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Disclosure Standards of Listed Companies”

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Ort, Datum

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To my family

for their support

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List of Abbreviations

BPH	Bank Przemysłowo-Handlowy Spółka Akcyjna
CCC	Commercial Company Code
CCCG	Combined Code of Corporate Governance
CEO	Chief Executive Officer
EVA	Economic Value Added
EFTA	European Free Trade Association
EU	European Union
FDI	Foreign Direct Investment
FOB	Responsible Business Forum
GDP	Gross Domestic Product
NASDAQ	National Association of Securities Dealers Automated Quotations
NBP	National Bank of Poland
NIF	National Investment Fund
NYSE	New York Stock Exchange
OECD	Organization for Economic Co-operation and Development
PAIiIZ	Polish Information and Foreign Investment Agency
PBK	Powszechny Bank Kredytowy Spółka Akcyjna
PFCG	Polish Forum for Corporate Governance
SEC	Securities and Exchange Commission
TDI	Transparency Disclosure Index
UK	United Kingdom
US	United States
WSE	Warsaw Stock Exchange

1. Introduction

The necessity of good corporate governance is not a new issue and goes back to the well known work of Berle and Means (1932). Already in the 1930s the authors discussed arising difficulties associated with the separation of ownership and control and warned against the concentration of economic power in the hands of managers of large companies at the simultaneous absence of appropriate and efficient control mechanisms.

In the successive years scientists engaged in the field of business management and enhanced the theories of Berle and Means. Due to major economic crisis, the topic of corporate governance gained even more importance in the recent years and has therefore become the subject of multitudinous theoretical papers and empirical studies. The takeover wave of the 1980s in the United States (US), scandals like Enron and WorldCom, the bursting of the dot.com bubble, corporate collapses, and management failures are some examples that have shown the need for tighter legislation and effective monitoring instruments. Additionally, the growing number of large and international operating companies, global competition, and the rising importance of private and institutional investors as capital source require sound corporate governance. Therefore, reliability, accountability, and transparency of a company and its management are relevant factors when searching for external sources of finance.

Good corporate governance structures have to take corporate and economy-specific circumstances into account such as the degree of separation of ownership and control, ownership identity, internal and external monitoring mechanisms, the market for corporate control, product market competition, and the legal corporate environment. The identification of such basic characteristics and tendencies allows to suggest certain practices in order to establish better cooperation by reducing discrimination and the misuse of control. Since the proper functioning of corporate governance is fundamental for good performance, growth, and economic stability it can be seen as an important basic requirement for economic welfare and upswing.

Even in market economies there are substantial challenges on corporate governance which increase tremendously in transition economies. Countries with socialistic background had to establish first of all competition and basic market structures in order to develop market economies of industrialized countries. Long lasting systems of state control had left their mark on companies and business operations. Political, social, and economic reforms were undertaken in order to enforce broad restructurings of these prevalent systems. Corporate governance had to be revolutionized and new mechanisms had to be defined including fundamental changes in legislation and in corporate behavior. These challenges shall be illustrated on the chase of Poland that left planned economy behind and developed to a market-oriented system during its transition process of the 1990s. Thereby specific focus lies on the creation and execution of corporate governance mechanisms, related strengths and weaknesses, and their impact on company performance and economy.

Since the creation of an extensive legal corporate framework does not simultaneously imply the enforcement of regulations and a widespread commitment to governance standards there is an ample field of further considerations. Unfortunately, many Central and Eastern European countries show weak enforceability of existing laws which crucially undermines the effectiveness of existing regulations. The enforcement, monitoring, and sanction of transparency and disclosure guidelines substantially varies among countries and shall be closely examined in the case of Poland. Therefore, the website presentation and compliance with mandatory disclosure requirements in annual reports will be analyzed in order to get a general idea of the real effectiveness and efficiency of governance standards in Poland.

Recapitulatory, this diploma thesis attempts to give an overview on essential corporate governance issues and provides specific considerations on this topic with respect to the current governance standards in Poland. Finally, the actual quantity and quality of the compliance with disclosure standards is examined in detail. Therefore, the diploma thesis is structured as follows:

Chapter 2 provides a general introduction in basic principles of corporate governance and shortly discusses the separation of ownership and control. Chapter 3 characterizes common corporate governance mechanisms such as the management and supervisory board, the market for corporate control, and ownership structures. Additionally, this section identifies important issues and practices of corporate governance. Chapter 4 dwells on two prevalent systems of corporate governance, the outsider system as common in Anglo-Saxon countries and the insider system prevalent in Continental Europe and Japan.

Chapter 5 refers to transition economies and fundamental challenges of reform processes. Chapter 6 focuses on specific tasks and methods used in Poland's transition from planned to market economy. Chapter 7 provides an overview of the corporate governance system in Poland and examines strengths and weaknesses of the current framework. Chapter 8 critically examines disclosure standards in Poland by discussing research results of various authors. Chapter 9 provides case studies on four Polish listed companies with respect to their website disclosure and their compliance with mandatory disclosure regulations. Chapter 10 concludes.

2. Basics Principles

In literature many different definitions of corporate governance can be found. This section provides a selection of diverse approaches of well-known authors and recommendations of institutions. Additionally, a short look at historical and theoretical backgrounds of the separation of ownership and control will be presented.

2.1. Definitions of Corporate Governance

Zingales (1997) connects the issue of corporate governance explicitly with the theory of the firm. According to the authors view, the term governance is comparable with the exercise of authority, direction and control. The allocation of control affects the division of economic and contractual surplus which especially matters in a world of uncertainty and incomplete contracts. Therefore, Zingales explains corporate governance as:

> "[..] a complex set of constraints that shape the ex post bargaining over the quasi-rents generated by a firm."[1]

Quasi-rents are defined as the difference between what two parties actually generate together and what they could obtain in the market. The incomplete character of the initial contract between the principal and the agent shows the need for differentiation between decisions made ex-ante, when the parties enter into the relationship and those made ex-post, when quasi-rents are divided. Hence, corporate governance has to motivate investments that are not rewarded in the market.

Zingales restates the question of who should control the company in whose investments need to be protected more in the ex-post bargaining process. According to his remarks shareholders need most of the protection by appropriate control mechanisms because their investments are totally exposed to general business risks and other relationships, for example the relationships between the company and its suppliers, are better contractually protected than those to shareholders.

The perspective of Shleifer and Vishny (1997) examines the agency theory and the classic challenges connected with the separation of ownership and control. The authors address the issue that:

[1] Zingales, 1997, p.4

> "Corporate governance deals with the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment." [2]

Furthermore, Shleifer and Vishny state:

> "Much of the subject of corporate governance deals with the constraints that managers put on themselves, or that investors put on managers, to reduce the ex post misallocation an thus to induce investors to provide more funds ex ante."[3]

Because of unforeseen future events, the nature of incomplete contracts implies that most of the residual control rights stay at the managers' side and empower them to allocate investors' funds. Managers can expropriate funds, use transfer pricing methods to enrich themselves, or secure their own jobs even if they are no longer qualified to run the company.[4]

One method to align manager's interests with those of investors is to design incentive contracts that grant the manager different types of compensation. Additionally, investors have to exercise their control and information rights provided by law. But often the free-rider problem, generally faced by individual small investors, keeps them from actively participating in the monitoring of the management or bars them from information about current actions of the company. Large institutional investors and large creditors, such as banks, take their monitoring and participation possibilities more seriously than small individual investors, and influence management's decisions in the degree of their legal rights. Thus, legal protection of both minority and majority investors and the active participation of concentrated ownership parties are essential and complementary elements in good corporate governance.

Monks and Minow (1995) define corporate governance as:

> "[..] the relationship among various participants in determining the direction and performance of corporations."[5]

Coincident with many other authors, Monks and Minow state that although shareholders are seen as the owners of a corporation their actual influence and control is relatively small in contrast to that of managers. Shareholders are so diverse and

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[2] Shleifer and Vishny, 1997, p.737

[3] Shleifer and Vishny, 1997, p.743

[4] See Shleifer and Vishny, 1989

[5] Monks and Minow, 1995, p.1

widespread that it is difficult to see their relationships to the company in the sense of a traditional ownership of former times. The different interests of managers who run the business and shareholders who provide capital and own the company lead to the principal-agent theory. Besides the general framework of shareholder protection, Monks and Minow especially point out the monitoring role of the board of directors as the link between investors and managers.

Additionally, the Organization for Economic Co-operation and Development (OECD) published several recommendations on the topic of corporate governance, to be found in its OECD Principles of Corporate Governance. OECD defines corporate governance as follows:

> “Corporate governance involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined. Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interest of the company and its shareholders and should facilitate effective monitoring. The presence of an effective corporate governance system, within an individual company and across an economy as a whole, helps to provide a degree of confidence that is necessary for the proper functioning of a market economy.”[6]

The OECD principles[7] are intended as global benchmark to provide specific guidance in legislative and regulatory questions to both OECD and non-OECD countries. In 1999 the OECD put out their first statement to important corporate governance issues and revised it in 2004. Therein, the OECD identifies six basic fields of organizational concerns:

1. An effective corporate governance framework should aim to provide transparent and efficient markets in consistency with dominant legislation.
2. The position of the shareholders should be protected through sufficient access to information, through appropriate participation and consulting possibilities, and through sufficient legal protection of their rights.

[6] OECD Principles of Corporate Governance, 2004, p.11
[7] See OECD Principles of Corporate Governance, 2004

3. All shareholders, including minority, institutional, and foreign shareholders, should be treated alike.
4. The role of the stakeholders and their rights should be established by law or mutual agreements to enhance the cooperation between corporations and stakeholders to generate good sustainable relationships.
5. Disclosure and transparency of the financial situation, the performance, the ownership, and the governance of a corporation are basic requirements of good corporate governance.
6. The board has the responsibility for an effective monitoring of the management. Additionally, the accountability of the board to the company and its shareholders is seen as an essential issue.

Recapitulatory, one can say that the need for corporate governance arises from the separation of ownership and control and therewith connected agency problems. Altogether, minority shareholders, institutional investors, creditors, the board of directors, the market, and last but not least, the state through its enforced legislation have to contribute essentially to a well-functioning governance system.

2.2. Separation of Ownership and Control

For a better understanding of circumstances and theory behind corporate governance, this section provides a short discussion of basic backgrounds.

2.2.1. Historical Background

Primary corporations in the seventeenth century were of very simple nature. The traditional corporation was relatively small and owned by only one or a few persons or by a family. Owners themselves or confidents of the owners ran the company, made day-to-day decisions concerning operational issues, capital investments, and usage of earnings. Conflicts with stakeholders, as employees, suppliers, or recipients, were as well existent but not at all comparable to nowadays appearing problems and dimensions. Generally it was in all parties' interest that the corporation performed smoothly and gained adequate returns.

Berle and Means (1932) are one of the first authors who discussed the upcoming reversal of the trend of corporate ownership at the end of the nineteenth century.

Emerging new corporate structures of large, mass-producing, manager-controlled companies brought unknown challenges for both company owners and legislation. Industrialized big companies needed large amounts of external capital to finance corporate investments. The number of shareholders increased steadily, power relations were bilateral and the classical entrepreneurial function was divided between executives and anonymous small equity investors, creating responsibility and monitoring problems. In the following fifty years both theoretical approaches and practical corporate law were affected by Berle's and Means' recommendations. In the 1980s major criticism on the work of Berle and Means became clamant because of a general collapse of trust in regulatory solutions of economic problems and of several economic enhancements. Capital markets eliminated excess capacity through leveraged acquisitions and buyouts, hostile takeovers, and divisional sales. However, apart from a few necessary adjustments Berle's and Means' work is still valid nowadays.[8]

The business environment of the twenty-first century is characterized by internationally expanding areas of business operations, the wave of technological and organizational innovations, the great need for capital investors, dispersed ownership, and empowered managers. If public legislation and monitoring through shareholders, boards of directors, and the market doesn't work effectively, the factual control over corporations will exclusively be in the hands of managers, opening great possibilities of abuse.

2.2.2. Theoretical Background

The agency theory provides a theoretical explanation of the problems arising from the separation of ownership and control. Jensen (2000) defines the agency relationship as:

> "[..] a contract in which one or more persons – the principal(s) – engage another person – the agent – to take actions on behalf of the principal(s) that involve the delegation of some decision-making authority to the agent."[9]

Following Jensen's remarks, the principal needs the agent to perform a special task which the principal cannot execute by himself. The agent provides special skills and qualifications for this task and receives a reward for his undertaken actions. Although all conditions of this relationship are specified in a contract concluded between the

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[8] See Bratton, 2000

[9] Jensen, 2000, p.137

principal and the agent uncertainty and information asymmetry lead to major difficulties between the principal and the agent. Uncertainty means unforeseen future events that may influence the outcome of business operations and cannot be specified ex-ante in the contractual agreement. Asymmetric information is on the disadvantage of the principal who is naturally worse informed than the directly involved business agent. Asymmetric information can be subdivided into hidden information, seen as information or qualification possessed by the agent but not by the principal, and hidden action, interpreted as information differences caused by certain actions of the agent that cannot be monitored by the principal.

Additionally, each party tries to maximize its own utility which implies that the agent will not always act in the interest of the principal. The principal can limit these opportunistic divergences by giving the agent appropriate incentives and by monitoring and limiting the deviating actions of the agent. The dollar equivalent of the reduction in welfare experienced by the principal as a result of the differences in utility maximization, the so-called residual loss, is also part of the agency costs. Moreover, it is costly for the agent to expend resources to guarantee not to take certain actions that harm the principal. These costs are called bonding costs and generally, both the principal and the agent face positive monetary or non-monetary bonding costs. According to this, agency costs are:

> "[..] the sum of 1. the costs of creating and structuring contracts between the principal and the agent, 2. the monitoring expenditures by the principal, 3. the bonding expenditures by the agent, and 4. the residual loss."[10]

There is no denying that the relationship between shareholders and managers perfectly fits the above presented definition of agency relationships. Managers (agents) need funds from shareholders (principals) to finance their business ventures, while shareholders need the skills and the specific know-how of managers to generate returns on their investments. Contractual agreements between shareholders and managers configure the usage of invested capital and the division of the gained surplus. Due to unforeseeable future events, these contracts tend to be incomplete and provide potential source of agency problems. Incomplete contracts and the special know-how of managers serve them with residual rights of control and give them an enormous range for self-interested behavior. Managers may undertake inefficient actions, as the expropriation of funds or transfer-pricing, which are extremely costly

[10] Jensen, 2000, p.86

from investors’ perspective. Managers may also assure their own jobs, although they aren’t qualified and capable anymore.[11]

Lest managers violate the contract between the company and the shareholders, shareholders have to monitor them and actively exercise their legal rights. Shareholders have inter alia the right to access business-specific information, to vote on important corporate-matters, and to elect the board of directors as internal monitoring entity. In this context often the so called free-rider problem arises which is characterized through the absence of shareholder activism. Mostly small shareholders may find it too costly or too exhausting to stay informed about corporate operations and to participate in voting procedures, and therefore blindly rely on the management itself or on the action of other shareholders. They devalue their own legal rights, give away the possibility to codetermine, and issue managers free tickets to do ‘whatever they want’.

Renegotiation of inefficiency producing facts ex-post is very difficult and will not provide a protection against new inefficiencies. A better solution may be to align the interests of managers with the interests of shareholders ex-ante by granting them long term incentives. Such an optimal incentive contract is determined by manger’s risk aversion, the degree of his decision-making and the liquidity of cash flows.[12] The close relationship between pay and performance helps to ensure that managers act on behalf of the shareholders and go for a stable and well-performing company. However, one problem of such contracts is that managers may abuse them and manipulate for example accounting numbers to increase their remuneration.

Additionally, agency costs are not only observed between shareholders and managers, but also between shareholders and creditors, and managers and creditors. Each party has different preferences on how the company’s resources should be used. Shareholders like to maximize the value of equity, prefer riskier investment policies than those that would maximize the total value of the company, and neglect the value of debt. In contrary, creditors play safe to get full repayment of their loans and undertake less risky investment policies than those that would maximize the company’s value. Managers prefer policies that benefit their compensation and facilitate their managerial life. These differing preferences can result in non-value maximizing behaviors, since information asymmetries between shareholders, managers and creditors complicate ex-ante contractual agreements and ex-post monitoring.[13]

[11] See Shleifer and Vishny, 1989

[12] See Stiglitz, 1975; and Holmstrom 1979 and 1982

[13] See Prowse, 1994

3. Mechanisms of Corporate Governance

Business environment involves multiple cross-linked parties and factors that contribute to corporate governance and benefit or suffer from each others actions. Corporate-internal as well as corporate-external forces shape the distribution of power and control. Several main mechanisms of corporate governance are the identity and degree of ownership concentration, the corporate-internal and corporate-external functions of disciplining management, and the institutional structures behind monitoring authorities and the board of directors. These factors will be discussed in the following.

3.1. Ownership Structure

The ownership structure of a company can be examined in terms of various identities of investors and in terms of high or low concentration of shareholdings.

3.1.1. Ownership Identity

The provided classification of ownership identities in this section mainly refers to Müller (2003).

Minority shareholders are common in many economies all over the world. Characteristically for dispersed ownership are both a very large number of shareholders and a very small amount of shares held by each of them. Although investors buy shares identifying themselves with the company or benefiting from other ideological values, a rational acting shareholder only provides capital to a company in return of obtaining a claim on the profits of this company. Returning to agency problems, on the one hand, shareholders want to see management maximizing the value of the company and consequently the value of their shares, but on the other hand, with highly dispersed ownership, no single shareholder can directly control management. The exercise of voting rights and undertaken monitoring actions are likely to be insignificant. Sufficient monitoring requires the investment of resources in order to collect information and to be well informed about corporate operations. Even if minority shareholders were willing to sacrifice these resources, they would fail in influencing management's decisions due to their minority stake. Though minority shareholders could connect forming alliances with other investors to efficiently exercise their control rights over management, this is hardly observed in practice.

