

THE EVOLUTION OF CORPORATE GOVERNANCE IN SINGAPORE

JOYCE KOH & ANNABELLE YIP

Corporate governance in Singapore has often been hailed as being among the best in Asia and the world. However, this has not always been the case. As a young country, Singapore had to find its feet to grow its economy while ensuring proper governance in the corporate, public and social sectors of the economy.

Indeed, the state of corporate governance in Singapore has evolved in tandem with its development as a country from third world to developed nation status.

Looking back, we can say that there have been two key drivers of Singapore's corporate governance development: vision and crises.

VISION

Since its independence as a country in 1965, Singapore has sought to establish a structure within which businesses can operate.

The Companies Act, the root of companies' legislations in Singapore, came into force in 1967. In 1970, the Monetary Authority of Singapore (MAS) was established as a statutory board.

The stock exchange then was a combined one with Malaysia, which Singapore was a part of after the British colonial rule ended in 1963. However, in 1973, when Malaysia opted out of the currency interchangeability agreement with Singapore, the Stock Exchange of Malaysia and Singapore was divided into the Kuala Lumpur Stock Exchange and the Stock Exchange of Singapore (SES). At the same time, the Securities Industry Act of 1973 was enacted in Singapore.

As Singapore's economy developed, so did its ambition to be an integral part of the regional and global economies. In time, this led to Singapore's vision to be a financial hub in Asia.

In 1997, the MAS undertook a major strategic review of the financial sector in Singapore as part of its plan to be a major financial centre. In a wide-ranging speech, the then Deputy Prime Minister Lee Hsien Loong announced a strategic shift "to regulate the financial sector with a lighter touch, accept more calculated risks, and give the industry more room to innovate and stretch the envelope". This began the move to a light-touch, disclosure-based regime that relies more on market discipline than on the hitherto prescriptive rules-based approach.

In the same year, the Investment Management Association of Singapore (IMAS) was formed to spearhead the development and growth of the investment and fund management industry in Singapore.

However, at about the same time, the Asian Financial Crisis (AFC) occurred. The financial collapse of the Thai Baht resulted in a devaluation of currencies, stock markets and other asset prices of other Southeast Asian countries and Japan. Private debt also rose and the International Monetary Fund eventually was approached to provide financial support to a number of the affected countries.

Following the MAS' strategic review and the AFC, several private sector-led committees were formed to review aspects of existing systems. Their recommendations led to significant regulatory changes that included extensive amendments to the Companies Act, and the establishment of Singapore's first Code of Corporate Governance (Code) in 2001. The Singapore Code was based on the "comply or explain" principle first set out in the Cadbury Report (titled *Financial Aspects of Corporate Governance*) and adopted in the UK's first Combined Code (Principles of Good Governance and Code of Best Practice) in 1998.

Another significant development was the formation of the Singapore Exchange (SGX) in 1999. Pursuant to the Exchanges (Demutualisation and Merger) Act, SGX was formed from the merger of the SES, the Singapore Monetary Exchange (SIMEX), and the Securities Clearing and Computer Services Pte Ltd. In 2001, the Securities and Futures Act was enacted, and the SGX was given the dual role as listed commercial exchange and regulator/enforcer of listing rules.

Intriguingly, MAS indicated in June 2015 that there could be scope to reduce overlaps between the oversight functions of the MAS and the exchange, leading to speculation that, after more than 14 years, SGX's dual role as listed exchange and regulator could be about to change.

CRISES

Crises have, unfortunately, been a feature of the financial landscape both globally and locally.

Apart from the AFC, Singapore also had to deal with the Global Financial Crisis (GFC) in 2007 with the bursting of the US housing bubble. However, a good number of the crises have been local in nature.

In 1985, Singapore experienced its first major crisis when Pan-Electric Industries (Pan-El), a listed company, collapsed under huge debts. This led to an unprecedented three-day suspension of trading by SES. Stockbroking firms that took shares of Pan-El and its related entity as margin trading collateral found themselves threatened with insolvency.

In 1995, the UK merchant bank Barings collapsed as a result of more than S\$1 billion worth of losses from derivative trades undertaken on SIMEX by Nick Leeson, whose merged function as both the head of settlements and head of trading at Barings Futures Singapore enabled him to cover up huge losses which eventually brought the bank down.

In 1999, SGX was hit with a major crisis, in what became known as the CLOB saga. The Central Order Limit Book (CLOB) was a secondary market in Singapore that traded in mainly Malaysian shares. When Malaysia imposed overnight capital controls and new rules on the clearing and settlement of Malaysian shares, this led to grave losses for Singapore investors as they lost the ability to trade in their shares. The crisis led to the formation of the Securities Investors Association (Singapore) that same year to champion the protection of minority investors in Singapore.

