

GOOD CORPORATE GOVERNANCE: ROLES, DUTIES AND RESPONSIBILITIES OF REMUNERATION COMMITTEE*

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Abstract

Since 1997, when Thailand's economic crisis was partially caused by poor governance, the Thai capital market has awakened to corporate governance principle improvement. Board of director is expected to act in the best interests of the company and shareholders. Remuneration committees were established to increase board effectiveness. Yet extant laws on their role, duty, and responsibility do not suffice to oblige companies listed on the Stock Exchange of Thailand (SET) to remain in compliance with good corporate governance principles. Public Limited Companies Act, B.E. 2535 (1992) and the Securities and Exchange Act BE 2535 (1992) were studied, along with Securities and Exchange Commission Thailand announcements, The Principle of Good Corporate Governance for Listed Companies 2012, and remuneration committee guidelines. These were compared to the United States corporate governance model, influential in developing international capital markets such as Thailand's.

Results were that some rules, such as remuneration committee structure, shareholder rights and transparency needed improvement to demonstrate good governance in compliance with international standards. Some corporate governance recommendations should be retained as already conforming to U.S. regulations and international standards. One such is that executive remuneration determination should be a flexible guideline, complied with individually by each company. . Some U.S. legal provisions should not be added, such as exclusive presence of independent members, and individual executive remuneration disclosure.

Keywords: Corporate governance, Remuneration committee, Thailand

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บทคัดย่อ

นับตั้งแต่ปี พ.ศ. 2540 ซึ่งเป็นปีที่วิกฤติเศรษฐกิจของไทยมีสาเหตุส่วนหนึ่งมาจากการกำกับดูแลกิจการที่ไม่ดีนั้น ตลาดหลักทรัพย์ของไทยจึงเกิดความตื่นตัวที่จะพัฒนาหลักบรรษัทกินาลเรื่อยมา ด้วยเหตุนี้คณะกรรมการจึงถูกคาดหวังที่จะทำหน้าที่ของตนเพื่อประโยชน์อันสูงสุดของบริษัทและผู้ถือหุ้น อีกทั้งได้มีการก่อตั้งคณะกรรมการพิจารณาค่าตอบแทนเพื่อเพิ่มประสิทธิภาพในการทำงานของคณะกรรมการ ซึ่งจะช่วยให้กิจกรรมการบังคับอยู่ในปัจจุบันเกี่ยวกับบทบาท หน้าที่ และความรับผิดชอบคณะกรรมการนี้ยังไม่เพียงพอที่จะทำให้บริษัทขาดงบประมาณในตลาดหลักทรัพย์ของไทยดำเนินการได้สอดคล้องกับหลักบรรษัทกินาลที่ดี ทั้งนี้พระราชบัญญัติบริษัทมหาชน พ.ศ. 2535 และพระราชบัญญัติตลาดหลักทรัพย์ พ.ศ. 2535 ได้ถูกนำมาศึกษาควบคู่ไปกับประกาศของคณะกรรมการตลาดหลักทรัพย์ หลักบรรษัทกินาลที่ดี ประจำปี 2555 และคู่มือคณะกรรมการพิจารณาค่าตอบแทนกฎหมายและหลักเกณฑ์เหล่านี้ถูกนำมาเปรียบเทียบกับหลักบรรษัทกินาลของประเทศไทยซึ่งเป็นประเทศที่มีอิทธิพลต่อการพัฒนาของตลาดหลักทรัพย์ทั่วโลกรวมถึงประเทศไทยเช่นกัน

