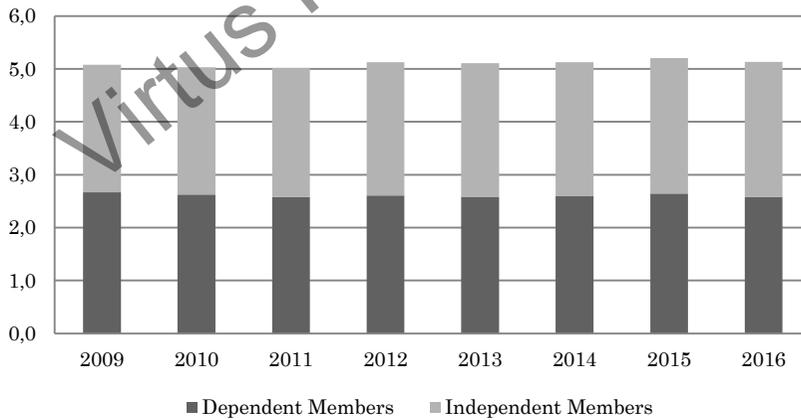
In 2009, the average number of foreigner directors on the boards was 2.3 while after 8 years there is a slight increase. The graph shows that the average foreigner directors have been fluctuating during the time depicted on the graph. The overall number of foreigner directors in 2009 was 117 in 279 companies; while in 2016 they decreased to 98 but there are significantly fewer companies (n=188). It is quite astonishing that in 2009, 229 firms (82%) had no foreign directors on their boards, while in 2016, 149 firms (79%) had only Greek board members. The company with the highest number of foreigner directors in 2016 was Opap (i.e. 9 individuals out of 13 board members). However, the most frequently observed number of foreigner directors in a company was only 1.

Figure 6.6. Internal vs external members



The average number of executive (internal) directors was 3.4 in 2009, while in 2016 the average number of executive directors equals only 3. On the other hand, the number of non-executive directors was 4.6 in 2009, while in 2016 was nearly 5. Of course, these numbers may also vary due to the shrinkage of the stock exchange with many companies becoming delisted. The total number of executive directors in the stock exchange in 2009 was 955 directors while in 2016 they were only 561. Similarly, the non-executive directors in 2009 were 1,283, while in 2016 they were reduced to 916 directors.

Figure 6.7. Dependency of external board members



Among the non-executive (external) board members, 2.7 external directors were dependent in 2009, while the independent external directors were 2.4. These proportions have not changed significantly during the years, as in 2016, the number of both the dependent and the independent external members was equal to 2.6.

6.5. Conclusion

The current study keeps tracking the latest developments with regard to board characteristics in the Greek stock exchange. Through the analysis of the ATHEX listed companies for the years 2009 and 2016 we report developments noted, considering at the same time the highly unfavorable macroeconomic environment in which these organisations operate.

The impact of the national financial crisis is evident, first of all, in the size of the population under study. Thus, the number of Greek listed companies dived from 279 in 2009 to 188 in 2016. Although some M&A activity was present, most of this decline is attributable to either an increasing number of distressed firms or the weakening of the Greek capital market to the point that many participants deem that it barely warrants the listing expenses.

In total, Greek listed companies produced 2,237 directorships in 2009 and 1,477 in 2016. The ATHEX listed companies had an average board size of 8.02 members in 2009 and 7.81 members in 2016. Among them, there were found on average 3.4 executive directors in 2009 and 3 in 2016. The respective values for external directors (directors not employed by the company) were higher by approximately one member. Hence, in 2009 the external directors averaged 4.6 members and 5 in 2016.

For each year, about half of external directors can be classified as independent i.e. lacking any material affiliation with the firm. Moreover, the presence of at least two independent directors in the boards of more than 90% of the companies examined indicates, apart from enhanced monitoring mechanisms, the almost full abidance by the corresponding legal requirement (Law 3016/2002).

Regretfully, female board presence has remained stagnant reaching an average of 1.6 to 1.7 directors in all years. Significant work needs to take place in this area to follow the global social pressure, but also benefit from diversity characteristics within a board.

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7. CORPORATE GOVERNANCE AND FIRM PERFORMANCE WITHIN THE CONTEXT OF BARBADOS

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7.1. Introduction

Corporate governance is referred to as the way in which power is exercised over corporate entities. It covers the activities of the board and its relationship with shareholders or members, and those involved in the affairs of the company including external auditors, regulators and other legitimate stakeholders (Tricker, 2015). Corporate governance is important for improving firm performance, investor confidence, economic efficiency, financial stability and market confidence (OECD, 2004). As a result, corporate governance establishes the rights and responsibilities among the various constituents such as the board, shareholders and other relevant stakeholders and sets clear guidelines for decision-making regarding the affairs of the organisation. Corporate governance is an internal control mechanism for monitoring management and is effective for helping a firm to attain good performance.

