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Corporate Governance: Good for Business



HE Dr Mohamed Khalfan bin Kharbash
Minister of State for Finance and Industry, UAE

The crucial need for the region's institutions and large companies to adapt in order to answer the growing call for transparency and openness in an increasingly globalised world was highlighted at the second Hawkamah conference in Dubai.

Speakers at the conference made it clear that good corporate governance and best practice is not just good in an ethical sense; it is also good for businesses and markets, lessening volatility in the region's financial markets and attracting more outside investment.

In his opening address, His Excellency Dr. Mohamed Khalfan bin Kharbash, UAE Minister of State for Finance and Industry, said: "It's a truism, now that the Arab world is still in need of the proper mechanisms and plans to allow us to jump onto the bandwagon of advanced nations."

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Reiner Geiger
Deputy Secretary-General, OECD



Dr Nasser Saidi
Executive Director, Hawkamah

Corporate Governance Helps in Keeping the Family's Wealth

Two stark realities underlay an extended session on Family Business at the Hawkamah Conference: 85% of the region's non-listed businesses are family-owned, and an estimated 95% of those family businesses will not survive into the third generation.

solutions, and some suggestions for the future, but stressed that none of these was a "magic bullet" and that none would work if the patriarch was not completely committed.

Speaking of so many families that had gone "from rags to riches to rags" in three generations, keynote speaker Joseph A. Field, Senior International Partner at Withers, offered some "hard" solutions', "soft"

"When there is a breakdown, there are some 'soft' solutions on offer. The local ruler can adjudicate, sometimes with unexpected results, or the courts can adjudicate, often with outcomes like that experienced by one Saudi family that ended up fighting in five separate legal jurisdictions."

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Sebastian Molineus
Corporate Governance Programme Manager for IFC's Private Enterprise Partnership



Eithne Treanor
Moderator, CNBC Correspondent



Simon Wong
Head of Corporate Governance, Barclays Global Investors, and Private Sector Advisor to the Global Corporate Governance Forum

Frameworks for Governance

There were valuable insights to building corporate governance and legislative frameworks as experts addressed the Hawkamah conference.

Simon Wong, Head of Corporate Governance, Barclays Global Investors, and Private Sector Advisor to the Global Corporate Governance Forum, emphasised that cultural sensitivity and effective authority were required for corporate governance practices, and listed six principles to guide its implementation:

- 1. Understand the key problems**, “in particular taking cultural and legal differences into account.”
- 2. Keep it simple**. “Installing good and effective corporate governance is a very long process.”
- 3. Allocate authority in an effective and efficient way**. “Regulators must be given the proper enforcement powers, with the appropriate legal recourse when necessary.”
- 4. Ensure consistency through a broad framework of law** “with attention to cultural norms and traditional practices.”
- 5. Use both sticks and carrots**. “You can inspire fear, but the proper incentives can encourage people to adopt the appropriate good practices.”

An Absolute Essential

Corporate governance is a relatively new concept to many in the Middle East region, yet it is an absolutely essential facet of success in modern-day business.

Hence the importance of the Hawkamah Institute for Corporate Governance, whose advisory services are boosting the ability of institutional and individual shareowners to better govern corporations and enhance both corporate accountability and the creation of wealth.

What is Corporate Governance?

Corporate governance is the system by which companies are directed and controlled.

In its narrow sense, it is a source of shareholder value. Good corporate governance leads to better company performance, higher profitability and efficiency. In its wider sense, the definition takes into account all the company’s stakeholders and corporate social responsibility.

Corporate Governance is important because it is part of the institutional infrastructure (laws, regulations, institutions and enforcement mechanisms) underlying sound economic performance.

The pillars of corporate governance are transparency, accountability, fairness and responsibility. The results are trust, respect and investment support won from stakeholders and shareholders. ↗

- 6. Put proper enforcement mechanisms in place**. “Regulators need authority, resources, and expertise to carry out their mission. Litigators need avenues for redress that are objective, competent, predictable, and reasonably quick.”