Institutional shareholders, as mutual funds or pension funds, typically hold larger stakes in multiple companies to maximize the value of their portfolios. Further, institutional shareholders tend to minimize the short-term risk of their investments. If company performance falls short of their expectations they can either participate actively in disciplining management or sell their shares. Actively participating, large shareholders can cover the agency problem in having both the interest in profit maximization and sufficient control over the assets of the company.

The free-rider problem may also occur among institutional investors as they reluctantly take on private costs for a public benefit. With increasing ownership stakes the free-rider problem decreases and investors become more active especially if costs can be shared.[14] Although active institutional investors are important to a well-functioning governance system, large shareholders can also turn to a major problem, if their interests differ from the interests of other stakeholders. This may reduce efficiency through adverse effects on the incentives of managers and employees who might reduce their firm-specific human capital investments.[15] Large shareholders tend to frequently act at the expense of minority shareholders, creditors, the management, and the employees by pursuing their own interest.

Banks can be substantial creditors of a company and/or holders of large ownership stakes of the same company. Holding large stakes a bank can directly exercise control on management through voting rights. Additionally, banks often hold seats on the board of directors and exert monitoring and control, as particularly common in Japan and Germany.

Commercial banks naturally pursue to maximize their profits. As creditors they want to receive complete repayment of granted loans and thus want the company to take projects with lower risk than those that might maximize the combined value of the company's debt and equity. As shareholders they expect optimal amounts in dividends and want to take higher risk than would be optimal for the company. This leads to a principle conflict of the goals of bank managers who exercise control over commercial companies and is not always consistent with the goal of maximizing the market value of these companies.

Managerial ownership stakes arise from two differing reasons. Either, the manager of the company simultaneously is the single owner and incorporator of that company or a family group splits ownership among themselves. Or, managers of public traded

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[14] See Charkham, 2005

[15] See Shleifer and Vishny, 1997

companies hold shares on the company they manage, due to granted stock options as part of pay-performance incentive contracts. In the presence of agency problems, tying executive compensation to performance links manager's welfare to shareholders' wealth and acts as internal governance mechanism. Although managerial stock ownership can motivate managers to care more about the interests of the shareholders and increases their sense of responsibility for the company, it can also create adverse effects on company's performance. Managers might expropriate their gained control, since an increase in control fosters the protection from disciplinary effects or takeovers.

The state can also act as large shareholder in a couple of cases. Typically, state-owned or government-controlled companies are founded to protect consumers from being exploited by a company in a natural monopoly situation. Such natural monopolies involve utility companies, railroads or postal services. Companies as airports, petroleum companies, or armament factories may belong to state-ownership in cases where national pride or national security require this way of control. Generally, state-owned companies are assigned to some ministry which monitors their operations and sets corporate objectives. Additionally, state-owned companies are sometimes used to polish a country's budget or its government policies by utilizing their revenues for other purposes. As profit maximization is not among major goals of state ownership, governments have few incentives to ensure that the enterprises they own are well run and nationalized companies sometimes even operate in deficit.
Privatization became extremely popular in recent years and in times of increasing competition. It exposes these companies to market competition and the management has to substantially reorganize the company in order to establish a profitable and well performing organization.

3.1.2. Ownership Concentration

One can mainly distinguish between dispersed and concentrated ownership. As stated by Demsetz and Lehn (1985) one big disadvantage of dispersed ownership is the greater incentive of shirking by single owners leading to poorer performance of the company. The costs of poor performance are shared among all owners and therefore one single owner only bears a small proportion of these costs. In contrary, with concentrated ownership a correspondingly higher proportion of benefits and costs arising from good or bad performance is borne by one owner and thus the incentive of shirking decreases.

Demsetz and Lehn (1985) examine several determinants that influence the structure of corporate ownership: the value-maximizing size of a company, the control potential faced by shareholders, and the existence of regulation.

The *value-maximizing size* of a company acts as major determinant of the ownership structure. With an increase of the viable size of a company both company's capital resources and the market value of ownership stakes increase. Higher costs of obtaining a given fraction of ownership promote widely dispersed ownership. Moreover, risk aversion and utility-maximizing behavior prevent shareholders from concentrating ownership in large companies where the cost of capital is high. Therefore, an inverse relationship between the size of a company and the concentration of ownership can be observed. The greater the value-maximizing size of the company the higher will be the degree of dispersed ownership.

The second factor influencing the concentration of ownership is the *control potential*, defined as the wealth gain of shareholders through effective monitoring of managerial performance. The control potential is linked to company-specific uncertainty and to the instability of company's environment. Operating in an unstable environment forces managers to make unexpected and complex decisions and shareholders find it more difficult and costly to monitor managerial behavior. Therefore, increasing economic uncertainty requires tighter control over management through a higher amount of ownership concentration.

Regulation of company issues acts as the third determinant of ownership structure. Systematic regulation reduces the control potential by restricting the freedom and options available to shareholders. Additionally, regulatory mechanism control and monitor companies and discipline management. Regulated companies are likely to have a lower concentration of ownership than unregulated companies.

3.2. Managerial Compensation

Through the separation of ownership and control, managers are executing value-fostering activities whereas shareholders are the residual claimants of these activities. The efforts of managers are often difficult to observe and direct control is too complex to ensure that mangers are acting in the interest of the shareholders. One way of dealing with these principal-agent problems is to set special incentive contracts for managers maintaining a close relationship between pay and performance. Tying executive compensation to performance, links managers' welfare to shareholders' wealth and acts as internal governance mechanism. Such an optimal incentive contract is determined by the manger's risk aversion, the degree of his decision-making, and the liquidity of cash flows.[16] Furthermore, managers should only be rewarded for the outcomes over which they have direct control.

There are many mechanisms through which compensation policy can provide value-increasing incentives, including an annual performance-based bonus, stock options, long-term incentive plans (restricted stock plans, multi-year accounting-based performance plans, pension plans), and performance-based dismissal decisions. The fixation of performance objectives to benchmark companies isolates specific industry or economy related factors as for example an overall up or downturn in economy. To ensure that the manager is not overexposed to risk, a certain percentage of base salary is generally included in total compensation. The total compensation plan composes of a selection of individually weighted single instruments.

Performance-based bonus systems are aimed for the fulfillment of given standards and goals. A standard based on the economic value added (EVA) is advantageous over accounting-based measures because the cost of capital is taken into account, and advantageous over market-based measures, because EVA is more controllable by managers.[17] EVA is the difference between the net operating profit after taxes and the weighted average cost of capital including the costs of invested equity. One disadvantage of EVA is that it acts as flow measure, does not take future cash flows into account, and could create adverse incentives for managers who have a decision horizon shorter than the life of the projects that are considered. Typically, a mixture of EVA-, accounting- and market-based measures is used to set the standard for the bonus system.

The most common payout schedule is the 80/120-type bonus plan. This means that no bonus is paid when performance falls below 80 percent of the standard, and that bonus is capped once performance exceeds 120 percent of the standard. The system works well if performance is somewhere in the middle of the 80/120 interval but is crucial at both its cap and its floor. On the one hand, if the year-to-date performance suggests that annual performance will exceed the required standard to achieve the bonus cap, managers will withhold effort and attempt to inventory earnings for use in the subsequent year. And on the other hand, if it becomes obvious that performance will fall below 80 percent managers will have no incentives to work hard, they even have incentives to reduce performance and bring forward expenditures to lower the budget standard of the successive year.

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[16] See Stiglitz, 1975, and Holmstrom, 1979 and 1982

[17] See Koch and Nenning, 2004

This difficulty can be avoided by establishing a bonus bank system whereas one-year's full bonus is not paid out immediately and a negative performance below the floor is memorized. This system implies that one part of the bonus is paid out to the manager immediately and that the other part is booked to a personal bonus bank. In case of a negative bonus, the bonus bank is charged with a corresponding negative entry. Consecutively, a pre-determined percentage of the accumulated deposit on the personal bonus bank is paid out to the manager each year. In this way, both performances above the cap and below the floor are regarded and the bonus system becomes more long-term oriented.

Stock options have become extremely popular in the past ten years, as the attraction of this remuneration instrument is its high sensitivity to stock price developments. Typically, those options can only be exercised after a certain duration and grant the owner to buy a pre-specified amount of shares at a pre-specified exercise price. If the stock price trades above the exercise price at expiration managers gain value in exercising the option, vice versa the option becomes worthless and option incentives powerless.

Koch and Nenning (2004) state that stock option programs are often divided into tranches, where managers receive one option package per year. These options are typically emitted 'at the money' which means that the exercise price of the option equals the current stock price. If so, management benefits from high stock price volatility because even if stock price does not increase in the long run every now and then tranches are emitted when the stock price is low. Another possibility is the emission of stock options for which the exercise price increases over duration. In this case the option only stays valuable when real value is created and return requirements of shareholders are exceeded. However, option programs may also cause adverse incentives since executives tend to manage short-term earnings at the expense of long-term value creation in order to boost the stock price.

Furthermore, levels of remuneration vary substantially among countries. Managerial compensation in the US heads the ranking, followed by the United Kingdom (UK), while Central-European countries are located far behind. US Chief Executive Officers (CEOs) earn 125 percent more than their UK counterparts and additionally the differences in the composition of pay levels are remarkable. UK CEOs receive a base salary of 31 percent, an annual bonus of 30 percent and long-term incentives or stock options of 39 percent of the total direct compensation. In contrast, US CEOs are remunerated much more through long-term performance-dependent parts and base salary amounts to only 10 percent, the annual bonus to 10 percent, and long-term incentives to 80 percent of the total direct compensation.[18]

Although incentive-compensation contracts have become very popular, there is no direct evidence that higher pay-performance sensitivities lead to higher stock market performance. Anyway, executive compensation should never be the only mechanism to ensure good corporate governance but rather be one instrument among various.

3.3. The Board of Directors

Boards play an important role in corporate governance since they are the internal control mechanism of the company and have the ultimate responsibility for the effective functioning of the business. The board of directors can hire, fire, and set the compensation of the CEO, supervise management's actions, and give advice to important strategic and economic questions or veto poor decisions.
The structure of boards and their relationships to the management varies among countries, primarily due to legislative differences. Two main styles are the one-tier and two-tier board system. One-tier boards combine the competence of management and control and consist of both inside directors who are concerned with business operations and outside directors who are responsible for the monitoring of the company. This structuring leads to more flexibility of the corporation and decreases asymmetric information problems. Special importance belongs to the duty of loyalty which means that board members should demonstrate unlimited loyalty to shareholders and to the duty of care which involves commitment, accuracy, and diligence of board members in decision making processes. Two-tier board systems involve two single independent boards, the management board and the supervisory board. The supervisory board monitors the management to ensure the interest of the shareholders and acts as a non-executive institution. The management board is self dependent, fulfils the tasks of business management, and acts in an executive way. One-tier boards are mainly common in the US, the UK, and other Anglo-Saxon countries, while two-tier boards are dominant in Continental Europe, as for example in Germany or Austria.

The board is the most important internal device to protect the rights of shareholders and to keep the management from undertaking inefficient or self-enriching strategies.

[18] See Conyon and Murphy, 2000

Referring to Jensen (2000), problems with corporate internal control systems are mainly caused by the insufficient-functioning of the board of directors. Jensen identifies major points that bear potential risk of inefficient monitoring.

Board culture is an important component of a possible monitoring failure. An accentuation on politeness and friendliness at the expense of truthfulness and directness in boardrooms may cause several failures in the internal control system. Although the culture of boards will not follow calls from policy makers, the press, or the academic community, it may change in response to new rules and practices by legislation or recognize that past practices have resulted in major failures.

Typically, *asymmetric information* and information problems limit the efficiency of the board in large corporations. Generally, the CEO is better informed about company's day-to-day business than the members of the board, and determines the information given to the board. This information asymmetry keeps board members from effectively contributing to monitoring tasks and from wise judgment of business strategies. Board members should also have the possibility to meet and observe executives that are below the CEO to get a broader view of the corporation. Additionally, good advice and monitoring requires qualified and skilled board members, and if they lack these qualities it is even more difficult to provide competent assistance for management in strategic and operational decisions.

Sometimes boards are motivated by *legal liabilities*, as for example through class action suits by the plain bar and shareholders. Class action suits are often caused by unexpected declines in the stock price. In this case, board members are interested firstly in minimizing the downside risk and stopping bad publicity, and only secondly in maximizing corporate value.

Additionally, problems arise from the *lack of board members' equity holdings*. Outside board members who hold material stakes on equity should have better incentives in monitoring the corporation. A recent trend to compensate board members through stock or stock options is a move towards an effective alignment of interest.

Oversized boards may suffer from coordination and efficiency problems, following an old proverb that 'too many cooks spoil the broth'. Thus board size should generally not exceed seven to eight people.

Typically in US corporations the CEO also operates as the *chairman of the board*. The chairman initiates and chairs board meetings and controls the process of hiring, firing, evaluating, and compensating the CEO. Obviously the CEO cannot perform the function of the chairman apart from his personal interests since decisions directly affect his own utility. Therefore, it might be better to separate the function of the chairman from the CEO and to appoint an independent chairman instead.

Active investors have an increased interest in monitoring a corporation, due to their large debt or equity stakes in a company. In some corporate governance systems large investors can participate actively in the board of directors while in other systems they are basically excluded by legislation or by custom. Boards tend to be more powerful when they are composed of large shareholders who have incentives to invest the resources required for monitoring.

3.4. The Market for Corporate Control

Takeovers are part of the economic environment in nearly all developed economies and the number of takeovers increased steadily over the last 40 years. Most common are *friendly takeovers* in which the bidder’s offer is made to the management of the target company or to its board of directors. Operational, financial, and/or tax synergies are supposed to be achieved through the combination of two companies. Altogether, an increase in revenues, cost reductions, an increase in dept capacity, the establishment of bigger internal capital markets, and tax savings are possible goals of such connections.

Though of bigger interest from corporate governance’s point of view are *hostile takeovers*. The market for corporate control is recognized as important mechanism through which capital markets ensure the discipline of the management by the threat of a takeover in which management is usually replaced. If managers were not maximizing the value of the company and impairing performance another party could buy the company and obtain the increased value as return to its improved management. A hostile takeover is therefore characterized by a tender offer of the bidder to the shareholders of the target company, bypassing target’s management. If the offer is accepted the bidder acquires control of the target and controls or replaces target’s management.

Charkham (2005) states that takeovers partially served as substitute for effective governance. Some hostile takeovers contributed to a respectable rationale-like strategic development, while others were mainly opportunistic, especially when a bidder realized that stock was trading that low that the company could be dismembered at a profit. During the last takeover wave in the 1980s in the US, company managers painfully became aware of their vulnerability if they kept on underperforming. The better company’s governance works the less likely is an upcoming threat through an opportunistic hostile takeover. Although takeovers can be a helpful instrument in establishing major changes in a company, they are also an expensive way especially if

a few adjustments in business strategy were sufficient and management did not have to be replaced. Evidence suggests that even though gains were realized by shareholders who sold their shares the value under the new entity was less than the sum of the previously individual parts, because the aimed synergies were difficult to realize.
Shleifer and Vishny (1997) summarize four issues to be concerned about when performing a takeover. First, the bidder may have to pay the expected increase in profits after the acquisition ex-ante to the shareholders of the target company, for otherwise they do not accept the offer and keep their shares to automatically gain the expected value after the success of the takeover.[19] Second, acquisitions may increase agency costs if the bidder overpays for the target in searching private benefits and increased control.[20] The third issue deals with the great necessity of liquid capital markets that supply the bidder with large amounts of capital in a short time. And forth, hostile takeovers may be opposed by managerial lobbies making takeovers to politically vulnerable mechanisms.

As a cause of the major increase in hostile takeovers various countries slowed or stopped hostile bids by legislation and other mechanisms. High ownership concentration in Germany, cross-shareholdings and company pyramids in Japan, or protective instruments like poison pills[21], golden parachutes[22], and extremely tight ownership structure legislation especially popular in the US minimize current and future takeover incentives. Even though these instruments partly restore market- security and for sure serve their purpose, Gugler (2001) underlines that the adoption of sanctions which limit the probability of takeovers reduces shareholder wealth and social welfare.

3.5. Product Market Competition

Competitive product markets contribute to corporate governance in reducing opportunistic behavior and disciplining managers who are not maximizing company's profits. In an economy with perfectly competitive markets all companies face similar

[19] See Grossman and Hart, 1980

[20] See Shleifer and Vishny , 1988

[21] Poison pills are securities that provide their holders with special rights in the case of a hostile takeover. Typically poison pills grant the holders of the target's shares the right to purchase shares in the target or the bidder's company at a steep discount.

[22] Golden parachutes provide cash and non-cash compensation to senior executives upon termination, demotion, or resignation following a change in control.

factor and labor costs, and product prices quickly react on a change in supply and demand. Increasing supply forces companies to optimize their production and operation process in order to stay competitive among other companies, to raise external capital at the lowest cost, and in order to consequently maximize profits to survive. These mechanisms do not leave any space for managers who engage in opportunistic behavior and thereby lower company's performance.

Though product market competition is a real powerful force toward economic efficiency, its disciplining character needs long time to take effect and product markets alone cannot solve all concerns of corporate governance. Additionally, Shleifer and Vishny (1997) point out that production capital is typically specific and sunk, and suppliers of this capital want to be assured to receive returns on their investments. Product market competition reduces the return on capital and lowers the amount that managers can possibly expropriate, but it does not keep managers from expropriating the competitive return after the capital is sunk. Therefore, additional governance mechanisms have to contribute in ensuring shareholder interests.