ผลการศึกษาคือกฎหมายที่บางเรื่องเช่นโครงสร้างของคณะกรรมการพิจารณาค่าตอบแทน สิทธิของผู้ถือหุ้นและความโปร่งใสนั้นมีความจำเป็นที่จะต้องพัฒนาเพื่อแสดงให้เห็นถึงการกำกับดูแลกิจการที่ดีโดยสอดคล้องกับมาตรฐานสากล นอกจากนี้ข้อเสนอแนะในเรื่องหลักบรรษัทกินาลที่ดีควรคงไว้เช่นเดิมเนื่องจากเรื่องเหล่านี้เป็นไปตามมาตรฐานที่ยอมรับทั่วไป ซึ่งได้แก่ การกำหนดค่าตอบแทนของผู้บริหารควรมีลักษณะที่เป็นแนวทางที่ยึดหยุ่นได้เพื่อนำไปปรับใช้กับแต่ละบริษัท อย่างไรก็ดี หลักกฎหมายบางประการของประเทศไทยไม่มีความเหมาะสมที่จะนำไปปรับใช้ ตัวอย่างเช่น การมีกรรมการอิสระเพียงอย่างเดียวในคณะกรรมการพิจารณาค่าตอบแทน และการเปิดเผยค่าตอบแทนของผู้บริหารเป็นรายบุคคล

คำสำคัญ: บรรษัทกินาล, คณะกรรมการพิจารณาค่าตอบแทน, ประเทศไทย

1. Introduction

The evidence that has emerged about the economic crises in 1997 suggests that its cause was the result of poor corporate governance. The weaker firms corporate governance mechanisms are the greater agency problem they have, since the incongruity between ownership and control is naturally structured in corporations¹ where the company's managers who directly control the activity act as agents of the principals who are its owners or shareholders, and from this there may arise a conflict of interest.² While corporate governance is now continually receiving attention, payment of the board of directors is one of the high-ranking concerns because the determination of remuneration reflects the effective performance of corporations.³ Nevertheless, remuneration alignment is not easy owing to the agency problem. The reason is that executives (agents) may pay themselves excessive remuneration in various forms such as salaries, bonuses and stock options, rather than paying as dividends for shareholders (principals).⁴ Hence, the executive payments higher than the firm's performance would be the result of a lack of productive corporate governance. The importance of good corporate governance has brought about the examination of the possible options in order to make managers act in the best interest of shareholders. These options are the roles of the board of directors which is the appointment of a remuneration committee (also referred to as a compensation committee) to take full responsibility for the remuneration framework and the disclosure of financial information.

In Thailand, according to the survey of listed companies, only 64% of listed companies have established remuneration committees,⁵ while the promulgated rules and regulations do not specify clear prohibitions and penalties for the board structure, especially independent qualification, duties, and responsibilities.⁶ In addition, the remuneration policies among listed companies contain discrepancies because of the lack of practical guidelines to accommodate a uniform remuneration scheme. Most shareholders do not anticipate that the executive remunerations are as expected.⁷

¹Core et al. Corporate governance, chief executive officer compensation, and firm performance . Journal of Financial Economics 51, (1999): 371–406.

² In legal perspective, a board of director is regarded as the agent of the company not the shareholders. See The Thai Commercial Code Section 1167 states that:

“The relations between the directors, the company and third persons are governed by the provisions of this Code concerning Agency.” and The Public Company Section 97 states that:

“The relationship between the directors and the company and the relationship between the company and any third person shall be in accordance with the Civil and Commercial Code in the part on agent.”

³ Organization for Economic Co-operation and Development. Corporate Governance and the Financial Crisis <http://www.oecd.org/corporate/ca/corporategovernanceprinciples/43056196.pdf> (accessed on August 25th, 2015)

⁴ Mohammas Talha. et al. Corporate governance and directors' remuneration in selected ASEAN countries. The journal of applied business research 25,2 (2009): 31-40.

5 อุษณีษ์สมศรี,ชณิตาปิยะพันธุ์พงศ์ศิริธรรมโนนทรัพย์ศักดิ์,ณัฐชานนท์จรัสเชวงพงศ์และณฤติ โรจนคงอยุ่ CGCorner:การกำหนดค่าตอบแทนกรรมการและผู้บริหารระดับสูง, Disclosure Focus, ตุลาคม 2558, 11-13. (Usanee Somsiri, Chanita Piyapunpong, Sasitorn Manosupsuk, Nutchanun Charaschawengpong and Naruedee Rojanakongyoo. CG Corner: director and executive compensation determination, Disclosure Focus, October 13th, 2015, 11-13.)