Studies on corporate governance and firm performance have been widely debated and well researched in developed countries. However, in the past few years the topic has been given much discussion within emerging economies, given the range of corporate collapses and scandals resulting from weak systems of corporate governance (Arora and Chandan, 2016). The manner in which corporate governance is organized differs among countries based on their political, social and economic development. In developed countries, firms have dispersed shareholders whereas developing countries have firms with family owned businesses and concentrated shareholders (Rafiee and Sarabdeen, 2012).

Corporate scandals in the 1990's and early 2000's including the global financial crisis of 2008 have emphasized the importance of corporate governance and the consequences of poor governance practices to governments and academics. Over the years, there has been the failure of large companies such as Enron and WorldCom which caused economies to plummet, and compelled changes to the way businesses are governed. In the Caribbean, there were similar occurrences of failures and collapses of companies that were promoting unethical behaviour. For example, the failure of Colonial Life Insurance Company (CLICO) and the collapse of the Allen Stanford Empire in Antigua for engaging in a ponzi scheme caused attention to be focused on bad management practices which resulted in financial burdens being placed on governments and investors within the region (Alleyne et al., 2014).

Global corporate failures saw the emergence of international standards, the enactment of new legislation, corporate governance codes and regulations. Emerging codes and recommendations included the Cadbury Code in the UK, the Sarbanes–Oxley

Act in the USA, the Organisation for Economic Development (OECD) Principles of Corporate Governance and the Commonwealth Association of Corporate Governance Guidelines for Corporate Governance (Sookram, 2016). International institutions such as the World Bank and the OECD have encouraged all companies to introduce standards of good corporate governance.

Prior studies have been conducted in developed countries with regards to corporate governance practices. In developing countries, the adoption of efficient and effective corporate governance can enhance managerial performance and assist with poor governance structures to increase capital and attract foreign investors. However, Chen et al. (2011) have argued that corporate governance in developing countries is affected by weak legal controls, uncertain economies, poor investor protection and government intervention (Tsamenyi et al., 2007).

In the Caribbean, corporate governance studies have been limited to empirical research focusing mainly in the area of audit committees (Alleyne et al., 2014). Although many studies have investigated the relationship between corporate governance and firm performance in developed contexts (e.g. Jensen and Meckling, 1976; Bhagat and Black, 2001), few investigations have focused on corporate governance and firm performance in developing countries, particularly in Barbados. Additionally, lack of awareness and understanding of corporate governance structures, board practices, board composition, board characteristics and the role of the board in the strategic decision-making process can be disadvantageous for Barbados. Furthermore, the absence of an established formal regulatory framework puts constraints on government and the private sector to develop a national corporate governance framework since there is little or no background information or no empirical data from which to reference.

There is a lack of academic research in corporate governance and boards of directors in developing countries, in particular Barbados. Accordingly, Alleyne et al. (2014, p.187) opined that “with the collapse of the 2009 Colonial Life Insurance Company (CLICO) in Barbados’ voluntary corporate governance environment, it is important for further research to be conducted to address the gap in the literature with respect to corporate governance practices in the Caribbean region.” Moreover, corporate governance research in the Caribbean has been limited to the financial sector because of concerns about money laundering and financing of terrorism. This caused the Central Bank of Barbados to improve levels of supervision and regulation of financial institutions and adopt international standards.

7.1.1. Overview of Barbados

Barbados is a small island which is located in the Eastern Caribbean⁶⁷. It is an independent British Commonwealth country with an estimated population of about 287,000 people whose native language is English. The population is 90% black, a reminder of its African slave ancestry. However, the vast financial wealth is owned by the white minority who are the descendants from Britain springing their wealth from

⁶⁷ The Caribbean includes islands such as Barbados, Trinidad & Tobago, Guyana, Jamaica and Antigua.

when their ancestors acted as merchants and plantation owners utilising slave labour to generate wealth from sugar. Thus, Barbados is referred to as “Little England” because of its British ties. Barbados has a common law system which practices the Westminster style of parliament, follows the English educational framework and adopts the Anglican religion from the Church of England.

Additionally, Barbados is one of fifteen territories that make up the Caribbean Single Market and Economy (CSME) and is considered to be a small developing state with an open economy. The culture of the island is closely knitted, socially integrated, traditional, hierarchical in structure and accepts the status quo with reverence for persons holding dignified posts (Alleyne, 2010). Barbados also has a sound democratic political structure. Its prime revenue earners are tourism, manufacturing, agriculture and offshore financial businesses (Alleyne et al., 2006).

