

Corporate Stewardship & Boardroom Governance



The-Panel-from-left;-Messrs.-Chrisantha-Perera,-Kapila-Jayawardena,-Mahendra-Amarasuriya,-Asoka-Peiris-&-Sujeewa-Mudalige

Mr. Mahendra Amarasuriya, Chairman of Commercial Bank PLC led the panel of highly experienced business leaders who gathered together recently in the Ivy room of the Cinnamon Grand Colombo to discuss contemporary issues faced by the corporate boards of today. The other panelists which included some of the well known names in Sri Lanka's corporate world were Messrs. Chrisantha Perera; former Chairman of Forbes & Walker PLC, Mr. Sujeewa Mudalige; Partner, PricewaterhouseCoopers, Mr. Asoka Peiris; Chief Executive Officer of Singer PLC & Mr. Kapila Jayawardena; Managing Director, Lanka Orix Leasing Company PLC. The discussion witnessed by a considerable number of directors both senior and junior was the fifth of the series of seminars on 'Contemporary Views on Corporate Stewardship & Boardroom Governance' conducted by the Sri Lanka Institute of Directors over the last few months.



Messrs.-Kapila-Jayawardena, Mahendra-Amarasuriya-&-Asoka-Peiris

Kicking off the session Mr. Amarasuriya touched on the obligations & responsibilities of directors as per the Companies Act of 2007. He also pointed out that the mere exercise of the above may be deemed inadequate in the changing opinions of corporate boards both national & international which have taken board governance itself into account when evaluating investments. In other words, today corporate governance has become an all important aspect both in terms of companies organizing and preparing their strategies as well as to rating companies such as Standard & Poor, RAM Ratings, Fitch Ratings which have now taken corporate governance as a component in their process of rating a company.

The areas in which governance plays a key role are vast and diverse, and ranges from board dynamics, management evaluation & compensation, succession planning, to transformational transactions and merges and acquisitions which are not that common in Sri Lanka but common all over the world. The other areas include risk management, measuring and monitoring performance as well as financial and non- financial reporting.

‘You need to look after the interests of the share holders by adding value to their shares and declaring good dividend payments and ensuring that they are looked after, but there are many other stakeholders such as investors, consumers, employees, regulators and others to whom you need to remain committed to as well.’ he said.

Depending on the provisions of the Act, board meetings may be held once a month with the duration ranging from 4-5 hours to the whole day depending on the company. Company disclosure is expected to be transparent and apparent with the Securities and Exchange Commission performing the role of regulator which was originally performed by the government. Having laid down the basic framework of board procedure the panel then embarked on the specific aspects relating to corporate boards.

Corporate Social Responsibility



Messrs.-Mahendra-Amarasuriya,-Asoka-Peiris-&-Sujeewa-Mudalige

Mr. Asoka Peiris who addressed the topic of Corporate Social Responsibility (CSR) referred to both its usage and the philanthropic aspect of CSR. Although CSR is commonly looked at by academics as a wider area consisting of the entire relationship with the other stakeholders, Peiris restricted himself to the philanthropic aspect in this session. CSR is somewhat discouraged by the government because the donations are disallowed for purposes such as taxation. Taking sponsorship deals as an example he pointed out that CSR can take place even where a company gets a fairly reasonable financial return on it. Speaking on the sponsorship of the Sri Lanka cricket team during the 90's Peiris stated that even though there were lesser gains for Singer during the beginning of its sponsorship period this sky rocketed with the team winning the cricket world cup in 1996.

‘However one must remember that there may not be fair returns from CSR. There could be CSR as in the example of donations during floods that does not get such returns.’ If classified as donations, taxation will disallow these resulting in the government discouraging it. Hence it is important to lobby for the government to allow these types of donations for taxation purposes. On another aspect the CSR activities of the public listed companies can be deemed as much greater than the private companies since they publish an Annual Report which lays down the CSR activities, resulting in such companies focusing on it.

There are various advantages of CSR for the performing company as well. The motivation of the internal management which has a ‘feel good /motivational factor’ when doing these activities is one of its benefits. The other could be that your share holders could question you on what CSR activities had been accomplished. Maintaining a past record of CSR activities undertaken by the company is important for the information of the share holders. Speaking of his own personal experiences with Singer, Peiris referred to an Annual General Meeting that took place overseas during which one of the shareholders questioned the company on its CSR activities during the preceding year.

The ethical running of the business is another aspect that runs hand in hand with CSR activities. Although there are awards such as 'Most Preferred Employer' overseas, in Sri Lanka it hasn't garnered such importance, resulting in a need for more exposure for these activities in the future.

Environmental Considerations



Mr.-Kapila-Jayawardena

Mr. Kapila Jayawardena focused on corporate developments and its implications on the environment. He noted that Sri Lanka being a service economy as opposed to a heavy machinery economy has a relatively low carbon footprint when compared to many of the other world economies. In addition and in support of this fact, nearly 50% of the electricity in the country is being generated through hydro power. From the point of view of companies too it is important that boards make sure that investment decisions are economically viable and environmentally sustainable keeping in mind the triple bottom line of people, planet & profit.

Jayawardena referred to various mechanisms in the reduction of energy usage in the boardroom such as the usage of solar panels, energy saving lamps and thermostatic controls in the office, conference calls & video conferences as compared to physical meetings, email communication rather than paper, rainwater harvesting... etc. In today's world stabilizing the effects on the environment has become more important than ever before.

Commenting on the above one of the participants raised the issue of carbon credits and its application in Sri Lanka. Carbon credits are calculated by the amount of carbon emissions that would have been emitted if a diesel or other traditional polluting electric generator

was used to produce the same amount of electricity. Companies and electric utilities in countries can buy these emission reduction carbon credits to replace the emissions from their coal burning electric power plants to meet regulatory requirements. Other factors such as the viability of the project without carbon credit will also be taken into account when granting same.