3.6. Legal Systems

Legislation and enforcement of law differ among various countries all around the world. Besides legislation, in many countries there also exist multiple statements and codes recommending guiding principles of corporate practice. Protection of shareholder and creditor rights, observance of manager and board duties, bankruptcy laws, takeover restrictions, established standards of business management, and accounting rules add to good performance and sound corporate governance.

La Porta et al. (1998b) distinguish between two major legal systems, the common law and the civil law system. The common law system includes Anglo-Saxon countries, as the UK, the US, Canada, Australia, India, and other former British colonies. The civil law system can be divided into and traced back to three origin law families, the French, German, and Scandinavian family. French civil law countries are for example France, Belgium, Portugal, Spain, and Turkey. German civil law involves countries like Germany, Austria, Switzerland, Japan, and South Korea. Finally, Denmark, Finland, Norway, and Sweden rank among Scandinavian civil law countries. Common law is traditionally formed by judges and precedents from judicial decisions whereas civil law is characterized through statutes, orders, and codes as primary means of legal constitution.

Additionally, La Porta et al. (1998b) analyze legal environments of different countries all over the world with respect to efficiency, enforcement, and protective impact of particular legal system. Evidence suggests that common law countries provide the strongest protection of shareholders, followed by German and Scandinavian civil law countries, while French civil law countries offer the weakest protection. High protection of shareholder rights should encourage shareholders to invest in companies and therefore increase the demand for shares when shareholder protection is high. Evidence supports this assumption stating that common law countries have the largest, and French and German civil law countries the smallest markets of external capital.[23] Furthermore, dividend payments are on average higher in both common law countries and countries with good shareholder protection.[24] The protection of creditors is strongest in common law countries and weakest in countries of French-origin. The highest quality of law enforcement can be found in Scandinavian and Germanic countries, followed by common law countries, and finally far behind in French civil law countries. The high amount of concentrated ownership in French civil law countries might result from the poor performance of these countries. Highly concentrated ownership ensures better monitoring possibilities and sustainable exercise of control rights to shareholders which is of major importance in the case of both poor legislation and insufficient enforcement of laws.

[23] La Porta et al., 1997

[24] La Porta et al., 1998a

4. Corporate Governance Systems

Based on the two predominant legal systems (the common law and the civil law system) and on the resulting legal framework for governing bodies and shareholders two different corporate governance systems emerged, the outsider and the insider governance system. Both systems vary mainly in their characteristics of ownership structure, their distribution of control rights, and in the effectiveness of different mechanisms of corporate governance.

4.1. The Outsider System

The following characterization of the outsider system is mainly based on Charkham (2005), Müller (2003), and Prowse (1994). The outsider system is prevalent in Anglo-Saxon common law countries with the US and the UK as two typical examples of this corporate governance system. In the US the Securities and Exchange Commission (SEC), founded in 1934, acts as federal regulation mechanism on governing issues concerning companies, shareholders, the market, and the relationships among these parties. The SEC inter alia published the Sarbanes-Oxley Act in 2002 in order to provide tougher control on executives, the board of directors, accountants, and auditors. In 2003 the British Committee on the Financial Aspects of Corporate Governance published the Combined Code of Corporate Governance (CCCG) revising the Cadbury Report of 1992. The CCCG mainly involves issues on directors, remuneration policies, accountability, shareholder relations, and institutional investors as active monitoring forces.

Large developed stock markets in the US and the UK serve as external access to capital and as important financing instruments of corporate operations. Individuals and institutional shareholders, like mutual funds or pension funds, are the most common types of ownership in the US and UK. Ownership is widely dispersed and shareholders are usually exclusively interested in the value-maximization of their shares. Large shareholders hold between a fifth and a quarter of overall outstanding shares which is relatively low compared to Germany or Japan. Generally, in the absence of crisis, private and institutional investors are largely passive and hardly participate in decision making or monitoring. Since attending in annual shareholder meetings is regarded as costly and commitment is often missing, proxy voting has become extremely popular, especially in the US. Proxy voting means that shareholders can delegate their voting rights to another member in who they have confidence to act in their interest. In the case of crisis shareholders can bring in class action suits or derivative suits to ensure their rights.

Banks only play a minor role as shareholders due to several legal restrictions as for example the forbiddance of holding large ownership stakes in companies. However, banks act as important sources of capital for leveraged-buy-outs or takeovers. Additionally, investment banks are crucial analysts of companies' market values. Statements of investment banks that a company is under- or overvalued may be a crucial factor causing major restructurings of the company or even a takeover.

The market for corporate control acts as an external control force on management and is highly active in the US and the UK. Excessive takeover waves in the past led to the replacement of bad performing and exploitive managers. However, as a cause of the major increase in hostile takeovers the US constricted hostile bids by legislation.

CEOs enjoy an enormous sphere of influence within a company. They not only have great power over corporate decisions and operations but also act as chairman of the board of directors and are seen as exterior figurehead of their company. Exaggerated remuneration packages link the interests of executives to long-term interests of shareholders. CEOs are compensated through annual bonuses, stock options, and other incentive mechanisms whereas base salary amounts to 31 percent in the UK and only to 10 percent in the US.[25]

The board of directors, a typical one-tier board, consists of both inside directors who are concerned with day-to-day business operations and outside directors who undertake the monitoring of the company. The board of directors is seen as representative of the shareholders and acts as internal control mechanism. Special importance belongs to the duty of loyalty and the duty of care. Although board members are elected by shareholders, since ownership is widely dispersed, the board is effectively chosen by the CEO.

Additionally, committees of the board, such as audit committees, nominating committees, and compensation committees, play an important role in the outsider system. Audit committees have to supervise the external auditor and ensure the efficiency of internal control mechanisms. Nominating committees undertake the selection of director candidates. The compensation committee engages in remuneration policies and guidelines for executive directors. In the US these committees are required for listed companies on the NYSE and the NASDAQ while fewer requirements are established in the UK.

[25] See Conyon and Murphy, 2000

Recapitulatory, the main characteristics of the outsider system are the strong protection of investors, a widely dispersed ownership of shares, its market centered character through strong and liquid stock markets, the indirect control of shareholders on management by electing representatives to the monitoring boards or by voting on proposals of the management, and the tight disclosure and transparency guidelines.

4.2. The Insider System

The insider system, prevalent in civil law countries, is characterized by concentrated ownership, a bank centered character through the major influence of banks as shareholders, and the representation of large stakeholders on the supervisory board or even on the management board. Due to structural differences, this corporate governance system can be divided into two subsystems, the Germanic system, common in Germany, Austria, Switzerland and other Continental European countries, and the Japanese system, established in Japan.

4.2.1. The Germanic System

This section mainly focuses on Boehmer (2001), Müller (2003), and Prowse (1994). Concentrated shareholdings are symptomatic, as individuals, families, non-financial companies, and banks hold large ownership stakes in a substantial number of companies. Large shareholder blocks even in listed companies oftentimes have an ownership concentration of up to 40 or 50 percent of total outstanding equity. Group structures involving contractual arrangements and pyramids are important devices to exert control. In company pyramids control is uni-directional as the flow of command follows one direction and control is exercised from the top to the bottom. [26]

The Germanic system relies more on large inside investors and banks as active monitors and less on capital markets and outside investors which is common in the US and the UK. Large individual shareholders and banks typically have long-term commitments to the company and therefore substantial incentives to exercise control over the company and to engage in monitoring management. Banks possess sufficient knowledge and skills to effectively monitor companies but generally have little incentive to act on behalf of other shareholders. In a typical company the amount of debt held by

[26] Company pyramids can be characterized as follows: Company A owns a controlling interest in company B and has representatives on B's supervisory board. Company B owns a controlling stake in company C and positions representatives on C's supervisory board, and so on. Companies never own shares in companies above them in the corporate pyramid, which leads to a unidirectional flow of control.

banks exceeds the amount of equity held in the same company. Decisions that are maximizing the value of loans often reduce the market value of equity and therefore companies should aim for a balance between the value-maximization of debt and the value-maximization of equity.

The market for corporate control, apart from negligible exceptions, is not existent in the Germanic system and takeovers only occur as friendly acquisitions. Since the concentration of ownership is relatively high hostile takeovers need the support of large shareholders to be successful and blockholders might only be in favor of selling their shares in immense crisis of the company and as kind of 'last resort'.

Boards are typically run as two-tier board systems which involve two single independent boards, the management board and the supervisory board. The supervisory board monitors management to ensure the interest of the shareholders and acts as non-executive institution. The management board is self dependent, fulfils the tasks of business management, and acts in an executive way. The members of the supervisory board are elected by shareholders in the annual general meeting and consist of representatives of large shareholders and employees. Insider managers as well as the CEO are excluded from the participation in the supervisory board to prevent a domination by the CEO as frequently observed in the US and UK. Banks often hold seats on the supervisory board and additionally receive proxy votes from other shareholders. In consequence this leads to further empowerment of banks since their actual control rights exceed their stake in equity cash flow.

4.2.2. The Japanese System

The description of the Japanese system sticks to Müller (2003), Prowse (1994), Sakuma (2001), and Suto and Hashimoto (2006). In Japan a widely-established ownership structure is the cross-shareholder network, known as keiretsu. In this structure companies are linked together through cross-shareholdings among each other. In contrast to the Germanic system control in Japan is multi-directional enabling each keiretsu company to exercise control over other network companies. Although cross-shareholdings only include small stakes in member companies these stakes add up to effective control blocks.

Companies of different industries are centered on a set of financial institutions, typically involving a main bank. The main bank holds shares in the member companies of the keiretsu group and delegates representatives to their boards. Non-financial companies of a keiretsu group have a close link to the product market and tight borrowing links to these financial institutions. Therefore, banks are very important shareholders and the main source of external capital. Banks act as active investors and monitor

management through both being company's external source of capital and, as stated above, their representation on the board.
The board of directors is elected by the shareholders and consists of both outside and inside directors who are members of the management team. Basically, boards are very large and insider-oriented although a shift towards outsiders has been observed in recent years. In contrast to the main bank which holds a significant number of board seats, other large shareholders are usually not presented on the board. The chairman of the board is typically an ex-president of the company, has the freedom of autonomous decision-making, and is not dependent on the board. Additionally, the chairman selects the members of top-management.
The compensation of top managers is relatively low and structured on a seniority-based remuneration system. Two third of total compensation consist of the base salary although an increase in performance-based incentives can be observed.
Companies in Japan tend to have lower profits and lower return on equity than companies in Continental Europe. Value maximization is not a primary goal since companies feel much more liable to their employees and to other stakeholders than to performance. Nevertheless, keiretsu companies are hardly exposed to the pressure of the capital market since banks act as their primary source of external finance and cross-shareholdings guarantee a secure and stable environment. These circumstances and legal requirements protect from hostile takeovers and bidders find it extremely difficult to obtain a sufficient amount of shares to achieve their goals or fail because of tight Japanese legislation.
Strong regulation on business and industrial activities, governmental intervention, especially through the Japanese Ministry of Finance, and tight relationships between companies and the government unfortunately also facilitate the corruption in Japan.

After this glimpse at predominant corporate governance systems and the previous discussion of general mechanisms of corporate governance in market economies the next section provides an outline of economies that first of all had to undergo transition processes to change their economic, political, and social system in order to establish market conditions. Afterwards, the development from planned to market economy in Poland is examined in more detail.

5. Transition Economies in Eastern Europe

Transition economies are found in Central and Eastern Europe, as for example in the countries of former Yugoslavia and the former Soviet Union, but also in Asia, such as China, Thailand, Mongolia, and Vietnam. This section admittedly only focuses on transition countries located in Eastern Europe in order to identify main similarities and common challenges.

Transition economies undergo changes in the country's political and economic system. Economic transformations involve a change from centrally-planned economy towards market-oriented economy, corporate and tax reforms, and macroeconomic stabilizations, while political reforms include changes in the role and structure of the state and a turn from socialism to democracy.[27] Generally, transition restructuring extends over several years involving regresses and unforeseen impediments but finally at least some success and upswing.

After years of restructuring in Eastern Europe Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Estonia, Latvia, and Lithuania terminated their main transition process by having sufficiently reached market-oriented standards and joined the European Union on 1 May 2004, while Bulgaria and Romania followed on 1 January 2007.

Political and economic systems of transition countries in Eastern Europe possess basic similarities and therefore face related challenges on their transition path. The state had to develop market-oriented instruments which initially increased inflation and diminished the Gross Demand Product (GDP) but finally resulted in macroeconomic stabilization. The liberalization of prices, market operations, and economic activity involved a reallocation of resources to their economic use. Tight budget constraints should create sufficient incentives to improve efficiency. Additionally, governments had to deal with the skepticism of workers who were threatened by the overall change, the rising unemployment, and the loss of socialistic benefits.

In order to implement reform packages, governments had to demonstrate autonomy and enforceability of directives. Weak governments were affected by lobbying and rent-seeking activities of diverse interest groups while strong governments were insensitive to such manipulations and succeeded in freely designing and independently setting democratic reform packages. Governmental proposals had to pass ex-ante political constraints since they had to achieve a majority vote in parliament, within government,

[27] See Balcerowicz, 2002

or within ruling coalitions. Additionally, restructurings and redefinitions faced ex-post political constraints especially in the case of negative economic shocks after their adoption, that, in particular cases caused a political backlash and policy reversals. Therefore, governments had to take both ex-ante and ex-post constraints into account by implementing economically sensitive policies.[28]

Many parts of the former socialistic economy were underdeveloped, inefficient, regulated, and controlled by the state. Large state-owned companies, mostly in the industrial sector, had to be privatized and restructured to achieve economic efficiency and effective corporate management. Special privatization strategies such as mass privatization or sometimes also gradual privatization were used in order to transfer assets from the state to the private sector. Mass privatizations were carried out through a giveaway process of state assets that were redistributed for free or at a steep discount among the population. Through this reallocation of ownership from the state to the population potential resistance to privatization was averted because people who had a stake in a privatized company became personally interested in the success of new privatization policies. Additionally, people could participate personally in privatized companies based on the deep-seated socialist ideology of 'the ownership of the people'. In most cases company shares were initially non-tradable against money to prevent people from converting their shares into cash and thereby opposing privatization ex-post. [29]

In the case of direct mass privatization restructuring of a company finally remained in the responsibility of the new private owners. Unfortunately, the classic structure of diffused ownership tended to be inefficient and unable to guarantee good corporate governance and deep corporate restructuring. Private investors hesitated to restructure companies due to political uncertainty and large sunk costs. Moreover, companies had to struggle for external capital, as bank lending was limited due to low collateral securities of companies and because of the initially rudimentary structure of the banking sector. Financial markets were weak and illiquid and complicated the supply of external finance. Before companies had to close down government sometimes intervened by subsidizing and de facto renationalizing these companies in order to rescue important industrial companies and to maintain jobs.

As already stated above, the banking sector was undeveloped since former socialistic financing had been provided by the state and equity markets had to be rebuilt to slowly

[28] See Roland, 1995

[29] See Roland, 1995

establish liquidity and institutional standards. These markets mainly arose through the privatization process of state-owned companies. Necessary market infrastructure and regulation were either established after privatization to handle the rudimentary stock market formation or before privatization to secure a sufficient regulatory framework in order to handle the gradual listing of companies. Countries of the latter case generally benefitted from higher liquidity and better performance of stock markets than countries that chose the former strategy. In the banking sector several banks were privatized, central banks and commercial banks were established, and sectoral restrictions on specialized banks were removed. In posterior phases of transition also foreign banks and joint ventures were granted access to the market.[30] Additionally, government had to refrain from intervening in financial affairs and credit allocation decisions. Since independent banks and financial institutions help solving market failures and monitor companies, they played an important role in the screening of companies that were undergoing restructuring processes. On the one hand, independent private banks carefully monitored companies, supported value maximizing activities, and prevented opportunistic borrower behavior. While on the other hand, government dependent banks in Eastern Europe frequently were forced to grant loans to companies in distress which actually had been hidden subsidies from the state.[31]

During the transition process existing legislation had to be basically revised, new laws were released, and especially the enforcement of the legal framework had to be pushed and monitored. Concerning corporate governance, government had to adopt a broader view than in traditional market economies including potential problems between shareholders and management, creditors and management, minority shareholders and blockholders, and shareholders and employees.

Pistor et al. (2000) analyze various transition economies focusing on shareholder and creditor rights in connection with the actual quality of law enforcement and the development of external finance. The authors take a critical view on the study of La Porta et al. (1998b) who examined connections between law and finance in market economies. Pistor et al. argue that in transition economies one has to take more variables and individual circumstances into account than in market-based systems and therefore present an extended insight on patterns of external finance and legality.

Since shareholder rights account for the major part of legal regulations Pistor et al. include the following issues. In the case of dissatisfaction with management shareholders can either raise their voice and control management through voting and

[30] See Reininger et al., 2002

[31] See Roland, 1995

information rights or take the exit strategy in selling their shares. Additionally, companies with concentrated ownership typically have large blockholders that possess the possibility to exercise control on the disadvantage of minority shareholders and management. Therefore legal rules, such as cumulative voting rights or a quorum requirement for special shareholder meetings have to be established to protect minority shareholders against blockholders. Moreover, the integrity of the capital market is taken into account, since an independent agency has to monitor the stock market and regulations have to prevent self-dealing and insider-trading.

On the other hand, Creditors serve as important source of external finance and the quality of legal protection influences the degree of lending opportunities for companies. Pistor et al. examine the following issues: the rights of creditors in the case of liquidation and bankruptcy, their ability to control the bankruptcy process, existing ex-post sanctions on management, management's liability to creditors, and the construction of collateral law.

Summarizing research results, Pistor et al. (2000) conclude that transition economies provide a satisfactory legal framework and widely possess even higher levels of shareholder and creditor rights protection than other market economies in Europe. However, real effectiveness of legal institutions depends more on the actual enforcement of regulations than on the law on the books and the enforcement of these rights is unfortunately relatively low in transition economies. In countries where voluntary compliance to regulations is high enforcement by the state is not that exigent than in countries where voluntary compliance is low and credible threats are missing. The degree of legality actually drives the quality of corporate governance and the development of financial markets and finally influences the success of transition. Therefore, an effective system of external finance requires the credible commitment that laws are sufficiently enforced and economic and financial players have to practically and morally support existing regulations.