7.2. Brief Literature Review

7.2.1. *Definitions of Corporate Governance*

The concept of corporate governance is framed within the principal-agent conflict and the reduction of agency cost caused by the separation of ownership and control (Berle and Means 1932). Corporate governance has been defined by many authors in different ways. Cadbury Report (1992, p.15) defines corporate governance “as the system by which companies are directed and controlled.” It is concerned with the duties and responsibilities of the company’s board of directors to successfully lead the company, and their relationship with the shareholders and other relevant stakeholder groups (Pass, 2004). The generally accepted definition of corporate governance, according to the Organisation for Economic Cooperation and Development (OECD, 2004), is the procedures and processes according to which an organisation is directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among the different participants in the organisation such as the board, managers, shareholders and other stakeholders in an organisation.

From these definitions, it may be stated that different systems of corporate governance will embody what may be considered the legitimate lines of accountability by defining the nature of the relationship between the company and key constituents (Okpara, 2011). The concept of corporate governance is about having checks and balances in place to minimize problems associated with the principal-agent construct and to have effective mechanisms in place to control the opportunistic behaviour of the agent, thus ensuring that shareholders get the best return on their investment (Wood and Wood, 2013).

7.2.2. *Theoretical Framework - Agency Theory*

Corporate governance focuses on the problems arising between managers and shareholders (Jensen and Meckling, 1976; Fama and Jensen, 1983), which stems from

the separation of ownership and control of companies (Berle and Means, 1932), resulting in a principal-agent problem. An agency relationship is established when someone (the owner) hires another (the manager) to perform a task on his/her behalf. Consequently, as a corporate governance mechanism, the board of directors is viewed as a monitoring device to minimize problems brought about by the principal-agent relationship.

Jensen and Meckling (1976) posit that managers or directors are agents acting on behalf of the owners who have limited wealth at stake. Hence, their natural pursuit of self-interest could result in them taking riskier or even dishonest actions that could harm the firm or its owners. The agency theory assumes that agents tend to be selfish opportunists with various information asymmetries existing between the knowledgeable agents and the principal. The theory assumes that agents will exploit owners (principals) unless controlled or incentivised not to do so (Miller and Sardais, 2011). Likewise, Becht et al. (2005) argue that a corporate governance problem arises whenever an outside investor wishes to exercise control differently from the manager in charge of the firm. This situation gives rise to a principal-agent problem between controlling managers and weak dispersed shareholders. Once these problems come to the fore, they lead to agency cost which can be devastating.

Agency costs arise because shareholders who attempt to monitor managers, use incentives and contracts to align the interests of management and the shareholders (Solomon and Solomon, 2004). Agency problems can be manifested in two forms, adverse selection and moral hazard. Adverse selection can occur if the agent misrepresents his ability to perform the functions and is chosen by the principal. Moral hazard occurs when the chosen agent shirks the responsibilities or underperforms due to lack of dedication to one's duties and roles (Ujunwa et al., 2012). Therefore, the main purpose of agency theory is to provide assurance to shareholders that management is working towards achieving outcomes in the shareholders' interest (Shleifer and Vishny, 1997).

7.2.3. Prior Research on Boards of Directors and Performance

Boards are the internal governing mechanism that shapes the firm's governance structure, given their direct access to managers and owners/shareholders. Primarily, boards serve to make decisions on the business operations of the company and to monitor the activities of management (Alleyne et al., 2014). Boards of directors are expected to provide information and counsel to managers, address corporate strategy, safeguard the interest of shareholders, monitor and control the actions of managers, link the corporation to the external environment and monitor compliance with applicable laws.

Boards of directors are staffed with individuals elected by the shareholders to act on their behalf and to monitor top management (Fama and Jensen, 1983). Corporate boards generally include inside directors (executive directors) and outside directors (non-executive directors) who often hold the majority of positions on the board. Outside board members may act as arbiters in disagreements among internal managers or with issues concerning management such as setting executive compensation or searching for

replacements for top managers (Fama and Jensen, 1983). The board of directors hire and fire management as well as assess management's performance. They serve as a source of advice and counsel for management. The board also sets the strategic direction of the company by implementing the policy in which projects are selected (Fama and Jensen, 1983).

The board of director's structure is considered to be a primary way for stakeholders to have control over top management (Hassan et al., 2017). Therefore, it is essential for a firm to have a board that is independent from the influence of management for effective monitoring (Nazir et al., 2009). The Cadbury Report (1992) posits that the presence of independent directors should be effective in enhancing board independence and performance. The code of best practice recommends that the board should include non-executive directors of such calibre and numbers, thus enabling their views to carry significant weight in the board's decisions. Empirical findings on the relationship between the proportion of non-executive directors and firm performance are mixed. Prior research finds that the performance of firms is more likely to increase with the independence of their boards (Hermalin and Weisbach, 1991; Bhagat and Black, 2001).

