CORPORATE GOVERNANCE AND CORPORATE DISCLOSURE AND TRANSPARENCY LESSONS FROM THE THAI FINANCIAL CRISIS OF 1997

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ABSTRACT

From 1988 to 1995, the Thai economy had attracted massive volumes of capital in-flow from overseas investors due to its accommodating economic policies, healthy-looking conditions, cheap labour, its geographical location in the heart of South-East Asia, and the stagflation of Japanese economy. World Bank figures show that Thailand's real GDP growth from 1980-90 was an annual average of 7.6%, followed by 8.4% during 1990-95. Growth in 1996 fell to 6% but still exceeded the rate experienced by most OECD countries. Amidst this seemingly happy picture there were some economically unsound conditions underlying practices in the financial sector. The main causes of the financial crisis included; 1) Weaknesses in domestic macro-economic fundamentals leading to a current account deficit. The main reasons behind the current account deficit are the appreciation of the Thai baht in real terms, poor exchange rate management, and demand driven economic growth as the population experienced a large increase in real wages as inflation remained low. 2) Speculation in the real estate market. Speculators bought large amounts of property and launched projects hoping and expecting the price of property to rise in the near future. When it became clear that no boom was coming, speculators began to sell their stakes and the price of real estate collapsed. However, there was no future revenue stream to pay back those loans. 3) Speculative attacks and the floatation of Baht. The Thai government spent 90% of its foreign reserves to defend the Baht against the speculative attack. In a matter of days, the Baht fell from its peg at 25 Baht per dollar to about US$1 for 52 Baht. In response to the crisis, the Thai government changed its exchange rate regime from a fixed exchange rate to a floating exchange rate.

Key words: Corporate Governance, Corporate Disclosure and Transparency, Thai Financial Crisis of 1997.

Introduction

From 1988 to 1995, the Thai economy had attracted massive capital in-flow from overseas investors due to its accommodating economic policies, cheap labour, its location in the heart of South-East Asia, and the stagflation of Japanese economy. Thailand's export relied on manufacturing, agro-industry, tourism, and, increasingly, financial services. However, a rapid increase in the number of financial institutions, the influx of foreign credit into the economy, a heavy reliance on informal networks to conduct business, poor attention to credit analysis, and the existence of money politics are the main causes of the financial crisis.[2]

During the economic crisis of 1997, the Thai economy slumped into a recession and many corporations went bankrupt while several financial institutions were insolvent and forced to close. These consequences led many shareholders, investors and related supervising agencies to investigate and analyze the reasons behind the recession and the financial insecurity and instability. Corporate governance was introduced as a useful concept about a relationship between a board of directors, management team, shareholders and other stakeholders in leading the company's direction and monitoring and conducting its operations as well as evaluating the management team's performance transparently and effectively.[3] The concept of good corporate governance is needed for business survival, boosting investors' confidence and most importantly, enhancing a company's competitive advantages.[4] Additionally, it benefits the best interests of the company for the collective benefits of stakeholders and shareholders.

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[2] From "Thailand's Financial Crisis: It's Causes Consequences and Implications," by J. E. Lightner, (2007), 41, pp. 61-76. Copyright by Journal of Economic Issues.

[3] From Thailand's Corporate Governance Issues and Development (pp. 1-25) by K. Jelatianranat, 2000, Hong Kong: Country Paper of Thailand for the OECD/World Bank/ADB 2nd Asian Corporate Governance Roundtable in Hong Kong. Copyright 2000 by OECD.

[4] From Corporate Governance: The Challenge Facing the Thai Economy (pp. 1-27) by D. Nikomborirak, & S. Tangkitvanich, 1999, South Korea: Corporate Governance in Asia : A Comparative Perspective. Copyright 1999 by OECD.

Financial transparency and disclosures are very crucial to the success of corporate governance because regulators, investors and shareholders rely on financial reports to assess corporate performance and monitor management. Participants in economic markets also need reliable and accurate information in order to make the right decisions; however, prior to 1997 companies in Thailand commonly conceal information to protect trade secrets in order to maintain competitiveness. Since 1999, the Thai economy has started to show positive results in its macroeconomic recovery from the financial crisis mainly supported by good corporate governance and practices.

Objectives of research

1) To study the problem, principle, concept, theory related law and practices of corporate governance, transparency and disclosure for financial crisis of 1997 in Thailand and compare with foreign country.
2) To study an appropriate measures for improving corporate governance, transparency and disclosure in Thailand.

Methodology and scope of research

This study is a document research and analysis a business organization law about financial crisis of 1997 in Thailand. Firstly, the research is studied from a financial crisis of 1997 in Thailand for acknowledgement an idea together with analysis this problem from corporate governance, transparency and disclosure in the past. After that, the research is studied and analysed the idea and practical of corporate governance, transparency and disclosure both in Thailand and foreign country as well as suggested an appropriate way to Thailand future.

