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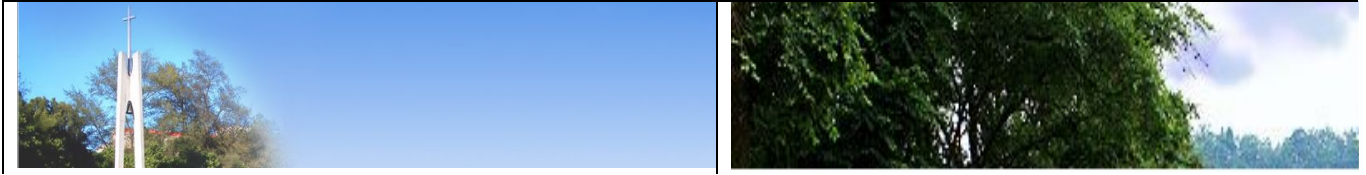
**A set of limited Asian pacific corporate  
governance standards after financial  
crisis, corporate scandals and  
manipulation**

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Title:

**Corporate Governance Issues and the Construction of a Set of Limited Asian Pacific Corporate Governance Standards After Financial Crisis, Corporate Scandals and Market Manipulation**

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## **Abstract**

Up to now there are some researches done in the field of giving a framework of implementation of corporate governance standards after corporate scandals, negative market manipulation during the post-crisis periods. This paper mainly concentrates on empirical research for findings in this field.

First, it comes up with four (4) groups of findings on corporate governance subjects in the post-crisis and post-scandal time. It found out that companies in these periods have certain corporate governance issues such as how to better organize an information disclosure system.

Second, it compared and identified differences in current and latest corporate governance standard system in four (4) countries in Asian Pacific region: Japan, Australia, Philippines and Korea.

Third, this paper provide with a short summary of evaluation of current corporate governance principles in these four countries which can enable corporations to seek and to compare to their current codes.

Last but not least, it aims to realize a limited general set of standards of Asian Pacific corporate governance and give proper recommendations to relevant governments and organizations.

## Introduction

Many countries in Asian Pacific regions including: Japan, Korea, Philippines, and Australia have made advancements in their corporate governance standards and regulations in recent decade. There are two (2) main point of time which is signaling the improvements made in the Asian countries' corporate governance policies. First period is the time during 1999-2003 after the Asian financial crisis taking place in 1997-1998 and second period is the current time, after the financial crisis 2007-2009 with impacts from US and Europe large economies. The Global corporate governance forum was organized and country's corporate governance council or committee or forum is also established for recommendations and implementation of new key principles in this field. This research paper is trying to take an implementation – oriented writing style and focus on current corporate governance issues during and after impacts from scandals and crises.

Besides, this research paper aims to provide a writing style to adapt to an understandable reading to most of readers in academic field who is both familiar and not familiar to the corporate governance subject.

The subsequent sessions are organized as following. First (1<sup>st</sup>) session is a literature review for some of corporate governance researches with impacts from corporate scandals, market manipulation and financial crisis. Second (2<sup>nd</sup>) session is built with three (3) main themes of theories such as: corporate governance and financial crisis, corporate scandals and market manipulation. Next, (3<sup>rd</sup>), session is covered with a summary of methodology used in empirical results. The fourth (4<sup>th</sup>) session is focusing on main findings of this paper which include four (4) key findings on: a) Corporate governance issues after financial crisis, corporate scandals and market manipulation; b) Ways of Manipulation during Corporate Scandals; c) Actions to Prevent or Control Negative Market Manipulation; and lastly; d) Construction of a set of Limited Common Asian Pacific Corporate Governance standards. And last 5<sup>th</sup> session turns to our conclusion and recommendations to relevant organizations. Then, continuously, a reference and web resources are introduced for further research and analysis. At last, there are exhibit session which covers some summary of this paper's analysis and comparison.

Lastly, thank you very much for my family, my colleagues in assisting convenient conditions for my research paper.

## **Research literature review**

Many researches so far are done in the corporate governance area. From the EU approach to corporate governance from IFC (2008), it shows that corporate governance is necessary for not only state-owned enterprises (SOEs) but also important for private sector to growth. In 2002, EU also issues the Code of Best practices and the 2006 Directive requires that each listed company should publish an annual corporate governance statement to what extent the company can comply with that code. Among its key principles is the separation of roles between the CEO and the Chairman as it stated “The Chairman and CEO roles should be separate and the CEO should not immediately become Chairman of either a unitary or a supervisory board”. However, just few same works are performed in the Asian Pacific region up to now.

Li Wei An (2008) in a research of corporate governance said it is urgent matter to seek which governance model is more suitable for the governance environment where Chinese listed companies survive.

The corporate governance model has an effect, both negative and positive, on the market and profits manipulation for particular company. Lambert, Caroline., and Sponem, Samuel., (2010) research in France with a conclusion that management controllers play an important role in profit manipulation and the shareholder pressure influence the nature of the management controller’s task such as reporting and budgetary control. Allen, Franklin., Litov, Libomir., and Mei, Jianping., (2004) found strong evidence that large investors and corporate insiders possess market power which allowed to manipulate prices.

Therefore, after several financial crises, in 1997-1998 and in 2007-2009, and many corporate scandal cases, including different types of manipulation, it is necessary for performing more researches and reviewing of relevant corporate governance theories. U.S. House (2002) confirms in Enron case that there is a failure of the board in their fiduciary duties to shareholders. Though Zhang, Yi., (2006) states that other corporate governance characteristics such as board size, board independence and institutional ownership are not related to the probability of the firm committing fraud, we need to do further research on corporate governance issues taking place after financial crisis and during corporate scandals time for additional details and recommendation. As Kirkpatrick, Grant., (2009) pointed out that even OECD corporate governance, short-called CG, principles needed to be review in key areas, including board composition and competencies, remuneration issues, etc., after the financial crisis.

## **Theory of Corporate Governance, Scandal and Market Manipulation**

### **Theory of corporate governance and financial crisis**

Corporate governance is a scientific term understood in various ways. It is understood as laws, rules, corporate charter and policies which reflect the relationship between the corporation and its stakeholders, shareholders, creditors, boards, committee, employee and customers and the relationship between ownership and performance. In short word, corporate governance is a set of processes, customs, policies, rules directing and controlling an organization. Li Wei An (2008) stated corporate governance evaluation is designed to make a rating and judgment of governance structures and mechanisms. On the other hand, Allen, Franklin., and Gale, Douglas., (2002) identify that Good corporate governance in US and UK means firms pursuing the shareholders' interests while it involves pursuing the interests of all company's stakeholders including customers and employee as well as shareholders, in Japan, France and Germany.

After the crisis, ADB indicate that one of the roots of Asian financial crisis is the failure of corporate governance. Therefore, it is necessary to re-evaluate the corporate governance structures and mechanisms in the post-crisis and post-scandal periods. ADB also offers the ten core principles of corporate governance which aims to help investors and stakeholders to be armed with corporate governance standards, tools and skills which help them to classify businesses which comply superficially and those which have perfect commitment. OECD (2004) in the same post-crisis research stream, use Western legal and ethic concepts in which it indicated that corporate governance forms part of a wider macroeconomic environment where institutional structures and frameworks play a major role. Grant Kirkpatrick (2009) states in the OECD CG report that the financial crisis, for example 2007-2009, can be an important factor to failures of the CG system and the OECD CG principles need to be reviewed. Also, the risk management system falied in many cases with errors in CG procedures rather than in the computed models. Therefore, OECD principles which are revised from the original 1999 Code of corporate governance , so far, has a wide effects on both OECD and non-OECD countries during and after financial crisis time.

### **Theory of types of market manipulation**

Aggarwal, Rajesh K., Wu, Guonzu (2003) found out that potential manipulators can be corporate insiders, brokers, underwriters, large shareholders and market makers and stock prices rise throughout the manipulation period, prices higher when liquidity greater, and then fall in the post-manipulation period despite unclear evidence.

