

EVALUATION THE YEMENI LEGISLATIONS IN THE LIGHT OF THE OECD STANDARDS OF CORPORATE GOVERNANCE

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ABSTRACT

The study aims to evaluate the extent of consistency and difference, between corporate governance principles of OECD and Yemeni regulations particularly companies law, banking law, and corporate governance guidelines issued by the Yemeni Businessmen Club, through descriptive study and critical style of content analysis. The study found out that there is consistency between Yemeni legislation and corporate governance issued by OECD. There is conflict between companies Act and banks Act, and the Yemeni legislation does not contain legal provision are clear and explicit on some issues such as transparency and disclosure.

Keywords: *Corporate Governance, OCED, Yemeni Regulations, Corporate Governance Standards.*

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INTRODUCTION:

In the turning of the first decade of the third millennium banks worldwide still face many challenges such as liberation of commerce in the financial services, requirements of Basel committee, and spread operations of laundry of the moneys, the technological revolution, change skeleton of the banker services, in order to face these challenges. Many banks have adopted strategies in the expansion of banker investment, presenting financial and created activities financing, banker integrations, deepening technological use, adopting modern concept for banker marketing, and developing human resources.

Joint Share companies face, such as banks, in practice of works, so after scandal of (Enron company) (Agrawal & Chadha, 2005,p:373)Sarbanes Oxley's law issued and standard (SAS No. 99) with instructions that force many companies on changing their traditional method in practicing their works and commitment to these instructions and other regulations which will increase the burdens that will sustain of auditing companies too. Indeed, one of the new instructions which will affect most of companies are the instructions proposed by New York Stock Exchange (NYSE), which is represented by the new requirements that should be available for internal auditing function. Currently, the American companies will carry big amounts of money as auditing fees more than it was previously, companies should carry on expenses for putting new programs so as to be in agreement with the instructions of American government and stock exchange.

In addition that the changes which will occur on international accounting and auditing standards will exceed the joint share companies, released from the new legislations will affect of corporate governance, all banks and insurance companies will be affected by those changes, even private companies will yield to job-related standard of high qualification (Bhasin,2009,p 271).

It is noticed that most of those countries depended on its preparation for the guidelines and principles of corporate governance issued by the Organization for Economic Co-operation and Development (OECD) in 1999, and the modified version of 2004, OECD definition "Procedures and processes according to which an organisation is directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among the different participants in the organisation- such as the board, managers, shareholders and other stakeholders- and lays down the rules and procedures for decisions-making". (OECD, 2005).

In this regard, the corporate governance in Yemeni banks are affected by many of the legislation, regulations and directives in force, including the Companies Act of Yemen (22) 1997, as amended, and the Commercial Law No. (32) / 1991 , and the modified version of 2009, the law of banks Yemeni No. (38) 1998, the law of Islamic banks No. (21) 1996 and the modified version of 2009, the law of the profession of auditing and audit number (26) 1999, The Civil Law No. 14 of 2002, the Central Bank Law, in addition to the instructions issued by the Central Bank of Yemen. Besides corporate governance guidelines issued by Yemeni Businessmen Club of 2010.

Study Objectives:

1. To evaluate the extent of consistency and difference between Yemeni legislation and the rights of shareholders and key ownership functions principle of corporate governance.
2. To evaluate the extent of consistency and difference between Yemeni legislation and the equitable treatment of shareholders principle of corporate governance.
3. To evaluate the extent of consistency and difference between Yemeni legislation and the role of stakeholders in corporate governance principle.
4. To evaluate the extent of consistency and difference between Yemeni legislation and the disclosure and transparency principle.
5. To evaluate the extent of consistency and difference between Yemeni legislation and the responsibilities of the board principle.

EVALUATION, ANALYSIS, AND DISCUSSION:

Based on the foregoing the researcher in this paper displays and evaluates the contents of laws, regulations and instructions of Yemen-related accounting profession by working to achieve the basic rules of corporate governance of the Organization for Economic Cooperation and Development (OECD) as follows:

1. ENSURING THE BASIS FOR AN EFFECTIVE CORPORATE GOVERNANCE FRAMEWORK:

We have included the basic framework for the activation of the Corporate Governance (OECD) the following elements:

1-1.The corporate governance framework should be developed with a view to its impact on overall economic performance, market integrity and the incentives it creates for market participants and the promotion of transparent and efficient markets:

The Yemeni financial markets efficiency and transparency achieve in order to activate corporate governance that is irrelevant and is not possible, because Yemen has a small economy size, and that Yemen does not have exchange markets, and has the financial services sector is very limited and economic activity entirely dominated by a small number of sectors such as the oil sector, agriculture, commerce, government, transportation, and which together make up more than 75% of the total economy. Joint-stock companies are relatively few in number (a few in its entirety), but a lot of projects, the largest in Yemen, especially in the sectors most organized, which requires it or where it can be requested contribution of capital from a third party, for example, insurance companies, banks and Operators communications adults from the private sector and those Other large with foreign investors and technical support, especially in the sectors of Industry said that the public companies, the biggest or the projects that the share of government is the primary focus of the governance of the traditional companies. and it should be the stakeholders in this regard, attention seriously to this subject in particular the rapid establishment of a securities market and re-drafting of legal texts that hinder the attraction of foreign investment, as well as the Central Bank of Yemen to issue guidance to the application of corporate governance in banks and required them to work to issue guidance on the governance of their own.