6 ฝ่ายพัฒนากฎหมายสำนักงานคณะกรรมการกฤษฎีกา.การเพิ่มค่าตอบแทนให้แก่ผู้บริหารใน สหรัฐอเมริกา. ข่าวสารพัฒนากฎหมาย, ลำดับที่ 72, 2 พฤษภาคม 2554, 1-2. (Law Reform Commission, Office of the Council of State. The increasing of executive compensation in the United States of America. Law Reform News, No. 72, May 2, 2011, 1-2)

7 *Id.*

2. Corporate governance and remuneration committee

2.1 Corporate governance

Corporate governance is commonly defined as "...the system by which companies are directed and controlled".⁸ It is designed as a mechanism which decreases the pursuit of self-interest pursuit by the board and increases the firm's value. Thus, good corporate governance should motivate a board of directors to perform for the best interest of the company and its shareholders, as well as facilitate effective monitoring.⁹

In the aftermath of the 1997 economic crisis, Thailand learned lessons from the weak corporate governance performance. As a result, the continual collaboration of the associations which are the Securities and Exchange Commission (SEC), The Stock Exchange of Thailand (SET) and the Thai Institute of Directors (IOD) has developed and launched an effort to baseline corporate governance practices for listed companies. The timeline of regulatory evaluation can be concluded as shown below

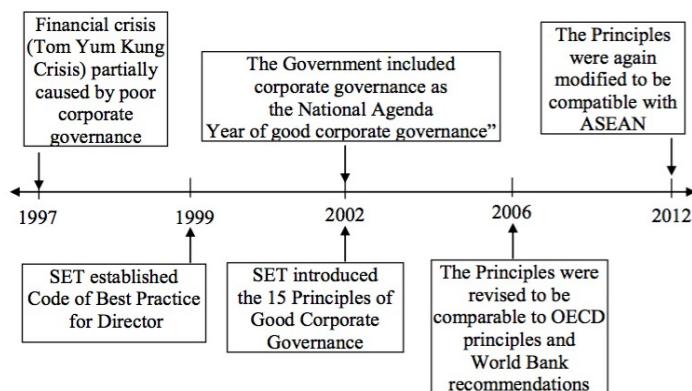


Figure 1: Thai corporate governance evolution adopted from OECD, „Session 5: The role of Stock Exchanges in Promoting Corporate Governance in Asia—ten years from now?” (Asian roundtable on corporate governance 10-year anniversary, Manila, Philippines, September, 9-10 2009).

2.2 Remuneration committee

The board of director plays the important roles of monitoring managers, evaluating management, and ensuring the managers' performance. Even though the advantage of this model is that the board's functions theoretically permit the separation of decision-management from decision-control,¹¹ it may not be able to effectively oversee the power of management.¹² As a result, the board may set up various committees, including remuneration committee to carry out some its duties, to provide effective checks and balance mechanisms and to handle serious problems, such as setting executive compensation, which is a significant device for reducing the agency problem arising from the corporation's management. Nevertheless, the board of directors still retains its responsibility to oversee the performance of these committees.