6. Poland's Development During and After Transition

Poland was the first country in Eastern Europe that introduced severe reforms to shape its policy and economy in order to leave the socialistic regime and its ideology behind. After the fall of the 'iron curtain' in 1989 one main goal was to establish liberalized, competitive, and stable market economy in order to create a competitive environment and to reintegrate in prevalent European social and political structures. The following sections closely examine those changes and provide an overlook over various reform processes in Poland.

6.1. Economic Development

Kochanowicz et al. (2004) provide a comprehensive analysis of the economic reform process in Poland. In October 1989 the Polish government presented the 'Balcerowicz Plan', named after Poland's finance minister Leszek Balcerowicz, to herald economic transition. These reforms aimed to achieve macroeconomic stabilization and the liberalization of national economy by removing main price controls and encouraged the building of market-oriented institutions. This 'shock therapy' implied strict budgetary and monetary constraints. Control possibilities for banks and suppliers were enlarged to improve market efficiency and control mechanisms over corporate operations. The fiscal system was reformed including the introduction of a corporate income tax, a value-added tax, and a personal income tax.

Foreign trade was restructured, tariffs were lowered, trade licenses were abolished, and markets were opened to foster international competition. Trade structures were realigned and Poland clearly began focusing on Western trade markets. In 1990 exports to the EU and EFTA represented 60.5 percent and exports to the former Soviet Union and Eastern European countries amounted to 23.7 percent of total exports. After a short reversion of this trade liberalization by an overall rise in tariffs in 1991 government kept on gradually reducing tariffs during the following years.
In the 1990s imports were growing much faster than exports leading to a six times increase in imports and a duplication of exports from 1990 to 1998. Since 2000 this relationship approximately balanced and the trade deficit slightly declined.[32] Member

[32] See Kaminski and Smarzynska, 2001

countries of the European Union were in the past and are still most important trading partners of Poland. The dominant partner in both import and export is Germany whereas additionally France, Italy, Great Britain, the Netherlands, Sweden, Belgium, and the Czech Republic rank among main trading parties. Additionally, Russia and the Ukraine maintain trading relations with Poland. In 2006 export amounted to 109.584 billion US Dollar compared to 41.009 billion US Dollar in 2002, while import increased from 55.112 to 125.645 billion US Dollar.[33]

Foreign direct investment (FDI) also contributed to the economical transition in Poland. Domestic markets benefited from transfer of technology, economies of scale, the integration of domestic production into a global economic network, and the growth of intra-industry trade. Wholly-owned investments, implying a 100 percent foreign ownership, enjoyed great popularity and were favored over joint ventures, especially in the case of foreign superior firm-specific technologies or outstanding marketing skills. Moreover, FDI positively influenced the efficiency of recently privatized or newly founded companies by improving governance practices within these companies and by establishing new organizational and management forms. Foreign investments were attracted by the huge unsatisfied demand for goods and services and great market opportunities in Poland. Investors primarily focused on food, beverage, tobacco, and cosmetic industries and companies such as Coca Cola, United Biscuits, Philip Morris, Unilever, and Nestle entered the market to supply the existing excess demand. The service sector as well attracted numerous foreign companies which were investing especially in trade, retail, and consumer services.[34]

Although the Polish market had already been opened in 1990 it took some years until the value of FDI inflows increased significantly. In order to foster economic development by an increase in foreign investments the Polish Information and Foreign Investment Agency[35] (Polska Agencja Informacji i Inwestycji Zagranicznych S.A. - PAIiIZ) was established in 1993. PAIiIZ should attract and encourage foreign corporations to invest in Poland by offering them assistance in legal and administrative procedures, finding both investment locations and suitable business partners, and advising companies during the initial investment process.

Nowadays FDI is still of main importance for Poland's economy and came up with a total sum of 13.922 US Dollar in 2006 and an increase by 45 percent compared to

[33] Data source: Central Statistical Office of Poland, http://www.stat.gov.pl

[34] See Kaminski and Smarzynska, 2001

[35] Further information on the Polish Information and Foreign Investment Agency is available on: http://www.paiz.gov.pl/

2005. Approximately 82.7 percent of the FDI inflow in 2006 came from member countries of the European Union which are important players in investing abroad.[36]

In the early 1990s the Polish Złoty was stabilized by the introduction of a fixed exchange rate against the US Dollar and later on the currency was revalorized in order to increase the stability of the Złoty-Dollar exchange rate. In 2000 this fixed exchange rate was replaced by a clean float policy which enabled the valuation of the Złoty in relation to other currencies by free market forces.

Poland was a pioneer among other Eastern European transition countries, experienced the smallest output decline among those economies, and was the first country that ended its recession and returned to growth in the early 1990s. After an initial fall of the GDP growth rate to -11.6 percent in 1990 and -7 percent in 1991 economy recovered in 1992 facing an increase to 2.6 percent. Between 1995 and 1997 the GDP growth rate ranged between 6 and 7 percent but declined thereafter and dropped to 1.1 percent in 2001. After this downturn economy regained its strength in 2003 and finally achieved an annual GDP growth rate of 5.8 percent in 2006. [37]

Ominous high inflation was brought under control and decreased enormously over the past years. At the beginning of the transition process annual inflation amounted to 585.8 percent in 1990, fell to 70.3 percent in 1992, and almost halved to 43 percent in 1992. Thenceforward, inflation kept on decreasing steadily to 10.1 percent in 2000, was under 5 percent in the following five years, and finally amounted to 1.3 percent in 2006.[38]

Drawing a balance of the first years under restructuring the new market orientation not only involved economic benefits but also contributed to a manifold accessibility of goods and services and a higher standard of living. Though, reforms of the state machinery, including public administration and legislative operations, and reforms of social services lagged behind the success of political and economic reforms. Several reforms were undertaken in 1999 creating overdue enhancements in the public administration, pension, health care, and education system. The impact of these reforms, however, was insufficient and there is still a need for further improvements.

[36] Data source: Central Statistical Office of Poland, http://www.stat.gov.pl

[37] Data source: Central Statistical Office of Poland, http://www.stat.gov.pl

[38] Data source: Central Statistical Office of Poland, http://www.stat.gov.pl

Additionally, Poland has to reduce high unemployment and the large difference in the distribution of incomes, counteract undercapitalization of small and medium-sized corporations, and deal with the low innovation rate and the underdevelopment of the transportation infrastructure. Furthermore, corruption is still a problem in Poland and it will take additional time and efforts to eliminate this deep-seated behavior.

6.2. The Privatization Process

The following characterization of the privatization process in Poland mainly focuses on Nellis (2002) and on Kozarzewski (2006). Several pre-transition reforms in the 1980s tried to overcome decreasing rates of return on investments by decentralizing decision processes to the corporate level. The autonomy of companies and managers was increased but only resulted in marginal gains of cost reduction. Additionally, employee councils were created to empower employees in negotiations with the management and decision-making processes were downscaled to the company level to unburden the weak state sector.

In 1990 radical reforms in the corporate sector were established to herald a period of extensive privatization of state-owned companies and to create ownership structures that were modeled on those of industrialized countries. The speed of privatization and ownership transformation mainly depended on the company size, industry sector, organizational structure, and the profitability of particular companies.

The privatization of small companies was carried out rapidly and was nearly completed by the end of 1992, having privatized 97 percent of these corporations. These companies were often operating in retail trade and in the service sector and company shares were distributed to employees at a discount. This small-scale privatization was regarded as a success since it improved the quantity and quality of provided products and services and created a large number of new jobs.

Another way was the privatization through liquidation. This strategy allowed companies in bad economic positions to sell their assets usually to insiders or lease them out, to enter into joint ventures or merge with other corporations. Thereby, especially small and start-up enterprises were supplied with assets and real estate they required to continue business operations.

The privatization of medium and large state-owned companies implicated far more problems and proceeded not as fast as initially intended. There were protracted debates and it took several drafts until the Act on Privatization of State-owned

Enterprises was passed in 1990. Following an indirect privatization model, large state-owned companies were first commercialized by changing companies' legal forms and establishing the Ministry of Treasury as sole shareholder. In a second step, company shares were allocated through public offerings, were sold to strategic investors, or were included into the National Investment Fund (NIF) program.

Mass privatization was introduced in 1993 to speed up privatization and offer people additional possibilities to participate in the reform and restructuring process. Initially, 512 medium and large-sized state-owned companies were converted into joint-stock companies and allocated to 15 NIFs. NIFs were typically managed by qualified international companies and should shift Polish companies towards market orientation before they were privatized. Sixty percent of each company were held by NIFs; 30 percent remained at the State Treasury, and finally ten percent of shares were distributed for free among employees of the company. Additionally, vouchers were distributed as kind of share-give-aways. Vouchers allowed people to buy shares of NIFs for a small fee and therefore people were able to gain indirect ownership on the companies held by NIFs. However, the voucher system was not started until 1995 and shares of these funds were not listed until the first half of 1997. This illustrates the intense and continuing difficulty of privatization and restructuring procedures of medium and large-sized companies.

In 1997 an enhanced regulatory framework on privatization came into force and was based on the new Act on Commercialization and Privatization of State-owned Enterprises. It treated both the privatization process and initial corporate governance mechanisms, including issues of ownership structure and the formation of corporate governance instruments. According to this Act, the Ministry of the State Treasury had to regulate privatization processes and had to create these new internal task-oriented structures.

This Act repealed former regulations wherein privatizations had needed the approval of both the management and employee councils of state-owned companies. Additionally, the limit of 10 percent of shares acquirable by employees was raised to 15 percent. Direct privatization and the role of insiders concerning ownership transformation were limited to certain degrees, depending on company size, employment level and the number of assets. Moreover, outside investors should hold at least 20 percent of shares of the privatized company and the possibilities for legal persons to participate in the company were increased.

In 2004 and 2005 additional privatizations were pressed ahead by the new Minister of the State Treasury accompanied by market-oriented reforms and further developments in the private sector.

Recapitulatory, Poland's privatization process took more time than expected but was in general successful. Good economic and financial policies in connection with the slow privatization of large-sized companies contributed to this success. Basic functions of corporate governance such as the initial supervision of companies by employee councils and the professional restructuring executed by NIFs were advantageous for the course of the privatization process.
Nevertheless, in 2005 there still existed about 500 large companies that were only commercialized but not privatized and about 100 companies that were majority owned by the State Treasury holding ownership stakes of more than 50 percent. These cases of unfinished privatization should be completed in the following years to gain further improvement and higher efficiency.

6.3. The Banking System

Under the communist regime the banking system was composed of a national monobank undertaking retail and commercial transactions and two specialized banks handling foreign exchange operations. The National Bank of Poland (NBP), dependent on political and administrative decisions, equaled the status of a monopoly regarding loans, savings, and currency regulations. During communism the Polish Złoty was an exclusively internal currency and not convertible into other currencies.

If not stated differently, the description of the Polish banking system and its restructuring efforts focuses on the analysis of Orłowski (1999). In the course of political reforms in the late 1980s and the early 1990s the monobank was split up into several independent financial institutions. Although the National Bank of Poland kept its status as central bank sections and departments of the bank were cut off and established as separate commercial banks. Basically, these banks were burdened with troubled assets and needed support and refinancing by the NBP.
Between 1990 and 1992 successful stabilization and liberalization policies were initiated such as the establishment of a basic legal framework concerning commercial banking and the liberalization of entry modes, interest rates, and product markets. Lowered entry conditions for new institutions led to an increased number of new commercial banks also including foreign entries. Furthermore, regulations on capital

adequacy ratios of 8 percent for new banks and later additionally for state banks were established. In order to solve stock market and liquidity problems bank restructuring and recapitalization was tied to company restructuring. In 1992 the Ministry of Finance restricted the market entry of foreign banks and started to develop loan recovery and debtor restructuring plans by cutting off loans to troubled companies.[39]

In 1993 a recapitalization plan on classified debts was initiated which intended to keep on restructuring of the banking system by changes in bank operations and company relations in return for a recapitalization of funds. To strengthen the institutional power of the banking sector and to prepare privatizations many small commercial banks were consolidated in 1993. Since 1993 Polish banks experienced gradual growth and better quality of assets.

In 1995 a redenomination of the Polish Złoty was performed which enabled the formation of the exchange rate on the foreign exchange market and made the Złoty convertible according to international standards.

In 1996 the so called ‘bank conciliation’ facilitated restructuring negotiations between companies and main creditors and helped to restructure 23 percent of companies and 50 percent of debt. Additionally, foreign and domestic restructuring specialists directed task forces in each bank and Polish experts took an active part in the management board of these banks.[40]

The continuing of bank consolidations and privatizations in 1996 and 1997 enhanced the structure of the banking system. The new constitution improved the position of the NBP among public institutions and the Monetary Policy Council, a new entity of the NBP, gained responsibility for monetary policies. Thenceforward, the supervision of the stability of the financial system and of the development of the Złoty became one of the primary objectives of the national bank. The Commission for Banking Supervision was entrusted with the supervision of banks, supported by an executive body, the General Inspectorate of Banking Supervision, which was an autonomous entity within the NBP.

After a period of about ten years transition reforms in the banking sector were nearly completed and a well-organized banking system had been established. During the preparation of the entry in the European Union on 1 May 2004 the NBP inter alia advanced the liberalization of capital flows, deepened the supervision of profitability of banks and financial institutions, enhanced the institutional infrastructure, and checked

[39] See McDermott, 2004

[40] See McDermott, 2004

the technical and economical readiness of the domestic banking sector to compete on international European markets.[41]

After the successful joining of the European Union the Polish banking system benefitted from the increasing effectiveness and competitiveness of particular banks, greater safety of bank assets, higher standards of protection, better deposit guarantees, and an overall increase in stability.

6.4. The Capital Market

According to the historical overview presented on the homepage of the Warsaw Stock Exchange[42] (WSE) the first stock exchange in Warsaw, the Warsaw Mercantile Exchange, was opened in May 1817. At that time main business involved the trading of bonds, bills, and other debt instruments. Trading in equities developed in the second half of the twentieth century and before the Second World War approximately 90 percent of the trade volume of the Polish market was handled by this exchange. After the end of the Second World War the communist regime did not reactivate the stock exchange since there was no more need for private capital markets.

In 1989 due to the change in the political regime and to economic restructuring plans, government began to reestablish market-oriented structures and therefore also capital markets. Based on the Act on Public Trading in Securities and Trust Fund of March 1991 the WSE was founded by the State Treasury on 16 April 1991 as non-profit joint-stock company. Experience and financial support was provided by the French Société des Bourses Françaises. On the first trading day only five stocks were listed, seven brokerages took part, and there were 112 buy and sell orders.

During the first years the WSE faced start-up difficulties since only a few numbers of companies were listed on the exchange, trading sessions were limited, and many parts of the structure of the exchange were underdeveloped. Most of the stock market growth of the 1990s occurred between 1996 and 1998. At the end of 1998 the stock market capitalization amounted to eight percent of the GDP and even doubled compared to 1996. In 1999 more than 200 companies were listed on the free market of the WSE and additionally the largest privatized Polish company Polski Koncern Naftowy made its debut on the stock exchange.

In the following years, the WSE became a member of the Federation of European Stock Exchanges, signed an agreement on cooperation with the London Stock

[41] See National Bank of Poland, 2000

[42] See Warsaw Stock Exchange, http://www.gpw.pl/

Exchange and the Paris Bourse, and entered into a cross-membership and a cross-access agreement with Euronext. In 2003, the first foreign company, Bank Austria Creditanstalt AG, was listed on the WSE followed by several other Central and Eastern European corporations.

In 2004 the WSE joined the Federation of European Securities Exchanges. Simultaneously with the entry in the European Union on 1 May 2004, the WSE adopted a new market structure that divided listings into the official market (main market) and the regulated unofficial market (parallel market) in order to govern each market by a diverse set of regulations. Listing requirements of the main market inter alia contain the admittance to public trading, unrestricted transferability of securities, the coverage by a listing application, financial statements of at least three years, and the dispersion of shares. The parallel market demands admittance to public trading, unrestricted transferability of securities, and absence of bankruptcy and liquidation proceedings.

In 2002 and 2005, the WSE released recommendations of Best Practices of Corporate Governance to enhance the transparency of listed companies. The latest version of these recommendations came into force on 1 January 2008 and is intended to improve the development of Polish economy, to provide best quality of trading operations and exchange products, and to create higher transparency, effectiveness and liquidity of Polish securities.

In 2005 three regulations were established to amend the obsolete legislation on the trading of public securities: the Act on Public Offering, Conditions Governing the Introduction of Financial Instruments to Organized Trading, and Public Companies - the Act on Trading in Financial Instruments - and the Act on Capital Market Supervision.

In 2006 the WSE agreed to comply with the European Code of Conduct for Clearing and Settlement which aims to improve transparency of prices for trading, clearing, and settlement actions and plays an important role in the integration of financial markets. Its fully implementation proceeded on 1 January 2008.

Nowadays the WSE ranks among the best established stock exchanges of the European market and the Polish stock market is one of the largest in Eastern Europe but still relatively small compared to stock markets in other European countries. By now shares, bonds, subscription rights, allotment certificates, investment certificates, and derivative instruments such as futures, options, and index participation units are traded on the WSE.

In 2007, 305 domestic and 23 foreign companies were listed on the main market while 23 domestic companies were found in the parallel market constituting to a total number of 351 listed companies. The total market capitalization of domestic and foreign companies amounted to 108.026 billion Polish Złoty.[43]

The WSE is still majority owned by the State Treasury which holds a stake of 98.81 percent while additional shareholders are brokerage houses, banks, and a listed company. It is planned to privatize the WSE so that the State Treasury should reduce its stake to 51 percent in 2008 and should mainly sell its shares to institutional investors. After two to three years the State Treasury should completely retreat and the privatization process of the WSE should be completed.