Except as stated in the handbook guidelines of corporate governance issued by the Yemeni Businessmen Club in paragraph (1-1) “the board to ensure a culture of corporate governance is sound, and be sure of the company's commitment to them. It also needs to ensure that a framework of effective governance, which is invited to develop special training programs on governance and its application, at various levels in the company from the board itself.

1-2.The legal and regulatory requirements that affect corporate governance practices in a jurisdiction should be consistent with the rule of law, transparent and enforceable:

With regard to transparency and consistency with the provisions of the law included the article (92) and (150) of the Companies Act Yemeni “the Chairman of the Board has to publish the balance sheet and profit and loss account and a compendium of his report and the full text of the

auditor's report in the official daily newspaper published in Arabic in the center of the company before the date of the General Assembly fifteen days at least”.

1-3.The division of responsibilities among different authorities in a jurisdiction should be clearly articulated and ensure that the public interest is served:

The Yemeni laws included many legal articles on the distribution of responsibilities to the competent authorities, including corporate control, and the Central Bank of Yemen, as embodied in Article (143) of the Companies Act of Yemen that, The Board of Management systems and internal regulations to regulate its work and determine the terms of reference and the rights and duties of workers Subject to the provisions of the laws and the provisions stipulated in the law and the Company.

Yemeni corporate governance guidelines also included a the item (4) should be the definition of the duties and responsibilities of members of the Council a clear definition, and that is disclosed and fully implemented. "It also stated that" the board should clearly define responsibilities, and ways to hold those responsible accountable, and to make complied with mandatory for all administrative levels in the company.

1-4.Supervisory, regulatory and enforcement authorities should have the authority, integrity and resources to fulfill their duties in a professional and objective manner. Moreover, their rulings should be timely, transparent and fully explained:

1. Each bank founder of the Republic, the founder of the outside and do the work in the Republic through its branches or offices to prepare (in accordance with the form prescribed by the Central Bank, and the rules and the accounting principles laid down by) during the three months of the end of its fiscal year its balance sheet and profit and loss account until the last day work in the financial year for its operations in the Republic.

2. The Central Bank sets auditing standards that it deems appropriate to review the accounts of any bank to ensure the safety and the safety of the bank and the banks to follow those standards in the performance of the functions of internal and external audit.

3. The central bank from time to time inspection of each bank or any subsidiary by the Corporation when it deems necessary or desirable to make sure that the bank is in sound financial condition and that he is committed to the requirements of this Act and the Central Bank in the management of its business.

2.THE RIGHTS OF SHAREHOLDERS AND KEY OWNERSHIP FUNCTIONS:

We have included the rights of shareholders and the main functions of property rights, the following elements:

2-1.Basic shareholder rights should include the right to:**2-1-1.Secure methods of ownership registration;**

Yemeni companies law included in the Article (110) shareholders proved of all rights pertaining to the stock, and in particular the right to a share of the profits to be disbursed and the Company's assets upon liquidation and the right to attend General Assemblies and to participate in its deliberations and vote on resolutions and the right to dispose of the stock right asked to see the company's papers, books and monitor the work of the Governing Council and a claim of responsibility to its members and to challenge the decisions of the General Assembly, under the conditions and restrictions contained in this Act or in the company.

2-1-2.Convey or transfer shares;

Regarding the transfer of ownership of the stock or convert it to ensure the Companies Act in the Yemeni Article (100) and (101) the following:

- Shares traded nominal register the disposition of the share register and its annotation on the arrow and may be invoked to act by the Company or third parties except from the date of registration.
- Shares are traded once delivered. If you moved the nominal ownership of the stock by inheritance or bequest shall be the heir or devisee takes their place, or the request is the transfer of ownership in the share register.

2-1-3Participate and vote in general shareholder meetings;

Regarding to participation and voting at the AGM included the Articles (158, 159, 161 160 163) in the Yemeni Companies Act the following:

- 1 - Each shareholder entitled to attend the General Assembly of the shareholders.
- 2 –Announcement for the shareholders of the General Assembly in the daily official and at least one must be announced before the deadline for the fifteen days at least, may, however, merely invited on the date mentioned letters registered are sent to all shareholders. And must be included in the Declaration call for on the agenda.