Most important, Wong concluded, is that owners of companies must be made aware of these issues. “This can only be accomplished by raising public awareness.” ↗

The Dubai Declaration

Policy makers, regulators, representatives from regional and international organisations and business leaders from 13 countries across the Middle East and North Africa gathered at the Dubai International Financial Centre (DIFC) in November 2006 to issue the landmark Dubai Declaration on Corporate Governance.

The declaration, agreed upon during the Hawkamah Institute for Corporate Governance conference hosted by Hawkamah and supported by its regional and international partners – the OECD, International Finance Corporation, World Bank Global Corporate Governance Forum, the Centre for International Private Enterprise, ISACA-UAE, INSOL International, the Institute for International Finance, Financial Services Volunteer Corps, the Union of Arab Banks, the Egyptian Banking Institute and the Egyptian Institute of Directors, in cooperation with the 13 countries participating in the OECD MENA Investment Programme.

Since then, implementation of the Dubai Declaration has seen the creation of taskforces focusing on the corporate governance of banks and on the corporate governance of state-owned enterprises (SOEs). A corporate governance survey of banks developed in consultation with key organizations and governments was conducted during 2007, resulting in a bank corporate governance policy brief. The SOE survey will be launched in early 2008.

The need to tackle issues of insolvency and corporate restructuring saw the OECD and Hawkamah working with INSOL and the World Bank and gathering ministries, financial institutions, the judiciary, representatives of OECD countries and other regional and international bodies for talks on corporate restructuring, insolvency and insolvency proceedings.

Improved insolvency regimes increase the efficiency and performance of the credit and capital markets, improve the investment climate, and enhance the region’s ability to attract investors during times of high economic growth as well as prepare for potential corporate restructuring in the future.

Hawkamah has made significant headway since 2006;

Progress & Obstacles

Successful implementation of region-wide corporate governance needs both the markets and private businesses to be on board, Dr Nasser Saidi, Executive Director of Hawkamah, told conference delegates, “and I think we’ve made progress with both.”

However, Dr Saidi believes more effort is needed in two key areas: the banks and the media. “If bank supervisors manage to implement corporate governance codes, their corporate clients will then improve their own corporate governance codes.”

He said the media could also play a crucial role. “In most financial centres in the developed world there are financial analysts to provide objective assessments of a company’s success and its weaknesses. Here, the media must provide that function. The region’s journalists need to be better educated about corporate governance and best practice.”

He pointed out that corporate governance was also about people – the directors, accountants, financial auditors, bankers and the media, who needed to be “educated and motivated.”

In light of this, Dr Saidi said, it was no surprise that the greatest obstacle to progress in corporate governance lay in ignorance, as well as the ongoing manpower deficits resulting from the region’s explosive growth, which had outpaced its ability to educate and train a new generation in new challenges.

A joint IFC-Hawkamah survey of regional CEOs found 63% approved of corporate governance, but only 20% could properly define it. ↗

Hawkamah is now moving towards concrete actions and direction resulting from these principles, facilitating the design of a comprehensive roadmap for corporate governance in the region. This will enable Hawkamah to achieve its ultimate goals of encouraging investment, project finance, job creation and the development of sound financial markets. ↗

Diversifying Sophistication

Families and family offices are becoming increasingly sophisticated and are looking to diversify their investments both inside and outside the region, heralding a profound change from the way family businesses have traditionally been run and a sea change for financial institutions.

“Increasingly sophisticated investors present a challenge for financial institutions to position the right opportunity,” said Yasser Al Maskati, Head of Wealth Management, Addax Investment Bank.

“We consider opportunities in GCC or MENA as well as internationally. Our investors are increasingly seeking out financial advisors and private banks. They are open to a wide range of research and advice.”

Speaking from the point of view of family investing outside the region, Cameron Chartouni, Chief Investment Officer, Acropolis Capital, said,



“It makes sense to diversify and invest globally. Some families are seeking advice from consultants to do this and others are running that expertise in house.”

GCC and MENA financial institutions were dealing with enormous wealth flowing back into the region as investors repatriated their wealth or decided to invest at

home first. “The pressure is on to be proactive in presenting clients with opportunities and in dealing with how clients want to manage their money.”