Besides, Allen and Gale (1992) shown trade-based possible manipulation taking place when it is ambiguous about whether share buyer has good information of firm's prospects or projects or simply manipulates the stock price for profit.

Moreover, Chatterchea, Akardev., Jerian, Joseph A., and Jarrow, Robert A. (1994) categorized types of market manipulation which the corporation should minimize into: a)

action-based manipulation; b) information-based manipulation; and c) size-based manipulation. And Healy and Walhen (1999) indicate two main incentives for profit manipulation: a) contracts written in terms of accounting numbers; and b) capital market expectations and valuation. The profit manipulation can be divided into two (2) types: earning manipulation and falsification.

### **Theory of Corporate scandals**

Cadette (2002), Madrick (2003) and Schwartz (2003) indicate that to gaudy earnings, options created outrage when top management or executives allow manipulation on quarterly report, resulted in short-term movements in stock prices, allowing sizeable personal profits despite probable future restatements of company earnings. We can refer to report by GAO, the U.S Government Accountability Office, disclosed from 1997 to 2002 in US, there is more than (>) 10% listed companies at least one financial statement restatement. Greenberg (2002) and Peterson & Snow (2003) said scandal solutions entailed enforcing the independence of auditors and board of directors, hiring ethics officers or lawyers to ensure compliance or using new metrics to assess performance. John C. Coffee (2005) pointed U.S managements famously employed “rainy day reserves” to hold back the recognition of income excess in the market’s expectation to defer its recognition until later when there had been a shortfall in expected earnings.

### **Research methodology**

First, we classify corporate governance laws into a few different groups including: 1) Asian representative Corporate Governance group, here, we select two Asian countries: Japan and Philippines with lots of modification in their history of issuing their corporate governance principles; and 2) Relatively good Corporate governance group including Korea, Australia; We also use international standards of corporate governance for reference such as: ADB and OECD’s corporate governance principles and standards.

Second, we perform a qualitative analysis on each group then build general standards for corporate governance in each separate group. These standards represent common understanding and principles in each group.

Third, we compare each group’s general Corporate Governance standards together and provide a short summary of evaluation of each country or group’s standards, which is presented in the later session for Japan case and in Exhibit session for the rest countries.

Finally, we make a suggestion on what so-called common corporate governance principles for Asian Pacific which is aiming to create a basic background for relevant corporations interesting in corporate governance subject. This general corporate governance standards are based on the second reason is that they are built with some contents which enable the



corporation to prevent or control problems of Corporation governance system of big corporations in different countries in the world identified through a previous corporate scandal and manipulation analysis. Additionally, it can be considered as the recommendation to relevant countries' government and other relevant organizations for further steps, public policy and necessary evaluation. For a summary of our standards construction, see [Exhibit 2](#).

## **Empirical findings**

### **A- Findings on Corporate governance issues after financial crisis, corporate scandals and market manipulation**

First of all, we found out that the internal and external committee audit showed disadvantages and weak points during the audit process which lead to rooms for managers using manipulation tools to create an unreal financial picture of scandal companies. The reasons might be including: there still exists an insufficient information system or database which contribute to ineffective business decision making in those companies.

The second important corporate governance issue is that the corporate governance mechanisms is not complete and perfect in the aspect that controlling shareholders and group of minority shareholders participate into internal business issues of top management over the acceptable necessary requirements and therefore, it puts a lot of pressure on the efficiency, the effectiveness of the business , also the higher ROI commitment on the shoulder of the board of directors and CEO without considering to the current business context. This leads to negative manipulation and unstable changes in the business's security market.

Third, among important covered issues is the timing issue of corporate annual reports announcement to the public is another corporate governance issue. It includes issues such as: a) common delays in delivering on-time annual financial statements to the public; and b) insufficient data or information announced to the public on company website at certain points in the fiscal year, especially during and after financial crisis or suddenly changing in the management board. So, This also relates to the validity and control of regulations in information management on the company website.

We can point it out another CG, corporate governance, issue. That is, the appraisal of following code of ethics of the company and industry in specific markets is not done with full of responsibility or is done just on the business surface. Or in another words, there still lacks of the appraisal of the role of the legal or compliance division in the company which contributes to the bad results on the corporate performance and scandals.

Last but not least, one major corporate governance issue existing as the main cause to corporate scandals of these companies is that there is a question on the quality of the management skill and talent of companies' CEO and his or her colleagues in the board of management. Or in another way, it is the issue of evaluating and appraising the efficiency and

effectiveness of their management and governance capacity during both business growing stage and recession stage.

## **B- Findings on Ways of Manipulation during Corporate Scandals**

Several Manipulation Techniques found out during corporate scandals involve, but not limit to:

### **B.1 – The manipulation techniques in the income statement:**

The use of unusual contracts to inflate the company's revenues with a hope to trigger the company's stock price is done successfully by corporation such as *ELan* in the fiscal year 2001 (leading to its collapse later). Another example is Xerox during the fiscal periods 1997-2000.

Besides, the second manipulation technique used is the negative manipulation of expenses of the company by decreasing its expenses to get a high nominal profit. *Worldcom, Inc.*, has an under-reporting expenses and capitalizing its balance sheet. The amount of \$3,8b cash is recognized as capital expense, instead of operating expense in the fiscal year 2002.

### **B.2 - The manipulation techniques in both the income statement and balance sheet:**

The technique is used by the large energy company, *Enron*, in the year 2001, which is the hiding of its debt and therefore help to increase its profit of about \$1 billion. Or the manipulation trick is done by a Texas co., *Waste management Co.*, in which its nominal profits is manipulated or inflated by extending depreciation time of property and equipment in the year 2002.

### **B.3 - The manipulation techniques relevant to international accounting practice code:**

We can refer here the case of *ABB*, the share price collapsed since 2001, down to \$6 per share, after the company used GAAP to correct mistakes on operating income manipulation, so, this increases its loss of \$691 m.

## **C- Findings on Actions to Prevent or Control Negative Market Manipulation**

Among proper actions to prevent and control negative market manipulation is the example in US and Europe. After the financial crisis, American and German companies try to modify mechanisms and suitable positions in the corporation's corporate governance system; and therefore, to nominate a CRO position, so –called Chief Risk Officer, who is taking care of risk issues relevant to risky investment deals. This action is considered as to magnify the role of Risk Management Division in many big corporations. In the same trend in Asian region, many big and medium corporations nowadays enhance their risk management division activities which are taking into account impacts from unexpected fluctuations of market conditions, price and inflation.

The next proper action for the corporation to perform is the duty of increase the awareness of the role of CSR in the corporation by education and training. This is also among active actions during the post-crisis period. Suitable reasons for doing it include, but not limit to, many corporations and even, some countries' corporate governance Code systems still not mention it fairly and clearly.

Continuously, It is necessary to re- evaluate a system of investors and shareholders governance index, their effect on business decision and performance and pressure on ROI of the company. Also the company should evaluate their roles and participation in shareholder meeting or company activities.

Then, the **Exhibit 1** also shows us the tiny example of the role of building a business well-being in Greater China, which can be considered into constructing a corporate governance structure aiming to establish a sustainable business environment and preventing risks and frauds from corporate scandals and financial crisis.

Moreover, The Corporation in the post-crisis period needs to nominate suitable CFO or so-called an acceptable qualified chief accountants or CFO, with clarified main and sub quality factors. It should consider necessary adjustments in examining certified public accountants regulated by laws and suitable authorities as well.

#### **D- Findings on Construction of a Limited Common Asian Pacific Corporate Governance standards**

These findings will be shown in a detailed analysis of a model indicated in the later sessions.