2-1-4.Elect and remove members of the board;

The Yemeni Companies Law includes in Article (124) The board elects board members by secret ballot in writing and may be re-elected, unless the company otherwise

2-1-5.Share in the profits of the corporation:

Regarding share in the profits of the corporation included articles (190) (191) (192) of the Yemeni Companies Act as following:

1. Shareholders deserve his share of profits when the General Assembly decides to distribute them.
2. The Board of Directors should to execute the decision of the General Assembly to distribute profits to shareholders within two months from the date of issuance of the decision, unless the company for less.
3. Distribution of profits being generated for the company by decision of the General Assembly upon the proposal of the Board of Directors.

2-2.Shareholders should have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as:

2-2-1.Amendments to the statutes, or articles of incorporation or similar governing documents of the company;

Regarding to amendments of the statute or articles of incorporation or similar governing documents of the company, and other documents relating to the exercise of power similar to the company , Yemeni companies law included in the articles (172) (194) (195) (196) the following: “The extraordinary general assembly specializes in to amend the company system and the merger of the company in other company or institution or resolved before the end of the period or extended duration”.

2-2-2.The authorization of additional shares;

Regarding the issuance of additional shares of the Companies Act has indicated in the Yemeni articles (197-203) the following:

1. The Extraordinary General Assembly should not decide to increase the capital only after getting of the whole original capital. It also must determine the decision of the extraordinary general assembly method to be followed in the capital increase and the amount of this increase and the issue price of new shares shall not authorize the Board of Directors of these authorities.

2. The nominal value of new shares should be equal to the par value of original shares, and the General Assembly may decide to add a regular premium to the nominal value of shares and to determine the amount and the premium added to the legal reserve reached even half of the capital.

2-2-3.Extraordinary transactions, including the transfer of all or substantially all assets that in effect result in the sale of the company.

Regarding to extraordinary transaction including the conversion of all assets or a large part of them, which results in the sale of the company referred the Yemeni Banks Law in the Article (10) that all Yemeni banks are not have the right to sell all or any significant portion of its assets exceeds the amount determined by the the central bank only with prior consent of it and the conditions and procedures associated with this approval. The Central Bank may issue a decision to revoke any approval issued under this paragraph if it finds that its approval was issued based on incorrect data and the Bank on the implementation of this and has the right to appeal the decision before the court within thirty days from the date of announcing the true declaration .

2-3.Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings:

2-3-1.Shareholders should have the opportunity to ask questions to the board, including questions relating to the annual external audit, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations.

Regarding to the opportunity for shareholders to ask questions to the Board of Directors, including questions relating to audit the external annual and propose to discuss items on the agenda of public meetings, and propose decisions are subject to reasonable restrictions indicated in article (163) of the Yemeni Companies Act “Each shareholder has the right to discuss topics on the agenda of the General Assembly and questioning board members and observers about it, may make up any questions before the Assembly meeting at least five days and every condition in the system purports to deny the shareholder the right to ask questions or interrogation is invalid.

2-3-2. Effective shareholder participation in key corporate governance decisions, such as the nomination and election of board members, should be facilitated. Shareholders should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval.

Regarding the above paragraph the Yemen corporate law includes in Article (163) that “Each shareholder has a number of votes in the General Assembly equal to the number of his shares.

2-3-3. Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.

Regarding the above paragraph the Yemeni companies law includes in the Article of (158) that it considered the presence of a shareholder’s guardian or trustee in the company or the representative of the legal person shareholder in a legal presence to the shareholder's original General Meeting, even if that parent or guardian or a representative of the legal person is shareholder in the company.

2-4. Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed:

Regarding this matter include the Yemeni Banks Law Article of (14) that any bank has not the right to pay any share of the profits or advertising them or credit them for the benefit of shareholders or make any transfer from the account of the benefits only after all its expenses out of capital (including initial expenses and commission expenses of incorporation and sale of shares and the brokerage and any other losses or disbursements is not the tangible assets) have been fully covered and have carried out the provisions of this law and have obtained the prior written consent of the Central Bank.

2-5. Markets for corporate control should be allowed to function in an efficient and transparent manner:

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

2-6. The exercise of ownership rights by all shareholders, including institutional investors, should be facilitated.

The Yemeni Companies Act stated in the Article of (81) the founders should be, within fifteen days from the date of closure of the subscription that let subscribers to the Constituent

Assembly, shall not exceed the period between the date of the invitation and the date of the meeting three weeks and not less than ten days, In all cases, the meeting may be held before the expiration of twenty days from the date on which it receives the report of the founding committee of experts on the valuation of shares in kind. And each subscriber - regardless of the number of his shares - the right to attend the Constituent Assembly.

This item includes two main items as follows:

2-6-1. Institutional investors acting in a fiduciary capacity should disclose their overall corporate governance and voting policies with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights.