The results of research

1) Getting Knowledge about the problem, principle, concept, and theory related law and practices of corporate governance, transparency and disclosure for financial crisis of 1997 in Thailand and compare with foreign country.
2) Getting Knowledge about appropriate measures for improving corporate governance, transparency and disclosure in Thailand.

Analysis of result of research and result of research

The research found that financial crisis prior to 1997 was caused by the lack of information which affected decisions made by the government, company management, speculators and investors. If people in Thailand realize the value of accurate and reliable information, it becomes a powerful source used to exercise rights in social, political and economic aspects of life. A lack of transparency and reliance on informal networks has allowed age-old problems to remain, including money politics, corruption and priority of self-interest over public interest. A broader national initiative to promote the value of knowledge and information will have positive effects on areas like corporate governance. People have to know what rights they have before they can exercise their rights to protect themselves from abuses of power and hold people accountable for their actions and also this applies to shareholders, investors, consumers, directors and managers. If participants in Thailand's economy demand transparency and information, companies will be obliged to provide it, and will have to compete to gain public confidence.

To exercise the relative rights, corporate stakeholders need legal, regulatory and policy framework. The government, regulators and law enforcement authorities need to use all three methods to encourage good corporate governance; self restraint, market forces and the law. Self restraint will require companies to take responsibility and initiatives to have good practices, whilst market forces will create competition and incentive to do so. The law provides the most motivating factor and that is the threat of punishment. Combining these methods to promote corporate governance, transparency and disclosure emphasizes their importance to future economic performance.

Recommendation

Although Thailand has added a lot of measures that support corporate governance, it still needs some further solutions:
(a) The Securities Exchange Commission should be given the power to investigate fraud in subsidiaries of listed companies, not listed companies only. The power currently does not extend to privately owned subsidiaries of public companies.[5]
(b) Information in the economic markets needs to improve to help investors make decisions. Such information could include; trends in profitability, corporate governance rating and liquidity of listed companies. There needs to be more quality and quantity of information available.
(c) A new system of corporate governance ratings run by the public sector rather than the previously private owned system can also help investors and customers make decisions. It can also prompt shareholders to call for improvements within their companies.
(d) A class action law suit for shareholders should be allowed to be brought before the courts, particularly in cases where there is a fraud on the minority.
(e) Regulations to monitor and punish managers for failure to serve the best interests of the company will encourage managers to take corporate governance more seriously.
(f) It should mandatory to have an even higher ratio of independent board members, to move away from the old traditions of family and associate dominated boards.
(g) A law to protect whistleblowers, particularly company employees who expose irregularities and contraventions of the law to authorities, will encourage a more transparent culture.

[5] Ibid., at 3

(h) Credit analysis by lenders of potential borrowers could use corporate governance as a criterion in deciding whether to loan money to a company.[6]

Even if we have seen a great many changes from 1997, several further solutions still need to be added, in order to make Thai corporate governance more transparent. This research suggests presents some further solutions as follows:
a) All listed firms should be obliged to have an internal audit and to follow the Code of the Best Practice for Director and the Best practice Guidelines for Audit Committee by law.
b) Thai SEC and the SET should amend the *Thai Securities Act 1992* to grant the SEC power to investigate fraud in subsidiaries of listed companies. At the moment, the SEC has power to investigate fraud in listed companies only.[7]
c) The regulations should place less emphasis on the board of directors, the audit committee and the external auditor. In reality, top management should be responsible for maintaining good corporate governance and producing reliable financial reports. An excessive amount of focus on the board of directors leads many qualified individuals to be reluctant to serve as a director, due to the fact that they may be apprehensive of regulatory sanctions, investors' lawsuits and loss of their reputation.
d) An area prone to manipulation by crooked accounting practices is that of asset valuation accounting which allows companies to revalue their fixed assets and financial assets at fair market value which is higher than its historical cost.[8] Because fair market value is a subjective indicator, assets were revalued to show that companies remained solvent and therefore avoid suspicion. The valuation of long life fixed assets ought to be based upon historical cost instead of allowing both historical and fair market value.
e) The government, the SEC and the SET should take more drastic action in pushing such a transformation process through the legislature and to accelerate the introduction of new rules and regulations, because without the extra initiative, transparency and disclosure practices amongst Thai companies will not progress.

Acknowledgement

In preparing and writing this research, I appreciate the following persons for their valuable help: Mr.Prakong Teakchut, Justice of the Court of Appeal, Mr.Sattaya Arunthari, Advisor to the Attorney General and Former Deputy Attorney General, and Assoc. Prof. Dr. Kitipong Hungspruke, Former Dean of Faculty of Laws, Sukhothai Thammathirat Open University for his valuable guidance and constructive comments, Mr.Sarut Juimanee, Dean of Faculty of Laws, Thaksin University, who has given valuable suggestions and lent some legal materials to me; Mr.Amnart Netayasupha, Expert Public Prosecutor of Office of the Attorney General, for his careful reading of the manuscript, valuable suggestions and comments.

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[6] Ibid., at 3
[7] Ibid., at 4
[8] Ibid., at 3

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