

Corporate Governance Issues in Listed Philippine Companies

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Presentation Outline

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What is Corporate Governance

Corporate Governance is defined as the system of stewardship and control to guide organizations in fulfilling their long-term economic, moral, legal and social obligations towards their stakeholders.*

*From the Code of Corporate Governance for Publicly-Listed Companies.

Objectives of the Study

1. To assess some corporate governance practices of the 30 PSEi-indexed stocks, e.g. ownership structure, related party transactions, different individuals holding the positions of the chairman of the BOD and CEO, and tender offers.
2. To raise questions on the effectiveness of the regulatory regime in protecting the interest of the minority stockholders.

Methodology

1. Reviewed Code of Corporate Governance for publicly listed companies issued by the Securities and Exchange Commission (SEC) in 2016.
2. Reviewed Corporation Code of the Philippines, especially the provisions of the code which require at least two-third ($2/3$) votes of the capital stock for a decision to be carried out by a company.
3. Reviewed the 2017 annual reports of the 30 listed Philippine companies which comprise the Philippine stock index (PSEi), with emphasis on their respective members of the board of directors, top stockholders with voting rights, and the process for nominating directors.

| | Company | Float as of October 22, 2018 |
|----|--|------------------------------|
| 1 | Ayala Corporation (AC) | 43% |
| 2 | Aboitiz Equity Ventures (AEV) | 45% |
| 3 | Alliance Global, Inc. (AGI) | 31% |
| 4 | Ayala Land Inc. (ALI) | 52% |
| 5 | Aboitiz Power Corporation (AP) | 19% |
| 6 | BDO Unibank, Inc. (BDO) | 45% |
| 7 | Bank of the Philippine Islands (BPI) | 48% |
| 8 | DMCI Holdings, Inc. (DMC) | 28% |
| 9 | First Gen Corporation (FGEN) | 32% |
| 10 | Globe Telecom, Inc. (GLO) | 22% |
| 11 | GT Capital Holdings | 44% |
| 12 | International Container Terminal Services, Inc. (ICTS) | 51% |
| 13 | Jollibee Foods Corporation (JFC) | 44% |
| 14 | JG Summit Holdings, Inc. (JGS) | 41% |
| 15 | LT Group, Inc. (LTG) | 26% |
| 16 | Metropolitan Bank and Trust Company (MBT) | 49% |
| 17 | Megaworld Corporation (MEG) | 34% |
| 18 | Manila Electric Company (MER) | 21% |
| 19 | Metro Pacific Investments Corp (MPI) | 42% |
| 20 | Petron Corporation (PCOR) | 24% |
| 21 | Puregold Price Club, Inc. (PGOLD) | 33% |
| 22 | Robinsons Land Corporation (RLC) | 39% |
| 23 | Robinsons Retail Holdings, Inc. (RRHI) | 38% |
| 24 | Semirara Mining and Power Corporation (SCC) | 26% |
| 25 | Security Bank Corporation (SECB) | 59% |
| 26 | SM Investments Corporation (SM) | 44% |
| 27 | San Miguel Corporation (SMC) | 15% |
| 28 | SM Prime Holdings, Inc. (SMPH) | 31% |
| 29 | PLDT, Inc. (TEL) | 50% |
| 30 | Universal Robina Corporation (URC) | 44% |

Methodology

4. Gathered data on the top 100 stockholders of each of the 30 PSEi-indexed stocks from the PSE EDGE portal to get additional information regarding the top stockholders of each company covered in the study.
5. Computed the percentage of the voting shares of controlling stockholders based on the information taken from the annual report and the Top 100 stockholders from PSE EDGE portal.
6. Gathered data regarding the public float of each of the stock covered in the study from the PSE EDGE portal.

Methodology

7. Reviewed relevant articles related to corporate governance especially those related to listed Philippine companies.
8. Assessed the adequacy of existing rules and the practices of the 30 PSEi-indexed stocks in protecting the interest of minority stockholders.