Since the establishment of a remuneration committee demonstrates the awareness of the value of the specialist, it must play a key role in deciding the policy and levels of director and executive remuneration by implementing good corporate governance. This study considers the remuneration committee with regard to the corporate governance principles provided by SET as follows:

8 Cadbury, Adrian. Report Of The Committee On The Financial Aspects Of Corporate Governance. (1992). 16

9 Organization for Economic Co-operation and Development. OECD Principles of Corporate Governance. (2004)

11 Lauren A. Burnhill. Overview: The US Governance Model https://centerforfinancialinclusionblog.files.wordpress.com/2013/02/us_and_european_governance_model_presentation.pdf (accessed June 1st, 2016)

12 Securities and Exchange Commission. Part I Overview of the Current Situation.

www.sec.or.th/EN/Documents/Information/part%20I-V.doc (accessed on May 29th, 2016)

1. Equitable treatment of shareholders¹³

The transparent nomination of a remuneration committee is credible to the outside world. Moreover, the specific qualities of its members raise the shareholders' confidence that it is able to approve matters concerning remuneration without conflict of interest and bias. Its own qualifications will ensure that any decisions made by the committee shall be to the advantage of the company.

2. Disclosure and transparency¹⁴

Important company information, sufficiently reported to the shareholders or public, improves the stakeholders' participation and monitoring. The disclosure includes both financial and non-financial information with correct and accurate reporting, for instance a remuneration policy for the board members and key executives.¹⁵ This information is of concern to shareholders because they are interested in the link between remuneration and company performance.

3. Responsibilities of the board¹⁶

The remuneration committee has responsibilities imposed by law, the board of directors, the articles of association or the resolutions of the meeting of shareholders. Since the committee is a group of directors who have specific tasks in the compensation area, they must act on a fully informed basis, in good faith, with due care, and in the best interest of all stakeholders. In addition, they must align top executive and board of director remuneration with the long-term interests of the company and its shareholders.¹⁷

3. The United States of America laws in relevance to the remuneration committee

3.1 Remuneration committee establishment requirement and its composition

Neither the Exchange Act nor US Securities and Exchange Commission (SEC) rules requires listed companies to set up a remuneration committee. It is upon stock exchanges to state such requirement in their listing standards. However, each remuneration committee member is required by the Exchange Act to be both the member of the board and independent.¹⁸ Listed companies are authorized by law to retain a compensation consultant, legal counsel, or other adviser¹⁹ in order to guide their view on the optimal remuneration and on other peer company comparison.²⁰ Compensation consultants and other advisers shall be qualified by specific independence factors identified by the US SEC, which are required to meet the basic factors provided by law.²¹ according to Section 10(b) (2) of the Exchange Act.

3.2 Remuneration committee's responsibilities

The director remuneration responsibilities are not required to be delegated to any particular committee, such as a remuneration committee, it is recommended by the exchange's listing standards to assign such responsibilities.²² The reason is that the remuneration plan

13 Stock Exchange of Thailand. The Principles of Good Corporate Governance for Listed Companies 2012. (2012), 68

14 *Id.* at 80

15 *Id.* at 22

16 *Id.* at 88

17 Organization for Economic Co-operation and Development. *Supra* note 9.

18 The Exchange Act, Section 10C(a)(2)

19 The Exchange Act Section 10C(b)(1)

20 Skadden et al., 2015 Compensation Committee Handbook https://www.skadden.com/sites/default/files/2015_remuneration_Committee_Handbook_111814b.pdf (accessed July 17, 2015).

21 The Exchange Act Section 10(b) (2)

22 Wachtell, et al, Remuneration committee guide <http://www2.deloitte.com/content/dam/Deloitte/za/Documents/>

determined must be approved by the directors who may directly benefit from that proposed plan and this is not protected by a court, as noted in the business judgment topic.

Executive remuneration shall be recommended by the remuneration committee to the full board of directors.²³ Furthermore, it needs to include these following important requirements:

1. Say on Pay

The shareholders who are regarded as owners of the company have a direct signal to approve any type of compensation of executives who are regarded as employees working for the owners.²⁴ The authority of shareholders on executive remuneration approval does not only increase transparency, but also the company's disclosure obligations.²⁵ In addition, shareholders are allowed to vote on how frequently to hold the say on pay vote, which is also a non-binding vote.

2. Pay for Performance²⁶

The executives' remuneration determination shall not be paid as they please, since annual proxy statements have to present the relationship between compensation and performance. The company is required to report information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions.