[43] Data source: Warsaw Stock Exchange, http://www.gpw.pl/

7. Corporate Governance in Poland

In course of the overall economic reform process, the privatization wave, and the restructuring of companies the attempt to create efficiency and productivity raised the need for a sufficient corporate governance system.

Kochanowicz et al. (2004) point out that the practice of privatization, the speed and effects of restructuring, the law on the securities market and its development, the market-oriented configuration of corporate goals, and the interests of dominant owners all together influenced the formation of the Polish governance structure. Economic and social considerations had to be taken into account by designing a new corporate governance model. On the one hand, there were large amounts of shares distributed to the population in consequence of mass privatization schemes and on the other hand, there was still a large scale of employee participation and self-management. Most state-owned companies had stable structures of power and influence assignment and insiders were afraid of loosing those privileges. To avoid conflicts with these parties and to leverage privatization strong insider control mechanisms were retained. Moreover, the provision of internal monitoring was important since external control mechanisms as financial and product markets or takeovers were weak and nascent. Strategic foreign and later also domestic investors had significant more influence than minority shareholders due to the diminishing investment potential of the Polish population. Strategic investors provided companies with capital, technologies, and a new management and business culture.

Thus, the insider system as prevalent in many countries of Central Europe seemed to suit best individual circumstances observed in the country's present and background. However, there are several divergences from the classic model of the insider system caused by ideological and political considerations and by the pressure from actors of the country's corporate governance setting. Basic differences, unique in Eastern Europe, can be observed concerning whether a company was newly set up or originated from the former state-owned sector. For example, there is no general legislation to include representatives of employees or other stakeholders in the supervisory board since the topic of the representation of stakeholder interests is subject to privatization legislation.

The following pages provide a deeper insight on specific patterns of the Polish corporate governance system by examining existing regulations and recommendations on governance practices and by analyzing important mechanisms of corporate governance.

7.1. Regulatory Framework

In general, legal foundations of Polish corporate governance provide an ample field of regulations with especially strong disclosure and transparency requirements that are in some cases even tighter than in Central European countries. However, there are several insufficiencies as pointed out by Kozarzewski (2003). One criticism involves the lack of concrete and practical solutions of given situations, since the Polish corporate governance legislation focuses more on general principles than on particular circumstances. This leads to several insufficiencies especially in a country like Poland with only short-time experience in market economy. Secondly, the protective device which regulates governance mechanisms within companies is insufficient causing the abuse of minority interests by powerful industrial parties and facilitating opportunistic behavior of managers.
Besides legal framework, Pistor et al. (2000) point out that even though legislation in Eastern European transition countries provides manifold regulations and principles of corporate governance there are problems concerning the weak enforcement of these laws and the general structure of the judicial system.

The most important legislative framework for Polish companies is provided in the Commercial Company Code (CCC). The CCC, enacted in 1934, was updated and modified on 15 September 2000 and came into force on 1 January 2001. The CCC provides regulations on the establishment and operation of companies and deals with general corporate issues, duties and rights of the management and supervisory board, shareholder and creditor rights, mergers and acquisitions, and liquidation activities.

In order to establish further principles of corporate governance and to close the gaps between legislation and practice several institutions promoted additional issues and recommendations on good corporate governance. Most important contributors are described below.

The Gdańsk Institute for Market Economics (GIME) which acts as an independent non-governmental scientific research institution published the Corporate Governance Code for Polish Listed Companies[44] in 2002. The Code was drafted by Maciej Dzierzanowski and Piotr Tamowicz based on discussions, analyses, and proposals of a working group consisting of several economic experts, advisors, and representatives of public joint-stock companies. Moreover, it is geared to principles and recommendations of good

[44] See Corporate Governance Code for Polish Listed Companies, 2002

governance practice issued in other countries or by international organizations, such as the OECD Principles of Corporate Governance, the EASD Corporate Governance Principles, British corporate governance codes, and guidelines issued by Euroshareholders.

The Polish Corporate Governance Code aims to protect minority shareholders and their co-determination rights and longs for a balance of all stakeholder rights within the company. Additionally, it deals with problems associated with both concentrated and dispersed ownership and it recommends the strengthening of the supervisory board in relationships with the management board and with dominant majority shareholders. It promotes the increase of transparency concerning the accessibility of corporate information and the trustworthiness of auditing but dissociates from extensive anti-takeover defenses.

Public joint-stock companies have to report their compliance or non-compliance with the recommendations of the Polish Corporate Governance Code in the event of listing on the WSE. Moreover, the Polish Forum for Corporate Governance publishes an annual rating of good corporate governance practice using the Code as benchmark.

The Polish Forum for Corporate Governance (PFCG) was established by the Gdańsk Institute for Market Economics in 2001. The PFCG provides discussion, analysis, and recommendations on corporate governance issues and aims to create a knowledge base on corporate governance in order to support good practice. Moreover, it values the efficiency of Polish corporate governance mechanisms within companies.

The PFCG is cross-linked with several other organizations to exchange governance issues and to attain access to a broad international network. The three main partners are the State Committee for Scientific Research (KBN), a governmental body set up by the Polish Parliament as authority in the area of science and technology; the Centre for International Private Enterprise (CIPE), a non-profit organization of the US Chamber of Commerce; and the European Corporate Governance Institute (ECGI), an international scientific association providing research, analyzes, and country specific information on corporate governance issues. [45]

The WSE adopted the Best Practices in Public Companies in 2002 in order to establish further instructions on governance issues. The Best Practices should strengthen corporate governance regulations, foster a competitive market environment and increase the attractiveness of the exchange market in general. In 2005 the Best Practices Committee of the WSE amended the initial draft by taking experiences and

[45] See Polish Forum for Corporate Governance, http://www.pfcg.org.pl/en/

suggestions of market participants into account and by including recommendations of the European Communion.

On 1 January 2008 the Code of Best Practice for WSE Listed Companies[46] came into force and represents the third revision of these recommendations. In comparison to the Best Practices of 2005 several points were removed to disburden companies and to exclude issues that were less significant for shareholder wealth and company value in the opinion of the WSE. The current Code aims to improve transparency of corporate operations and enhances the quality of information access and communicational features. Additionally, it intends to improve the protection of shareholder rights and provides recommendations concerning the management and supervisory board.

Companies listed on the WSE have to state whether they comply with the principles of the Code or whether they do not comply with singular points and explain the particular reasons for this behavior. The WSE undertakes several efforts to promote the acceptance and compliance of the Code of Best Practices and annually awards listed companies which fully comply with their principles of corporate governance.

7.2. Mechanisms of Corporate Governance

7.2.1. Ownership Structure

The following characteristics of Polish ownership structure mainly refer to Kochanowicz et al. (2004) and Tamowicz (2006). Initially, listed companies evolved from privatizations of state-owned corporations in the context of overall restructurings during Poland's transition process. Early privatizations from 1990 to 1993 aimed to create dispersed ownership using initial public offerings (IPOs) to attract numerous individual investors. Considerable amounts of shares were transferred to employees and other individuals and granted them participation and influence on privatized companies. Since many individuals were addressed by share-give-aways concentrated ownership was only moderate at that time and amounted to about 18 percent. One indeed negative example of this restructuring method was the privatization of the Bank Ślaşki, one of the largest retail banks in Poland, which ended in a disaster. Individual investors were allowed to buy only a marginal amount of shares and immediately sold them after purchase. The consequence of this behavior was a market crash shortly after the flotation of Bank Ślaşki shares.

[46] See Code of Best Practice for WSE Listed Companies, 2007

During the mid 1990s the privatization strategy changed due to major criticism and only moderate outcomes. From then on, government strategy combined public floatation with direct sales of large ownership stakes to foreign strategic investors. Therefore, concentrated ownership is common in large-sized companies that were privatized indirectly through several intermediate steps. Compared to the concentration of voting blocks between 1991 and 1996 the influence of large blockholders doubled in the following years and reached 39 percent in 2000. This dimension hardly changed in the last few years and high ownership concentration is still prevalent in Poland.

In order to specify the current ownership structure in Poland the concentration of ownership stakes by industry sectors and the identity of the largest shareholders are analyzed in a sample of 182 listed companies. The data used for these analyses derive from the pan-European database Amadeus and were evaluated in the years 2006 and 2007.

Primarily, the ownership stakes of the three largest shareholders are grouped by industry sectors. The 182 listed companies are divided into 15 categories and coded according to Nace Rev 1.1 which is a statistical classification of economic activities in the European Community. In order to present the percentage of the ownership stakes of the three largest shareholders by each industry sector the mean, median, and the standard deviation of specific stake sizes are listed in Table 1.

Enterprises of the sectors ‘agriculture, hunting, forestry, fishing’, ‘public administration, defense’, and ‘education’ are not represented in the sample of 182 listed companies. Other industry sectors such as ‘mining’, ‘electricity, gas, water supply’, ‘hotels, restaurants’, ‘financial intermediation’, ‘health, social works’, and ‘other services’ include only one to five companies in each case. In the latter two sectors there are the highest ownership stakes with respect to the largest shareholder that amount to 55.27 and 51.85 percent of shares. However, due to the low numbers of sample companies these values are not very significant.

Table 1 shows that most listed companies operate in the ‘manufacturing’ sector which is represented by 85 entries. In this sector the largest shareholder controls 33.66 percent (mean: 34.80 percent) of ownership stakes and the second and third largest shareholders own a median percentage of 12.79 and 7.67 (mean: 13.82 and 8.45 percent). The ‘wholesale, retail trade’ and ‘real estate, renting’ sectors have 37 and 21 entries of listed companies and the largest shareholder holds a median value of 34.08 and 27.60 percent (mean: 37.80 and 32.92 percent). Within these both sectors the stakes of the second largest owner are relatively high compared to other sectors and amount to 17.03 and 14.66 percent (mean: 18.78 and 17.21 percent). Furthermore, 16 ‘construction’ and 10 ‘transport, storage, communication’ companies are represented in the sample and show median ownership concentrations of 36.41 and 40.80 percent (mean: 37.50 and 40.08 percent) with regard to the largest shareholder.

Overall, independent from industry sectors, the stake of the largest shareholder amounts to the median value of 35.17 percent (mean: 36.42 percent) while the second and third largest shareholders own 13.83 and 7.67 percent (mean: 15.57 and 8.62 percent) of outstanding shares in Polish listed companies.

Table 1: Ownership Concentration of Three Largest Shareholders by Industry

Code	Industry sectors	N	Largest SH in %			2nd largest SH in %			3rd largest SH in %		
			Mean	Median	StdDev	Mean	Median	StdDev	Mean	Median	StdDev
01-02 05	Agriculture, Hunting, Forestry, Fishing	-	-	-	-	-	-	-	-	-	-
10-14	Mining	1	41.78	41.78	-	6.61	6.61	-	5.29	5.29	-
15-37	Manufacturing	85	34.80	33.66	18.59	13.82	12.79	6.65	8.45	7.67	4.46
40-41	Electricity, Gas, Water Supply	5	45.63	31.30	26.47	14.28	14.25	6.63	10.44	11.20	6.63
45	Construction	16	37.50	36.41	4.22	13.72	11.74	7.94	8.61	9.94	4.22
50-52	Wholesale, Retail trade, Repair	37	37.80	34.08	20.22	18.78	17.03	11.62	7.84	7.02	5.14
55	Hotels, Restaurants	1	35.58	35.58	-	10.04	10.04	-	9.39	9.39	-
60-64	Transport, Storage, Communication	10	40.08	40.80	18.05	16.18	16.08	9.56	7.22	8.36	3.97
65-67	Financial intermediation	3	34.36	37.25	18.71	9.77	8.04	2.57	8.29	7.44	2.37
70-74	Real estate, Renting, Business activities	21	32.92	27.60	16.17	17.21	14.66	8.79	12.21	12.12	5.75
75	Public administration, Defense	-	-	-	-	-	-	-	-	-	-
80	Education	-	-	-	-	-	-	-	-	-	-
85	Health, Social work	1	55.27	55.27	-	13.09	13.09	-	6.55	6.55	-
90-93	Other Services	2	51.85	51.85	0.85	18.45	18.45	5.56	5.15	5.15	2.14
95,99	Others	-	-	-	-	-	-	-	-	-	-
	Total	182	36.42	35.17	18.98	15.57	13.83	9.28	8.62	7.67	4.98

Data Source: Amadeus Database

The second analysis of the 182 sample companies aims to identify the identity of the largest shareholder and is presented in Table 2. Therefore, companies are grouped with regard to their largest shareholder into several categories which are individuals or families, financial companies such as banks, funds, and insurance companies, non-financial companies, and the state. The stakes of the largest shareholder are expressed by the mean, median, and the standard deviation in each specific category of ownership identity.

Most listed companies (71 entries) are controlled by individuals or families who, as largest shareholder, hold a median stake of 35.67 percent (mean: 36.99 percent). Likewise, non-financial companies, especially industrial companies (66 entries), are among most common largest shareholders and hold a median value of 37.25 percent of outstanding shares (mean: 39.73 percent).

The category of 36 financial companies subdivides into 19 banks, three insurance companies, seven mutual or pension funds, and five other financial companies. These seven other financial companies hold 50.69 percent of stakes (mean: 51.96 percent) while mutual or pension funds control 20.01 percent (mean: 30.57 percent). Banks only possess 15.19 percent (mean: 17.03 percent) and the three insurance companies bring up the rear with 5.60 percent of shares (mean: 6.57 percent) which is extremely low since this ownership stakes corresponds to the position of the largest shareholder. The state or public authorities are the majority shareholders of only 8 companies of this sample but represent the highest median ownership stake among analyzed companies which amounts to 46.65 percent (mean: 52.36 percent).

Table 2: Ownership Concentration by Identity of Largest Shareholder

Identity of largest shareholder	N	Stake of largest shareholder in %		
		Mean	Median	StdDev
Individual(s) or family(ies)	71	36.99	35.67	17.37
Financial companies	36	25.58	19.08	19.66
Banks	19	17.03	15.19	10.64
Insurance companies	3	6.57	5.60	3.22
Mutual / Pension funds	7	30.57	20.01	14.05
Other financial companies	7	51.96	50.69	20.09
Non-financial companies	67	39.73	37.25	16.88
Foundation/Research Institute	1	29.99	29.99	-
Industrial companies	66	39.88	38.28	16.96
State, Public authorities	8	52.36	46.65	22.66
Total	182			

Data Source: Amadeus Database

With respect to corporate governance, companies with high ownership concentration and dominant foreign investors tend to have better control and governance structures than companies with low levels of ownership concentration. Especially, companies with a high percentage of foreign ownership have transparent corporate governance structures and a clear division of powers among the management board, the supervisory board, and the general meeting of shareholders. Foreign dominated companies also introduced incentive-based remuneration systems for managers, in the form of share grants or seats on the supervisory board.

Institutional investors, such as pension funds, investment funds, and banks are important instruments that undertake monitoring and screening activities on corporate performance and corporate management and therefore contribute to the abidance of good corporate governance. However, institutional investors should extend their role in the Polish governance system and should contribute more actively in supervising and monitoring corporate governance.

Pension funds were established at the end of the 1990s and are usually assisted by international institutional investors. Since the Polish pension sector is quite young funds only have marginal experience on governance. Funds often face themselves internal corporate governance problems such as conflicts of interest, insider trading, or troubles in voting policy. Additionally, regulations on inventing abroad, a minimum requirement on the rate of return, and current market structure restrict pension funds from playing a more active role in corporate governance. However, in the past some large funds contributed in corporate governance conflicts that led to the replacement of the management or supervisory board.

Investment funds such as venture capital and private equity funds are more involved in corporate governance practices. Since most of these funds are from abroad and linked to international investors fund managers possess sufficient experience and ensure efficient performance. They contributed in the improvement of the position of the supervisory board and advised inter alia the appointment of independent board members and the auditor. Furthermore, investment funds developed their own corporate governance practices relevant to their portfolio companies.

The role of banks concerning the establishment of corporate governance issues is comparably low and their involvement in control is below European standards.

7.2.2. Protection of Minority Shareholders

Since ownership concentration in Poland is relatively high the rights of minority shareholders have to be especially considered to protect them from opportunistic behavior of managers and blockholders and to guarantee their co-determination rights. Kozarzewski (2006) points out several important regulations concerning the topic of minority shareholders.

Shareholders have the right to obtain sufficient information from the management to form a view on issues that are on the agenda of the next shareholder meeting. A shareholder who owns at least 10 percent of shares has the right to announce additional items to the agenda of the shareholder meeting and can call an extraordinary shareholder meeting on good reason.

Minority shareholders have enhanced rights for group voting including preferential shares that grant their holders two votes per share, and golden shares that inter alia empower shareholders to appoint members of the supervisory board.

Any shareholder or a group of shareholders that own at least five percent of voting rights can appoint an external controller to check company internal problems. Additionally, shareholders can raise an objection on decisions of the general meeting that are in conflict with the company charter or good corporate practices.

Shareholders who hold at least 20 percent of all shares have the right to request the election of members of the supervisory board in cumulative voting and the possibility to delegate a representative of their group to the supervisory board.

As recommended in the Polish Corporate Governance Code[47] the terms of location, date, and time of the general meeting should allow access to information on topics of the agenda and a large presence of shareholders. The chairman of the general meeting should be impartial and independent from the company and from controlling blockholders. Additionally, the dominant shareholder should not hinder other shareholders in their exercise of information and voting rights.

Furthermore, information on the company's ownership and control structure, inequalities between ownership stakes and control stakes of shareholders, and voting agreements between several shareholders should be published by the company.