Feeling in the Dark

Chartouni emphasised the importance of working with clients to determine what they wanted to achieve as a family. Wealth represented a means to get there, which raised the issue of balancing risk with returns. This could be a challenge for families that made investments without having set up a framework, a situation that Chartouni described as a “feeling in the dark” process.

“Understanding this is critical. Family offices tend to chase returns rather than looking to the future. As we’ve seen through bubble bursts, there can be dangers. If you are generating 40% to 50% returns, there’s clearly a lot of risk involved,” he said.

Maillesh Shah, Head of Mercer



Consulting in the Middle East, said “risk management was just as important as looking for returns.”

The balanced approach is coming into play more and more. Our role is to help families identify the risk that concerns them and help them to calibrate it. This is the most dif-

icult aspect of the work we do, but return is still the big driver.” Shah said education would play a big role in the future as second and third generation family members took the reins and became decision makers.

“Older family members have put in a world-class structure to manage money and new blood is coming in to make the decisions. This is part of the process of change as well. We are trying to grow our own people, but it’s difficult. There is a real shortage of people who can manage (portfolios) and run with them.”

Yasser Al Maskati, Head of Wealth Management at Addax Investment Bank, pointed out that financial institutions and advisors



brought added value to clients by exposing them to new ideas and new sectors for investment such as hospitality, media and art.

“This is also a way of managing risk. It is critical to find the right portfolio manager – no easy task in a region undergoing a human resources crunch. Just because a family member goes to business school outside of the region, does not mean he or she is a qualified portfolio manager.” ↗

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However, Field said, the most important way to try to make a family business beat the odds and survive into a fourth or fifth generation was to have a unifying vision, “preferably one set out in a family charter.” He also recommended creating family councils so that members could have some means of privately expressing concerns and resolving minor disputes before they became major, and potentially public, disputes.



Joseph A. Field
Senior International Partner, Withers

“Also important is that families should seek counsel from mediators whom all respect. Outsiders can often offer insights that those too close to the situation cannot see.”

Gaining Traction

He pointed out that the use of trusts was gaining traction in the region. “Trusts can create special family councils; assign voting shares and aid in asset protection and tax reduction – particularly important as family business interests begin to sprawl around the world.”

Private trust companies were a more expensive solution, “a Rolls Royce solution in a Rolls Royce world.” Such trusts were actually run and controlled by the family itself. Field called it “freedom within a framework.”

Most expensive of all, he said, was the family office. “Only the highest of the High Net Worth families can afford this, but it is sometimes possible for a group of families to share office and management facilities.”

Field stressed a most important factor: “What does the patriarch want? You must have family buy-in.”

Professional Help

His advice to families was to first get professional help. “Professionals should draft any documents within the family or in the family’s dealings with non-family members.” Second was to communicate. “As programmes are devised, everyone in the family must be kept in the loop.”

Field’s advice for safeguarding a family business was, in short, similar to that for safeguarding a marriage. “Try to resolve any differences privately, within the family circle. If that fails, seek counsel

from respected outsiders, and then professionals. If it then seems appropriate, seek some kind of legal framework to better define, or re-define, the marriage – or to manage a hopefully painless divorce.”

Panel discussions stressed the win-win nature of incorporating good corporate governance within family business structures – and of expecting strong corporate governance codes in any firms they might seek to acquire or invest in.

“Like in any market, but particularly here, diversification is becoming more of an issue, to make sure families with High Net Worth are able to find various products to spread it around,” said Richard Goldman, a partner at Bingham.

Gold-Plated Board

Dr Adnan Soufi, Managing Director of Financial Investments at SEDCO, said his company’s experience underlined Field’s comments on the importance of outside, independent advisers. He said the three best sources for independent advice were private banks, universities and independent directors. He lauded the value creation a business reaped from a “gold-plated board.” The worth of quality, independent advisers could not be stressed too highly.

