MIDDLE EAST

Corporate governance regulation in the Arabian Gulf


By Hamish Walton and Zara Merali

Financial regulators in the Arabian Gulf are responding to the global financial crisis and the collapse of established corporations with corporate governance standards which are based upon international best practices.

However, several ambiguities remain and implementation assistance is needed for the rules to be effective. Clyde & Co's recent roundtable seminars with the London Stock Exchange across the UAE and Qatar showed that shareholders and boards want further education concerning corporate governance regimes in the region to understand regulatory developments as well as their corporate benefits.

Two significant developments

In February 2009, the Qatar Financial Markets Authority's Board approved a corporate governance code to establish standards for joint stock companies listed in any financial market in Qatar. The code regulates ownership functions, shareholder rights and equitable treatment, related party transactions, relevant stakeholder roles, disclosure, transparency, accounting and auditing, and Board of Directors' responsibilities.

Similarly, in the UAE, the Emirates Securities and Commodities Authority (ESCA) issued a Decision (*No. (R/32) of 2007*) directed at listed companies in the UAE and the Board of Directors of such companies. Listed companies must comply with the decision by 30 April 2010, which regulates:

- the classification and formation of boards of directors, to secure adequate expertise and to define responsibilities attributed to members
- the code of conduct
- the board of directors' committees
- director remuneration
- internal control procedures for risk management
- shareholder rights
- external auditors, and tasks internal audit committees with producing a corporate governance report

Advantages of Regulation

Market economies are the beneficiaries of effective corporate governance which encourages investment, promotes productivity and long-term business stability, counters corruption, stimulates competition, innovation, integrity, and enhances confidence.

The key to the successful adoption of requirements by businesses will be in educating companies as to the benefits of, and encouraging confidence in, corporate governance, and the fact that its implementation makes good business sense.

Specifically, good governance benefits corporates through mitigating risk by aligning shareholder and executive interests; facilitating succession planning for family companies and regional and international corporates; positioning corporates for expansion by creating generally accepted business standards designed to adapt to different market issues; minimising the opportunity for conflicts of interest; improving employee engagement; fostering meritocratic advancement; and removing uncertainties.

Unresolved issues

Corporate social responsibility (CSR) ethics are generally viewed as being consistent with Shari'ah principles, yet CSR is notably absent from existing Arabian Gulf states' corporate governance regulations. For example, CSR could provide effective management tools for the Gulf states to exercise human rights leadership on child labour and migrant worker issues.

Legislative ambiguities also remain. For example, since the ESCA decision applies to boards of directors, whether directors are personally liable for fines or imprisonment pursuant to the penalties specified under the ESCA enabling law (Law No. 4 of 2000) is uncertain.

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