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DIGITAL TRANSFORMATION OF CORPORATE GOVERNANCE IN UZBEKISTAN: CURRENT STATE, CHALLENGES AND PERSPECTIVES

Abstract. Corporate Governance is a concept that will regulate the correctness and effectiveness of the company operations. Currently the world trends are indicating upgraded version of the management – Corporate Governance 3.0, which entails the usage of well-balanced Board of Directors as well as employment of digital technologies in the managing of the companies. This article provides an analysis of the contemporary conditions related to corporate governance in Uzbekistan and provides a list of recommendations to tackle the shortcomings. The setting of the Board of directors using competence based balanced approach, employing tokenization for financial asset emission and use of artificial intelligence in the digitalization of the corporate governance are proposed as possible measures to catalyst the transformation of corporate governance in Uzbekistan.

Keywords: corporate governance 3.0, digital economy, digital transformation, digitization, blockchain, token, artificial intelligence, digital financing, joint stock companies

O‘ZBEKISTONDA KORPORATIV BOSHQARUVNING RAQAMLI TRANSFORMATSIYASI: BUGUNGI HOLAT, MUAMMOLAR VA ISTIQBOLLAR

Annotatsiya. Korporativ boshqaruv – bu kompaniya faoliyatining to‘g‘riligi va samaradorligini tartibga soluvchi tushuncha. Hozirgi kunda jahon tendensiyalari boshqaruvning takomillashtirilgan usuli – Korporativ boshqaruv 3.0 ommalashayotganini ko‘rsatmoqda. Bu optimallashtirilgan Direktorlar kengashini tuzishni, hamda kompaniyalarni boshqarishda raqamli texnologiyalarni ishga solishni talab etadi. Ushbu maqolada O‘zbekistondagi korporativ boshqaruv bilan bog‘liq zamonaviy sharoitlar tahlil etilgan va kamchiliklarni bartaraf etish bo‘yicha tavsiyalar berilgan. Direktorlar Kengashini shakllantirishda kompetensiyalarga asoslanga muvozanatli yondashuvdan foydalanish, moliyaviy aktivlar emissiyasini tokenlashtirish, korporativ boshqaruvni raqamallashtirishda sun‘iy intellektdan foydalanish choralari O‘zbekistonda korporativ boshqaruv transformatsiyasining katalizatori sifatida taklif etildi.

Tayanch so‘zlar: korporativ boshqaruv 3.0, raqamli iqtisodiyot, raqamli transformatsiya, raqamlashtirish, blokcheyn, token, sun‘iy intellekt, raqamli moliyalashtirish, aksiyadorlik jamiyatlari

Introduction

It is evident that the transparency and efficiency of the activities, as well as investor attractiveness of the companies, particularly joint-stock companies (JSC), can be improved by correctly employing the corporate governance. Nonetheless, the problem of increasing the efficiency of the state-owned enterprises is still persistent, which is caused by various factors such as high level of interference of government agencies in their economic activities, the shortage of flexibility and sensitivity towards market tendencies, extreme dependencies on various individual based privileges.

The policies on setting up the Board of Directors are among the aspects that will directly affect the quality of the corporate governance. The current trends are already requiring the digital transformation in all the aspects of the economy in order to satisfy the requirements of the stakeholders. Digitization in Corporate Governance is also not an exception. Employment of digital technologies, such as blockchain networks in

providing open access to the corporate data influences on transparency and objectivity of company operations, while they can further enable the use of alternative sources of financing, as digital financing in the form of crowdfunding, peer-to-peer financing, emission of token-based securities, which can boost the investment attractiveness of Uzbek JSC worldwide.

Currently, the condition of the capital market of Uzbekistan does not provide an opportunity to use the potential to attract a long-term, direct, as well as foreign investment to the real sector of the economy. This article provides an analysis of the contemporary conditions related to corporate governance and provides a list of recommendations to tackle the shortcomings.

Literature review

The modern tendencies of development of corporate management system worldwide, the researches on the conceptual changes indicate the active implementation of modern information and communication technologies (ICT) into the system of business management, the increase in the role of stakeholders in managing the corporations, the balanced structure of board of directors and the solution to the conflict of interest.

In particular, the “Green Paper” dedicated to corporate governance of the European Union states the importance of increasing professional, ethnic, and gender diversity while forming the board of directors. Including the shareholders, particularly minority shareholders into the communication between the management and the board, paying more attention to the long-term aims, rising the responsibility of the directors to the shareholders even more and rewarding this field, developing a flexible system of public control over the activities of corporations are among the other points included to the paper [1].

In July, 2018 a new edition of The UK Corporate Governance Code was published. [2] It is known that Financial Reporting Council (FRC) acts as the “keeper” of the corporate governance code in the UK.