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Richard A. Goldman
Partner, Bingham



Dr Ayman Hashem
Sr Vice President - Strategic Mgmt Centre, Savola Group



Stuart Crocker
CEO Private Banking UAE & Southern Gulf, HSBC



Dr. Adnan Soufi
Managing Director, for Financial Investments, SEDCO



William Foster
Executive Director, Hawkamah
Institute of Directors



Justin Connor
Director of Legal & Regulatory
and company secretary,
Emirates International
Telecommunications



Al-Harith Sinclair
Partner, Head of Regulation,
DLA Piper Middle East



Andre Baladi
co-founder of International
Corporate Governance
Network



Oussama Salman
Company Secretary and
Legal Counsel, Oger Telecom

Notable Quotes

“One major reason there hasn’t been better corporate governance take-up from private businesses is that the region has yet to be hit by a cataclysm on the scale of the Enron collapse or the Asian economic crisis.”

Dr Nasser Saidi, Executive Director of Hawkamah

“Change is always painful. It is more painful if it is imposed from outside.”

A conference delegate from South Korea

“The risk is that if there is a crisis the regulators will react to that crisis to protect investors, to protect their shareholders, to protect the markets. Then the laws and the regulations that they enact may be more draconian than you may anticipate.”

*Sebastian Molineus, Corporate Governance
Programme Manager, IFC Private Enterprise
Partnership for the MENA Region*

“The media can be used as leverage to disseminate the message that good corporate governance is good for business.”

*William Foster, Executive Director,
Institute of Directors*



Faisal Hoodbhoy
Head of Business
Development, DIFX



Mahesh Uttamchandani
Senior Counsel for Insolvency
& Creditor Rights, World Bank



Sohail Zubairi
Senior Vice President, Dubai
Islamic Bank



John Foley
Chairman, Citigold Corporation

“The role of the Company Secretary is vitally important. Rather than merely taking notes at meetings of the Board of Directors, they should follow day-to-day operations of the company, take care of - or pay attention to - shareholders needs and concerns, and serve as advisors to the Board and the Chairman on corporate governance.”

*Oussama Salman, Company Secretary and Legal
Counsel for Oger Telecom*

“Even though most companies are privately held, it is still important to create effective corporate governance mechanisms and practices as if they were public.”

*Justin Conner, Director of Legal & Regulatory
and Company Secretary, Emirates International
Telecommunications*

“There are two buttons that you have to push. The first is fear - do you have the right structure in place? The second is greed - people want the best returns. Underlying this is trust, especially from second and third generation family members.”

*Yasser Al Maskati, Head of Wealth Management,
Addax Investment Bank*

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He emphasized that “this can only happen after careful analysis of available models of good corporate governance and economic development.”

Dr. Nasser Saidi, Executive Director of Hawkamah, told delegates: “The strength of our financial markets will depend on the level of trust that investors place on our market institutions and financial infrastructure.”

“Good corporate governance practices and resulting institutions will embed the values of transparency, accountability, fairness and responsibility in the region’s markets and companies. It will contribute to the building of our markets, lessen the volatility of our financial markets and contribute to the financing of the region’s economic development and growth.”

Stark Warning

Sharing that view was Rainer Geiger, Deputy Secretary General of the OECD. He praised Hawkamah, the IFC, the OECD, the World Bank and the other parties who helped craft and then implement the Dubai Declaration (see page 3) – but he issued a stark warning:

“Investment in this region is picking up but it’s still not enough to permit the diversification of the economies, particularly in the Gulf countries, or to favour the creation of innovative enterprises. Corporate governance is absolutely essential if this perception is to change.”

Did you know...

What some steps family companies take when they get serious about Corporate Governance?

- Establish a ‘Family Constitution’
- Establish a family employment policy - and separate family members’ rights and responsibilities as shareholders and as employees.
- If the firm will not pay dividends, set up a fund or other mechanism to buy out family shareholders who prefer, for example, annuity income over owning a growth stock.
- Create a succession plan for owner/founder/ CEO/ chairman.
- Develop transparent systems for financial accounting, management accounting, human resources and strategy development.