7.2.3. The Management Board

Polish public joint-stock companies are obliged to establish a two-tier board system consisting of the management board and the supervisory board.

The management board is responsible for day-to-day business operations and has to fulfill managing tasks maintaining loyalty to the company, diligence, and transparency concerns. The management board is elected by the supervisory board or by

[47] See Corporate Governance Code for Polish Listed Companies, 2002

shareholders in the general meeting. It consists of at least one member elected for a period of five years with the possibility to extend this period by additional five years. Members of the management board are not allowed to hold seats on the supervisory board and vice-versa. The management board has to collaborate with the supervisory board and provide sufficient information on corporate operations. One single or all members of the management board can be discharged by the supervisory board in cases such as gross carelessness and misuse of control rights.

Additional features concerning the function of the management board are addressed in the Polish Corporate Governance Code[48]:

- General information about the members of the management board such as their professional skills, received remuneration, and positions held within other companies should be published.
- Management remuneration should include base salary, bonuses, stock options and severance payments. Shares issued for stock option grants should not exceed 10 percent of total shares over any five-year period. Additionally, the issue price of these shares should be close to the actual market price.
- The general meeting should be joined by at least one member of the management board being able to answer concerns expressed by shareholders of the company.
- Members of the management board should disclose conflicts of interest that arise in relation to corporate duties and responsibilities.

7.2.4. The Supervisory Board

The supervisory board is elected in the annual general meeting by shareholders through majority voting, group voting, or by other instructions within the company charter. It consists of at least three members who are appointed for a maximum period of five years. As stated above, members of the supervisory board are not allowed to hold seats on the management. Additionally, liquidators, accountants, legal advisors, and proxies of the company are excluded from the supervisory board.[49] The supervisory board meets at least three times a year to discuss and check current operations and company activities. The supervisory board has the right to examine company protocols, reports, and accounting documents, and surely supervises and controls the actions of the management and the company. The effectiveness of the

[48] See Corporate Governance Code for Polish Listed Companies, 2002

[49] See Koladkiewicz, 2006

collaboration between the management board and the supervisory board depends on the available information on company issues provided by the management. The supervisory board can dismiss members of the management board upon good cause shown. There also exists the possibility to enlarge the rights of the supervisory board by additional specifications in the company charter.
Koladkiewicz (2006) states that the scope of the actions of the supervisory board depends on the ownership structure, the ownership identity, and the size of the company. Since the supervisory board acts not only as controlling entity but also provides advice and services the importance of the supervisory board increases with the size and complexity of the corporation, and even enlarges in the case of subsidiaries. In the latter point the supervisory board functions as balancing entity between the interests of the parent company and those of the subsidiary. Moreover, there is no general requirement to include representatives of stakeholders in the supervisory board, but in practice many companies establish individual policies to represent employees in the supervisory board.

Sure, the Corporate Governance Code for Listed Companies[50] comments issues on Polish supervisory boards and partially overlaps with the recommendations of the WSE[51] concerning this matter. Most important suggestions are:

- The supervisory board should act in the interest of the company and especially in the interest of minority shareholders.
- Members of the supervisory board should possess sufficient expertise, experience and time to perform the collection of relevant information, give advice, and execute monitoring actions. Basic information on these factors as well as the amount of their remuneration should be disclosed to the shareholders of the company.
- The remuneration of the members of the supervisory board should be in relation to the size of the company's business and to company performance. Additionally, compensation should be correspondent to the individual extent of tasks and responsibilities.
- At least two members of the supervisory board should be independent which means the absence of any relationships to the company, to dominant shareholders, or to employees. The election and dismissal of these members should not be affected by controlling shareholders.

[50] See Corporate Governance Code for Polish Listed Companies, 2002

[51] See Code of Best Practice for WSE Listed Companies, 2007

- In the annual general meeting the supervisory board should present a status report on the current position and future prospects of the company, on risk management, internal corporate governance mechanisms, and on the work of the supervisory board itself.
- A member of the supervisory board should announce any conflicts of interest concerning corporate operations. Furthermore, relationships between a member of the supervisory board and a shareholder possessing more than 5 percent of all votes should be disclosed.
- Any agreements or transactions with a related entity of the company that are not among transactions of its typical operating business should require the approval of the supervisory board.
- Finally, the supervisory board should establish an audit committee including company-involved members with sufficient qualifications in accounting and finance and at least one independent member.

7.2.5. The Market for Corporate Control

Takeovers can be important mechanisms to ensure competitive markets and the efficiency of companies. These control mechanisms of the market contribute to good external corporate governance and motivate both the management and the supervisory board to act in the interest of the company and its shareholders by maximizing the value of the corporation. Inefficiencies and differences in the company's economic and market value increase the threat of a possible hostile takeover which leads to the replacement of the members of the management and supervisory board. However, companies tend to establish defense mechanisms against takeovers which are, on the one hand, necessary to maintain stability and to prevent inefficient opportunistic takeover but, on the other hand, limit the control potential of the market if used to excess.

Polish public joint-stock companies can adopt several means to impede the success of a hostile takeover and to hinder a potential raider from acquiring the desired amount of shares and voting rights.
Dual class shares issued by the company define two classes of shares, voting shares which give their holder the right (or multiple rights per share) to appoint or dismiss members of the supervisory board and to vote on other important corporate issues, and non-voting shares which exclude the exercise of voting rights and grant only dividend payments to their holder. Since such shares empower certain shareholders with

increased control rights they can be used as an anti-takeover defense against a hostile bid. Tamowicz and Dzierżanowski (2002) state that preferred shares which attach cumulative voting rights to one share are most common and that the maximum preference of five votes[52] per share is utilized in 81 percent of cases.

Another control device to defend a takeover is the establishment of a voting cap. The company charter can limit the voting rights of shareholders to at most 20 percent of total voting rights irrespective of the actual amount of voting rights possessed by these shareholders. Voting caps certainly do not apply for owners of preferred stock. However, this instrument is not very commonly used in Polish companies.[53]

Companies can issue new shares of a total value up to 75 percent of existing share capital. According to this, authorized capital can be used as an anti-takeover device especially if these shares are issued without preferred voting rights.

Additionally, companies can repurchase their own shares up to an amount of 10 percent of total outstanding shares in order to prevent potential threats to the company.

The Polish Corporate Governance Code[54] discusses some of these anti-takeover defenses and recommends the following practices:

- Companies should not use anti-takeover defenses against the interest of their shareholders. The use of such instruments should be approved by shareholders and be only applied over a limited period of time if these defenses are in the interest of both the company and the shareholders.
- A shareholder who possesses more than 50 percent of voting rights should not be subject to restrictions of a voting cap.
- Companies should not acquire their own shares in order to prevent a takeover. Furthermore, companies should only acquire their own shares through a public tender offer directed to all shareholders of the company.

Generally, hostile takeovers were not very common in the past mainly due to the high ownership concentration in Polish companies. In this regard, Tamowicz and Dzierżanowski (2002) estimate that only 20 percent of public companies could be affected by the threat of a hostile takeover. Apart from high ownership concentration additional provisions may hamper an unforeseen hostile bid. These include the

[52] Meanwhile the maximum preference was lowered and at most two votes per share are allowed. However, this did not influence the popularity of preferred shares.

[53] See Tamowicz and Dzierżanowski (2002)

[54] See Corporate Governance Code for Polish Listed Companies, 2002

obligation to disclose each 2 percent increase in shareholdings if a shareholder owns more than 10 percent of voting rights, the restriction to acquire no more than 10 percent of voting rights in a three-month period unless making a tender offer, and the requirement to obtain the approval of the Polish Financial Supervision Authority (PFSA) in order to increase shareholdings over 10, 20, 33, and 50 percent of voting rights or share capital.

One of well-known examples of a hostile takeover in Poland, even though unsuccessful, was the attempt of Deutsche Bank to acquire the Polish bank BIG BG in 2000. Deutsche Bank cumulated shares over a period of almost one year and tried to bypass mandatory bid requirements and the approval of the Polish Securities and Exchange Commission[55] by several means. Finally, after a couple of further events, Deutsche Bank backed out of the attempt to acquire BIG BG. Main reasons for this pullback were political pressure and legal actions against the way Deutsche Bank had cumulated shares.[56]

Recapitulatory, the Polish corporate governance environment possesses a broad and comprehensive field of regulations, especially concerning the Polish Corporate Governance Code and the Best Practices of the WSE. However, as mentioned at the beginning of this section there are also several drawbacks. The fact that many regulations are in general not mandatory and that companies have to only make a comply and explain statement to these rules leads to further considerations and open questions. To what extent do companies comply with these regulations? And why do companies diverge from particular principles and how meaningful are the stated reasons? Further issues concern the general picture of the implementation of corporate governance rules in Poland. How prevalent is the commitment to corporate governance concerns in Poland? And how are existing laws enforced? The following section deals with these questions and tries to provide some answers on particular matters.

[55] In 2006 the Polish Securities and Exchange Commission (PSEC) was replaced by the newly initiated Polish Financial Supervision Authority that took over the duties and responsibilities of the PSEC and acts as new monitoring body of the Polish capital market.

[56] See Tamowicz and Dzierżanowski (2002)

8. Disclosure of Corporate Governance Practices in Poland

In general, the amount and quality of disclosure depends, on the one hand, on legislation and the additional regulatory framework and, on the other hand, on the actual implementation and enforcement of these rules in practice. Additionally, the extensiveness of disclosed information is influenced by company-specific factors and considerations. Berglöf and Pajuste (2005) argue that most of all minority shareholders benefit from higher disclosure that reduces the exploitation of private benefits by large blockholders. If the amount of possible benefit extraction by large shareholders is reduced these groups may diminish their monitoring activities of the company's management which leads to a general trade-off between the emphasis on minority interests or on controlling shareholders. Moreover, disclosure is also related to direct financial costs and indirect costs. Direct financial costs include resources, effort, and money spent on producing the relevant information. Companies may reduce these costs in times of financial difficulties and companies in distress may hold back information in order to mask their economic and financial situation. Indirect costs of disclosure include the information given to competitors in the market which may lead to economic and competitive disadvantages for those companies which disclose more information. These trade-offs provide only some reasons why companies refrain from increasing not only voluntary but also mandatory disclosure standards.

8.1. Disclosure and General Company-Specific Issues

Besides theoretical models of disclosure, whereon this section does not focus, the relationship between disclosure and company-specific issues can be analyzed by empirical studies.

Berglöf and Pajuste (2005) test several hypotheses concerning the financial performance and the ownership structure of companies in Central and Eastern Europe. Their first hypothesis assumes that companies which depend more on external capital disclose more. But this assumption is not supported by collected data which indicate that high external capital dependence does not encourage companies to increase the amount of disclosure. However, larger companies tend to provide higher voluntary disclosure and companies with better performance show a slightly higher amount of disclosed information. Another hypothesis suggests that companies in distress and

those with limited resource availability reduce disclosure to save costs or to retain crucial information from shareholders and the market. Therefore, financially less constrained firms should disclose more. Evidence strongly supports this hypothesis and shows that companies with higher cash balances and lower leverage have a higher amount of disclosure. Additionally, slower growing companies which have higher resource availability disclose more. The last hypothesis of Berglöf and Pajuste assumes that companies with concentrated ownership disclose less relevant information. Companies which are controlled by large shareholders are less dependent on transparency and may provide less protection of minority shareholders. Evidence confirms this relation especially in the case of highly concentrated ownership and a few numbers of external shareholders. On the one hand, these shareholders are directly and sufficiently informed through company internal information channels which decreases the need to provide extensive information by public means. And on the other hand, controlling shareholders tend to lower the amount of disclosed information to secure the receipt of private benefits.
Further analyzes done by Kowalewski et al. (2007) on companies in Central and Eastern Europe find a positive impact of corporate governance practices and disclosure on dividend payouts. Companies with a better protection of shareholder rights generally pay out higher dividends than companies with weaker shareholder rights. This effect even increases in the case of poor investment opportunities since shareholders use their power to extract dividends rather than leaving corporate gains in the company.

After this general view of the relationship between disclosure and general company-specific issues the following section provides a precise discussion of the available information on specific corporate governance practices.

8.2. Disclosure of Specific Governance Practices

Berglöf and Pajuste (2005) analyze the actual disclosure and the information availability on both company websites and annual reports of companies located in Central and Eastern Europe. They evaluate a Web-Disclosure Index which measures the voluntary disclosure of most important corporate governance issues provided on the websites of listed companies and an AR-Disclosure Index which determines the amount of disclosure in companies' annual reports.

In order to calculate the Web-Disclosure Index Berglöf and Pajuste examine several company-internal factors or sub-indices which are coded with 0, 0.5, or 1 according to the quality and amount of available information. These sub-indices rate the following issues:

- the existence of a company website and whether the website is available only in the local language or additionally in English,
- the disclosure of the latest annual report and whether it is available only in the local language or additionally in English,
- the existence of a separate corporate governance section,
- the availability of the names of managers,
- the availability of the names of supervisory board members,
- the availability of ownership structure,
- and the disclosure of bylaws.

Table 3 provides the average values of these singular sub-indices and shows the aggregate Web-Disclosure Index of companies in Central and Eastern European countries. In principle, the total Web-Disclosure Index ranges between 0 and 7 and a higher score implies a larger amount and better quality of available information on the companies' websites. Voluntary disclosure largely varies among analyzed factors and countries and generally shows the need for further improvements since the average value of the Web-Disclosure Index only reaches a score of 2.26 concerning all Central and Eastern European countries, and a score of 2.51 with respect to Poland.

Table 3: Website Disclosure by Country

Country	Website	Annual Report	CG-Section	Mgr-names	Board-members	Owners	Bylaws	Web-disclosure	N
Bulgaria	0.36	0.17	0.17	0.42	0.25	0.25	0.08	0.86	32
Czech Republic	0.91	0.63	0.03	0.74	0.68	0.65	0.00	3.53	32
Estonia	0.77	0.50	0.00	0.40	0.10	0.50	0.10	2.23	11
Hungary	0.75	0.57	0.29	0.72	0.61	0.50	0.29	2.71	26
Latvia	0.91	0.40	0.00	0.20	0.20	0.20	0.00	1.82	11
Lithuania	0.89	0.21	0.03	0.33	0.06	0.06	0.00	1.53	36
Poland	**0.80**	**0.30**	**0.07**	**0.66**	**0.54**	**0.41**	**0.20**	**2.51**	**153**
Romania	0.73	0.08	0.03	0.35	0.06	0.34	0.03	1.37	43
Slovak Republic	0.80	0.75	0.00	1.00	1.00	0.50	0.00	3.40	5
Slovenia	0.93	0.69	0.06	0.70	0.47	0.61	0.00	3.05	21
Total	0.78	0.36	0.07	0.58	0.42	0.40	0.11	2.26	370

Source: Berglöf and Pajuste (2005), Website Disclosure by Country

In Poland many company websites (0.80) are available in English and also the majority of Central and Eastern European companies provide an English version of their website. Solely Bulgaria is the rear light within this category with a Website Index of only 0.36. The names of managers (0.66) and board members (0.54) and the ownership structure (0.41) are disclosed in approximately half of the analyzed Polish companies. Unfortunately, many companies in Poland publish their annual report (0.30) only in the local language which crucially limits the information available to foreign shareholders and only a limited number of companies provide information on bylaws (0.20) on their website. Furthermore, only a minority of Polish companies offers a separate corporate governance section on their website which is reflected in the alarmingly low score of 0.07. This shows most of all the little awareness of the importance of corporate governance disclosure, the lack of commitment, and the need for improvements in this area.

In order to analyze disclosure patterns in the annual reports of companies in Central and Eastern Europe Berglöf and Pajuste additionally create the AR-Disclosure Index. This index again consists of several factors or sub-indices which are coded with 0, 0.5, or 1 according to the amount of disclosed information. The particular issues analyzed in the annual reports are as follows:

- the information on shareholdings by managers and board members - whether disclosed individually, in total, or not
- the information on the remuneration of managers and board members - whether disclosed individually, in total, or not
- the description of related-party transactions by shareholders, controlling parties, and managers - whether disclosed in detail, limited, or not
- the names and ownership stakes of shareholders that hold more than 10 percent - whether disclosed individually, in total, or not
- the existence of a separate corporate governance section

Table 4 shows the average values of these singular factors and sums them up to the total AR-Disclosure Index which principally ranges from 0 to 5. A higher value implies a larger amount of information disclosed in the annual reports. As already observed on the website disclosure the levels of disclosure in annual reports largely vary among sub-indices and countries as well. The average value of AR-Disclosure reaches a score of 2.08 concerning all analyzed countries and only scores 1.62 with respect to Poland which implies an overall little amount of actual disclosure.

Table 4: Actual Annual Report Disclosure by Country

Country	Inside-shares	Income	Related-Trans	Owners	CG-Section	AR-Disclosure	N
Bulgaria	0.00	0.00	0.00	1.00	0.50	1.50	2
Czech Republic	0.35	0.44	0.75	0.94	0.33	2.81	24
Estonia	0.64	0.55	0.82	0.86	0.00	2.86	11
Hungary	0.33	0.13	0.25	0.67	0.25	1.63	12
Latvia	0.17	0.22	0.44	0.61	0.00	1.44	9
Lithuania	0.73	0.42	0.19	0.98	0.00	2.31	24
Poland	**0.28**	**0.17**	**0.29**	**0.81**	**0.07**	**1.62**	**29**
Romania	0.25	0.00	0.13	1.00	0.00	1.83	4
Slovak Republic	0.00	0.00	0.50	1.00	0.00	1.50	2
Slovenia	0.55	0.36	0.09	0.86	0.00	1.86	11
Total	0.42	0.30	0.39	0.86	0.11	2.08	128

Source: Berglöf and Pajuste (2005), Annual Report Disclosure by Country (actual)

Analyzing the scores of the individual factors of the AR-Disclosure Index, Table 4 shows that the disclosure of information on direct ownership (0.81) is well conducted in the annual reports of Polish companies. Information on related-party transactions, managerial and board shareholdings, and management and board compensation is relatively low with scores of 0.29, 0.28, and 0.17. Unfortunately, information on the latter two issues is in most cases only provided in total and not itemized individually by each management or board member. Moreover, most Polish companies do not provide a separate corporate governance section in their annual report which can be seen on the alarmingly low score of 0.07.