3. Recovery of erroneously awarded remuneration policy

The obligation to clawback requires the duty to exclusively recover incentive-based compensation (including stock options) from current and former executives who are paid based on improper financial statements or a material non-compliance with any financial reporting requirement under the SEC Rules during the prior three years after the year in which the errors were made in the report.²⁷

3.3 Disclosure

The disclosure requirements in Regulation S-K and Regulation S-X provided by the US SEC consider ways to improve the disclosure regime for the benefit of both companies and investors.²⁸ A remuneration committee of a listed company is obliged to improve their disclosure policy to meet not only the requirements stated by law, but also the good corporate governance standard. A remuneration committee reports sufficient information through public disclosure contributes to increased transparency including:

1. Compensation committee governance: the description of describing the scope of the committee's authority, the roles of any compensation consultants, and the company's process of remuneration design.
2. Compensation Discussion and Analysis (CD&A): the necessary material for understanding the listed company's compensation policy and decisions
3. Remuneration committee report: the signature of each member in the report in order to state whether they have approved the CD&A or not
4. Executive compensation table and additional annual disclosure regarding Named executive officer

governance-risk-compliance/ZA_Compensation_Committee_Guide_02062015.pdf (accessed on August 25th, 2015)

23 *Id*

24 พิพ. อุดร. ผลตอบแทนผู้บริหารภายใต้หลักธรรมาภิบาลต้นแบบจากสหรัฐอเมริกาสู่ระดับนานาชาติ, วารสารสื่อพลัง(2012): 34-29. (Pipop Udorn. Executive compensation according to good governance: from a US model to a global level. Power The Thought. 2,3 (2555): 34-29)

25 New York country lawyers' association. Investor Protection of Dodd-Frank Act and enhanced professionalism, presented at New York country lawyers' association March 25th, 2014.

26 The Dodd-Frank Act Section 953(a)

27 Pipop Udorn., *Supra* note 24.

28 The U.S. Securities and Exchange Commission. Disclosure effectiveness. <http://www.sec.gov/spotlight/disclosure-effectiveness.shtml> (accessed on March 1st, 2016)

5. Director compensation table
6. Pay ratio disclosure: the comparison of the chief executive officer's compensation and the median compensation of other employees
7. Risk and board-based compensation programme: the remuneration programmes for employment mainly cause risks and unfavourable effects on the company.

3.4 Remuneration committee's duties and liabilities

Remuneration committee's business decision is presumed to be made in good faith and with due care, unless a third person is able to prove that the director has not met the duty of care or loyalty. The business judgement rule is subject to a counterpart of fundamental fiduciary duties named the duty of care which a committee has an obligation to perform, on an informed basis, monitoring and management with the care of a person in a like position under similar circumstances concerning the relevant materials and appropriate consideration.²⁹ In addition, the committee shall perform the duty of loyalty in order to act in good faith for the best interest of the company and all stakeholders.

Furthermore, the Exchange Act states the liabilities concerning the remuneration committee including:

1. With reference to Section 10(C)(a)(1), Listed companies must comply with the relevant factors used to determine the independence of the committee members.
2. In the implementation of the clawback requirement by virtue of Section 10D(a), the national securities exchanges are required to prohibit the listed companies who do not comply with the clawback requirement.
3. If the filing of the remuneration disclosure statements required by law, such as Form K-08, were false or misleading, any person who made or caused to be made the said statement shall be liable for damages caused by such reliance³⁰.