Findings

- Ownership structure
- Companies with voting preferred stocks
- Positions of Chairman of the BOD and CEO/President being held by separate individuals
- Independent directors
- Related party transactions
- Provisions of Corporation Code of the Philippines that may not favor minority stockholders

Ownership Structure

| | Company | Biggest Stockholders | Voting Shares of Biggest Stockholders as of Dec. 31, 2017 |
|----|--|--|---|
| 1 | Ayala Corporation (AC) | MERMAC, Inc. | 56.00% |
| 2 | Aboitiz Equity Ventures (AEV) | Aboitiz & Co., Inc. and related parties | 56.10% |
| 3 | Alliance Global, Inc. (AGI) | The Andresons Group, Inc. And related parties | 55.29% |
| 4 | Ayala Land Inc. (ALI) | Ayala Corporation | 68.56% |
| 5 | Aboitiz Power Corporation (AP) | Aboitiz Equity Ventures, Inc. (AEV) | 76.88% |
| 6 | BDO Unibank, Inc. (BDO) | SM Investments Corp (SM) and related parties | 54.52% |
| 7 | Bank of the Philippine Islands (BPI) | Ayala Corporation and related parties | 50.60% |
| 8 | DMCI Holdings, Inc. (DMC) | Dacon Corporation and related parties | 69.44% |
| 9 | First Gen Corporation (FGEN) | First Philippine Holdings Corporation (FPH) | 66.76% |
| 10 | Globe Telecom, Inc. (GLO) | Ayala Corporation (AC) and related parties | 68.51% |
| 11 | GT Capital Holdings | Grand Titan Capital Holdings, Inc. and related parties | 75.83% |
| 12 | International Container Terminal Services, Inc. (ICTS) | Razon Group and related parties | 61.29% |
| 13 | Jollibee Foods Corporation (JFC) | Hyper Dynamic Corporation and the related Tan Caktiong companies | 54.86% |
| 14 | JG Summit Holdings, Inc. (JGS) | Gokongwei Cos. And related parties | 57.93% |
| 15 | LT Group, Inc. (LTG) | Tangent Holdings Corp. | 74.39% |

Ownership Structure

| | Company | Biggest Stockholders | Voting Shares of Biggest Stockholders as of Dec. 31, 2017 |
|----|---|--|---|
| 16 | Metropolitan Bank and Trust Company (MBT) | GT Capital Holdings, Inc. and related parties | 42.94% |
| 17 | Megaworld Corporation (MEG) | Alliance Global Group, Inc. and related parties | 67.36% |
| 18 | Manila Electric Company (MER) | Beacon Electric Asset Holdings, Inc. and MPI | 45.46% |
| 19 | Metro Pacific Investments Corp (MPI) | Metro Pacific Holdings, Inc. (MPHI) | 55.00% |
| 20 | Petron Corporation (PCOR) | SMC Group | 76.06% |
| 21 | Puregold Price Club, Inc. (PGOLD) | Cosco Capital, Inc. and related parties | 67.00% |
| 22 | Robinsons Land Corporation (RLC) | JGS and related parties | 61.50% |
| 23 | Robinsons Retail Holdings, Inc. (RRHI) | JE Holdings, Inc. and other Gokongwei parties | 65.00% |
| 24 | Semirara Mining and Power Corporation (SCC) | DMCI and related parties | 69.09% |
| 25 | Security Bank Corporation (SECB) | Frederick and Daniel Dy | 32.87% |
| 26 | SM Investments Corporation (SM) | Sy and affiliated companies and family members | 55.70% |
| 27 | San Miguel Corporation (SMC) | Top Frontier Investment Holdings, Inc. and Privado Holdings, Corp. | 81.49% |
| 28 | SM Prime Holdings, Inc. (SMPH) | Directors, officers and Sy affiliated companies | 68.42% |
| 29 | PLDT, Inc. (TEL) | First Pacific Group and BTF Holdings, Inc. | 56.07% |
| 30 | Universal Robina Corporation (URC) | JG Summit Holdings, Inc. | 55.13% |

Indexed Stocks with Voting Preferred Stocks

| | Company | % of Voting P/S to Total Voting Stocks | Cost to P/S Stockholders in PHP |
|---|--|--|---------------------------------|
| 1 | Ayala Corporation (AC) | 24.35% | 200,000,000 |
| 2 | Ayala Land Inc. (ALI) | 47.02% | 1,306,649,000 |
| 3 | Globe Telecom, Inc. (GLO) | 54.39% | 800,000,000 |
| 4 | GT Capital Holdings | 47.51% | 17,430,000 |
| 5 | International Container Terminal Services, Inc. (ICTS) | 25.57% | US\$140,000 |
| 6 | Megaworld Corporation (MEG) | 15.69% | 60,000,000 |
| 7 | Metro Pacific Investments Corp (MPI) | 22.46% | 91,281,053 |
| 8 | Security Bank Corporation (SECB) | 57.03% | 100,000,000 |
| 9 | PLDT, Inc. (TEL) | 40.98% | 150,000,000 |