In this regard the Yemeni Companies Act include the in the Article of (145) Each member of the Board , each manager has to submit to the Board of Director at its first meeting after his appointment in recognition of the owner of the company and the assignment of loans issued in his name or on behalf of Wife or minor children, as well as any change in these instruments and this includes recognition of the date of each separately and the number of shares or bonds and loans covered by the purchase price or sale is isolated by virtue of the law anyone who violates the provision of this paragraph. And the company is a special record to prove it owned by each member of the board of directors and every director has his name or on behalf of the spouse or minor children of the shares of the company and every change is assigned to this property.

2-6-2. Institutional investors acting in a fiduciary capacity should disclose how they manage material conflicts of interest that may affect the exercise of key ownership rights regarding their investments.

Regarding the above, ensure that the Yemeni Companies Act in the Articles of (132) (133) (146) the following:

1. A director of joint-stock company or any other user that it is permanent or temporary or incidental to do any work in any other joint-stock company only after obtaining a license from the Board of Directors renewed each year.
2. May not without the approval of the General Assembly to conclude any contract or doing any work be a members of the board of directors to contribute or a directors personal interest which the exception of business and contracts that are the path of public tenders if the board member

or manager is the best offer. A member of the Board or the Director must be to inform the Board, with his personal interest in the business and the contracts are for the company proves that such communication in the record and may not participate in the vote on the decision regarding the business or contracts in question. Chairman of the Board Report of the General Assembly when it convenes business and contracts where one of the members of the board of directors or director has a personal interest, and must be accompanied by a report from an auditor's report.

2-7.Shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic shareholder rights as defined in the Principles, subject to exceptions to prevent abuse:

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

3. THE EQUITABLE TREATMENT OF SHAREHOLDERS:

3-1.All shareholders of the same series of a class should be treated equally:

Yemeni Companies Act includes in the Article of (163) as we have stated in (2-6-2)

3-1-1. Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress.

In this regard, the Yemeni Companies Act includes in the Article of (154) that members of the Board of Directors be asked on compensation for the damage caused to the shareholder or others because of their mistakes.

3-1-2.Impediments to cross border voting should be eliminated.

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

3-1-3.Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

3-2.Insider trading and abusive self-dealing should be prohibited

Yemeni Companies Act includes in the Article of (163) as we have stated in (2-3-1).

3-3.Members of the board and key executives should be required to disclose to the board whether they, directly, indirectly or on behalf of third parties, have a material interest in any transaction or matter directly affecting the corporation.

In this regard, the Yemeni Companies Act includes in the Article of (130) and (133) that should not be a Member of the Board, any public office, and is considered null and void the election of the employee to membership of the Board of Directors in the name of his job.

A person who is a member of the board of a bank or one of the companies in which the State or other bodies, institutions and public companies, including at least 10% of its capital to participate in his personal capacity or as a placeholder for the others in the membership of the board of directors of any other bank or any other joint-stock company.. Any person who occupies the post of Director or any other job in the bank or a company referred to in the preceding paragraph that the permanent of any work in another bank or a company contribution of the other, and the consequent violation of the provisions of this article as a violator having resigned from his job at the bank or company.

4. THE ROLE OF STAKEHOLDERS IN CORPORATE GOVERNANCE:

The role of stakeholders in corporate governance included as following:

4-1.The rights of stakeholders that are established by law or through mutual agreements are to be respected.

The Yemeni Companies Act included in the Articles of (138) (139) that the Board of Directors meets at the invitation of President of the Council or at the request of on third of its members at least. And the Board of Directors must meet at least six meetings during the financial year. Shall not expire two months without a meeting of the Council. It can also be the meeting of the Board of Directors is true only if attended by half the number of its members at least, unless the system provides the company a greater number or percentage. The resolutions of the Council by a majority vote of those present, in the case of a tie the side of the President.

4-2.Where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.

The Yemeni Companies Act contains in Articles of (152) , (153) , (154) the following:

Members of the Board of Directors should be responsible in front of the company and shareholders, if they mismanaged its affairs, or abused, or violated the provisions of this Act or in the company and every requirement to the contrary are void.

Is the responsibility of all members of the Board of Directors if raised the wrong decision was the unanimous views of the members, and the decisions of the majority do not ask them who opposed the condition to prove their objection expressly in the record, nor is the absence from attending the hearing where the decision was a reason for the exemption from liability only If found to be aware of the absent member of the decision or learns of it and not being able to challenge it.

If more than one member participates of the error in front of the company, they will be responsible solidarity and responsibility distributed among them as far as the share of each of them in the wrong joint. And members of the Board of Directors are asked on compensation of damage to the shareholder or third parties caused by their mistakes.

The auditor be in charge by the company to compensate the damage inflict because of the errors that occur by him at the implementation of his work..

4-3.Performance-enhancing mechanisms for employee participation should be permitted to develop:

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

4-4.Where stakeholders participate in the corporate governance process, they should have access to relevant, sufficient and reliable information on a timely and regular basis.