Additionally, prior research has found a positive relationship between board size and firm performance for large companies (Kiel et al., 2003; Zubaidah et al., 2009). Large board size is argued to benefit corporate performance (Arora and Chandan, 2016; Ozgur et al., 2010). It enhances the ability of the firm to establish external links with the environment, secures other rare resources and attracts exceptionally qualified counsel (Dalton et al., 1998). Large boards also provide greater diversity and skills and can better restrict the opportunistic behaviour of management (Forbes and Milliken 1999; Moreno-Gómez et al., 2017). Conversely, Lipton and Lorsch (1992) note that large boards face problems of social loafing and free-riding, thus reducing the efficiency of the board. Other researchers give support for small boards (Jensen, 1993; Yermack, 1996). Eisenberg et al. (1998) report a negative relationship between board size and profitability in small and medium Finnish firms. Lipton and Lorsch (1992) have argued that board size should be small with a maximum of eight members. Prior research has shown that smaller boards are associated with higher firm value (Yermack, 1996; Eisenberg et al., 1998). Moreno-Gómez et al. (2017) suggest that the relationship between board size and firm performance may be explained by agency theory.

Board expertise refers to the skills and knowledge of the individual board member which could develop from education and various experiences. Educational qualification of directors is important for decision-making. Akpan and Amran (2014) posit that boards with educated directors tend to perform better than those with uneducated directors. Studies have found that boards with higher levels of expertise, experience high levels of firm financial performance and exhibit reduced incidences of restating earnings (Ujunwa, 2012; Agrawal and Chandra, 2005).

Miyianda et al. (2013) find a positive relationship between board remuneration and firm performance. Lee et al. (2008) also provide evidence that effective corporate governance strengthens the positive relationship between firm performance and pay dispersion (i.e. greater incentives to highly qualified managers). Hence, agency costs are

reduced and firm performance improved by providing good remuneration packages.

Prior research suggests that women are particularly valued as board members for their ability to provide strategic input and generate more productive discourse (Nielsen and Morten, 2010) which is reflected in their participative management style (Pearce and Zahra, 1992). Studies conducted on the relationship between women on boards and firm performance in different jurisdictions are mixed and inconclusive (Ujunwa et al., 2012). Smith et al. (2005) find that the proportion of women on boards has a positive effect on firm performance. However, Cucinelli (2013) finds a negative relationship between the number of women on boards and financial performance. Wachudi and Mboya (2012) find no significant relationship between the presence of female directors on boards and performance of commercial banks in Kenya.

To mitigate the agency problems and cost, separation of the role of CEO and chairman is highly recommended (Jensen, 1993). Cadbury (1992) recommends that the role of chairman should be separated from that of the CEO because the two roles combined represent considerable power within the decision making process. This view is also supported by other reports (Greenbury 1995; Higgs, 2003). Based on the code of corporate governance in Barbados, the chairman of the board and the CEO's position should be separated in the company. Several studies examine the relationship between CEO duality and firm performance but the results have been inconsistent. Rashid (2010) and Abdallah (2004) find that there is a non-significant relationship between CEO duality and firm performance. Conversely, Brickley et al. (1997) show that CEO duality is not associated with inferior performance.

The effectiveness of boards can be further enhanced by establishing oversight board committees comprising the majority of independent directors (Lam and Lee, 2012). Cadbury Report (1992) highlights the importance of board committees and recommends that the board should establish sub-committees such as audit, remuneration and nomination committees. Klein (1998) finds a weak positive relationship between the presence of remuneration committees and firm performance. However, McMullen (1996) finds that the presence of an audit committee is positively related to more reliable financial reporting, less errors and fewer irregularities.

7.3. Legal Overview of Corporations in Barbados

The company structure in Barbados is of three types: sole proprietor, partnership or limited liability companies. Companies (incorporated entities) include private and public limited liability companies. At present, there are 22 public limited liability companies (PLCs) listed on the Barbados Stock Exchange (BSE). The BSE is expected to regulate all listed companies on the exchange and has already outlined a set of corporate governance recommendations for all companies. The BSE also recognizes that a company's corporate governance practice allows it to remain profitable during challenging economic times.

PLCs in Barbados are also required to comply with the requirements of the Barbados Companies Act Cap.308, which closely follows the British Companies Act. The Act also set guidelines with regards to the roles, responsibilities and rights of

shareholders, directors, auditors, audit committees and other parties. PLCs in Barbados are required to publish annual reports but do not have to disclose their corporate governance practices. PLCs must report to the BSE any changes subsequent to registration on the exchange. Therefore, corporate governance disclosures of listed companies are voluntary. Meanwhile, major issues of corporate governance in Barbados include the lack of a formal governance framework, interlocking directorships and a bias in the selection of individuals to serve on various boards (Alleyne et al., 2014).