##### **<D.1> - Group 1 – Asia Corporate governance standards analysis**

###### **In Japan**

One of major different features in the Japan 2009 revised principles is that it views the Company or Corporation as the whole entity in constructing its corporate governance standards. Therefore, it, the company, has a responsibility in developing and improving an internal check and balance system for the Auditors, Board and other groups make their business judgments. And it also guarantees necessary facilities such as human resources and infrastructures to support the audits.

Besides, the 2009 Code expands the interests from the corporation's shareholders to its stakeholders, in order to create a harmony relationship between the company and its stakeholders and to create corporate value and jobs. Here we can see the role of the corporation when it is looked at as the whole entity and take into consideration of building a corporate culture in favor of its stakeholders.

Additionally, The Japan Corporate governance principles have an ambiguous point when it describes the other relevant groups in supervising Management. And also, it still does not pay more attention to the supervisory roles and structure in favor of the CEO and Board.

In conclusion, the Japan principles cover a variety of issues which is based on a shareholders-oriented point of view.

**Table D.0 – Japan Corporate Governance general standards (a short summary evaluation)**

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	Refer to Internal Auditor part	<u>Not mentioned clearly in the Japan Code</u>	The Co. chose either auditor or committees system
Nomination committee	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	The Co. chose either auditor or committees system
Compensation or Remuneration committee	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	The Co. chose either auditor or committees system
CEO	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
The Chair	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
CEO and The Chair relationship	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
Corporate Secretary	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
Compliance officer	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
Board of Directors	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	Appoint the management; Supervise, Evaluate Management; Prevent the occurrence conflicts of interest b.t The Co. and management; Develop a mutual monitoring system	Maximizing corporate value; Make judgments compliance with Laws and Regulations and accuracy of business operation conditions	
Executive director	<u>Not mentioned clearly in the</u>	<u>Not mentioned</u>	Involved in the Management part	Involved in the Management part	

	<u>Japan Code</u>	<u>clearly in the Japan Code</u>			
Non-executive director	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
Independent director	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
CFO	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	
Management team	Representative directors and executive officers, representative executives and executives; or person involved in management of the co.	<u>Not mentioned clearly in the Japan Code</u>	Organize the Board of Directors, Auditors, Board of Company Auditors suitable;	Accurately and efficiently executing business	
Supervisory board	Auditors, Board of Directors, other groups as the Management supervisory board	<u>Not mentioned clearly in the Japan Code</u>	Refer to the relevant parts of Supervisory body	Refer to the relevant parts of Supervisory body	Not mention the Supervisors to the Board, but do mention the supervisory to Management
Internal control	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	Develop and improve internal system	To secure the accuracy and promptness of disclosure	
Internal audit	<u>Not mentioned clearly in the Japan Code</u>	Depth knowledge of finance/accounting	Supervise , Evaluate Management;	Maximizing corporate value; Make judgments compliance with Laws and Regulations and accuracy of business operation conditions	
External audit	Highly independent outside auditors	Depth knowledge of finance/accounting (as be understood from the Code)	Coordinate with the internal audit and internal control division	<u>Not mentioned clearly in the Japan Code</u>	
Disclosure and transparency	Timely and accurate	<u>Not mentioned clearly in the Japan Code</u>	Enhance quantitative data on financial and operating results; qualitative information;	Periodic, interval, reliable, and comparable information to shareholders	
Shareholders and Minority Stockholder	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	Elect the directors and auditors	<u>Not mentioned clearly in the Japan Code</u>	

Note	The underlined part is describing some more works needed to be done for relevant subjects and parties.
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**In Philippines**

In the Philippines, the general corporate governance guide is called the Code of Corporate Governance which has a good foundation on reference criteria of corporate governance guidelines from World Bank and OECD principles of Corporate Governance. It is established in 2002 by SEC and revised in 2009 after the World Bank issuing the ROSC in 2006 (ROSC stands for Report on the Observance of standards and Code). It aims to strengthen the investor confidence, develop the capital market and help the corporate sector and Philippines economy to achieve the sustainable growth.

A short summary and evaluation of this revised Code is shown in the **Exhibit 3**.

Within the appropriate timeline and research objectives, this paper can not cover the changing features of the old 2002 Code, compared to the new 2009 Code, so this is its limitation.

Below analysis is focusing on the Code that took effect on July 15<sup>th</sup>, 2009 in Philippines.

According to the revised 2009 Code, Corporate governance is understood as a framework of rules, systems and processes that govern performance by the Board of Directors and Management of their respective duties and responsibilities to the stockholders. This formed a general legal system governing the corporation and also provides good understanding for the authorities and auditors while still exclude the emphasis of CEO roles.

Besides, the internal control functions are separated from the internal audit’s ones, with the goals covering the accomplishment of the company’s goals, efficient operation, reliability of financial reports, and faithful; compliance with applicable laws and internal rules. The Code has a good point when it mentions the internal audit department in this revised 2009 version with an emphasis on objective assurance to add value to the company itself.

Next, the Board of Director is classified in 2 groups: executive and non-executive directors which involve the independent directors. Non-executive directors are appointed not to be Head of Department and not performing any work related to the company’s operation. So, the co-existence of both independent and non-executive directors probably causes a misunderstanding or difficulty in separating and clarifying their duties.

Additionally, while The 2009 Code allow the unify of CEO and The Chair, it also describes clearly the roles of the Chair in the Corporation which still has points misleading the CEO in many cases of decision -making in the Company. The reason is that the CEO’s qualification and responsibilities are not well and clearly defined, in regarding to the Chair’s duties.

Another point is the organization of the Audit committee in the company. Though it provides a good definition on the composition of the board committee, it still had an overlap or might probably cause confusion between the roles of compliance and the roles of the audit division.

One of the point show the importance of this body is the obligation to ensure that the internal and external auditors have unrestricted access to the company's records, properties and personnel.

Therefore, it will be better if the Code clarify more on the responsibilities of the Internal Auditor and the difference between them and the External Auditor when it mention the independent internal auditor in the appointment and organization of Internal audit department. Moreover, in the light of the Code, we can see the detailed role of the Audit committee in the evaluation of non-audit work of external auditors which are difficult to some corporations, but we have to define the clear boundary again between a so-called non-audit versus audit works and the evaluation process as well.

Last but not least, the Secretary of the Corporation is pointed either its legal counsel or the one aware of laws and rules. After the financial crisis, it is necessary to conclude that this criteria should be updated for him or her as the sub quality factor in the below table. And it is quite helpful to suggest that he should ensure that the meeting members have accurate information, before, that facilitates an intelligent decision.

Finally, the 2009 Code highlight the role of the Compliance Officer in giving recommendation and measures to avoid the repetition of the Code or Rules violation.

In general, the Philippine Code 2009 built a good standard for the Internal Audit department and mechanisms. It clarifies the duty of the Internal Auditor in delivering an annual report on its activities, duties and audit plan covering risk and control issues. Besides, it, the Code, still has some more works to do with constructing a good standard for the CEO of the company, and the procedures for separating the Chair and the CEO in case they are different people. Also, it still has to clarify terms such as "other matters" or issues which cause ambiguous understanding for the Internal Auditor's responsibilities. To be better in transferring the Code message to the Company's Top management team, it should focus more on describing the separate functions between the Board of Directors and The CEO.

Based on the revised 2009 Code, each corporation can build its own corporate governance system including rules, procedures and principles in accordance to the Code.

### **Comparison between Japan and Philippines Corporate governance standards**

Based on the above information, we can see the structure of the Japan revised 2009 Code of Corporate Governance is trying to be a more shareholder-oriented code. While in The Philippine 2009 Code, the structure put more attention to the Corporation governance structure and mechanisms, which includes an important issue of illustration of the roles of the CEO, The chair and the relationship between them.

