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Disclosure of the Determinants for CLBG Board Effectiveness in Malaysia

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Abstract

This paper identified factors determining the Board of Directors effectiveness in the Company Limited by Guarantee (CLBG) in Malaysia due to the growing interest in the board's disclosure practices studies on a nonprofit company. The methodology involves a survey by observing the websites and annual reports of twenty (20) CLBG as the case study to measure the extent of disclosure of the factors determining the Board of Directors and its committee effectiveness. The paper uses multiple regression analysis to determine the significant determinants of the effectiveness of the Board of Directors. Findings show that disclosure by CLBG is essential to the public.

Keywords: CLBG Board; committees; terms of reference; disclosure

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1.0 Introduction

Disclosing information to the public reflects the organization's accountability and transparency. The information disclosed will give the public clear knowledge of the directors' role in the CLBG and will overcome the rumors or fake news about possible scandals, wrongdoings, and the possible reason for the non-performing company. Disclosing the right information should be based on standard guidelines such as Malaysia Code on Corporate Governance (MCCG, 2021) which represents corporate governance practices and principles acknowledged by law or Bursa Malaysia's for the profit based public companies. However, Malaysia's regulation lacks uniform framework for information disclosure by CLBG. The less strict regulatory requirements on reporting can cause insufficient or inaccurate information available about the board of directors' effectiveness in handling CLBG. This study aims to explore the extent of disclosure practices by CLBG as determinants of their board's effectiveness. Hence, the survey has examined the following objectives:

- i) relationship between the usage of disclosing platform and the effectiveness of the Board of Directors;
- ii) relationship between the disclosure of the type of board committee and the effectiveness of the Board of Directors
- iii) relationship between the disclosure/publication of the terms of reference for the board committee and the effectiveness of the Board of Directors

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2.0 Literature Review

2.1 *Disclosing platform*

It is common for public companies to use annual reports and websites to disclose information to the public. An annual report describes the Company's performance and financial conditions (Hayes, 2020). Para 11 of King Code 2016 requires the governing body to oversee reports such as the annual financial statements, sustainability reports, social and ethics committee reports, or other online or printed information or reports are issued, as necessary, to comply with legal requirements, and to meet the legitimate and reasonable information needs of material stakeholders. Para 15 of King Code 2016 provides that the governing body should oversee that the information published on the organization's website, on other platforms, or through other media as is appropriate for access by stakeholders should be concerning compliance to corporate governance disclosures as required in Part 3, King Code 2016 Application and Disclosure, integrated report, financial statement, and other external report. There is a similarity between the provisions of the King Code 2016 and Malaysian practices for all public companies. Malaysian jurisdictions on accounting regulations or company law contain the outlines for the content requirements for an annual report. Disclosure about the significant factors could include development activities, board meetings attendance, and participation or elements that have materially affected or affected the Company's governance practices. Malaysian nonprofit organizations produce annual reports to inform regulatory and interested groups, such as stakeholders, donors, and researchers, of their activities [Norli Ali et al., 2012]. However, analysis shows that most of the CLBG Foundations did not have their websites and did not publish annual reports (NZ Lokman et al 2023). People will dispute for not having equal access rights when the annual report is unavailable on the Company's or regulator's websites. The management chose to release the annual report only to the Company holders and not use web disclosure for public information if the rules were less stringent.

2.2 *Disclose the types of board committees*

The board committees in nonprofit companies incorporated with a public benefit objective includes those commonly practiced by the profit companies and the typical board committees for the nonprofit companies. The "common type" of board committees as recommended by King Code 2016 are audit, remuneration, nomination, risk management and the Social and Ethical Committee. The typical board committees for the nonprofit companies as suggested by ICG2012 are executive committees, regional committees, project committees, fundraising committees, and finance committees. Scholar emphasis that nonprofit company must have at least three committees to assist their nonprofit board (Toni Hoy, 2023 and David La Piana 2009). The rationale is that nonprofit companies may require subordinate governance sub-structures to assist the nonprofit board in its responsibilities. In Malaysia, the typical types of board committees for the nonprofit companies are less attractive to the regulator and business community as they called it as "other types of board committees". Therefore, it is challenging to find any reports, guidelines, and corporate governance papers specifically mentioned about the other types of board committees. The benefits of disclosing the board committee are that one can check that the committee remains fully answerable to the board; that there is an appropriate management of internal and external affairs of the nonprofit companies and proper governance of recruiting members and board performance evaluation.