The business practice of Barbadian companies are influenced by the accounting profession, governance practices of developed countries, as well as attempts at following international best practices based on pressures from international lending agencies such as the International Monetary Fund (IMF) and the Inter-American Development Bank (IADB). Thus, companies in Barbados have adopted in varying degrees aspects of international best practices of corporate governance from the 2002 Sarbanes-Oxley (SOX) Act, the International Accounting Standards (IAS) and OECD. In addition, the professional accounting associations of developed countries such as the Association of Certified and Chartered Accountants (ACCA) in the UK, the Certified General Accountants (CGA), Certified Management Accountants (CMA) in Canada, and Certified Public Accountants (CPA) in the United States have also influenced accounting practices and corporate governance culture in Barbados (Alleyne et al., 2006). The accounting profession is regulated by the Institute of Chartered Accountants of Barbados (ICAB), which is a member of the International Federation of Accountants (IFAC) in order to achieve institutional legitimacy.

Accordingly, in Barbados, the adoption of corporate governance codes such as the OECD guidelines is not mandated, hence its adoption by businesses is voluntary. The OECD (2004) states that a corporate governance framework will comprise elements such as legislation, voluntary commitments and business practices that are based on a country's specific structure. Therefore, as business circumstances change, the structure and framework may need to be adjusted (OECD, 2004).

The Central Bank of Barbados was first established in 1972 to aid government in the implementation of monetary policies and governance in Barbados. In the aftermath of global and regional collapses of companies, the Financial Services Commission (FSC) was established in 2010 to help with governance of financial institutions within Barbados. The Central Bank of Barbados and the FSC identify that the board of directors has an overall responsibility for the quality of governance which includes approving and overseeing the implementation of the strategic objectives, risk strategy, corporate governance framework and corporate values of the organization. The board is also responsible for providing oversight of senior management as well as ensuring that the day to day activities of the company run smoothly.

Central Bank guidelines dictate that the board has an oversight role designed to ensure that the licensee (the company) is managed in a way that safeguards safety, soundness and is in compliance with all relevant laws and regulations. Similarly, the FSC has set out comprehensive regulations with regards to what purpose the board of directors should serve. For instance, the board of directors should among other things:

- ensure that the financial institution has a balance of appropriately skilled, experienced and qualified individuals who can apply informed and independent judgment to the management of financial institutions;
- ensure that the financial institution is effectively managed, by appointing the financial institution's CEO or Managing Director, and ensuring that its business is conducted in a sound and prudent manner by establishing relevant objectives and performance measures which are monitored on a regular basis;
- meet regularly and oblige members to devote sufficient time to their board responsibilities, inclusive of receiving, examining and approving reports required for sound financial management, monitoring the institution's financial condition and ensuring that the institution's reputation and integrity is sustained;
- establish and document its strategic objectives, the means of obtaining objectives and procedures for monitoring and evaluating its progress in achieving these objectives;
- establish and document the nomination and appointment procedures, structure, functions, re-elections and balance between executive and non-executive directors of the board in a transparent manner;
- clearly distinguish between responsibilities, accountabilities, decision-making, interaction and cooperation of the board of directors, chairman, chief executive officer and senior management;
- outline a clear division of responsibilities to ensure a balance of power and authority, so that no individual has unfettered powers of decision. Where the posts of chairman and chief executive officer (CEO) are combined into one person, evidence that appropriate controls are in place to ensure that management is sufficiently accountable to the board of directors should be provided;
- have access to accurate, relevant and timely information. Where stakeholders participate in the corporate governance process, they should have access to relevant information.

7.4. Analysis of Corporate Board Practices in Barbados

*7.4.1. CLICO Case – The Introduction*⁶⁸

Colonial Life Insurance Company Limited (CLICO) was one of the largest insurance companies in the Caribbean region. The flagship of the parent company, CL Financial (CLF), was the largest privately-owned conglomerate in the Commonwealth Caribbean (Soverall, 2012). Its business operations spanned insurance, financial services, real estate development, manufacturing, agriculture, forestry, retail, distribution, energy,

⁶⁸ This case was developed via data collected from internet sources, journal articles, newspaper articles, commentaries, court documents and other publicly available documents.

communications and media. CLF operated in 32 countries through its associated and joint venture companies and established more than 65 subsidiaries which spanned the Caribbean, Florida, Europe, the Middle East and Asia. The principal subsidiaries in Barbados were CLICO International Life Insurance Co Ltd, CLICO Mortgage and Finance Co Ltd, CLICO International General Insurance Co Ltd and CLICO Holdings.

The parent company, which was based in the Republic of Trinidad and Tobago, controlled in excess of TT\$100 billion and 55% ownership of Republic Bank⁶⁹. Thus, CLF was poised to be an example of success in this region. Soverall (2012, p. 167) noted that the parent company was “very conscious of the contagion risks that the financial collapse of an institution as vast as CLF could have on the entire financial system of the entire Caribbean region.” In fact, it was argued that due to the size of CLICO, regulatory authorities of both Barbados and Trinidad should have recognized the impact of any possible crises arising within the company and its effect throughout the region (Alleyne et al., 2014). In January 2009, the parent company in Trinidad collapsed. Thus, the collapse of CLICO threatened the interest of depositors, policy holders and creditors, thereby posing a danger of disruption and damage to the financial system. After the collapse, governments across the region sought to stem fallouts and minimize the contagion effects.