The Japan Code refers to Corporate Governance as the framework for disciplining corporate activities. It is a quite short explanation when compared to the Philippine Code, the Corporate

Governance is understood as a framework of rules, systems and processes in the corporation. Also, though it does not mention the CSR so much in both Codes, the Japan Code slightly points the role of local community in a coordination of interests among related parties when the company tries to achieve its profits. It is in the Japan Code that the term “modern economic society” is used in generating the Corporate Governance standards.

Moreover, the Japan Code is looking at the Corporation as an entity which means that it, the corporation as a whole, has greater transparency and fairness in adapting to market principles and shows interests in its social responsibilities. It also pays attention to the relationship between shareholders and management.

On the contrary, The Philippines Code is looking at the corporation governance structure and its components a stronger focus on the establishment the roles of Internal Audit and Audit Committee. While, the Japan Code, one more time, confirm its Code theme in considering the Corporation as a whole entity in developing its internal system, not directly refer to the Board ‘s roles, as mentioned in The Philippines’ one.

Another advantage in the Japan 2009 Code is the consideration of equal treatment all shareholders, minority and foreign shareholders, as a critical element in the Corporation’s corporate governance establishment. The Philippines Code defines the rights of the company’s shareholders which are a basic strong foundation to enable and harmonize the important relationship between the corporation and its shareholders.

Last but not least, one different point in The Japan Code, compared to the Philippines Code, is that it allocates the role of supervising the Management to a group of “Board of Directors, Auditors, Board of Company Auditors and other relevant groups”. The Philippines also make a distinguished point when it illustrates the responsibilities of the Corporate Secretary in its 2009 revised version.

Another strong feature of the Code is taking care of roles of stakeholders and the company should not be irresponsible for its CSR which includes consumer and environmental protection.

Finally, The Japan Code form a typical three (3) corporate governance models in 2009 including: 1) A company with committees; 2) A board of directors centered around outside directors and; 3) Selection of outside directors and collaboration with board of company auditors, etc. (see [Exhibit 5](#))

And Philippines also classify a three (3) committee corporate governance model in its revised 2009 code (see [Exhibit 6](#))

### **The 1<sup>st</sup> Establishment of a so-called Limited Asia Representative Corporate Governance standards**



With the selection of Japan and Philippines as two Asian countries (limited) which represent in the construction of general corporate governance principles and standards, we build the below table with the following criteria:

Firstly, it should have some attributes which enable the corporation to prevent or control problems of a corporate governance system of big corporations in different countries in the world identified through a previous corporate scandal and manipulation analysis.

Secondly, it should not be separated from the real practice of the Code of Corporate governance in the selected countries.

Thirdly, it includes contents that enable to counter corporate governance issues after the corporate scandals and financial crisis. It also functions as a summary of general corporate governance standards from these two Asian representative countries.

Therefore, the **below table D.1** is trying to summarize what are general corporate governance standards in Japan and Philippines, two countries with certain advancement in their corporate governance procedures updating in Asia; therefore, we use the term “Limited Asia Representative Corporate governance standards” to represent for the common criteria. The term “general” here means the criteria mentioned below is better in the light of the author’s appraisal, which is considered in the context that the financial crisis and the corporate scandals caused many errors in the system of Corporate Governance in Asia. It is also constructed in the way that being the better understandable criteria.

**Table D.1 – A summary of A Limited Asia Representative Corporate Governance general standards (Japan, Philippines cases)**

<b>Subjects or parties</b>	<b>Main quality factors</b>	<b>Sub quality factors</b>
Audit committee	Director qualifications, independent director qualifications, and audit experience	Accounting and finance experience and backgrounds
CEO and The Chair	Clear functions between them	Allow a Unified duties between The Chair and CEO
Corporate Secretary	Be a country resident / citizenship; officer of the Company; appropriate administrative and interpersonal skills	Be loyal to the mission, vision and objectives of the Company; working knowledge of company’s operation
Compliance officer	Understand rules, regulations and legal procedures	N/A (for further research and implementation)
Board of Directors	Establish a mutual controlling system to maximize corporate value	Should be given independent access to Management and Secretary
Independent director	Independent of management and free from any business/relationships	N/A (for further research and implementation)
Supervisory board to the Management	Auditors, Board of Directors, Compliance and other groups as the Management supervisory board	N/A (for further research and implementation)
Supervisory to the Board of Directors	Audit committee, Remuneration or compensation committee, Nomination committee	N/A (for further research and implementation)
Internal control	Secure the accuracy and promptness of	The corporation as the whole

	disclosure	entity to develop its internal control system
Internal audit	Highly independent; Free from any interference from outside parties;	Depth knowledge of finance/accounting (as be understood from the Code)
External audit	Highly independent ; Depth knowledge of finance/accounting (as be understood from the Code)	Should be rotated /changed every 5 years
Disclosure and transparency	Timely and publicly disclosure (earnings, acquisition, off balance sheet transactions, remuneration)	N/A (for further research and implementation)
Shareholders	Clear agreement on the rights to the corporation business system (information, dividend, appraisal, etc.)	N/A (for further research and implementation)
The corporation as a whole entity	Develop and maintain good harmony relationship not only with shareholders, but also stakeholders	Develop and improve the internal system

### <D.2> -Group 2 – Relative Good Corporate governance group analysis

During the financial crisis 1997-1998 and 2007-2009, Korea and Australia are among good countries with little impacts from the crisis storm. Their corporations' and Association audit's activities are following governance standards which are said to have better factors and have a positive effect on their business. Therefore, we try to perform an analysis on their corporate governance standards in the following session.

#### **Korea's Corporate Governance standards analysis:**

After The Report from World Bank in 2003 on Observance and (ROSC) show that corporate governance practices in Korea need to improve in a few areas such as: accounting and auditing practices in accordance to international standards and greater transparency of business practices, in 2009 the Korean government announce the amendment to the current commercial code. However, it is still developed with foundation on the Korea Code of Best Practice 2003. Therefore, to make a sound comparison between it and the other Codes, we still keep some main contents in the 2003 Korean Code.

Among advantages of the Act with the Amendment, Regarding to corporate governance issues, every listed company should have at least one (1) statutory auditor, who is not the outside/external auditor and any large listed company should have an audit committee. This regulation enhances the importance of the internal audit role, though it does not mention clearly internal or external, in listed SMES and large corporation.

In the stream of developing the internal system, one special point is made in the mentioning of the inspector and his/her roles in the company, which is not in the Japan or Philippines Codes.

Another minor point is the mentioning of using the seal of representative directors with suitable authorization attract the attention on the authorization procedure of the company, which is needed to be make clearer in the Code.

In addition to, the 2003 Code show a focus on the operation of general shareholder's meeting, an interesting topic not included in many other Codes. Shareholders might send meeting agenda items to the Board demand explanation and question as well.

Next, the Korea Code attracts attention in detailing the duties of the Board of Directors, and the operation of Board's meeting. It is necessary to appoint the supervisory role of them in making advice compliance to rules, regulations, Code of Conduct and Ethics. On the evaluation operation, it also made a link between evaluation results with appropriate remuneration.

In conclusion, the Korea Code has several advantages, among which is the description of the role and power of the statutory auditor. This point really creates a differentiation in comparison among various Codes. In many cases, the lack of the person who can audit the directors creates difficulties for the corporate governance system to be valid. The powerful rights of the statutory auditors not only stop there, but also cover the audit of financial statements, submit audit report to shareholders and request shareholder's meeting, and finally, he or she is elected and only can be removed by shareholders. However, it also puts a challenge on the shoulder of the corporation and its shareholders on electing suitable statutory auditor with clear main and sub quality factors or qualifications. And the operation of shareholder meeting with proper rights is among suitable adjustments in corporate governance system, while there is a minor ambiguous point in clarifying management team.

For a summary on corporate governance factors, please refer to the [Exhibit 6](#).