2.3 *Publish the terms of reference*

A term of reference (TOR) is a set of documents that outline the board committees and explain the specific authority the committee must oversee its responsibility. TOR also displays the roles, responsibilities, operations, tenure, and obligations regarding the required legislation. The standard TOR for all types of board committees includes nine elements, which are the purpose and objective of the board committee, membership of the committee, decision-making, meetings, paper and presentation guidelines, responsibilities, delegating tasks and powers, reporting and monitoring, and review by the Board (The Pension Regulator, 2017). The TOR prescribes the procedural formalities that allow the main board of directors to control the efficiency and effectiveness of the board committee. No provision in the governance code mentioned the need to publish the terms of reference on the website or annual report. However, setting the TOR for the board committees is paramount (King Report 2016 and ICG 2012).

3.0 Methodology

3.1 *Sample and data collection*

Data for examining CLBGs comes from the authors observing the website and annual report content analysis from the 20 CLBGs registered with the Companies Commission of Malaysia. The authors chose the CLBG randomly, and they must be active (not a dormant company) and have a website.

3.2 *Development of the conceptual framework*

The authors referred to the King IV Report 2016 (King Code 2016) for the Republic of South Africa to identify the good determinants of board effectiveness and develop the conceptual framework. King Code 2016 contains a governance framework for for-profit companies, specifically for not-for-profit companies incorporated for a public benefit objective or an objective relating to one or more cultural or social activities or communal or group interests, established under the Republic of South Africa Companies Act (no 71 of 2008). The authors also refer to the Independent Code of Governance for Nonprofit Organizations in South Africa (ICG 2012). These guidelines are adaptable to Malaysian CLBG. In addition, the author also compared the relevant provisions for public companies in the Companies Act

2016 of Malaysia, the Malaysian Code on Corporate Governance 2021 (MCCG2021), and the Guidelines for CLBG from the Companies Commission of Malaysia.

3.3 Scoring the practice of the disclosure

The scoring approach uses a dichotomous measure. When there is a disclosure, the item scores as one (1); if there is no disclosure, the item scores as zero (0) [Chau & Gray, 2002; Gray Kouhy & Lavers, 1995].

4.0 Findings

4.1 Demographic profile of CLBG

Table 1. Descriptive statistics of the demographic profile of the CLBG

No.	Profile	Frequency	Percentage
1.	The nature of the object/business of CLBG complies with section 45 of the Companies Act 2016: Recreation/amusement Commerce and Industry Art Science Religion Charity Pension/superannuation schemes Others	0 6 0 0 3 0 0 11	0% 30% 0% 0% 15% 0% 0% 60%
2.	Does the company/organization receive donations? Yes No Not disclosed	8 3 9	40% 15% 45%
3.	Does the donor entitle to the tax exemption? Yes No Not disclosed	4 3 13	20% 15% 65%
4.	How many CLBG disclose their holders/members of the Company in the Annual Report/website? What is the total number of members disclosed? 2-9 10-19 20-49 More than 50 Not disclosed	1 0 2 10 7	5% 0% 10% 50% 35%
5.	Does the Company get a government grant? Yes No Not disclosed	2 2 16	10% 10% 80%
6.	Are there volunteers? None Less than 5 5 to 20 More than 20 Not disclosed	3 0 0 3 14	15% 0% 0% 15% 70%
7.	What is the total composition of the Board of Directors? 2 to 3 4 to 6 6 to 10 More than 10 Not disclosed	0 6 4 8 2	0% 30% 25% 40% 5%
8.	Status of CLBG: Public company (Non-Berhad)	14	70%

	Public company (Berhad)	6	30%	
9.	The principal purpose of the CLBG: Not-for-profit organization Charity	17 3	85% 15%	
10.	The CLBG is under the preview /supervision of: Ministry State Government Statutory Body Regulator Others	4 1 0 2 13	20% 5% 0% 10% 65%	

4.2 Test of normality

The study uses the normality test to see the shape of the distribution and the interval level's usage scale. The skewness and kurtosis values can determine the normal distribution in the range of -2 and + 2. Table 2 indicates that the kurtosis and skewness value for all the variables is between ± 0 and ± 1 . The conclusion is that one can expect and accept the standard shape of the distribution.