Table 7.1. CLICO Group of companies in Barbados

<i>CLICO Group In Barbados</i>	
1.	CLICO Life Insurance Limited (CLICO)
2.	CLICO Holdings (Barbados) Limited
3.	Rayside Construction Limited Barbados
4.	Rayside Construction Limited Trinidad
5.	Cotton Park Corporation
6.	Clermont Development Incorporated
7.	Southdown Enterprises Incorporated
8.	CLICO Financial Complex Limited
9.	Grant Hotels Incorporated
10.	Wakefield Plantation
11.	Todds Estates Limited
12.	British American Insurance Company Limited

Table 7.1 shows the CLICO group of companies operating in Barbados at the time of the collapse. Many Barbadians invested in CLICO in Barbados. Retirees invested their gratuities from employment and others continually deposited funds for life insurance and pension plans.

Table 7.2 shows the members of the board of directors.

⁶⁹ The currency of Trinidad and Tobago is termed as TT\$. The currency exchange is 1TT\$ = 0.15US\$.

Table 7.2. Board of directors of CLICO Barbados

<i>Names & profession</i>	<i>Names & profession</i>
Leroy Parris (<i>CEO/Chairman *</i>)	David Griffith (<i>Accountant **</i>)
Leslie Haynes (<i>Attorney at Law **</i>)	Vishnu Ramlogan (<i>Businessman**</i>)
Tony Marshall (<i>Retired Banker **</i>)	Terrence Thornhill (<i>President, CLICO Holdings Barbados Ltd *</i>)
Woodbine Davis (<i>Former Solicitor General, Attorney at Law **</i>)	Dr. Frank Alleyne (<i>Economist **</i>)
Dr. Basil Springer (<i>Management Consultant **</i>)	Lawrence Duprey (<i>Businessman & Chairman, CLF *</i>)
Anthony Ellis (<i>Chartered Accountant **</i>)	Brian Branker (<i>Chairman, BAICO *</i>)
Dr. Adrian Lorde (<i>Medical Doctor **</i>)	Robert Fullerton (<i>Director, BAICO *</i>)
Elridge Thompson (<i>Director **</i>)	

Note: * = Executive director; ** = Non-executive director

On April 14, 2011, the Supreme Court of Barbados appointed Deloitte Consulting Ltd as judicial manager of CLICO⁷⁰. The judicial manager issued an interim report on May 27, 2011 which showed the company's total assets were BDS \$802 million, of which BDS \$370 million represented amounts receivable from related companies (Deloitte, 2011)⁷¹.

On September 20, 2011, the Supreme Court approved the judicial management's recommendation for a forensic audit to be done by Deloitte and Touche LLP in Canada. Based on the activity in the inter-company accounts, CLICO acted as the bankers for its related companies. In a further report by its Judicial Manager dated July 28, 2011, amounts due from related companies were BDS \$376 million with a forced liquidation value estimated to be BDS \$177 million, thus suggesting that there was the likelihood that the intercompany balances may not be fully recovered. The report noted that "...the company is chronically short of the necessary assets to cover its policyholder liabilities and as such the shareholders of the company have no residual equity interest." In a further report, as at March 31, 2012, Deloitte (2013a) assessed the net book value of CLICO's assets at BDS \$764,524,882 (Fair market value BDS \$441,013,220) and total policyholders' liabilities of BDS \$837,435,072.

On July 27, 2013, Barbados' Investors and Policyholders Alliance (BPA) (a group of policyholders and investors seeking to recover their investments) sued 13 directors of the insolvent CLICO and British American Insurance Company (BAICO) in negligence lawsuits totalling BDS \$128 million (Stabroek News, 2013).

In January 2018, the Government of Barbados set up a new company to control the Barbados-based life insurance portfolio previously held by CLICO International Life Insurance (CIL) with the objective to settle outstanding payouts to former policyholders. The court-approved new company, Barbadian-owned Resolution Life Assurance Company Limited (ResLife) promised to speedily address the BDS \$91 million (US \$45.5 million) in outstanding settlements (Caribbean360, 2018).

⁷⁰ As part of a financial rescue programme, a judicial manager is appointed by the Court when a company is deemed to be insolvent. The Judicial Manager takes over the management of the company, meets creditors and other stakeholders, and reports to the Court.

⁷¹ The currency of Barbados is termed as BDS \$. The currency exchange is 1BDS \$ = 0.50US\$.