#### **Australia's Good Corporate Governance principles analysis:**

A few researches recently consider The ASX, Australian Securities Exchange, Good Corporate Governance Principles 2003 are the same as South East Asian countries' framework. Here, we are going to analyze it based on the latest ASX Code with amendment in 2010 and compare to the Korean Code, because Australia and Korea are two countries with relatively fewer reports on corporate scandals and manipulation.

One of its advantages is the detailed recommendation of a Code of Conduct for relevant corporations with the duty of the board. It is regarding to build a corporate culture and values. Different from the Code structures of previous countries (Japan, Philippines and Korea), the ASX Principles use a recommendation structure for its form which is represent a corporation-oriented formulation, as it mentions in the 2010 Amendment Code "Recommendations are not prescriptions" but "guidelines designed to produce an outcome that is effective and of high quality and integrity". It has involved eight (8) core principles. Even though it is a

recommendation, different from a must-to-do task, it is still good in term of suggesting an independent chair in the committees such as audit and remuneration committees for a better work allocation. It also has guidelines for the company to identify an independent director status and for a selection and appointment process of its directors.

According to the Amendment, corporate governance is “the framework of rules, relationship, systems and processes within and by which authority is exercised and controlled in the corporation”. The ASX code also view the company as the whole entity with its own functions and duties in establishing code of conduct and promoting ethical decision-making. Generally, the ASX Code has strong points in the latest version with amendment 2010 such as recommendations for building an effective Code of Conduct for the corporation and for establishing other relevant policies like diversity policy. It is in the ASX Code that the risk management activities and the term “material business risk” explained as “operational, environmental, sustainability, compliance, strategic, ethical conduct, reputation or brand, technological, product, or service quality, human capital, financial reporting and market-related risks”. However, it does not clearly and describes the supervisory function in the company in detail, both for the board and management team.

Please see the [Exhibit 7](#) for more information on ASX Good Corporate governance principles with amendments 2010.

## **Comparison**

The Korea Code contains some advantages such as the designating of a person in charge for information disclosure and transparency. It means the company gives him/her the right to speedy access and an information delivery system which enable to enhance the transparency and investor relation. Another is the role of corporation to formulate their own business ethics which involves some important matters such as: prohibiting of misusing of corporate assets by executives and employees and prohibiting unfair activities under the undisclosed inside information.

On the other hand, the ASX corporate governance amendment 2010 pay attention to a clearer understanding and roles of corporate governance. The amendment stated governance influences on the company’s goals and objectives, the monitor and assessment of risk, the optimization of performance, the value creation for the company, accountability and control system. The ASX good corporate governance code provides companies with recommendations to design a framework for each of its eight principles.

Moreover, the different point is that it, ASX code, tries to separate corporate governance principles from the Company Act and the accounting standards with several implications including good corporate governance role with positive effect on the company’s cost of capital; and introduce the duty of the ASX Council in delivering a so-called User Survey for

several benefits. And it establish a mechanism in which the ASX Council and Investors and Companies to interact each other on the Code implementation. Therefore, the role of ASX corporate governance council is linked with more responsibilities.

Besides, the ASX code recommends a corporate secretary with suitable requirements while the Korea code does not.

Other aspects are the same as the Korean Code such as the establishment the roles of the board with ethical decision-making and the necessity of the audit committee.

### **The 1<sup>st</sup> Establishment of a so-called relatively Good Corporate Governance standards**

This following table is built with the consideration of the best practices of The Korea and ASX Code of Corporate Governance with proper amendments in the post-crisis periods.

**Table D.2 – A relatively Good Corporate Governance standards**

<b>Subjects or parties</b>	<b>Main quality factors</b>	<b>Sub quality factors</b>
Audit committee	At least three (3) members and mostly independent directors	Advised to set up and required for large co.
CEO and The Chair	Should be separated in functions and responsibilities; the Chair functions as a wide –scope leader; CEO should certify, in writing, important information in financial reports	CEO should not become a Chair and should have formal job description
Corporate Secretary	Monitor the board policies and procedures; despatch of board agenda	Prepare meeting agenda; appointment and removal by the board
Compliance officer	N/A (for further research and implementation)	N/A (for further research and implementation)
Board of Directors	Be responsible for implementation of resolutions of CEO, board and shareholders	Operation should efficiently and rationally, and be governed by regulations with their rights and responsibilities
Independent director	Not a member of management; independent judgment	Free of any business and relationships may interfere with their judgment
Supervisory board to the Management	Board of directors	N/A (for further research and implementation)
Supervisory to the Board of Directors	N/A (for further research and implementation)	N/A (for further research and implementation)
Internal control	A sound internal control system reflected in risk management policies	Ensure the integrity of financial reports
Internal audit	Independent from management and controlling shareholders with knowledge in auditing;	May require directors to make report on business operation;
External audit	Independent from management and controlling shareholders, with professional knowledge of auditing	Attend general shareholder’s meeting and answer; check any conflicts b.t audit results and information disclosed and demand correction;
Disclosure and transparency	Designate a person in charge with necessary and speedy information access	Timely and balanced and continuous disclosure to meet the information need of investors, shareholders and stakeholders in a modern society;

Shareholders	An effective communication policy such as e-communication with shareholders; Minority ones might have rights to appointment of inspector and request convocation of shareholder's meeting	Should be included in the code of conduct
The corporation as a whole entity	Evaluate its relationships with all its stakeholders	Should be included in the code of conduct

### **D.3- The 1<sup>st</sup> Establishment of a so-called Asian Pacific Limited Comparative Corporate Governance standards**

#### **Comparison of corporate governance standards between <D.1> and <D.2> group**

Before we come to set up a set of general limited standards of corporate governance, we need to review the standards combined in the previous two (2) groups: the Asian representative group and the relatively good CG group.

The advantages of the Asian representative group standards are involved but not limit to: consideration of the corporation as the whole entity with its own CSR and internal system development, a clearer illustration of goals of internal control system, etc. But there are more works for corporations in this group to do such as:

On the contrary, the relatively CG group standards are involved but not limit to: the requirement of separation the roles and the scope of leadership between the Chair and the CEO, the designation of a person-in-charge responsible for corporate disclosure policy.

However, same as previous group, there still exist problems to handle including: issue of setting up supervisory board for the board of directors and CEO and its operation, the clearer duties of a compliance officer

#### **A so-called Asian Pacific Limited Comparative Corporate Governance Set of standards**

Based on the 1<sup>st</sup> Establishment of a so-called relative Good Corporate Governance standards and The 1<sup>st</sup> Establishment of a Limited Asia Corporate Governance standards (above establishments), we consider to build general comparative standards for a limited Asian Pacific Corporate Governance system. It is also constructed following the analysis of Corporate Governance participants or parties identified in the **Exhibit 6** where all company's stakeholders are involved in a structure of rules, laws and other parties such as community and other company's stakeholders.