4. Thai laws in relevance to remuneration committees

4.1 Remuneration committee's responsibilities

Listed companies may delegate to a remuneration committee to consider the remuneration of directors and the subcommittee by taking into account various factors and to present a report to the board before being approved by a shareholders' meeting. In addition, With regard to Section 90 of the Public Company Act, directors shall be strictly compensated under the articles of association stipulated by the company. The rules set out in the article should be clear enough so that the board of directors does not determine its own remuneration, such as the exact amount of director fee or a gratuity for directors as a percentage of net profit.³¹

Unlike director remuneration, the existing law does not exactly regulate the executive remuneration approval. According to the Corporate Governance Principles, it is suggested that the executive remuneration package is considered by a remuneration committee in compliance with the company's regulations and related recommendations before presenting to a board of directors.

4.2 The existence of a remuneration committee and its composition

A listed company is not required to establish a remuneration committee. It is,

29 See e.g., Smith v. Van Gorkom, 488 A.2d 858, 874 (Del. 1985)

30 The Exchange Act Section 18

31 The Securities and Exchange commission. Directors' handbook Vol.1: Roles, duties and responsibilities of directors and board of directors. (2007).

however, suggested that a committee be set up³² as an additional board committee, which could be helpful in developing accountability.³³

There are no regulations for remuneration committee membership and composition, however, the SET suggests that the committee should consist of at least three members.³⁴ Its majority members should be either independent directors or non-executive directors including its chairman.³⁵ At the same time, the chairman of the board of directors should not be the chairman of the remuneration committee or a member. However, unlike the US, there are no rules or recommendations of the SET providing requirements to consider the selection of these consultants.

4.3 Remuneration committee's duties

There are no regulations providing specific enforcement to the remuneration committee. However, since the members of the committee are a group of directors who perform the duty in lieu of the board of directors, they still have legal duties to prescribe how each individual director should perform his/her duties. The committee has the fundamental duty to conduct the business in accordance with the law, the company's objectives, the company's articles of association and the resolutions of the meeting of shareholders in good faith and care³⁶. the vague interpretation of what constitute the care and honesty duties is more obviously stated in the Securities and Exchange Act.

The specific duties in relevance to remuneration committee are the director remuneration shall be determined the remuneration strictly according to either the articles of association or the resolutions of the meeting of shareholders.³⁷ Furthermore, the Securities and Exchange Act requires listed companies to disclose information in their reports to promote transparency.

4.4 Disclosure

The Public Company Act specifies that the board of directors shall deliver the annual report of the board to the shareholders.³⁸ In addition, relevant to remuneration committee disclosure, Section 56 of the Securities and Exchange Act regulates that the company shall prepare the disclosed report for additional information as specified in the notification of the Capital Market Supervisory Board³⁹ named the Annual information disclosure form (Form 56-1).

1. Information relating to the remuneration committee structure

The company is required to list the names of directors including the position held in the company.⁴⁰ The nomination of the remuneration committee and the process of election are also filed in the Form 56-1. In addition, the company shall file the number of meetings attended by each member. As required by law, the members of a remuneration committee, especially independent directors, shall also disclose their qualifications and any conflict of interest that they may have.

In the case of remuneration consultants, the law does not require the company that retains these consultants to disclose their conflict of interest. It is just recommended

32 The Stock Exchange of Thailand, *Supra* note 13, at 94.

33 Report on the observance of standards and codes: Corporate governance country assessment Thailand <http://www.sec.or.th/TH/Documents/CGROSC.pdf> (accessed on March 5th, 2016)

34 The Stock Exchange of Thailand, “Remuneration committee guidelines 2008” http://www.set.or.th/sustainable_dev/en/cg/files/2008/RCinEngPublishing.pdf (accessed June 28th, 2015)

35 The Stock Exchange of Thailand, *Supra* note 13, at 95.

36 The Public Company Act, Section 85

37 The Public Company Act Section. 90

38 The Public Company Act, Section.114(4)

39 Notification of Capital Market Supervisory Board TorChor. 44/2556 Rules, RE: Conditions and Procedures for Disclosure regarding Financial and Non-financial Information of Securities Issuers

40 The Public Company Act Section. 114(4)

by the Principles of Good Corporate Governance for Listed Companies 2012 that the said information should be reported.