Positions of Chairman and CEO Being Held by Separate Individuals

| | Company | Separate Chairman and President/CEO |
|----|--|-------------------------------------|
| 1 | Ayala Corporation (AC) | X |
| 2 | Aboitiz Equity Ventures (AEV) | ✓ |
| 3 | Alliance Global, Inc. (AGI) | ✓ |
| 4 | Ayala Land Inc. (ALI) | ✓ |
| 5 | Aboitiz Power Corporation (AP) | ✓ |
| 6 | BDO Unibank, Inc. (BDO) | ✓ |
| 7 | Bank of the Philippine Islands (BPI) | ✓ |
| 8 | DMCI Holdings, Inc. (DMC) | X |
| 9 | First Gen Corporation (FGEN) | X |
| 10 | Globe Telecom, Inc. (GLO) | ✓ |
| 11 | GT Capital Holdings | ✓ |
| 12 | International Container Terminal Services, Inc. (ICTS) | X |
| 13 | Jollibee Foods Corporation (JFC) | ✓ |
| 14 | JG Summit Holdings, Inc. (JGS) | X |
| 15 | LT Group, Inc. (LTG) | X |

Positions of Chairman and CEO Being Held by Separate Individuals

| | Company | Separate Chairman and President/CEO |
|----|---|-------------------------------------|
| 16 | Metropolitan Bank and Trust Company (MBT) | ✓ |
| 17 | Megaworld Corporation (MEG) | ✓ |
| 18 | Manila Electric Company (MER) | ✓ |
| 19 | Metro Pacific Investments Corp (MPI) | ✓ |
| 20 | Petron Corporation (PCOR) | ✓ |
| 21 | Puregold Price Club, Inc. (PGOLD) | ✓ |
| 22 | Robinsons Land Corporation (RLC) | ✓ |
| 23 | Robinsons Retail Holdings, Inc. (RRHI) | X |
| 24 | Semirara Mining and Power Corporation (SCC) | X |
| 25 | Security Bank Corporation (SECB) | ✓ |
| 26 | SM Investments Corporation (SM) | ✓ |
| 27 | San Miguel Corporation (SMC) | X |
| 28 | SM Prime Holdings, Inc. (SMPH) | ✓ |
| 29 | PLDT, Inc. (TEL) | X |
| 30 | Universal Robina Corporation (URC) | ✓ |

% of Independent Directors to Total Directors

| | Company | No. of Directors | No. of Independent Directors | % of Independent Directors to Total Directors |
|----|--|------------------|------------------------------|---|
| 1 | Ayala Corporation (AC) | 7 | 2 | 28.57% |
| 2 | Aboitiz Equity Ventures (AEV) | 9 | 3 | 33.33% |
| 3 | Alliance Global, Inc. (AGI) | 7 | 2 | 28.57% |
| 4 | Ayala Land Inc. (ALI) | 9 | 3 | 33.33% |
| 5 | Aboitiz Power Corporation (AP) | 9 | 3 | 33.33% |
| 6 | BDO Unibank, Inc. (BDO) | 14 | 5 | 35.71% |
| 7 | Bank of the Philippine Islands (BPI) | 15 | 6 | 40.00% |
| 8 | DMCI Holdings, Inc. (DMC) | 9 | 2 | 22.22% |
| 9 | First Gen Corporation (FGEN) | 9 | 3 | 33.33% |
| 10 | Globe Telecom, Inc. (GLO) | 11 | 3 | 27.27% |
| 11 | GT Capital Holdings | 13 | 3 | 23.08% |
| 12 | International Container Terminal Services, Inc. (ICTS) | 7 | 2 | 28.57% |
| 13 | Jollibee Foods Corporation (JFC) | 9 | 2 | 22.22% |
| 14 | JG Summit Holdings, Inc. (JGS) | 11 | 3 | 27.27% |
| 15 | LT Group, Inc. (LTG) | 13 | 4 | 30.77% |