**Table D.3 - The Asian Pacific Limited Comparative Corporate Governance standards**

<b>Subjects or parties</b>	<b>Main quality factors</b>	<b>Sub quality factors</b>
Audit committee	Mostly independent directors or same positions;	At least one (1) member is independent director and also, independent chair different from the Board's chair; at least one (1) with good auditing knowledge
CEO and The Chair	Advised to separate the functions and scope of	Allow a Unified duties between The Chair and CEO; CEO may be evaluated

	leadership of the Chair and the CEO; CEO is evaluated by the Board	by independent internal auditor;
CFO	Be able to handle with key financial and accounting procedures;	Should have formal job description and Letter of appointment describing term of office and termination, rights and responsibilities;
Corporate Secretary	Be able to handle with the board procedures and policies, meeting agenda and materials;	Proper legal and compliance understanding; approval and dismissal by the CEO and board;
Compliance officer	Report directly to the Chair of the Board; Monitor the compliance in the company with the Code, rules and report any violations;	Be able to handle and consult with rules, regulations, policies and processes in compliance with business operation and a modern economic society
Board of Directors	Operation governed by procedures with clear description of rights and responsibilities	Proper legal and compliance and business operation understanding
Independent director	Free of any business and relationships may interfere with their judgment; Not a member of management;	Independent judgment
Supervisory board to the Management	Auditors, Board of Directors, other groups as the Management supervisory board	Include outside directors
Supervisory to the Board of Directors	Audit committee, Remuneration or compensation committee, Nomination committee	Can involve risk management committee
Internal control	Cover but not limit to, the accomplishment of the company's goals, efficient operation, reliability of financial reports, and faithful; compliance with applicable laws and internal rules	Can be assessed and involved in risk management department activities;
Internal audit	Independent from management and controlling shareholders and external auditors; may ask the Directors for reports of business operation	Independent from external auditors; ensure the integrity of financial reporting; Knowledge in auditing; devote sufficient time and effort to the task
External audit	Dept knowledge of financial/accounting/auditing; Independent from management and controlling shareholders;	The appointment disclosed to general shareholder's meeting; can show up at general meeting and answer questions;
Disclosure and transparency	Authorize a person in charge with speedy access to corporate information; Avoid and explain delays in delivering reports to stakeholders;	Timely and balanced and continuous disclosure to meet the information need of investors, shareholders and stakeholders in a modern society; Ensure the validity of disclosed information;
Shareholders	Classified with proper right distribution for large and minority ones	Should be included in the code of conduct
Stakeholders	Identified with all relevant interests and relationships with	Should be included in the code of conduct

	the company	
The corporation as a whole entity	Should recognize the corporate social responsibility (CSR) and have its own business ethics	Meeting the information demand of a modern economic society; Should be included in the code of conduct

*(Note: source are based on corporate governance standards of group <D.1> and <D.2> and the appraisal of these standards)*

## **Conclusion**

In efforts to prevent and control the above analyzed corporate governance issues after crisis, scandals and negative manipulation, each country in this research paper is on the way to modify and revised their suitable Code of Corporate Governance and achieve important and different levels of corporate governance system, structure, mechanisms and positions.

Philippines Code is mainly allocating the corporate governance system to the corporations' Board of Directors while Japan Code uses a shareholder-oriented philosophy and considers the company as the whole entity in establishing and maintaining its governance relationships. On the other side, Australia Code has a detailed description of recommendations to implementation while Korea Code gives recommendations to government and relevant organizations.

As we can refer from the **Exhibit 9** in the Asia CSR, Corporate Social Responsibility, survey done in 2007, from more than 455 respondents, the environment, Health and Safety and Governance are ranked from 1<sup>st</sup> to 3<sup>rd</sup> position, in accordingly. Therefore, toward a building of a particular corporate governance system, each own corporation should comparatively and properly consider its social responsibility with these factors in a harmony coordination with the local community and other stakeholders.

In consideration of corporate governance issues analyzed in the previous sessions, we proposed the main and sub quality factors in this paper **a set of general corporate governance standards** in a limited Asian Pacific model with selected countries. It has some implications for further research and proper recommendations to relevant government and organizations.



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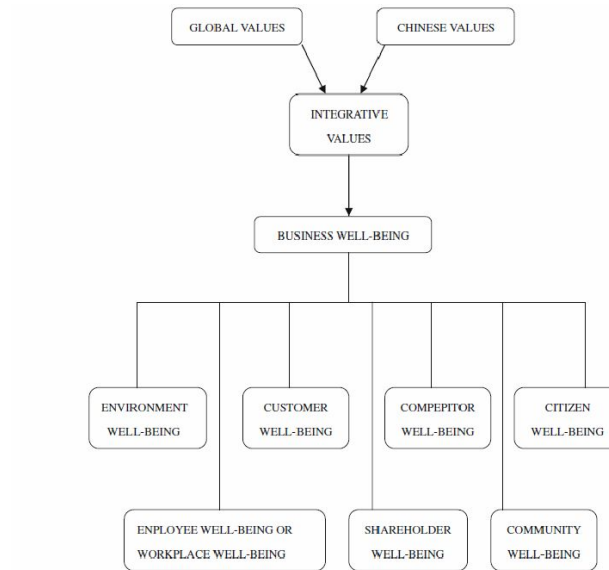
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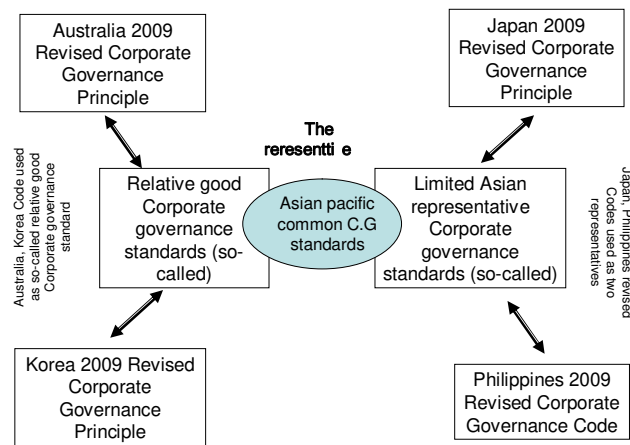
## Appendix and Exhibit

### Exhibit 1 – Building a Well-Being Business

(Source: Ip, P. K.: 2009, 'Developing a Concept of Workplace Well-Being for Greater China', Social Indicator Research 91)



### Exhibit 2 – The Model of Construction of A So-Called Common Asian Pacific corporate governance standards



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### Exhibit 3 – Evaluation of Philippines Code Corporate Governance

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	Director qualifications, independent director qualifications, and audit experience	Accounting and finance experience and backgrounds	Monitoring compliance; assist Board in financial reporting and audit process, internal control system; oversight / supervise management in managing credit, market, operational , liquidity and other risks; review annual internal audit plan	In accordance to applicable laws, rules and regulations; Ensure the independent activity of internal and external auditor ; For the conformity with the company’s objectives, accounting standards, tax, legal requirements;	At least 3 directors (Philippine code)
Nomination committee	See Director qualifications; not mention clearly who is qualified as the key Executive of the committee	<u>Not clearly mentioned in Philippine Code</u>	Review and evaluate qualifications of person nominated to the Board; access Board’s procedures effectiveness in election of directors	<u>Not clearly mentioned in Philippine Code</u>	At least 3 members, include 1 independent director (Philippine code)
Compensation or Remuneration committee	See Director qualifications; not mention clearly who is qualified as the key Executive of the committee	<u>Not clearly mentioned in Philippine Code</u>	Establish a formal and transparent procedure for developing a policy on remuneration of directors and officers	Ensure the compensation consistent with the company’s culture, strategy and business environment	At least 3 members, include 1 independent director (Philippine code)
CEO	<u>Not mentioned clearly in the Philippines Code</u>	<u>Not mentioned clearly in the Philippines Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not mentioned clearly in the Philippines Code</u>	Can understand from the Philippines Code as a Member of the Board
The Chair	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	Ensure Board Meetings compliance with laws; maintain communication between Board and Management; supervise the meeting agenda; consideration of suggestion of CEO, Directors and Managers	<u>Not clearly mentioned in Philippine Code</u>	
CEO and The Chair relationship	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	Should be separated ; Clear delineation of functions should be made	For a balance of power, increase accountability, better independent decision-making	Allow a Unified duties between The Chair and CEO in Philippine Code
Corporate Secretary	Resident (Philippine	Be loyal to the mission,	Preservation of meeting minutes of	Ensure all Board’s rules and procedures strictly	Can be the Compliance