7.4.2. Weak Governance Environment

Soverall (2012) noted that regulators of the entity were not at all blameless in terms of the collapse of the parent company, CLF. Layne (2010) noted that in August 1998 a report was prepared in the Office of the Supervisor of Insurance of the parent company which indicated a 5 year review CLF from 1992 to 1996. The report indicated that CLF since 1992 found “it difficult to satisfy” its Statutory Fund Requirement⁷². Nevertheless, the CLF declared and paid dividends in 1993, 1994 and 1995 and also proposed the payment of dividends for 1996 which was in violation of the Insurance Act. The report also highlighted that insolvency problems were getting progressively worse. Ewart Williams in April 2010 in Trinidad concluded that the “soft touch approach to regulation” led to the excesses which caused the crisis. In Barbados, similar deficits in the statutory fund occurred since 2004. Indeed, Stabroek News (2009) reported that there was a statutory fund deficit of BDS \$93 million since 2007. Criticisms were levelled at the Office of Supervisor of Insurance, the regulatory body responsible for monitoring CLICO. However, it was perceived that the “soft approach to regulation” (hands off CLICO) was based on the close relationship between CLICO and the political parties.

The Executive Chairman of CLICO Holdings (Barbados Ltd) had previously tried to persuade the Barbadian clientele that there was no connection between the Barbadian entity and its Trinidadian parent which collapsed first. However, both companies followed similar paths. It was also suggested that the auditors never highlighted any major issues or going concern problems in their audit reports. Indeed, no person has been charged for the wrongdoing to date. CLICO, a company regarded as a successful conglomerate and a prime example of financial and regional integration was largely unregulated by the state. Thus, its failure and collapse negatively impacted the financial systems in almost every Caribbean country in which it operated.

7.4.3. Lack of Effective Subcommittees

CLICO had no functioning committees to deal with audit, risk, corporate governance and investment issues (Sookram, 2016). In fact, the audit committee scarcely met to tackle auditing issues. The board usually adopted the advice of the CEO and Executive Management. Hence, an agency problem existed whereby there was no proper monitoring function performed by the subcommittees.

7.4.4. Political Relationships

CLICO (Barbados) had political ties with the Government of Barbados, since it made financial contributions to political campaigns. For example, based on the forensic audit

⁷² Stabroek News (2009) explains that the “Statutory Fund, required by Section 25 of the Insurance Act Cap 310 of the Laws of Barbados, was a fund in which the insurance company must place in trust, enough assets to match their liabilities so as to protect policy holders, in the event of there being financial difficulties that would make it difficult for the insurance company to meet its obligations to policy holders.”

conducted by Deloitte Consulting Ltd, a sum of BDS \$3.333 million was paid to Thompson and Associates (a law firm in Barbados) by CLICO (Barbados) in January 2009 (Deloitte, 2011). On hearing of the collapse of the parent in Trinidad, Mr. David Thompson (the Prime Minister of Barbados at the time) hastily submitted an invoice on a Thompson and Associates' letterhead for retainer and legal fees in the amount of BDS \$3.333 million. It was later found that the invoice was fictitious as Mr. Thompson had left the practice of Thompson and Associates a year earlier to take up the Prime Ministership. In fact, the true purpose of the invoice was to benefit Mr. Leroy Parris (former chairman and CEO of CLICO Barbados and CHBL) in the form of a gratuity (Deloitte, 2013b).

7.4.5. Ineffective Board Function- Failure to Assess Risks

Another issue was the board's reluctance to take an active role in the levels of risk management either because the board did not have the requisite knowledge or the board did not wish to offend management. Today, boards are being called upon to be risk intelligent to meet their fiduciary responsibility by sharing a common vision of risk and adopting a framework to support their risk oversight activities. To mitigate any ramifications associated with risks taken by the management of the company, the directors must be satisfied that the risk management policies and procedures are in place to deal effectively with the company's risk strategy and appetite. In CLICO's case, the board did not fully assess the company's risk processes.

Investigations showed that there were several factors that sparked the collapse of CLICO. These ranged from liquidity challenges arising from inter-group transactions and high levels of withdrawal requests, to concerns about the impact of the sharp decline in methanol and real estate prices. There were also characteristics present in some of the subsidiaries of the conglomerate similar to that of Ponzi and Pyramid schemes. CLICO's business model was high-risk and dangerously flawed. The collapse of CLICO illustrated that weak risk management practices and inadequate management information were major contributing factors to its demise.

7.4.6. CEO and Chairman Dual Roles

The Chairman/CEO of CLICO had no qualifications or expertise to run the organization. The deficiencies in the corporate governance structure of the company in Barbados saw that the chairman was also the CEO which gave him significant control and leadership in the organization and its decision-making processes (Soverall and Persaud, 2013). He led from the front and did not entertain any opposition to his plans from board members and employees within the organization. The board had little or no concern for professional advice or appropriate discussions on issues that were central to the company. The board comprised directors who were not independent, thus empowering the Chairman/CEO. The chairman disapproved board decisions at will and the board approved the chairman's decisions which led to minimal conflicts.