Source: IFC

The conference celebrated a year of far-reaching activity in accordance with the Dubai Declaration agreed upon and issued at the first Hawkamah conference in 2006. ↗

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However, he added, rapid growth in the region had created far more demand for highly-skilled professionals than local talent had been able to supply.

Describing a dilemma being faced by many firms, Dr Soufi said: “The locals who are familiar with the area’s business culture don’t have the skills to meet the new challenges. Skilled expatriate professionals have the expertise, but arrive in the region with little or no knowledge of the local business culture. That’s costly for us, because the meter’s running.”

Concurring with those remarks was Dr Ayman Hashem, Senior Vice President of the Savola Group’s Strategic Management Centre, who said people and talent were critical issues. “As we grow and expand, the ability to retain the people we need to go beyond our current level of performance is very difficult.”

Skills Shortage

The skilled manpower shortage is making succession planning particularly difficult. The panelists stressed that competition for the brightest, quickest minds is now global, and incentives have to rise accordingly in order to attract – and crucially, retain – the best managers.

Stuart Crocker, CEO of HSBC Private Banking, UAE and Southern Gulf, said his colleagues had helped him identify five major areas: (a) clarification of the risks; (b) mitigation of the risks by clarifying what the categories represented, identifying the risk indicators and assessing what was an acceptable level of risk in each category; (c) priorities for action; (d) ongoing reassessment of the risks; and (e) ongoing challenging of assumptions behind the priorities and decisions.

“Advice is available, but it’s getting the right advice based on the customers’ needs and objectives that is vital,” Crocker said. ↗

Where the Future Lies: Hawkamah's 2008 Agenda

Corporate governance is fundamental for the growth of financial markets, which have never held as much importance in the region as they do now, Dr. Nasser Saidi, Executive Director of Hawkamah, told conference delegates.

"They have generated vast amounts of wealth and will continue to do so. It is critical that they function well. Major building blocks will be confidence of investors, trust in companies and the corporate governance of these companies."

At the same time, he said, there was a lot of pressure on family owned businesses. "They are being looked at to create the 100 million new jobs that need to be created in the region by 2020. This means they must sustain themselves and grow well into third and fourth generation businesses."

He emphasised that the economic and social stability of the region depended on corporate governance. "It is where the future of our region lies. It will protect our wealth and our future wealth."

More Research

An audience poll at the conference confirmed the importance of corporate governance and the direction Hawkamah should take over the next year. The need to bolster more research on the links of corporate governance and com-

pany performance was confirmed by 43% of the audience, while 30% agreed that Hawkamah should introduce a corporate governance rating system in the region.

The Coming Year

Hawkamah now plans to finish the work of the regional task forces and work with regional stock markets to strengthen corporate governance (for example by reviewing listing requirements), and help Sharia-compliant corporate governance move from defining principles and standards to actual company-level implementation.

The Institution will also assess corporate governance in the MENA region, engage family-owned enterprises in constructive dialogue about developing regionally relevant corporate governance structures, and continue research on improving corporate governance rating systems and performance.

The company awards programme will be extended outside the banking sector, while outreach to journalists will be continued to enhance awareness of corporate governance. ↗



Must Read

Corporate Governance in the GCC: Country Reports and Comparative Survey

Keep abreast of the changing investment and business environment in GCC countries, especially if you are involved in capital markets, banking and financial services, investment and fund management, corporate strategy development, management consultation and economic policy making. Order your copy now.



Forthcoming Events

Feb 17-18

Director Development Workshop: Introduction to Corporate Governance, Abu Dhabi, UAE

Feb 19-20

Director Development Workshop: Role of Board in Protecting Shareholder Rights, Abu Dhabi, UAE

Join Hawkamah

Are you an individual or organization seeking to promote good corporate governance? Become a Member of Hawkamah! More information at www.hawkamah.org/services/hawkamah_membership

Contact Us

Hawkamah Institute for Corporate Governance
Level 14, The Gate, Dubai International Financial Centre
P.O. Box 74777, Dubai, UAE
T: +971.4.362.2551
F: +971.4.362.2552
E: info@hawkamah.org