1. Each bank should do as following:

A – It should put in a prominent place in each branch or office in the Republic, throughout the year a copy of its last annual balance sheet which approved by the chartered accountant.

B - To submit to the Central Bank within four months from the end of its financial year a copy of its last annual balance sheet which approved by the chartered accountant, and to be published this balance sheet in the Official journal and in a daily newspaper and at least one widespread issue in the Republic.

4-5.Stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing this.

The Yemeni Banks Law contains in the Article of (32) that if the central bank that the inspection has revealed that the bank manages on its way illegal or improper, or that there is a deficit in its capital, it can be to do:

A - To request the Bank to take some specific actions, as determined by the central bank is necessary to correct the situation, which may include but not limited to compliance with the plan agreed with the Central Bank -suspension of payment of dividends and bonuses - forced sale of assets is fundamental - to reduce assets and operating – Comment lending additional to specific borrowers - to do the audit required - in extreme cases, the liquidation of the Bank's activities.

B - To appoint a person sees the central bank that has competence and experience required to advise the bank on the steps to be taken to remedy the situation and determine the fees to be paid by bank.

C - To manage the bank.

4-6.The corporate governance framework should be complemented by an effective, efficient insolvency framework and by effective enforcement of creditor rights.

The Banks law includes in the articles of (13) (11) (43) in this regards as follows:

1. Each bank shall maintain liquid assets in accordance with the instructions specified by the Central Bank, as the central bank sets a period of time to handle the increase or decrease in the amount of liquid assets.

2. The Central Bank and the approval of its board of directors to put its hand on any bank operating in the Republic, and in the following cases:

A - If unable to comply with the orders and instructions of the Board of Directors of the Central Bank and its policies.

B - If the bank or suffered a deficit in the capital of the bank.

C -To be exercised or done the work of any of the branches are not safe in the management and maintenance work, or that the practice is to work illegally.

D - To be the Bank's position is sound, or is insolvent and would harm the interests of depositors.

E - The Bank has violated any of the provisions of this Act or regulations of the Central Bank. And - if it is a branch of a foreign bank, and was its main branch for the liquidation or bankruptcy.

3. Must be permanently kept by the bank's minimum regulatory capital determined by the Central Bank from time to time.

5. DISCLOSURE AND TRANSPARENCY:

The rules of corporate governance on the process of disclosure and transparency include:

5-1. Disclosure should include, but not be limited to, material information on:

5-1-1. The financial and operating results of the company.

Yemeni firms law included in the Article of (92) that the Board of Directors to be published each year in the official daily newspaper within two months from the date of approval of the General Assembly on the accounts - which concluded the financial year balance sheet and final accounts and a list of board members and public accountants.

5-1-2. Company objectives:

Yemeni Corporate Governance Guidelines issued by (YBC) in the item of (11) that the company should adopt mechanisms and culture of appropriate transparency and disclosure by giving partners and other stakeholders access - in time - to sufficient information and adequate for the performance of the company's financial and objectives, and ownership the majority of the quotas or shares, voting rights, and policies of compensation and allowances of the Board and senior managers, and transactions with related parties, and the structure of governance and policy. It should also be disclosed information in accordance with International Financial Reporting Standards, International Accounting Standards, and International Standards on Auditing (IFRS , IAS.ISA) with the exception of conflicts with the standards adopted in the local laws and regulations.

5-1-3. Major share ownership and voting rights:

The Yemeni Companies Act contains in the Articles of (134) (122) (159) (163) the following:

1. A member of the Board of Directors must be a shareholder of the Company. And with the exception of representatives of government and legal persons in the Board must be a member of the board of directors of joint-stock company an owner of the number of shares equivalent to at least 2% of its capital, may, however, that a member must be the owner of a number of

shares not less than the time of his election than Yemeni Riyals 30000, and requires the Chairman of the Board that he would have twice the number of shares required from the member, due to the stock prices in the stock market or to the nominal value of shares if the company were not restricted in these markets.

2. Announces an invitation shareholders of the General Assembly in the daily official and at least one must be announced before the deadline for the fifteen days at least, may, however, merely invited on the date mentioned letters registered are sent to all shareholders and should include a declaration calling on the agenda. Each shareholder and the number of votes in the General Assembly equal to the number of shares.

5-1-4. Remuneration policy for members of the board and key executives, and information about board members, including their qualifications, the selection process, other company directorships and whether they are regarded as independent by the board.

In this regard, the Yemeni Companies Act contains in the Articles of (137) (153) the following: The Company's system shows the determining the Directors' remuneration taking into account the provisions prescribed in the following paragraphs.

1. If the reward was set at a particular company's earnings is not permissible to exceed this ratio is 10% of net profit after deducting the amounts mentioned in Articles (191 192) of this law is followed in the distribution of this bonus between; members of the Council the provisions set forth in the Company's or in the Rules of Procedure of the Council.