2. Information relating to financial statements and reports

The Public Companies Act requires the board of directors to report the benefits which directors receive from the company, including remuneration, shares, and debentures, to the shareholders.⁴¹ In addition, the Form 56-1 specified in the notification of the Capital Market Supervisory Board requires listed companies to disclose a financial statement including:⁴²

- 1) The director's remuneration is disclosed as the type and the amount of remuneration paid to each director of the company.
- 2) The board shall also disclose the total remuneration paid to all executives including the number of executives and types of remuneration.
- 3) The non-financial remuneration of directors and executive earnings from the company shall be reported and each type of remuneration described, such as the employee stock option plan and provident fund.

4.5 Remuneration committee liabilities

1. Liability for director remuneration

According to Section 91 of the Public Company Act, if the payment of money or giving of other property to a director is not in accordance with either the articles of association of the company or the resolution of the meeting of shareholders, the director shall be jointly liable for any damage to the company.

2. Liability for disclosure

Section 207 of the Public Company Act states that if the information presented by the board of directors is incomplete or inaccurate as to truthfulness, the board shall be liable to a fine.

3. Liability for the failure of directors' duties

If a director acts in breach of the fiduciary duties and his performance causes loss or damage, he will be criminally liable.⁴³

4. Liability for the conflict of interest disclosure

With reference to Section 281/3 of the Securities and Exchange Act, a director shall be liable to a fine if he does not file a report with the company on his interest or a related person's interest in relation to management of the company or the subsidiary.

4.6 The rights of shareholders

The shareholders currently exercise their rights relating to the remuneration committee by obtaining relevant and adequate information on the company, as well as by participation and voting in shareholder meetings. While the directors' compensation is a matter approved at the shareholders' meeting,⁴⁴ the law does not require executive remuneration to be approved by shareholders. In practice, the managerial remuneration presented by a remuneration

41 *Id.*

42 สำนักงานคณะกรรมการกำกับหลักทรัพย์และตลาดหลักทรัพย์, แบบแสดงรายการข้อมูล แบบ

56-1 แบบ 69-1, กรุงเทพฯ: ฝ่ายพัฒนาธุรกิจ (2556). (The Securities and Exchange Commission, Form 56-1 c]d Form 69-1, Bangkok: Company development (2013))

43 The Securities and Exchange Act, Section. 281/2

44 The Public Company Act Section 90

committee is decided by the board. The SET suggests that the remuneration of both executives and directors should not only be in accordance with the board policy, but also be within the limit approved by shareholders.

5. CONCLUSIONS AND RECOMMENDATIONS

The assessment of Thai listed companies' corporate governance provided by the SET in collaboration with IOD reflects that Thailand is in a position where its governance practice is at an acceptable level and continually developing to meet the international standard. In the same way, the role of a remuneration committee is emphasized as a governance mechanism, maximizing shareholders' values by the issue of the Good Corporate Governance Principles and the Remuneration Committee guidelines. The above scenario illustrates that the rules and regulations concerning executive and director remuneration, especially the structure of the remuneration committee, the exercise of shareholders' rights and transparency, are not sufficient to force the companies listed in the stock exchange to manage and operate in compliance with good corporate governance principles. As a result, regulation must obviously be improved in order to demonstrate good governance in compliance with the international standard.

The SET should provide compulsory regulation requiring the establishment of remuneration committees consisting of a majority of independent directors. Furthermore, the law should specify that the shareholders have the right to exercise a non-binding vote on executive remuneration. The objective of this vote is to strengthen the remuneration committee and the board, who must perform with fiduciary duty, and not oversee the remuneration, because this advisory vote does not immediately affect the board decision. Lastly, the listed companies should be required to disclose:

- 1) Nomination of the remuneration committee's members and its consultants
- 2) Non-cash remuneration of executives
- 3) The discussion relating to rationales of executive payment including the relationship between the firm's performance and the level of executive remuneration.

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