	code), officer of the Company; appropriate administrative and interpersonal skills	vision and objectives of the Company; working knowledge of company's operation	Board and its Committees and other official records; inform the Board the meeting agenda	followed by members	officer (Philippines code)
Compliance officer	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	Report directly to the Chair of the Board; Monitor the compliance in the company with the Code, rules and report any violations; issue a certification every Jan 30 <sup>th</sup> on the compliance with the Code and explain any deviation	<u>Not mentioned clearly in the Philippine Code</u>	Can be the Corporate secretary in Philippines case
Board of Directors	<u>Not clearly mentioned in Philippine Code</u>	Should be given independent access to Management and Secretary	Recommend to the stockholders the external auditor; Be transparent in conduct annual or special stockholder's meetings; Transparent and fair;	<u>Not clearly mentioned in Philippine Code</u>	Board size from 5-15 members , at least 2 independent directors (Philippine Code)
Executive director	The head of department or perform works related to company operation	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	
Non-executive director	None of the above ( of executive director)	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	
Independent director	Independent of management and free from any business/relationships	<u>Not clearly mentioned in Philippine Code</u>	Independent of management and free from any business or other relationship	<u>Not clearly mentioned in Philippine Code</u>	
CFO	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	
Management team	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	Provide Board with timely, adequacy information with background or explanation of meeting matters	<u>Not clearly mentioned in Philippine Code</u>	
Supervisory board	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	
Internal	<u>Not clearly</u>	<u>Not clearly</u>	<u>Not clearly</u>	<u>Not clearly mentioned</u>	

control	<u>mentioned in Philippine Code</u>	<u>mentioned in Philippine Code</u>	<u>mentioned in Philippine Code</u>	<u>in Philippine Code</u>	
Internal audit	<u>Not clearly mentioned in Philippine Code</u>	Free from any interference from outside parties	Report directly to the Audit Committee and to the regional or Headquarter for oversea branches;	Ensure the integrity of financial reports and protection of the company's assets (not clearly mentioned in Philippine Code, but understandable)	
External audit	<u>Not clearly mentioned in Philippine Code</u>	Should be rotated /changed every 5 years	<u>Not clearly mentioned in Philippine Code</u>	<u>Not clearly mentioned in Philippine Code</u>	
Disclosure and transparency	Timely and publicly disclosure (earnings, acquisition, off balance sheet transactions, remuneration)	<u>Not clearly mentioned in Philippine Code</u>	More transparent of internal working, easier to manage company asset	<u>Not clearly mentioned in Philippine Code</u>	
Shareholders and Minority Stockholder	<u>Not mentioned clearly in the Japan Code</u>	<u>Not mentioned clearly in the Japan Code</u>	Vote on all matters requiring their approval; right to information, dividend; Appoint a proxy; appraisal right	<u>Not mentioned clearly in the Japan Code</u>	
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties.				

Exhibit 4 – Evaluation of Korea Code of Best practice 2003 and Amendment 2009

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	At least 3 board members and mostly from outside;		Appraise internal auditor; Audit business conducts of directors and management; Confirm quality of financial reports; <i>more refer to internal audit part</i>	Ultimately maximize co.'s value	Advised to set up and required for large co., accordance to Korea Code
Nomination committee	The majority comprised of outside directors	An outside director be the Chair of Committee	Recognize qualified inside directors; Identified independent outside directors with appropriate expertise	<u>Not mentioned clearly</u>	Advised to set up and required for large co., accordance to Korea Code
Compensation or Remuneration committee	Entirely comprised of outside directors	Independence from management being evaluated	Review and evaluate management performance against management goals; set appropriate compensation levels	<u>Not mentioned clearly</u> , but can understand from their duties	Advised to set up and required for large co., accordance to Korea Code
CEO	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	With CFO, certify important information in financial reports and accurate statements and material used for financial statements reviewed by audit committee	<u>Not mentioned clearly</u>	Korean code pay attention to a so-called representative director
The Chair	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	
CEO and The Chair relationship	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	
Corporate Secretary	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	Not mentioned clearly, but can understand from the operation of the Board	<u>Not mentioned clearly</u>	
Compliance officer	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	Some time understood as "person in charge"
Board of Directors	Required for every listed co, either inside or outside or any other director not engaged in regular activities; Fairly, Prudence and	Outside directors not less than 1/4 directors; Loyalty; not exercise duties for their own benefit or that of 3 <sup>rd</sup>	Set business goals and objectives; appointment and dismissal of management /supervisor; approval of business plans, M&A, projects and large CAPEX; supervision of	Operation should efficiently and rationally, and be governed by regulations with their rights and responsibilities; Meeting minutes should be recorded/stored on tape	At least 3 outside directors for large co.

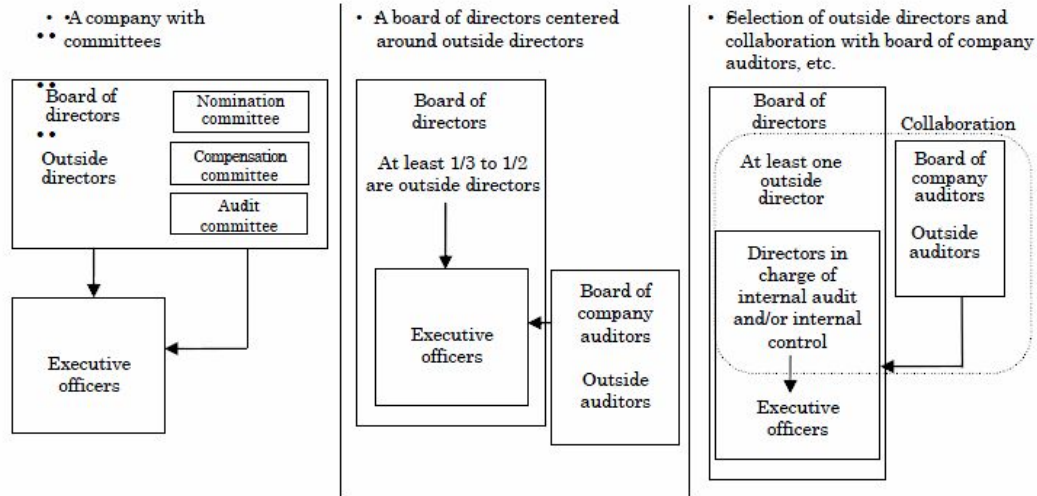
	faithfulness	parties	financial reporting, risk management and control system	and be detailed; Seek results in best interests of co. and shareholders	
Executive/ Representative director	Elected by a board resolution among board directors	Allow jointly or individually representative directors	Be responsible for implementation of resolutions of board and shareholders	In accordance to shareholder's resolutions	Called representative director in the Korean code
Non-executive director	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	
Independent director	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	
CFO	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	With CEO, certify important information in financial reports and accurate statements and material used for financial statements reviewed by audit committee	<u>Not mentioned clearly</u>	
Management team	Directors as head of management	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	
Supervisory for the board	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	<u>Not mentioned clearly</u>	
Supervisory for the managers	Refer to the board of directors	Refer to the board of directors	Refer to the board of directors with detailed roles	Refer to the board of directors	
Internal control	Appropriate safeguards among various units	Designed by management but evaluated by auditors	Can understand through the statutory auditor/committee	Not mentioned clearly, but can understand as the existence and efficacy of management system of protecting co.'s asset	Evaluated by internal audit/committee;
Internal or statutory audit	Independent from management and controlling shareholders	Knowledge in auditing; devote sufficient time and effort to the task	May require directors to make report on business operation; supervise and audit whether director discharge their duties; express opinion and sign board's meeting minutes; audit legitimacy of business conducts of directors and management; review major changes in accounting standard adequacy; Evaluate external auditors' auditing	Perform auditing faithfully	At least one (1) for listed SMEs, as understand from The Amendment
External audit	Independent from management	Knowledge in auditing; devote	Attend general shareholder's meeting and answer;	<u>Not mentioned clearly</u>	Should not be employed auditors if the

	and controlling shareholders, as understood from the Code	sufficient time and effort to the task	check any conflicts b.t audit results and information disclosed and demand correction; report to internal auditor/committee		co. has audit committee, as in the 2003 Code
Disclosure and transparency	Supervised by the Board of Directors; details on annual report; designate a person in charge	Make appropriate forecasting for annual report	Details of key auditing activities should be disclosed	Faithfully disclose information in timely and honest manner;	
Shareholders and Minority Stockholder	Resolutions at general meeting should be made through transparent, fair proceeding	Prior notice on meeting time, place and agenda	Basic rights; Right to appoint and dismiss audit committee members; minority ones might have rights to appointment of inspector and request convocation of shareholder's meeting	The co. ensure shareholders' opinion reflected at the general meeting; Influencing Shareholders act in the best interests of the co.;	
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties. Its 2003 structure also involves additional recommendation to government and organizations				