Table 2. Test of normality analysis

Variables	Skewness	Kurtosis	Decision
Disclosing Platform	0.687	-0.380	Normal
Disclose the types of board committee	1.178	1.290	Normal
Disclose/publish the Terms of Reference	0.555	-1.767	Normal
The Board of Director's Effectiveness	-0.003	0.801	Normal

4.3 Correlation Analysis

The study uses the Pearson Correlation Coefficient (r) technique to measure the linear correlation between board effectiveness and the three determinants. Pearson's r value ranges between -1.00 (identifying a negative relationship) and +1.00 (identifying a positive relationship), and Pearson's r value approaching 1 indicates a stronger connection between two variables. The two-tailed test is appropriate if there is a difference between the groups compared. There was the probability of being wrong about ruling out the null hypothesis of no correlation between the dependent and independent variables.

Table 3 illustrates a solid positive relationship between board effectiveness and disclosing platform ($r = 0.613$ and $p\text{-value } 0.004 < 0.05$). The relationship implies that an increase (decrease) in the usage of disclosing platforms will increase (decrease) the viewers' opinion of the board of directors' effectiveness.

Table 3. Correlation analysis

Variable	r	p-value
Disclosing Platform	0.613	0.004

Table 4 illustrates a positive relationship between board effectiveness and the type of board committee ($r = 0.462$ and $p\text{-value } 0.04 < 0.05$). The relationship implies that the more CLBG discloses the type of committee, the more opinion towards the board's effectiveness.

Table 4. Correlation analysis

Variable	r	p-value
Disclose the type of board committee	0.462	0.040

Table 5 illustrates the p-value of $0.797 > 0.05$, indicating no significant relationship between the board's effectiveness and disclosing the terms of reference. This finding implies that CLBG needs to publish the terms of reference, leading to viewers not having an opinion regarding the board's effectiveness.

Table 5. Correlation analysis

Variable	r	p-value
Disclose/publish the terms of reference for the board committee on the website or annual report	0.061	0.797

4.4 Disclosure practices based on the dichotomous score

Table 6. Number of CLBG used disclosure platform

Item	Number out of 20 CLBG
Information about the directors or its committee on the Company's website	18
Annual report on the internet/company's website	16
No disclosure of annual report/information about the directors and committees on the Company's	2

website	
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Table 7. The various types of board committees in CLBG

Name of committees	Number out of 20 CLBG
Audit Committees (common)	5
Nomination Committees (common)	1
Remuneration Committee (common)	3
Risk Management Committees (common)	2
Ethics Committees (common)	2
Human Resources Committees (other types)	4
Marketing Committees (other types)	3
Administrative Committees (other types)	1
Technology Committees (other types)	1
Fundraising Committees (other types)	1
Governance Committees (other types)	2
Membership Committees (other types)	2
No disclosure about the type of committee, instead there is a list of the management team	7
No disclosure at all about the board committee or management team	2

Table 8. Number of CLBG with board committees and without board committees

Number of committees per company	Number of CLBG
4-5 board committee	1
3 board committee	2
2 board committee	6
1 board committee	2
Management team only (No board committee)	7
No disclosure of information	2
Total	20

Table 9. Number of CLBG with categories of board committee

Common Committees only	4
Other Types of Committees only	6
Both types of committees	1
Total	11

Table 10. The Number of CLBG disclosed their terms of reference (TOR)

Question	Number out of 20 CLBG
Publish the TOR for the board committee on the Company's website or annual report with 7-9 procedures	5
Publish the TOR for the board committee on the Company's website or annual report with minimal procedures	2
No publication of TOR	13