2. If the reward board member appointed or paid attendance allowance for meetings or other in-kind benefits is not dictated by the nature of the work the company is not permissible to increase the reward mentioned annual limit determined by the executive regulations of this law, both for the Member of the Board of Directors or for the Chairman of the Board.

5-1-5. Related party transactions:

The Banking Law includes in the Article of (35) in this regard are as follows: Each board member of the Bank holds a post or have property in contravention of, directly or indirectly with the interests of the bank or with its duties towards the bank said in a meeting of the Board of Directors of the Bank, indicating the nature and the extent of the conflict and should not be involved member of the Board of Directors to discuss or attempt to influence any decision on any matter incompatible with his interests.

5-1-6. Foreseeable risk factors.

Yemeni Corporate Governance Guidelines issued by (YBC) in item (20) the joint-stock companies, financial institutions and banking , to disclose the risk: It must include the information that is disclosed - risk limits and periodic reviews related to it, including strategies for controlling the risks, and management, and effectiveness of these strategies, and monitor internal controls.

5-1-7. Issues regarding employees and other stakeholders:

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

5-1-8. Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented:

Yemeni Corporate Governance Guidelines issued by (YBC) in item (21) the joint-stock companies, financial institutions and banking - to disclose aspects of their governance: where to corporations and financial and banking institutions to disclose to the public and regulatory bodies ,their goals, and structure of regulatory and administrative infrastructure, and its ability to adapt to changes in the market; This includes information about: the structure of the legal establishment, the structure of the Board and its responsibilities, and structure of executive management, the reasons for the disclosure implications of the parties mentioned, and competencies, and expertise, and incentive structures; including policies, pay allowances and compensation for officials and staff, and the role of the Governing Council in determining compensation , and the amounts of compensation, and organizational structure of the transactions with related parties and nature and extent.

Islamic banks also should be - in particular - to disclose how to form a legitimate oversight bodies and work, the CIS, and a distribution of profits.

5-2. Information should be prepared and disclosed in accordance with high quality standards of accounting and financial and non-financial disclosure.

There are no legal provisions relating to paragraph referred to above in Yemen's legislation. Except Yemeni Corporate Governance Guidelines issued by (YBC) in item (11) which we have stated it in (5-1-2).

5-3. An annual audit should be conducted by an independent, competent and qualified, auditor in order to provide an external and objective assurance to the board and

shareholders that the financial statements fairly represent the financial position and performance of the company in all material respects.

The Yemeni Corporate Governance Guidelines issued by (YBC) in item (12) should be annually audited by a chartered accountant independent must be a Certified Public Accountant independent audit annually; in order to secure the confirmation of an external and objective for the Council and partners - that the financial statements represent the location and performance of financial of the company at all levels properly. It also should ask the company - at a minimum - the regular rotation of the main partner in the organization in charge of external audit. And must be prohibited Chartered Certified Accountants to provide any services to the company non-audit.

5-4.External auditors should be accountable to the shareholders and owe a duty to the company to exercise due professional care in the conduct of the audit.

The Yemeni Companies Act contains in the Articles of (183-182) that “The auditor should not broadcast to the shareholders in the General Assembly or to what other secrets to stop him from doing his job because of the company and him to follow up with insulation to make him pay compensation. And the auditor be responsible in front of the company for compensating the damage due to inflict on him the errors that occur in the implementation of work.. And if the multiplicity of observers involved in error by the company were responsible solidarity. And fall liability suit mentioned in the preceding paragraph, the lapse of years from the date of the General Assembly following the report of the auditor and if the act is attributed to the auditor to be a crime not fall claim responsibility, but the fall of public proceedings. Auditor is asked to compensate the damage caused to the shareholder or third party because of his mistake.

5-5.Channels for disseminating information should provide for equal, timely and cost-efficient access to relevant information by users.

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

5-6.The corporate governance framework should be complemented by an effective approach that addresses and promotes the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from

material conflicts of interest that might compromise the integrity of their analysis or advice.

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

6. THE RESPONSIBILITIES OF THE BOARD:

Corporate governance principles issued by the (OECD) included of the responsibilities of the Board of Directors the following:

6-1.Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.

The Yemeni Companies Act contains in Article (139) that “the vote on the decisions of the Board of Directors Board of Directors of the company personally, and by the member himself, may not be a power of attorney, and may not be by correspondence. Yemeni corporate governance guidelines issued by(YBC) Included in the item (13) that “ should be members of the Board are eligible to fill their positions, and that meet the necessary conditions which should specify in advance, and have a clear understanding of their role in the corporate governance framework and be able to exercise their functions in relation to the affairs company. The Board should work to implement continuing education programs for members of the Council; to enable them to perform their responsibilities better.

6-2.Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.