### Exhibit 5 – Three (3) Corporate Governance models in The Japan 2009 Corporate Governance principles

(source: "Report by the Financial System Council's Study Group on the Internationalization of Japanese Financial and Capital Markets")



### Exhibit 6 – Corporate governance parties

(Source: Loh Leong Hua & Ragayah Haji Matzin, *Corporate Governance: Theory and some insights into the Malaysian Practice*, 2007)

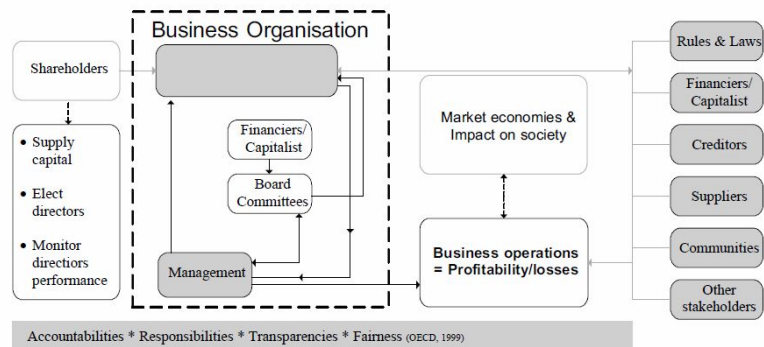


Exhibit 7 – Evaluation of Australian Good Corporate Governance Principles and Amendment 2010

Subjects or parties	Main quality factors	Sub quality factors	Responsibilities	Objectives	Note
Audit committee	Only non-executive directors, majority of independent directors, independent chair not board chair	At least three (3) members; one with finance and accounting professional	Have a formal charter; oversee the external auditors; review the integrity of financial reports;	The integrity of company's financial reporting; whether external reporting consistent with committee member's information and adequate for shareholders' need	Should have board processes for smaller company
Nomination committee	Should have a charter (rules, responsibilities, composition)	Should be established by board	Recommend to board on competencies of director board; review board succession plan; evaluation process of directors and committees; appointment and re-election of directors	Efficient nomination practices of selection and appointment;	
Compensation or Remuneration committee	Consist of majority independent directors; independent chair	At least three (3) members	Guidelines for executives and non-executive remuneration;	Level and composition reasonable and sufficient;	
CEO	Should have formal job description	Should not be the chair; Letter of appointment describing term of office and termination, rights and responsibilities	State in writing the financial reports true and fair and risk management and internal control system efficiently and effectively	<u>Not mentioned clearly in the ASX code</u>	Termination be agreed in advance
The Chair	Should be independent director	Significant time commitment ;	Leadership of the Board; facilitate contribution of directors and management	<u>Not mentioned clearly in the ASX code</u>	A lead independent director suggested if chair not independent
CEO and The Chair relationship	Should not be exercised by the same person		Their divided duties agreed by the Board	<u>Not mentioned clearly in the ASX code</u>	
Corporate Secretary	Appointment and removal by the board; be accountable to board	All directors have access to the secretary	Monitor the board policies and procedures; despatch of board agenda;	<u>Not mentioned clearly in the ASX code</u>	
Compliance officer	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	

		<u>ASX code</u>			
Board of Directors	A majority should be independent directors; proper understanding of business; effectively review and challenge management's performance	Exercise independent judgment;	Oversee accountability and control systems; appoint and remove the CEO, senior executives; monitor risk management system, internal control, code of conduct, compliance, CAPEX, financial reporting; Code of Conduct;	Conducive to make appropriate decision;	
Executive/ Representative director	independent judgment	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	
Non-executive director	Independent judgment	Discussions facilitated by independent director/ the chair	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	
Independent director	Non-executive director, not a member of management; independent judgment	Free of any business and relationships may interfere with their judgment	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	
CFO	Should have formal job description	Letter of appointment describing term of office and termination, rights and responsibilities	State in writing the financial reports true and fair and risk management and internal control system efficiently and effectively		
Management team	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	Design and implement a risk management and internal control system	Manage business risks;	
Supervisory for the board	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	
Supervisory for the managers	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	
Internal control	Reflected in the risk management policies	Designed by management, reviewed and ratified by board, included in the audit	An important element of risk management; covered by a risk management or audit committee	A sound internal control system, together with risk management; Ensure an integrity financial reporting system	

		committee's report			
Internal or statutory audit	Functions independent of external auditors; right to seek information and explanation	All necessary access to management, audit committee	Analysis and independent appraisal of adequacy and effectiveness of risk management and internal control system	<u>Not mentioned clearly in the ASX code</u>	
External audit	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	
Disclosure and transparency	Disclosure of board selection process;	Use a User Survey from ASX Council; Disclose measurable objectives for gender diversity	Provide a statement in annual report with references and links for shareholders; should disclose evaluation process of senior executives and board	Meet the information need of modern society; timely and balanced and continuous disclosure;	
Shareholders and Minority Stockholder	<u>Not mentioned clearly in the ASX code</u>	<u>Not mentioned clearly in the ASX code</u>	An effective e-communication policy with shareholders;	<u>Not mentioned clearly in the ASX code</u>	
Note	The underlined part is describing some more works needed to be done for relevant subjects and parties. Its 2010 amendment structure also involves additional recommendation to remuneration and risk management committee				

Exhibit 8 – Summary of Key Changes in Australia (ASX) Code of Corporate Governance until 2010 Amendment. (source: ASX Amendment 2010)

Items	2010 Code
Board of directors	Companies should disclose the process for evaluating the performance of senior executives
The Chair	The chair should be an independent director.
Code of conduct	Companies should establish a code of conduct and disclose the code or a summary of code as to: No change; the practices necessary to take into account their legal obligations and the reasonable expectations of their stakeholders
Audit committee	The audit committee should have a formal charter.

## Exhibit 9- Asia CSR Survey from Participant respondents

(Source: Welford, Richard., Chan, Clifford., and Man, Michelle., *A CSR Summary report in Asia, done in 2007, The University of HongKong* –The research include 34 Universities, 34 Investors, 93 Social NGOs, 182 Business, 36 Government, 32 Media, 56 Environmental NGOs and others)

Factors	Overall results	
	Rank	Mean score
Environment	1	2.147
Health and safety	2	2.094
Governance	3	1.939
HRM	4	1.853
Corruption	5	1.843
Supply chains	6	1.684
Stakeholder dialogue	7	1.635
Policies	8	1.415
Reporting	9	1.358
Product responsibility	10	1.316
Partnerships	11	1.193
Community	12	0.980
Human rights	13	0.953
Standards	14	0.890
Philanthropy	15	0.501

**Author note:** Thank you Dr. Yea-Mow Chen and Dr. Yu Hai-Chin, Chung Yuan Christian University for class lectures. My sincere thanks are for the editorial office. Through the below qualitative analysis, please kindly email me know if any error found.

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