The new edition of the Code of 2018 was applied since Jan 1, 2019, the following constitute the main changes:

- The creation of value to the shareholders, and achieving overall long-term sustainable success of the company by contributing to the development of the society were appointed as the main task of the board of directors;
- Organizational culture was specifically emphasized for the first time. The Board should identify company mission, its value and strategies, and make sure that they are suitable to the organizational culture, if opposite is true than it must take measures to adjust them;
- Board of Directors is required to announce about the points in the agenda of the Shareholders meeting that acquired 20% negative votes, moreover, the steps of discussing the reasons of it with the shareholders must be publicized, in the following 6 month period the plans of operations and the information about the discussions must be announced, and later this condition and its consequences should be included in the annual report of the company.

- Workforce was also emphasized among the other stakeholders. Thus, it is stated in one of the recommendations of the Code that a representative of workforce must be elected to the Board of Directors, furthermore the mechanisms of setting up workforce advisory panel or appointing a certain director from the board with the functions of representing the rights of workforce were included;
- It is also marked that the structure of the Board should be created by optimal combination of professionals of various ethnicity, social and gender status, the consistency and renovation must be ensured;
- The requirements concerning the open access to the rewarding system of the management were strengthened.

The above-mentioned requirements are based on the demand dictated by the concept of Corporate Governance 2.0. Subramanian [3] reviewed this concept and stated that prolonging the period to which the directors are elected, providing high quality, balanced and varied structure of the Board of directors, involving the shareholders in the process of systematic decision making is very beneficial to increase the efficiency of the governance. Corporate Governance 2.0 demonstrates the modern views on making different decisions keeping in mind the corporate social responsibility. Moreover, it started the concept of digital transformation of the economy by including the technological aspects of the governing the companies.

However, even in 2 years the current conditions in the corporate governance of the world has seen a vast change. The concept of Corporate Governance was upgraded to 3.0 version, further strengthening the points of digital transformation of governance. The underlying changes of the concept now indicate not only the relations among stakeholders: shareholders – board – management, but also the distributed system of digital tokens owners, that provides a right to participate in the governance platforms. The token owners can participate in online voting, and token would be serving as the identification in this process. [4]

Furthermore, the accounting and financial management, and public strategies of the company do not have to be provided only at the period end, but the indicators of the company are updated on a real time mode, the strategies of the company can be formed by analyzing the big data, artificial intelligence (AI) is already being used in the creation of the strategies. Blockchain networks are employed in the process of sharing the information. Currently it is one of the predictions that special robots can be involved in the process of strategy creation.

The usage of AI in the corporate governance sphere has posed certain issues that were already addressed from the points of digital board audits for AI action plans, AI robotic process automation, quantum computers with AI implications, and AI progress assessment. However, due to the constant change in the AI development, the knowledge of body is growing and adjustments must be made according to the updated information. [5]

Moreover, the companies can now employ digital financing instruments in sourcing their operations, as the blockchain technology allows to organize emissions of the digital securities. This process is currently addressed as ICO – Initial Coin offering [6] or STO - securities token offering [7]. The tokens can be categorized as tokens of 1.

Currency 2. Utility 3. Investment. Depending on the usage of the capital the company can issue the type suitable for the company. The above-mentioned novelties are putting forward new challenges in organization of corporate governance.

Research methodology

The research is conducted using the comprehensive literature review, systematic and comparative analysis, induction and deduction methods are employed in order to evaluate the current state of corporate governance system in Uzbekistan.

Analysis and findings

The modern trends of the corporate governance digitalization are spreading to different directions. The developments in the AI technology, Big Data, robotics, the success of the platform providing companies such as Google, Amazon, Apple, Facebook, Uber and others lead to Platform governance approach. [8] The implementation of blockchain-enabled integrated business ecosystems led to changes in different areas of corporate governance such as strategic role and KPIs of executives. Furthermore, they are providing a facility for inter-organizational collaboration on a whole new level. [9] Another aspect that has seen a transformation on a fundamental level lies in changing the role of Corporate Social Responsibility in the process of Digitalization. This has caused the companies to address the governance strategies from a new perspective, be it in risk management or the cease of opportunities. [10]

The current conditions of the Uzbek companies require a quick adjustment to the changes in the corporate governance. The government agencies such as State Assets Management Agency (SAMA), Capital Markets Development Agency (CMDA) and National Project Management Agency (NPMA) can act as the supervisors in the process of structural reforms directed at enhancing the corporate governance and implementing the blockchain technologies in in the process of governance of public companies, as well as in regulations of operations with crypto assets. The employment of the blockchain into the governance and also financing of the companies can lead to a larger participation of the citizens in the investing and managing processes of the enterprises.