% of Independent Directors to Total Directors

| | Company | No. of Directors | No. of Independent Directors | % of Independent Directors to Total Directors |
|----|---|------------------|------------------------------|---|
| 16 | Metropolitan Bank and Trust Company (MBT) | 13 | 6 | 46.15% |
| 17 | Megaworld Corporation (MEG) | 7 | 3 | 42.86% |
| 18 | Manila Electric Company (MER) | 11 | 2 | 18.18% |
| 19 | Metro Pacific Investments Corp (MPI) | 14 | 3 | 21.43% |
| 20 | Petron Corporation (PCOR) | 15 | 3 | 20.00% |
| 21 | Puregold Price Club, Inc. (PGOLD) | 12 | 3 | 25.00% |
| 22 | Robinsons Land Corporation (RLC) | 11 | 4 | 36.36% |
| 23 | Robinsons Retail Holdings, Inc. (RRHI) | 9 | 2 | 22.22% |
| 24 | Semirara Mining and Power Corporation (SCC) | 11 | 2 | 18.18% |
| 25 | Security Bank Corporation (SECB) | 15 | 6 | 40.00% |
| 26 | SM Investments Corporation (SM) | 9 | 2 | 22.22% |
| 27 | San Miguel Corporation (SMC) | 15 | 3 | 20.00% |
| 28 | SM Prime Holdings, Inc. (SMPH) | 9 | 3 | 33.33% |
| 29 | PLDT, Inc. (TEL) | 13 | 3 | 23.08% |
| 30 | Universal Robina Corporation (URC) | 9 | 2 | 22.22% |

Related Party Transactions

- Recommendation 2.7 of the Code of Corporate Governance
- Top-Up Placements
- Transfer of Assets to Related Parties
- Offering of Voting Preferred Stocks to Related Parties

Some Provisions of Recommendation 2.7 of the Code of Corporate Governance

“The Board should have the overall responsibility in ensuring that there is a group-wide policy and system governing related party transactions (RPTs) and other unusual or infrequently occurring transactions, particularly those which pass certain thresholds of materiality.”

“Ensuring the integrity of related party transactions is an important fiduciary duty of the director. It is the Board’s role to initiate policies and measures geared towards prevention of abuse and promotion of transparency, and in compliance with applicable laws and regulations to protect the interest of all shareholders.”

Examples of Top-Up Placements Offered at a Discount

| | Private Placement (PP) Announcement Date | PP Offer Price | Stock Price a Day Prior to Announcement | PP Discount |
|-----------------------------|--|----------------|---|-------------|
| Ayala Corporation | November 20, 2014 | 660 | 717 | -7.95% |
| Ayala Land, Inc. | January 12, 2015 | 33 | 35 | -5.71% |
| First Gen | January 21, 2015 | 25.25 | 26 | -2.88% |
| GT Capital | February 3, 2015 | 1,130.00 | 1,180.00 | -4.24% |
| JG Summit Holdings, Inc. -1 | January 21, 2015 | 61 | 70.05 | -12.92% |
| JG Summit Holdings, Inc. -2 | February 2, 2012 | 25 | 28.35 | -11.82% |
| Metro Pacific - 1 | February 10, 2015 | 4.9 | 5.24 | -6.49% |
| Metro Pacific -2 | January 23, 2013 | 4.6 | 4.91 | -6.31% |
| Metro Pacific -3 | July 9, 2011 | 3.6 | 3.79 | -5.01% |
| Petron Corp. | March 28, 2014 | 11.5 | 13.4 | -14.18% |
| SM Investments Corp. | August 2, 2013 | 900 | 961.5 | -6.40% |
| Universal Robina Corp. | October 4, 2013 | 115 | 116 | -0.86% |

Examples of Other Related Party Transactions

- Sale of telecom spectrum by Liberty Telecom to an affiliated company in 2015.
- Issuance of voting preferred stocks to related parties at low subscription prices.

Section 39 of the Corporation Code of the Philippines

*Section 39. Power to deny pre-emptive right. All stockholders of a stock corporation shall enjoy pre-emptive right to subscribe to all issues or disposition of shares of any class, in proportion to their respective shareholdings, **unless such right is denied** by the articles of incorporation or an amendment thereto: Provided, that such pre-emptive right shall not extend to shares to be issued in compliance with laws requiring stock offerings or minimum stock ownership by the public; or to shares to be issued in good faith with the approval of the stockholders representing two-thirds (2/3) of the outstanding capital stock, in exchange for property needed for corporate purposes or in payment of a previously contracted debt.*