From 2004 to 2006, one of the largest corporate scandals in Singapore's history, China Aviation Oil (Singapore) Corporation,

occurred. Since then, there have been a number of corporate scandals involving “S-Chips” – Chinese companies incorporated offshore and listed on the SGX. Several S-Chips, such as China Hongxing Sports, Hongwei Technologies and China Milk Products, suffered from poor corporate governance, questionable accounting practices and fraud.

Each time there was a crisis, the regulators sought to plug the gaps and avoid similar crises in the future.

The Pan-El crisis, for example, led to changes in the Companies Act in 1989, with audit committees and a system of internal accounting controls for public companies and their subsidiaries becoming mandatory. The Barings collapse saw extensive changes made to the Futures Trading Act.

Over time, changes to legislation and regulations in Singapore have been effected, both in response to the crises and to promote Singapore’s vision of being a financial hub, where companies and financial institutions can operate in a socio-politically stable environment.

In the last 15 years, the Companies Act has undergone several rounds of significant amendments, the most recent being in 2014. The Code also underwent revisions in 2005 and 2012.

Some of the changes were clearly influenced by the US’ Sarbanes-Oxley Act (enacted in response to the Enron, Worldcom and other accounting scandals) and Dodd-Frank Act (enacted in response to the GFC). In response to issues that arose in the GFC, the Code now specifies greater transparency of remuneration practices and the board’s role in risk governance and in setting ethical standards.

In 2004, in an effort to synergise the monitoring of corporate compliance with disclosure requirements and the regulation of public accountants performing statutory audit, the Accounting and Corporate Regulatory Authority (ACRA) was formed by merging the

Registry of Companies and Businesses and the Public Accountants' Board.

Earlier, in 1998, in response to the AFC, the Singapore Institute of Directors (SID) was also formed to promote high standards of corporate governance and the professional and ethical conduct of directors. However, over the years, SID has sought to not just be relevant during a crisis but also to steer the corporate ecosystem to good corporate governance and to avoid crises.

SID has many initiatives to promote good corporate governance. It publishes *Statements of Good Practices* and is currently developing a series of corporate governance guides for boards and the major board committees. SID seeks to encourage excellence in corporate governance through the Best Managed Board Award (and other awards as part of the Singapore Corporate Awards), and corporate governance benchmarks and rankings such as the ASEAN Corporate Governance Scorecard and the Singapore Governance and Transparency Index.

MOVING FORWARD

Comparatively, Singapore seems to be doing well in corporate governance.

The Asian Corporate Governance Association and CLSA placed Singapore and Hong Kong in the top spot in their 2013 and 2014 corporate governance rankings based on broad-ranging criteria such as corporate governance rules and practices, enforcement, political and regulatory environment, and accounting and auditing.

In the ASEAN Corporate Governance Scorecard – an assessment of corporate governance of the top 100 listed companies in six ASEAN countries corresponding to the OECD Principles of Corporate

Governance – Singapore-listed companies have generally come out well.

In a 2014 joint study of corporate governance requirements across 25 markets, KPMG and ACCA ranked Singapore top in the Asia Pacific and ASEAN regions and third worldwide, after the US and UK.

Yet, Singapore cannot rest on its laurels. Corporate governance is a key focus both regionally and globally and attracts international attention and efforts.

Companies and countries across the world are working hard to improve their governance. Both the ASEAN Corporate Governance Scorecard and the Asian Corporate Governance Association/CLSA results show that the gap between Singapore and other countries has considerably narrowed in the last few years.

Recent surveys conducted in Singapore such as the SID-ISCA's *Singapore Directorship Report 2014* and the SID-SGX's *Board of Directors Survey* have revealed that although companies in Singapore generally abide by the Code, disclosures about remuneration, risk governance, board diversity and sustainability were still lacking comprehensiveness.

One of the biggest gaps lies in remuneration disclosures. The *Singapore Directorship Report 2014* revealed that only a third (31 per cent) of listed companies disclose the precise remuneration of their directors on a named basis when the Code demands it. The key reasons cited in the *SID Board of Directors Survey 2015* for non-disclosure were the confidentiality of executive directors' compensation, to prevent poaching, and to prevent internal comparison and maintain morale.

Board diversity – in particular, gender diversity – is another significant shortcoming. Female representation on SGX-listed

boards is still below 10 per cent and we lag behind many Asian countries.

Singapore has also been slow to respond to the “new capitalism” and related movements on sustainability. SGX issued a Guide to Sustainability Reporting for Listed Companies in 2011, yet few companies issue sustainability reports, much less so integrated reports. In 2015, SGX announced plans to implement sustainability reporting on a “comply or explain” basis from financial year 2017.

The drafting of a Stewardship Code began in 2015, lagging behind the likes of UK and Japan, which have already issued theirs.

The list can go on. However, corporate governance is a journey and a continual work in progress.

In that light, SID and other stakeholders of the corporate ecosystem in Singapore are constantly reviewing gaps and inefficiencies, with the aim of keeping the system up to date, and making constant tweaks and improvements in order to keep up with international best practices. ■