7.4.7. Interlocking Boards

The group of companies also had issues of significant interlocking boards especially CLICO and BAICO in Barbados. Difficulty arose where fiduciary responsibilities (duty of care in the interest of each company) were blurred with likely conflicts arising. It was found that the board of directors acted in the interest of the group instead of the interest of each entity, thus reflecting an agency problem. This type of governance structure of the company highlighted a breach of corporate governance principles for the separation of function and powers. In a small society like Barbados, boards should be independent but relationships are inevitable as directors sit on multiple boards together. This practice could destroy the objectivity of decision-making and information spill-over especially if there are companies competing against each other. Directors are also unable to contribute at meetings due to fatigue (Alleyne et al., 2014). The development of friendships among boards of directors means that when motions are placed on the table, bias in decision-making would take precedence because of loyalties to friends rather than loyalties to stakeholders.

7.4.8. Board Composition

The CLICO board consisted of members who were business associates or friends of the Chairman/CEO. There was no documentation of any objective criteria for appointment to the board. Board composition should include a mixture of members who are diverse in skills and experience relevant to the organization's business. Similarly, to be an effective board, each individual board member is required to have different skills, experience, personal attributes and approaches with the aim of increasing board independence and competency. In addition, investors are becoming more vocal about the tenure of board members when independence has become blurred based on the length of time a director has been on the board. The CLICO board became a "yes board" by agreeing to every decision made by the CEO/Chairman who had no qualifications in the area of insurance or running an organization. Table 7.2 showed that there was no gender diversity on the board. It was predominately male. In addition, the level and range of expertise of board members were quite limited, given the diverse business activities in the group and the related complexity.

7.4.9. Board Minutes

Evidence showed that meetings and recording of minutes were below par. Indeed, the existing minutes highlighted inadequate procedures for approval on decisions made. For example, Deloitte (2011, p.4) reported that "In certain cases (at least until the appointment of the Oversight Committee) the wording of the minutes suggests that the Board was informed of transactions only after CIL or CHBL was committed to them by executive management. In other cases, the extent to which the Board was consulted and provided its input and approval before concluding transactions, if at all, is not clear

from the minutes. Most of the ratifications of the directors related to the reappointment of auditors, directors' approval of minutes and approval of audited financial statements."

7.5. Conclusion

This study explored the impact of board independence, board composition, CEO duality, board size, professional expertise, board committees and diversity in a large company in Barbados, CLICO, using a case study approach. Findings revealed that the collapse of CLICO was a result of poor corporate governance mechanisms including lack of board independence, CEO and Chairman dual relationship, poor regulatory environment, non-existent sub-committees, failure to manage risks, interlocking directorships, political involvement and lack of diversity. The study showed how the corporate governance practices of the board of directors caused CLICO to perform poorly and eventually placed under judicial management.

Additionally, in Barbados the constraints that hinder the implementation of good corporate governance includes a weak or non-existent regulatory framework, lack of transparency and disclosure, weak enforcement and poor monitoring systems. Barbados has laws that offer protection of shareholders which include improving transparency, disclosure and accountability but cultural issues can pose a challenge to stakeholders. Yet very little pressure is being exerted by the regulators towards the implementation of a sound corporate governance framework.

Given that there is a limited pool of individuals who are willing to serve as directors in Barbados, there may be some bias among directors on boards. Consequently, this study will add to the literature on corporate governance practices from the perspective of an emerging economy by contributing to the development of corporate governance in Barbados with the implementation of best practices. It is hoped that further research will explore the issues highlighted by this study and that reform of corporate governance practices will be initiated by the board of directors towards an effective corporate governance system in the interest of shareholders. Moreover, it should be noted that corporate governance mechanisms implemented in other countries may not be best fit for Barbados.

The barriers to effective corporate governance practices must be overcome. This can be achieved by boards of directors taking a more holistic view of their responsibilities by realizing that they are trustees of the wealth assigned to them by the shareholders for social good rather than personal gain.

Regulators should also impose stringent penalties for those who practice poor corporate governance. Board members should receive ongoing training and education in leadership and effective corporate governance practices. Directors should be appointed based on ability or qualifications and should be aware of the company's financial performance as well as actively participate in board meetings.

Diversity of skills is fundamental for effective risk management and succession planning. The diversity of board composition should encompass individuals of different

ages, gender, experience and qualifications to support better decision making. The separation of the chairman and CEO provides no guarantee of better leadership. However, given the CLICO fiasco in 2009, it is recommended that the position of Chairman be separated from that of the CEO. Effective corporate governance can also be achieved through communication and interaction with the company's investors and other stakeholders to build and restore trust and credibility. The appointment of a foreign independent director to sit on boards can provide valuable international expertise about corporate governance best practices which can make boards more effective at monitoring management.

Finally, companies can benefit from effective corporate governance practices through better strategic decision making, greater economic value creation, improved management and control of risk and enhanced regulatory compliance. Consequently, any change towards sound corporate governance should be driven by the board and its chairman who must set the tone at the top.

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