In order to relate these findings of actual disclosure with the by law required disclosure Berglöf and Pajuste evaluate the mandatory disclosure requirements of those analyzed factors by each country which are depicted in Table 5. Additionally, the variable AR-Disclosure Difference is constructed as the actual minus the required disclosure and shows the country-specific divergence from mandatory regulations.

In Poland, regulations concerning the amount of disclosure in annual reports include the declaration of aggregate shareholdings by managers and members of the supervisory board (0.50), a limited description of related-party transactions (0.50), and the full disclosure of all names and ownership stakes over the threshold of 10 percent (1.00). There is no requirement to disclose the compensation of managers and board members (0.00) and companies do not have to include a separate corporate governance section in their annual report (0.00).

Table 5: Mandatory Annual Report Disclosure by Country

Country	Inside-shares	Income	Related-Trans	Owners	CG-Section	AR-Disclosure	AR-Disclosure-Dif
Bulgaria	1.00	0.00	0.50	1.00	0.00	2.50	– 1.00
Czech Republic	0.50	0.50	0.50	1.00	0.00	2.50	0.31
Estonia	1.00	0.00	0.50	1.00	0.00	2.50	0.36
Hungary	0.00	0.50	0.00	1.00	0.00	1.50	0.13
Latvia	0.00	0.00	0.50	1.00	0.00	1.50	– 0.06
Lithuania	1.00	0.50	0.50	1.00	0.00	3.00	– 0.69
Poland	**0.50**	**0.00**	**0.50**	**1.00**	**0.00**	**2.00**	**– 0.38**
Romania	0.00	0.00	0.50	1.00	0.00	1.50	– 0.13
Slovak Republic	0.00	0.00	0.00	1.00	0.00	1.00	0.50
Slovenia	0.00	0.50	0.50	1.00	0.00	2.00	– 0.14
Total	0.50	0.28	0.45	1.00	0.00	2.22	– 0.14

Source: Berglöf and Pajuste (2005), Annual Report Disclosure by Country (required by law)

Comparing Table 4 to Table 5 shows that, on the one hand, Polish companies disclose less information on inside-shareholdings, related-party transactions, and on their ownership structure than required by law and that, on the other hand, some annual reports contain information on the remuneration of the management and supervisory board and a corporate governance section which are not part of mandatory regulations. Furthermore, the total difference between the actual and mandatory disclosure of Polish companies is relatively high (-0.38) compared to the average of Central and Eastern European countries and only Bulgaria (-1.00) and Lithuania (-0.69) face a higher divergence from required disclosure than Poland.
Especially this final comparison points up the need for more stringent enforcement of existing regulations and supports the findings of Pistor et al. (2000) who argue that the enforcement of rights is relatively low in Central and Eastern European countries and that the real effectiveness of legal institutions depends more on the actual enforcement of regulations than on the law on the books.

A more recent study on Polish listed companies is made by Kowalewski et al. (2007) who examine the quality of corporate governance on a sample of 110 non-financial companies. Therefore, Kowalewski et al. create the Transparency Disclosure Index (TDI) which measures the actual implementation of corporate governance principles in Polish listed companies. The relevant information is captured from companies' annual reports, companies' websites, filings with domestic regulatory agencies, and business publications in 2005. The TDI includes three sub-indices which are shown in Table 6. The Board Index analyzes the structure, internal procedures, and the compensation of the management and supervisory board. The Disclosure Index focuses on the available information of corporate-specific issues to shareholders. And finally, the Shareholder Index considers the quality of information on the compensation of minority shareholders and on dividend policy.

Table 6: The Transparency and Disclosure Index (TDI)

Item	% of companies with public information on each item
TDI-Board	
Independency criteria for directors	22.08
Years in office of present directors	23.38
Code of Conduct for directors	74.68
Manager and director fees	70.78
Form of manager and director fee payment (cash, stock, stock options)	51.30
Rationale of manager and director fees	34.42
Information on whether manager and director fees are performance-based	38.96
Shareholdings of managers and directors	74.03
Number and percentage of independent directors	24.68
Details on the nomination process of new directors	1.30
Report on issues by dissident directors	0.00
Composition of the different board committees	6.49
Details on activities of the different board committees	1.30
TDI-Disclosure	
Biography of main company officers	34.42
Biography of directors	27.92
Calendar of future events	41.56
English-translated corporate website	85.71
Financial indicators for the last 5 years	81.82
Strategic plan and projections for the following years	29.87
Publication of board meeting resolutions	94.16
Publication of shareholders meeting resolutions	94.81
Details on the appointment process of new directors	0.65
Details on attendance of minority and controlling shareholders in shareholders' meetings	1.30
Reports on issues raised by dissident shareholders	0.00
Year of hiring of the external auditor	97.40
Report of the external auditor	97.40
TDI-Shareholders	
Details of corporate ownership (principal shareholders)	94.81
Type and amount of outstanding shares	89.61
Document on internal corporate governance standards	1.30
Dividend policy in the past 5 years	18.83
Projected dividend policy for the following years	7.14
Rationale of the past and/or future dividend policy	11.04

Source: Kowalewski et al. (2007), Structure of the Transparency and Disclosure Index (TDI)

Table 6 summarizes the results of the analyzed companies and partly supports but also partly vitiates the findings of Berglöf and Pajuste (2005). These variances can be explained by the different sources of information since Berglöf and Pajuste separately analyzed companies' websites and annual reports and Kowalewski et al. examined the overall disclosure of websites, annual reports, and filings with domestic regulatory agencies. According to Kowalewski et al. a many Polish companies provide an English version of their website (85.71%) and disclose resolutions of board (94.16%) and shareholder meetings (94.81%). 94.81 percent of companies disclose details of their ownership structure and 89.61 percent give information on the type and amount of outstanding shares. The majority of Polish companies publish details of the remuneration (70.78%) and shareholdings (74.03%) by managers and board members and also the report of the external auditor is disclosed in most cases (97.40%). Unfortunately, issues on independent board members such as specific independency criteria (22.08%) and the numbers and percentage of independent board members (24.68%) are only presented by a few numbers of companies. Likewise, details of the composition of board committees (6.49%) and of the activities of these different committees (1.30) are only disclosed in a marginal number of companies. Moreover, there is a lack of information on the attendance of minority and controlling shareholders in general meetings (1.30%) and on issues raised by not agreeing shareholders which are disclosed not at all.

Furthermore, Kowalewski et al. present descriptive statistics of above measures which are displayed in Table 7. The total TDI of 0.406 indicates a relatively low average of corporate governance standards in Polish companies with a minimum value of 0.094 and a maximum value of 0.781 which implies a relatively high variation of these standards. This variation can be also seen in the Board, Disclosure, and Shareholder sub-indices which all show a minimum value of 0.00 and maximum values of 0.769, 0.846, and 0.833.

Table 7: Statistics of the Transparency and Disclosure Index (TDI)

Variable	Observations	Mean	Standard Deviation	Minimum	Maximum
TDI-Board	110	0.322	0.189	0.000	0.769
TDI-Disclosure	110	0.513	0.152	0.000	0.846
TDI-Shareholder	110	0.355	0.159	0.000	0.833
Total TDI	110	0.406	0.134	0.094	0.781

Source: Kowalewski et al. (2007), Descriptive Statistics

The mean of the Disclosure Index scores 0.513 and implies medium corporate governance standards concerning the available information to shareholders. However, the means of both the Board and the Shareholder Index are relatively low, reaching values of only 0.322 and 0.355, which again shows the need for higher commitment and enforcement of related corporate governance standards.

8.3. Enforcement of Existing Regulations

Even though the studies of Berglöf and Pajuste (2005) and Kowalewski et al. (2007) differ in a few particular findings both analyses implicate improvable standards of corporate governance and the high importance of the enforcement of existing regulations.

Berglöf and Pajuste (2005) claim that many companies in Central and Eastern Europe are more concerned about the financial costs of disclosure than about the possibility to attract outside shareholders by a higher amount and better availability of information. Companies should increase disclosure of corporate operations, ownership structure, related-party transactions, and shareholdings by members of the management and supervisory board in order to foster transparency. Furthermore, the possibilities of legal recourse of minority shareholders and private law enforcement should be encouraged. Public enforcement should be additionally improved since a higher degree of public enforcement reduces the costs of private enforcement.

Berglöf and Pajuste argue that private ordering and self-regulation are dominant patterns especially in the financial sector including investment banks which establish standards for underwriting, clearing houses which organize settlement and payment services, and other financial institutions which exchange information and develop rules for conflict. Private ordering is a main enforcement mechanism in Central and Eastern European markets and therefore private parties should be encouraged to adopt additional regulations.

Kochanowicz et al. (2004) and Tamowicz (2006) confirm that institutional investors such as pension funds and investment funds are important instruments that undertake monitoring and screening activities on corporate performance and therefore contribute to the abidance of good corporate governance. Although, the Polish pension sector is quite young and funds only have marginal experience on governance activities some large funds contributed in corporate governance conflicts that led to the replacement of the management or supervisory board. Investment funds such as venture capital and private equity funds are more involved in corporate governance matters since most of these funds are from abroad, fund managers possess sufficient experience, and aim to ensure efficient performance of their portfolio companies. During the last years, they contributed in the improvement of the position of the supervisory board and advised inter alia the appointment of independent board members and the auditor. Furthermore, investment funds developed their own corporate governance practices relevant to their portfolio companies.

However, the efficiency of these mechanisms depends on the general regulatory environment since governmental support is an essential factor to guarantee a balanced corporate governance framework. Moreover, Durney and Kim (2003) state that individual companies or institutions cannot offset the lack of general governance policies by improving their own governance systems. Effective public enforcement depends on both the extensiveness of public law and the efficiency of enforcing institutions. Additionally, regulators and supervisors should generally be independent and have sufficient power and rights to fulfill their tasks.

The strengths of Poland are the extensive regulatory framework and the comprehensive competence and power of the WSE and the Polish Financial Supervision Authority, while the weaknesses involve the low governmental commitment and the weak support of those institutions. Berglöf and Pajuste (2005) explain that direct and indirect investments in the enforcement of laws frequently exceed the benefits of expenditures and thus these costs reduce the governmental commitment to promote the rule of law even in the case of sufficient resources and reasonable returns from investments. Additionally, the WSE and the Polish Financial Supervision Authority face a trade-off between enforcing disclosure regulations and the threat of loosing companies that might leave the stock exchange for that reason. Therefore, the low degree of enforcement by authorities is also intended to a certain degree.

Nevertheless, corporate governance and disclosure standards should be monitored more closely and regulators should increase sanctions for deviations of mandatory standards. Existing regulations should be stated and enforced unambiguously to foster consistent governance principles and to improve the general commitment to those standards.

9. Case Studies on Disclosure of Polish Listed Companies

As already examined in the previous section, there is quite a large variance of disclosed information among listed companies ranging from absolutely no available information to extensive disclosure of corporate governance practices in Poland. In order to get an idea of how disclosure can be done and to show positive examples of corporate governance in Poland this analysis concentrates on companies that provide at least medium quantity and quality of corporate governance disclosure. Therefore this section analyzes the actual website presentation of four listed companies of the financial and the industry sector with respect to the amount of available information and the transparency of main corporate governance practices. These listed companies are Cash Flow S.A., a debt collection company, Bank BPH S.A., a domestic universal bank, Novita S.A., a textile producer, and Grupa Kęty S.A., a large company of the Polish aluminum industry.

9.1. The Other Finance Sector – Cash Flow S.A.

Cash Flow S.A.[57] is one of 22 companies of the 'other finance' sector listed on the WSE. A short analysis of the 'other finance' sector shows that four companies do not even have a website, two websites are not available, and nine websites are only available in Polish. Seven companies of the 'other finance' sector provide additionally an English version of their website with partly only marginal information on corporate governance issues.

Cash Flow engages in helping other businesses to regain financial stability by vindicating debtors, financing liabilities, factoring, or by other financial services. The target markets of Cash Flow consist of both individuals and businesses and cover the territory of Latvia, Lithuania, Estonia, the Russian Federation, Ukraine, Belarus, Kazakhstan, Armenia, Azerbaijan, Moldavia, Georgia, Kyrgyz, Uzbekistan, Tajikistan, and Turkmenistan.

The company's website presents a detailed description of singular business activities concerning debt collection, buying and financing liabilities, factoring, and mortgage management. Although the company is relatively small compared to other debt

[57] See Cash Flow S.A., http://www.cashflow.com.pl/

collection companies on the Polish market it achieves one of the highest net incomes. 69 percent of the company's income is reached by debt collection while 16 percent comes from factoring and 15 percent from buying liabilities.
Cash Flow was founded in 1997 and turned into a joint-stock company in 2000. In 2006 the company made its debut on the WSE to gain capital for further development and other capital intensive operations. Cash Flow issued 2,500,500 C class shares in an open bid whereof 1,000,000 were offered to individual investors and 1,500,000 to corporate investors. The total amount of C class shares accounted for 33 percent of the total share capital (which is 7,500,000 Polish Złoty with a nominal value of 1 Polish Złoty of each share) and the initial public offer achieved a rate which was 21.25 percent higher than the stock issue price.

As disclosed on the company's website Cash Flow is controlled by two other companies, Garmint Limited which is owned by Cash Flow's president Mr. Igor Kazimierski and Lune Capital Limited which is owned by Cash Flow's vice president Mr. Grzegorz Gniady. In terms of the number of shares Garmit Limited holds 38 percent and Lune Capital Limited 29 percent while 33 percent are owned by other shareholders. And in terms of votes in the general assembly Garmit Limited owns 48 percent, Lune Capital Limited 36 percent, and other shareholders 16 percent of total votes.

Apart from the above presented information on the president and the vice president of Cash Flow the website does not disclose any additional information on the members of the management board and unfortunately, there is no information on the supervisory board. Furthermore, the names of the two members of the management board are only mentioned in a subordinate clause within the section of the company's shareholder structure. Therefore, Cash Flow should disclose at least the names of the members of the management and the supervisory board in a separate section on its website in order to provide sufficient information on these governing bodies.

The website of Cash Flow provides a section on investor relations including sub-sections on financial reports, the prospectus, the corporate calendar, corporate governance, and several financial forecasts.
The sub-sections of financial reports and the prospectus show annual, semi-annual, and quarterly reports of the company and the prospectus of the initial public offering on the WSE. Unfortunately, these reports and the prospectus are only available in Polish which makes it difficult for foreign investors to gain information on these issues. The

financial calendar presents the publishing dates of financial reports and the forecasts show the approximated financial development of net turnover and net profits until 2009. In my opinion, the information on forecasts should be checkable by current financial reports which should be additionally presented in English in order to enlarge the picture of corporate operations from the shareholder's perspective.
The sub-section of corporate governance provides several documents including the statutes of Cash Flow, regulations of the general assembly, regulations of the management and supervisory board, and the compliance statement with the Best Practices of the WSE. These documents are also only available in Polish which indeed shows the will of the company to disclose information but is not helpful for foreign investors at the same time.

Although the website of Cash Flow provides only medium information on corporate governance and important documents are only available in Polish this company site is one of the most informative sites compared to the websites of other companies of the 'other financial' sector of the WSE.

9.2. The Banking Sector – Bank BPH S.A.

Among the banking sector there are 15 domestic banks listed on the WSE that all provide additionally an English version of their website. Generally, the disclosure and transparency of corporate governance practices on these websites is relatively high and can be seen as exemplary for other companies in different sectors.

Bank BPH S.A.[58] is a universal bank which serves individual customers, private companies, and other institutional clients. Bank BPH performs its services to 650,000 customers in 200 subsidiaries in Poland and also operates on the international market. In the past, the bank was also involved in referendums and campaigns related to the EU accession of Poland and currently Bank BPH supports companies by raising funds from the EU.
Bank BPH was established after the merger of Bank Przemysłowo-Handlowy Spółka Akcyjna (BPH) and Powszechny Bank Kredytowy Spółka Akcyjna (PBK) in 2001. The roots of BPH and PBK go back to 1989 where these two banks were spun off from the National Bank of Poland. In 1991 these companies were transformed into joint-stock companies that were wholly owned by the Polish State Treasury. BPH and PBK made

[58] See Bank BPH S.A., http://www.bph.pl/

their debut on the WSE in 1995 and 1997. After the merger of these two banks in 2001 the new name of the merged bank was Bank Przemysłowo-Handlowy PBK S.A. which was renamed in 2004 to Bank BPH S.A. In 2005 Bank BPH entered the UniCredit Group which acquired 93.93 percent of shares. In 2007 the spin-off of Bank BPH took place and the larger portion of the bank's business was incorporated into Bank Pekao. This transaction was the result of some takeovers by the UniCredit Group and an agreement between UniCredit and the Polish State Treasury. Further details on the history of the bank and the spin-off are available on the website of the company and provide sufficient information for shareholders.

The current ownership structure of Bank BPH is transparently disclosed on the bank's website. The total number of outstanding shares and votes amounts to 28,716,230 whereof 71.03 percent are owned by UniCredit Italiano S.p.A., 25.29 percent by other shareholders including the Bank of New York, and 3.69 percent by the State Treasury.

The separate corporate governance section on the bank's website covers information on its management and supervisory board, on the general shareholder meeting, on principles of corporate governance and communication policy, and on the shareholder structure as already depicted above. Additionally, other sub-sections of the website refer to these issues which facilitates the locating of desired information.