Yemeni corporate governance guidelines issued by(YBC) Included in the item (8) it must be treated as shareholders of the same class are treated equally, and must bear-share the same rights, as well as that all shareholders are able to obtain information relating to the rights associated with quotas and shares how all categories.

6-3.The board should apply high ethical standards. It should take into account the interests of stakeholders.

The Yemeni banking law included in article (34) that each board member or director or employee of any bank management specialist will depend on to maintain that position in the following cases:

A - If he declares bankruptcy or inability to fulfill its obligations towards his creditors.

B - If convicted of any crime involving moral turpitude or dishonesty.

6-4.The board should fulfill certain key functions, including:

6-4-1.Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.

The Yemeni Companies Act contains in Articles (142 143) the following:

1. The Board of Directors put internal systems and regulations to organize the work and determine the terms of reference and the rights and duties of employees, taking into account the provisions of the laws and the provisions stipulated in the Law and the Company. And oversee the maintenance of records and books.
2. The Board shall distribute the work among its members in accordance with the nature of investment undertaken by the company, and the Board may be members or from other committees to study referred to it from the issues and reporting, the Board may be assigned to one of its members or people from the other to do a particular job or a contract deal with the specific grant of authority to do that, and of the Council in commissions each time a solution by being isolated from or were hired to do some work.

Yemeni corporate governance guidelines issued by (YBC) Included in the item (16) should be available for sound risk management as both the Board and executive management to understand aspects of enterprise risk, and to ensure that capital ratios reflect this risk in an appropriate manner.

6-4-2.Monitoring the effectiveness of the company's governance practices and making changes as needed.

There are no legal provisions relating to paragraph referred to above in Yemen's legislation.

6-4-3.Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning.

The Yemeni Companies Act given in Article (129), we find that it allows the Chairman of the Board or his deputy or any member of the Board that the function of General Manager of the company and this is incompatible with the principles of OECD.

Regarding this Yemeni corporate governance guidelines of item (13) some of the considerations to be possible alternatives are as follows:

1. Appointment of a Deputy Executive Director; be accountable to the Board and part of it.
2. The appointment of a majority of independent directors.
3. Companies should consider the possible appointment secretary for the Board is not a member, or executive director, or employee of the company, in addition to its role in preparing and arranging for meetings of the Board, and recording minutes of board and saved. It also has a fiduciary obligation to ensure respect for the Board action, and that the information related to the company are communicated correctly to all members of the Board, members of committees and management.

6-4-4. Aligning key executive and board remuneration with the longer term interests of the company and its shareholders.

In this regard, the Yemeni Companies Act includes in the Article (143) that, with the exception of fixed remuneration in the company system for the Board, the President of Board does not deserve or its members any remuneration for what they have to do the company's additional work.

6-4-5. Ensuring a formal and transparent board nomination and election process.

The Yemeni Companies Act included in articles (124-125-128-130-134) the following:

1. General Assembly elects board members by secret ballot in writing and may be re-elected unless the Company otherwise.
2. The Board of Directors shall elect each year from among its members a Chairman and Vice-President is replaced in his absence, the Board shall appoint the secretary of its choice from among its members or others, with a Ministry with a copy of the decisions of the election of the president and his deputy and members of the Commissioners and each amendment in the composition of the Board.
3. A person who is a member of the board of a bank or one of the companies in which the State or other bodies, institutions and public companies, including at least 10% of its capital to participate in his personal capacity or as a placeholder for the others in the membership of the board of directors of any other bank or any other joint-stock company.. Any person who occupies the post of Director or any other job in the bank or a company referred to in the preceding paragraph that the permanent of any work in another bank or a company contribution

of the other, and the consequent violation of the provisions of this article as a violator having resigned from his job at the bank or company.

6-4-6. Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.

The Yemeni Companies Act included in articles (152-153-154) the following:

1. The Board Members accountable in front of the company and shareholders, if they mismanage its affairs or abused or violated the provisions of this Act or in the company and every requirement to the contrary is void.
2. If more than one member participates in making the error, they be accountable in front of the company in responsible solidarity and responsibility distributed among them as far as the share of each of them in the wrong joint.
3. The Board members have been asked to compensate the damage caused to the shareholder or third parties caused by their mistakes.

6-5. The board should be able to exercise objective independent judgment on corporate affairs.

Yemeni corporate governance guidelines issued by (YBC) Included in the item (13) as we have stated in (6-1).

6-6. In order to fulfill their responsibilities, board members should have access to accurate, relevant and timely information.

The Yemeni Companies Act contains in Articles (142 143) as we have written in (6-4).

Conclusions:

Evaluation the Yemeni legislation in light of OECD Standards of corporate governance, find out that Yemeni legislations are good comparison to others, there is consistency and agreement to some extent with OECD Standards, but the main problem which facing Yemen is the suffering of the legal system has nothing to do, but the same laws and low rates of compliance and weak implementation. That's really what suffers of Yemen.