Since the adoption of the Corporate Governance Code of Uzbekistan in 2015, the joint-stock companies started to provide their corporate information in a transparent manner to their stakeholders. The practice of including an independent director of the Supervisory Board, has contributed to enhance the quality of the board structure and objectivity of the open access information. The law “On joint stock companies and protection of shareholders' rights” now enforces to have at least one independent director to the supervisory board of publicly listed companies, which was just recommended by the Code and subject to “comply or explain” rules previously. Nevertheless, there is a shortage when it comes to the training for the independent directors, currently there is no institution that provides certification of those directors. In addition to this issue, the legislative variances in the eligibility criteria of the independent directors exist. The Corporate Governance Code of Uzbekistan states regulates this issue to all kinds of joint-stock companies, whilst the law of Uzbekistan

Republic № 531 from March 20, 2019 indicates the criteria for predominantly state-owned joint-stock companies. This variance is causing the laws to be interpreted differently, that in return creates confusion in the governance.

In order to improve the policy of corporate governance in state-owned enterprises, the new requirement was established that demands the member of the Supervisory board that represents the interest of the government to have a qualification certificate in order to be elected to the board.

Since 2019, new measures were employed further improve the corporate governance, the former practice of assigning the supervisory board members based on their position held at different government agencies was abolished, and now is regulated by a new legislative document that states the members are elected, rather than appointed. This enables to tackle the conflict of interest issues in state-owned enterprises.

The other improvements in corporate governance of public companies is based on the optimization of Board structure. Establishing Audit committee under the Supervisory Board has become mandatory to be enlisted in the Tashkent stock exchange. This amendment contributes to the strengthening of the internal control of the economic activities and to the protection of shareholders’ interests. Another improvement is to limit the participation of the same person as a Supervisory board member in more than two companies on a paid basis.

Moreover, the rewarding system of supervisory board has led to the evaluation of the corporate governance system, and served as a reason for the development of a new mechanism for monitoring the quality of the corporate governance on a continuous basis. However, the survey system used in the assessment of corporate governance performance at joint stock companies has become obsolete. There are two reasons for that, on the one hand the survey questionnaire does not fully cover the recommendations of the Code, and the other, certain questions are no more applicable to current conditions.

By the end of the second decade millennia several Presidential decrees and orders have been adopted on developing the digital economy in Uzbekistan. Finally, they have led to formulation and adoption of Digital Uzbekistan-2030 strategy. (Figure 1)



Figure 1. The priority directions of Digital Uzbekistan – 2030 strategy

Source: The figure created by the authors

Even though several years have passed, the targets on implementing digital, in particular blockchain technologies in governing the enterprises have not yet been achieved. The relationship among the authorized agencies such as The Central Bank, CMDA and NPMA are not yet established to fully enable the creation of token-based financing, or overall crypto assets market in Uzbekistan. This shortcoming is posing a constraint in implementing Corporate Governance 3.0 in Uzbekistan’s JSCs.

Conclusions and proposals

The Corporate Governance is important as ever before. Its impact is felt in transparency and efficiency of the activities, as well as investor attractiveness of the companies.

The current conditions connected to the Corporate Governance in Uzbekistan has indicated certain shortcomings, that could be remedied by the following improvements.

1. Relationship among different government agencies must be strengthened in order to provide required infrastructure for quickening the digital transformation of the JSCs and establishment of Corporate Governance 3.0 in Uzbekistan.

2. The improvements made to the structure of the Supervisory boards of the companies are recommended to increase the governing quality. It is recommended to conduct optimization of the board structure on competence-based approach. During the elections to the board the digital competence must be indicated as one of the criteria for the candidates, hence enhancing the digitization. Institute of independent directors must be established in order to provide certification for the independent directors of the board.

3. The variances in the legislation connected to the regulation of governmental and non-governmental enterprises should be unified, eliminating the confusion in corporate governance for different JSC. Moreover, as it was stated above, the Code of Uzbekistan was last updated in 2015, which cannot fully address and regulate the conditions modified by recent novelties. Thus, it can be advised to have a special experts’ team that will update the Code on yearly basis.

4. The aspects of board structure, core competencies of the Board directors, electronic voting as well as proxy voting must be included into the Code as soon as possible, in order to regulate the vital issues arising currently. Furthermore, the Code must be enriched by the trends of digital transformation, starting with employing blockchain technologies in the Corporate Governance and in digital financing of the companies.

5. The mechanism connected to the assessment of corporate governance performance should be improved by setting up a rating system of Corporate Governance, the survey system could be replaced by a ranking based on benchmarking. This would enable rewarding based on the ranks of the companies, and highly ranked companies could be used to share best practices in order to improve the quality of other companies.

6. The faster transformation of the economy could be used to enhance the transparency and openness of the economy; thus, it must be taken as the priority to provide the needed infrastructure. Usage of the smart contracts in the operations of the JSC could assist in eliminating the conflict of interest between various parties of the companies.

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