With regard to hydro projects it has to be noted that in Sri Lanka there is no benchmark rate to determine the country's investment rates unlike in countries such as China & Vietnam. Hence there are a few mini hydro projects that have received carbon credits in Sri Lanka to date.

Sustainable Development

Mr. Chrisantha Perera addressed the gathering on one of the constantly developing topics today, which is Sustainable Development. Quoting from 'Our Common Future' he went onto define the above as 'Development which meets the needs of the present without compromising the ability of future generations to meet their own needs.' He also went onto to state that the above principle provides an essential introduction to a fairly complex relationship to aspects of economy, society & environment which takes the form of a triangle with social aspects (internal aspects) & the environment (external aspects) forming the base whilst economic aspects forming the top of the triangle. Accordingly internal aspect may range from empowerment, consultation, governance, motivation. Whilst environmental issues ranges from internal resilience, natural resources, pollution & bio diversity... etc. Growth, stability, efficiency & profit can be categorized as economic aspects of any company

Perera went onto point out the criticism relating to the definition of the above principle as follows. 'Economic policies based on concepts of growth and continued depreciation of resources cannot be sustainable since that term implies that resources remain constant.' Recently a new term called 'developing sustainably' rather than 'sustainable development' has been coined with a view towards eradicating the difficulties faced with the above. It has also been said that this term and application constitutes 21st century western arrogance towards the developing world since it impedes development and improvement of human conditions in the poorer nations in the form of a "we have got ours, but we do not want you to get yours as you will pollute too much" attitude.

Commenting on its application with regard to the corporate world Perera had the following to say. 'Sustainable development can be defined as the means of adding value in the medium to long term without compromising the short term objectives of the corporate entities and the business society in general. When we think about corporate culture and contemporary board issues we need to pass on a company to the next generation which is probably stronger and more focused than when we took it over'.

He further went onto to lay down his ideal recipe for corporate success and growth in the following 4 words.

1. Ability – Knowing what you do.

2. Credibility – Knowing what you say.
3. Integrity - Honesty in all your transactions
4. Team work

A question arose on the conflicts over development and the environment between governments and corporates with what the government's measures in sustaining the environment not being viable with what the corporates see as development. Taking the example of agricultural growth and arsenic poisoning in Kurunegala it was felt that a corporate in its aim of gaining development must take the necessary mechanisms to do so in a sustainable manner. Specially in the case of Sri Lanka with its limited amount of land we cant afford to do anything that may hamper the environment in the long term process. However there are instances where these limitation procedures may result in greater damage to the environment. Even though Sri Lanka has some of the finest potential mining land in the plantation sector, professional mining cannot take place due to government policy. Hence conducting basic mining procedures may result in greater damage to the environment resulting in a situation where the government policy tightens the sustainable development.

Replying to a query on the relationship between public quoted companies and sustainable development Amarsuriya pointed out that the chances of public quoted companies going into CSR activities are higher due to their responsibility towards a large number of shareholders.

Minority Interests / Minority Protection



Mr.-Sujeewa-Mudalige

Mr. Sujeewa Mudalige, dealt with the issues faced by shareholders in investing in potential firms. Some of the points that needs to be taken into consideration when investing were categorized as follows; Whether the company is a public or private company, whether you are a majority or minority shareholder, whether the company is adopting a majority rule or coalition rule... etc.

A prominent area of conflict between major and minor shareholders that was pointed out was the policy with regard to dividend payments with minority shareholders investing a short term dividend policy and thereby demanding higher dividend payouts as opposed to majority shareholders who will look at matters such as expansion, internal growth etc. as well. Other causes of concern for minority shareholders are companies getting de-listed, inter-company loans through which the majority shareholders may have more ways of deriving a benefit either through technical fees, professional fees etc. rather than the minority shareholders.

Mudalige further emphasized on the difficulties faced by minority shareholders as follow, 'You may have enough surpluses but you siphon them out to your own private companies for interest free or well below the market rate, which leaves you with a minimum dividend pay out which is a huge disadvantage towards minority shareholders.'

He further described the relevant specific relief granted by the Companies Act of 2007 under sections 224, 225 on oppression and mismanagement and derivative action in which a shareholder can file actions on behalf of the company.

Laying down the actions taken by the Security & Exchange Commission, with regard to protection of minority interests he pointed out the following; limiting the directors' ability to trade in default board shares. With regard to private placements, those subscribing for private placements have to hold it for a minimum period of 1 year and finally the 40% rule according to which 40% of the value of every IPO has to be allocated to the minority shareholders.

In closing however Mudalige stressed on the fact that even with the above relief procedures the interests of the minority shareholder still remained at stake due to the reasons that they invest in a company with the prior knowledge of all of the above as well as the fact that a minority shareholder after all may be of minority importance to the company in the long run.

Thus ended yet another successful module of the series on Contemporary Views on Corporate Stewardship & Boardroom Governance' organized by the Sri Lanka Institute of Directors.

The next and final module of the above titled 'Governance Issues of Specific Organisations' will be held at the Ivy room of the Cinnamon Grand from 4.00 to 7.00 pm on 28th April 2011 with a panel led by Mr. Arittha Wickremanayake; Precedent Partner of Nithya Partners, and will consist of Mr. Krishan Balendra; Head of Corporate Finance & Strategy of John Keells Holdings PLC, Mr. Prema Cooray; Managing Director/Chief Executive Officer of CCC Solutions (Pvt) Ltd, Mr. Prasanna Jayawardena; Independent Director of Ceylon Cold Stores PLC and Mr. Lakshman Watawala; President of the Institute of Certified Management Accountants.