Therefore, researchers show the summary of the contents of the Yemeni legislation regarding corporate governance which agreement with OECD Standards as following:

1- The Right of Shareholders:

1-1. The Rights of Major of Shareholders:

Rights of major shareholders are effectively guaranteed by Yemeni Law, as follows.

The Companies' Law permits only a single class of shares, and no restrictions on voting, participation in the General Assembly in person or by proxy, or dividend rights of paid up shares is permitted at all. All shares are legally equal, and control of a simple majority of shares ensures the ability to pass any ordinary resolution in an ordinary General Assembly.

Control of a three-quarters majority confers an unassailable power to call and pass resolutions in an Extraordinary General Assembly, including increasing or decreasing the capital or amending the Articles. Voting rules effectively mean that any major shareholder can obtain one or more seats on the Board, thereby having a direct voice in day-to-day management.

1-2. The Rights of Minority of Shareholders:

Minority shareholders have very limited rights, particularly in a situation where a single block of related shareholders control an absolute majority of capital. If there is no dominant block, shareholders with seats on the Board will tend to run things, and those without Board representation will effectively have more limited rights.

A group of shareholders controlling more than 25% of capital can request calling an Extraordinary General Assembly, and block resolutions to change the Articles or capital, but relatively little else. A group controlling 10% of the capital may demand call a General Assembly meeting, request a motion to dismiss Directors, or demand a secret ballot in the General Assembly, but little else. A group holding 5% may request inclusion of items on the agenda of the General Assembly. A shareholder must hold a minimum of 2% to serve as a member of the Board (4% to serve as Chairman). These minimum shareholdings must be deposited in a bank as security and may not be disposed of while the shareholder remains on the Board.

2- Disclosure and Transparency:

This is a major weakness of existing Yemeni laws, particularly in relation to the government's stated intent to establish financial markets. Existing laws specify very few requirements.

2-1. Financial Statements:

Article 149 of the Companies Law requires a "balance sheet, profit and loss account, a report on the Company's operations during the financial year, its financial position, and the method

proposed for the distribution of the net profits.” A JSC must also publish its financial statements, auditors’ report, and a “comprehensive summary” of the Board’s annual report in an official daily newspaper.

2-2. Board Report:

All JSCs are subject to the following legal restrictions and disclosure requirements with respect to related parties:

- Directors are not entitled to any compensation except as authorized by the Articles of Association and approved by the OGA;
- No contract may be made in which a Director or manager has an interest without the approval of the OGA, unless the award was a result of winning a public tender;
- Directors may not vote in Board meetings or the General Assembly on any matters in which they have an interest, financial or otherwise;
- Directors and managers are prohibited from participation in any business or activity that competes with the company;
- Directors are prohibited from obtaining loans or guarantees from the company, except in the case of a bank, which may only grant credit on the same arms-length basis that it is granted to third party customers;
- Directors and managers must report the share- and bond-holdings of themselves and their immediate family members, and any changes in these holdings, to the Board at the earliest Board meeting following their appointment or the change in holdings;

The researchers think that there is a consistent significant in laws and regulations of Yemen with the rules and principles of corporate governance issued by the (OECD), but it requires a review in each of the Yemeni legislation in order to unite in order to repeat located where, where it is mentioned in the Companies Act, then repeated in the banking law, and so will collect overlap and lack of clarity, as well as that there is some discrepancy between the legal provisions in the Companies Act and the Banking Law, in addition to the absence of a clear stipulations explicit on some of the things comes the law or legislation or instructions generally making the area open to the gaps and and fraud laws and legislation, and that cannot be in favor of the spirit of laws and regulations. And the rules and principles of governance (OECD), where it includes the repetition of many things,

especially when the interpretation of the six basic rules in terms of (OECD). In addition, the researcher noted the absence of legal provisions is clear and explicit on the following topics:

1-The Rights of Shareholders and Key Ownership Functions:

1-1. Markets for corporate control should be allowed to function in an efficient and transparent manner.

1-2. Shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic shareholder rights as defined in the Principles, subject to exceptions to prevent abuse.

2-The Equitable Treatment of Shareholders

2-1. Impediments to cross border voting should be eliminated.

2-2. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.

3-The Role of Stakeholders in Corporate Governance

3-1. Performance-enhancing mechanisms for employee participation should be permitted to develop:

4-Disclosure and Transparency

4-1. Issues regarding employees and other stakeholders.

4-2. Channels for disseminating information should provide for equal, timely and cost-efficient access to relevant information by users.

4-3. The corporate governance framework should be complemented by an effective approach that addresses and promotes the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from material conflicts of interest that might compromise the integrity of their analysis or advice.

5-The Responsibilities of the Board

5-1. Monitoring the effectiveness of the company's governance practices and making changes as needed.

5-2. Overseeing the process of disclosure and communications.

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