5.0 Discussion

The research findings for the first research objective (RO1) indicated that usage of the disclosing platform has the most significant correlation (Sig t = 0.004) and a high positive linear relationship (Pearson's r = 0.613) towards the effectiveness of the CLBG Board of Directors in Malaysia. The finding supports the score of 90% on the disclosing platform (18 out of 20 CLBG as per Table 6), and the practice of using a disclosure platform is one of the best determinants of the CLBG Board's effectiveness. This practice of CLBG in using

annual reports and websites to disclose information about their Board of Directors in Malaysia seems consistent with the King Code 2016 recommendation that companies use annual reports and web disclosure as a good governance practice for nonprofit companies. Next, regarding the second research objective (RO2), findings indicated that there is a positive relationship between board effectiveness and the type of board committees ($r= 0.462$ and $p\text{-value } 0.04 < 0.05$). The finding supports the score on the disclosure of the 12 types of board committees (as per Table 7) by 55% piloted CLBG (11 out of 20 CLBG as per Table 8) in Malaysia. In addition, the unique nature of the CLBG business contributes to the categorization of board committees as the "common type" and "the other types" (as per Table 9) in Malaysia. 5% (1 out of 20) piloted CLBG has both common types of board committees and the other types of board committees. The positive linear relationship supported by the score of practices indicated that the more CLBG discloses information regarding its board committees, the more opinions regarding the board's effectiveness. Therefore, the second research objective (RO2) is consistent with the King Code 2016, ICG2012, and MCCG2017 recommendations that disclosing the type of the board committee, at least the common type, is a good governance practice. However, 35% (7 out of 20) of the piloted CLBG indicated that CLBG does not use board committees to help the main board of directors deal with the affairs of the Company. Indeed, 10% (2 out of 20) kept all information regarding their board of directors and committee or management of the Company private. Their websites contain information about their business, which is used only for running it.

Finally, regarding the third research objective (RO3), the $p\text{-value}$ is $0.797 > 0.05$, indicating no significant relationship between the board of directors' effectiveness and disclosing the terms of reference. The score in Table 10 shows that only 35% (7 out of 20) CLBG disclosed their terms of reference for their board committees, with the breakdown of 20% with detailed procedures and 15% with minimal procedures. A gap of 65% of piloted CLBG did not disclose their TOR for their board committees in the annual report or websites. This gap is consistent with the literature review that most codes of governance in local and global practice only recommend public companies to have the terms of reference for the board committees but do not make them compulsory to disclose to outsiders. Para 11 of King Code 2016 emphasizes the need for the main board of directors to receive and review the committee reports but does not make it compulsory to disclose their TOR in any annual report and website. The score supports the "no significant correlation" findings as per Table 10, which implies that CLBG's lacking publishing of the terms of reference makes the public or stakeholders have no opinion regarding how the board controls the effectiveness of their committee in assisting the main board in making decisions and directing the Company.

6.0 Conclusion and Recommendations

Without a specific governance framework to guide the CLBG in Malaysia, the pilot survey revealed that 90% out of 20 CLBG had used a disclosure platform (annual report and web disclosure) to reveal information about the board of directors, and 55% out of 20 CLBG has disclosed various type of board committee to the public. These indicated that CLBG in Malaysia is practicing a high to moderate level of good governance if one refers to the code of governance framework on global practices. It is of great concern that 45% of 20 CLBG should have disclosed information about their board committee. Regarding the pilot study results, there is no correlation between the terms of reference for the board committee as the determinant for the board effectiveness because most piloted CLBGs (65%) do not have the terms of reference. Conversely, the CLBG may have the terms of reference only for internal reference purposes. The non-disclosure of the board committee and the absence of terms of reference indicate a signal that the transparency practices by CLBG in Malaysia are voluntary. The authors suggest that policymakers formulate a similar code of governance for CLBG and modify the Companies Act to make it clear regarding the usage of the annual report for the CLBG, the types of reporting according to the nonprofit nature of business, directors' report for CLBG includes matters concerning board delegation and enhance the use of terms of references. The limitation of this research is using the observation method on the annual report and websites to investigate the practices of disclosing information about the board of directors, the type of committees, and the terms of reference. Therefore, the authors recommend replicating this study using a combined qualitative-quantitative interview and finding 'clear' evidence of good practices by the CLBG in Malaysia.

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Paper Contribution to Related Field of Study

The content of this paper shall contribute to the field of corporate governance in nonprofit organizations. This study contribution shall benefit the board of directors, investors, regulators, and policymakers and add a database of literature reviews about the practice of good governance in a nonprofit organization in Malaysia.

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