The management board of Bank BPH consists of four members who are listed by their position and duties and additionally, short curriculum vitas of the board members are provided on the website. The members of the management board are: Józef Wancer who is the president of the board (finance, retail banking, human resources, strategy, communication, internal audit), Mirosław Boniecki who is the deputy president of the board (INM, treasury, corporate banking and commercial real estate), Kazimierz Łabno (IT, services, integration), and Carl Normann Voekt (risk management).
The disclosed rules of the management board define principles of the operations of the management board including competencies of the president of the board, procedures of adopting resolutions, the relationship between the management and the supervisory board, and general issues of decision making. The members of the management board are obliged to participate in the general shareholder meeting, have to provide quarterly reports to the supervisory board, and have to disclose any conflict of interests related to their occupied function in the company. Despite these general business regulations there is no information on the remuneration of the members of the management board disclosed directly on the website.

The supervisory board of Bank BPH consists of 13 members. Information on both their position within the board and their curriculum vitas is disclosed on the bank's website. Additionally disclosed documents include a report on the supervisory board, the connections of board members with shareholders, and information on the committees of the supervisory board.

The rules of the supervisory board define the duties of its members such as monitoring and advising the management board and the general supervision of the bank. The members of the supervisory board are obliged to participate in the general shareholder meeting and to disclose any conflict of interests and any relationships with majority shareholders to the management and the supervisory board. The amount of remuneration of the members of the supervisory board is determined by the bank's shareholders in the general meeting and should be appropriate to the tasks and efforts of each individual member.

Within the supervisory board an audit, remuneration, credit, and investment committee has to be established whose individual regulations can be found on the bank's website. The audit committee consists of at least two independent members of the supervisory board and of at least one person qualified and experienced in accounting and finance. The audit committee supervises the bank's financial reporting, internal audit, and risk features and monitors the external auditor. The remuneration committee issues opinions on the approval of amendments to the contracts with members of the management board, on the remuneration of the bank's managers, and on the general remuneration policy on Bank BPH. The credit committee examines credit operations which exceed a certain amount of capital and monitors internal portfolio regulations and credit policies related to risk management. Finally, the investment committee monitors capital expenditures and projects exceeding a determined value of capital.

In the section on corporate governance the website of Bank BPH provides a short introduction of general governance issues and discloses the compliance statement with the Best Practices of the WSE. This statement refers to the out-dated principles of 2005 and should be amended by the compliance statement with Best Practices of 2007 which are in force since 1 January 2008. According to this statement the bank complies with all rules and comments nearly all principles concerning their actual implementation in Bank BPH's business. Additionally, many of these principles are included in the bank's individual bylaws of the management and supervisory board and in the regulations of the general shareholder meeting.

The sub-section of the general shareholder meeting provides Bank BPH's bylaws of the general meeting and current information on announcements and resolutions adopted by general and extraordinary meetings.
The principles of communication policy involve transparency, fairness, equal access of information, reliability, high quality of disclosed information, and coordination of communication. Information is provided as required by law in the form of announcements and periodic reports and is available to all investors independent of their controlling power. Bank BPH provides fair communication of events which affect the share price of the bank's stock and aims for high substantive quality of information and communication to its shareholders.

The section on financial reports provides comprehensive access to annual, semi-annual, and quarterly reports as well as to financial presentations of current and past years. The latest annual report 2006 of Bank BPH discloses a detailed description of related-party transaction including transactions with group companies, with subsidiaries and affiliates, and with the management and supervisory board. The shareholdings of members of the management and supervisory board are listed individually by each single member. Additionally, the individual remuneration of all board members is disclosed in Bank BPH's annual report 2006. All these statements exceed the mandatory minimum disclosure requirements in Poland since companies are only obliged to provide limited information on related-party transactions, aggregate information on management and supervisory board shareholdings, and no information on their remuneration policy. Moreover, Bank BPH's latest annual report 2006 contains sufficient information on the bank's current ownership structure and fulfils mandatory requirements which demand the disclosure of all ownership stakes above a threshold of 10 percent.
The sub-section on corporate governance within the annual report 2006 shortly informs about basic issues of Bank BPH's governance and refers to other sections within the report which provide further details on specific issues. In my opinion this corporate governance section should be more extensive but with respect to current regulations that do not oblige separate governance sections within annual reports this claim is negligible. The compliance statement with the Best Practices of the WSE, as already provided on the bank's website, is additionally enclosed in the report.

The section 'announcements' on the website discloses ongoing information on shareholder meetings and the supervisory and management board. Furthermore, the section 'investor calendar' presents a detailed list of current and past events concerning Bank BPH's publication of financial reports and company-specific events such as shareholder meetings and conferences. Additionally, the website offers a section on frequently asked questions which provides a short review on general information, listing, financial reporting, ratings, and analyst recommendations.

Recapitulatory, Bank BPH offers a well structured website with extensive disclosure of nearly all corporate governance relevant issues. Solely information on the remuneration of the members of the management board should be directly disclosed on the website and the compliance statement with the Best Practices of the WSE should be updated.

9.3. The Light Industry Sector – Novita S.A.

Novita S.A.[59] operates in the Polish light industry sector. The light industry sector contains 11 domestic companies listed on the WSE whereof indeed ten companies provide an English version of their website but only two of them disclose sufficient information on corporate governance. Five company websites publish absolutely no information on governance issues and three companies offer only marginal information such as the names of the members of the management or supervisory board.

Novita is a small but leading national manufacturer of technical non-wovens for the footwear and geo-nonwovens industry and the largest producer of water-needled non-wovens. Besides the supply of domestic markets Novita also acts as notable exporter with exports accounting for 65 percent of total company sales. Additionally, Novita produces tufting wall-to-wall carpets which are mainly sold to Eastern European markets.

Novita was established in 1976 as state-owned company producing needled carpets and non-woven textiles for the Polish market. In 1990 the company was transformed into a State Treasury company, was privatized in 1993 and made its debut as thirty-seventh company on the WSE in 1994. The capital acquired from the public market enabled the company to undertake investments in technologies and business activities which exceeded a total value of 100 million Polish Złoty.

The company's initial capital amounts to 5,000,000 Polish Złoty divided into 2,500,000 shares with a nominal value of two Złotys each. With regard to the ownership structure Novita's website presents a table of shareholders who directly or indirectly possess at

[59] See Novita S.A., http://www.novita.com.pl/

least five percent of shares and votes in the general shareholder meeting. Unfortunately, the description of the items in this table is stated in Polish which makes it difficult for a foreign investor to exactly identify the categories of the stated numbers. According to my interpretation of the table, Novita is owned by the following shareholders: Janusz Piczak (27.99%), Lentex S. A. (24.27%), Opera TFI S.A. (12.35%), Krzysztof Moska (10.69%), OFE Pocztylion (9.6%), and several minority shareholders who are holding the remaining 15.1 percent.

The management board of Novita consists of the president and general director Henryk Jerzy Kaczmarek and the vice president marketing and sales director Radosław Muzioł. The supervisory board is composed of five members whose positions within the board are only disclosed in Polish. There is no information available on the curriculum vitas of these members and more crucially, there is no information available on the relationships of the members of the supervisory board with shareholders of the company.

The company statutes are disclosed on the website and include several regulations concerning the management and supervisory board and the general shareholder meeting. With respect to these statutes the management board should be composed of at least two members who are elected for three years and nominated by the supervisory board. The supervisory board should consist of at least three members who are elected in the general shareholder meeting for a period of three years. The supervisory board meets at least once per quarter and supervises financial and operating business activities. Furthermore, the remuneration of the supervisory board is set by the general assembly of shareholders. The section of the general shareholder meeting in the statutes includes issues on voting procedures and decision making processes such as resolutions on dividend payments, financial activities, and business operations.

Additionally, the website presents a corporate governance section which only discloses the compliance statement with the Best Practices of the WSE of 2005. Novita complies with all except three of these principles and comments many of them according to their implementation in the company’s business.
Novita does not comply with the recommendation that at least one half of the supervisory board members should be independent from the company, shareholders, and from employees. They explain that the composition of the supervisory board is set by shareholders in the general meeting and that the company publicly announces the

composition of the board and personal data of its individual members. In my opinion, this represents an insufficient explanation of the deviation from the independency criterion and shows that the company understates the importance of independent members of the supervisory board. Thus, the company also does not comply with the principle that at least one independent member of the supervisory board should agree to resolutions concerning related-party transactions and the choosing of an external auditor. Novita explains that all transactions between members of the management and supervisory board and the company are carefully screened and that the company informs publicly about them. Finally, Novita remarks that the above principles should be implemented no later than the end of 2004 which indeed was not reviewable from my perspective.

At the first glimpse the section 'shareholder's info' provides the financial reports of the last four years. Unfortunately, the selection of one specific report does not work correctly due to apparent programming errors of the website. Moreover, these reports would only be available in Polish which would require specific language skills of foreign interested parties. Thus, it was not possible to check the compliance with mandatory disclosure regulations in Novita's annual reports.
Besides the absence of available annual reports there are no announcements on business activities and current issues concerning the general shareholder meeting. According to this and to above mentioned shortcomings there is much room for improvement of the company's website presentation.

9.4. The Metal Sector – Grupa Kęty S.A.

Grupa Kęty S.A.[60] is one of 17 domestic companies of the metal sector listed on the WSE. A short analyzes of the companies' websites reveals that one website is not available, one website is only available in Polish, and that 15 companies provide an English version of their website. Among those one company website discloses no information on corporate governance, eight companies provide only marginal information, and six companies disclose medium to good information on corporate governance practices.

Grupa Kęty is one of the most modern and fastest-growing companies of the Polish aluminum industry and the corporate holding consists of 20 subsidiaries. The

[60] See Grupa Kęty S.A., http://www.gk-kety.com.pl/

company's business units involve extruded products, aluminum systems, and flexible packaging systems which are delivered to various branches such as construction and building, the automotive industry, food concentrates, sweets and confectionery, indoor fittings, and the aircraft industry. Grupa Kęty supplies countries inside and outside of Europe and ranks among the largest companies of the Polish metal sector.
In 1992 the former state-owned company was transformed into a joint-stock company and in 1996 the company made its debut on the WSE. The basic capital of Grupa Kęty amounts to 23,064,157.50 Polish Złoty and currently 9,225,663 ordinary bearer shares[61] of series A-D, each of par value 2.50 Polish Złoty, are traded on the WSE.

As disclosed on the website the main shareholders by the number of shares and votes of Grupa Kęty are ING Nationale-Nederlanden Polska OFE (10.95%), Commercial Union OFE BPH CU WBK (9.998%), Pioneer Pekao Investment Management S.A. (5.88%), Julius Baer Investment Management LLC (5.88%), and Raiffeisen Zentralbank Österreich AG (5.74%). The remaining stake of 61.55 percent is owned by various minority shareholders.

The members of the management board of Grupa Kęty are Dariusz Mańko who is the president and the Chief Executive Officer of the company and Adam Piela who is a regular member of the management board and the Chief Financial Officer. In addition to this information short curriculum vitas of both members are disclosed on the website. The supervisory board of the company consists of five members who are listed with their names, positions, and a short description of their curriculum vitas. The relationships of the members of the supervisory board to other companies are included in their curriculum vitas. This requires that investors exactly read these descriptions to gain information on the involvement of board members in other companies. Information on the remuneration of the management and supervisory board is not directly disclosed on the website. Though, a table within another section of the website inter alia shows that in 2003 and 2005 the management board of Grupa Kęty was compensated with 500 and 300 shares with a nominal value of 2.50 Polish Złoty of each share.

The section 'company records' discloses regulations of the company statutes, the general shareholder meeting, the management board, and the audit and remuneration

[61] Bearer shares are different from normal shares as no records are kept of the owners. Whoever physically holds the papers of the bearer shares owns the stock. The advantage of bearer shares is the anonymity of its holders but the disadvantage is the extremely difficult recovery in the case of loss of the papers.

committee. Links to these documents are also provided within the corporate governance section of the company's website.
With regard to the company statutes the management board should consist of one to five members who are appointed by the supervisory board for a period of three years. The supervisory board should be composed of five to six members who are elected by shareholders in the general meeting for a period of three years. At least half of the members of the supervisory board should be independent from any connections which influence substantial decisions of the members of the board. These connections include relationships with the company, with shareholders, and with employees of Grupa Kęty. The remuneration of the members of the supervisory board is set by a resolution of the general shareholder meeting. Additionally, the company statutes include regulations concerning the duties of the management and supervisory board, general decision-making procedures, and monitoring activities of the supervisory board.
The bylaws of the management board provide further regulations on the rights and duties of the board members, decision-making processes, and business operations. The bylaws of the general shareholder meeting regulate ordinary and extraordinary shareholder meetings and the adoption of general resolutions.
The rules of both the audit and the remuneration committee include extensive regulations on their tasks and spheres of action. According to the rules of the audit committee the committee should be composed of at least two members who are appointed by the supervisory board. Requirements concerning their independence should be fulfilled according to the principles of the WSE. The audit committee monitors the financial statements of the company, establishes proper systems of internal accounting and audition, controls the independence of the external auditor, and provides a committee report which is submitted to the general shareholder meeting. The remuneration committee controls and supervises the remuneration of the members of the management board, analyzes the system of remuneration compared to other systems of remuneration on the market, and publishes a report on its operations to the supervisory board and to the general shareholder meeting. The committee should be composed of at least two members who are appointed by the supervisory board.

The section on investor relations includes inter alia basic company information, a corporate governance section, the corporate calendar, stock exchange announcements, financial accounts, and the prospectus of the company. Furthermore, the names and contact information of analysts of Grupa Kęty are disclosed and presentations on financial results and forecasts are available within this section.

The corporate governance section of the website discloses the compliance statement with the Best Practices of the WSE. Unfortunately, this statement refers to the principles of 2005 and should be amended by a new statement referring to the Best Practices of 2007 which came into force on the 1 January 2008. According to the provided statement Grupa Kęty complies with all principles but does not state any comments on the compliance. This is not mandatory but would provide a larger insight on the actual implementation of these principles in the company's governance mechanisms. Additionally, within this corporate governance section a statement on risk management is provided which includes issues of interest rate risk, the risk of extraordinary events, forex risk, price risk, and of mercantile credit risk.
The corporate calendar shortly lists important financial events of the last year. Moreover, announcements of transactions on the stock exchange are disclosed providing a brief description of various transactions. The stock exchange prospectus of Grupa Kęty is available for download and accommodates investors with key information on the company.

The section on financial accounts presents the annual, semi-annual, and quarterly financial reports of the last three years which are available in English. Additionally, it shows a good overview on basic balance sheet items such as revenues, profits, and liabilities from 2000 to 2006. This overview provides a quick access to basic financial data of Grupa Kęty without the need for reading financial reports. The latest annual report 2006 discloses a detailed list of the ownership structure of the company which indeed partly differs from the current ownership structure presented on the website but is explainable by changes in shareholdings in 2007.
Transactions with subsidiaries and other transactions including members of the board of directors are only described briefly in one sentence. With respect to the former transactions Grupa Kęty states that all transactions between associated companies are conducted at market prices and apply to the current operating activity. The latter transactions with board members are answered in the negative apart from share based payments. This declaration of related-party transactions corresponds to mandatory regulations but it would be preferable to find out more about these transactions.
The remuneration of members of the management and supervisory board is disclosed by the aggregate amount of received payments which is indeed not required by law but would be more informative if listed individually. Shareholdings by managers and members of the supervisory board are provided in an aggregate number according to requirements by law. A sub-section on employee benefits offers sufficient information

on share remunerations and describes current employee share programs, retirement benefits and other benefits granted by Grupa Kęty.
Unfortunately, there is no separate section on corporate governance within the annual report 2006 and solely brief declarations at the beginning of the report state that the company complies with all governance principles of 2005. Furthermore, Grupa Kęty sees corporate governance as important and indispensible factor within the company and was rewarded with the ‘Bull and Bear Award of Gazeta Giełdy Parkiet’ for highest corporate governance standards in 2006.

Remarkably, the website of Grupa Kęty is available in Polish, Russian, English, and German and provides useful links to several Polish institutions such as the WSE, the Polish Financial Supervisory Authority, the National Depository for Securities, and the Association of Stock Exchange Issuers.

Recapitulatory, Grupa Kęty fulfils all mandatory regulations of disclosure and provides comprehensive information on corporate governance practices within the company. Some improvements could be achieved by disclosing individual remuneration of the members of the management and supervisory board and by providing a more extensive description of related-party transactions of the company itself and the members of its supervisory board.

9.5. Summary of Case Study Results

The analysis of the actual corporate governance presentation of companies’ websites and their annual reports showed considerable differences in the quantity and quality of disclosure. The debt collection company Cash Flow offers medium information on corporate governance issues and could improve transparency by explicitly disclosing the names of the members of the management and supervisory board and by providing important documents such as annual reports and governance statements in English. Despite these claims Cash Flow is one of the most transparent companies of the ‘other finance’ sector which shows the low average of disclosure standards within this business sector.
Likewise the textile producer Novita discloses medium information on corporate governance. Crucially, there is no transparency of relationships of the board members with shareholders or other businesses and the company does not comply with the independency criteria of members of the supervisory board. Additionally, annual

reports are only available in Polish and unfortunately the download of these documents does not operate correctly.

Grupa Kęty, a large player in the Polish aluminum industry, provides comprehensive transparency of governance issues on its website and fulfils all mandatory regulations concerning disclosure in annual reports. Improvements could be achieved by disclosing individual remuneration and shareholdings of the members of the management and supervisory board and by providing a more extensive description of related-party transactions. Apart from these claims Grupa Kęty is among the upper ranks of the companies of the metal sector since several companies of this sector only provide marginal transparency.

Finally, the Polish universal bank Bank BPH offers a well structured website and extensive disclosure of relevant corporate governance practices. Furthermore, the bank discloses more than the mandatory information on ownership structure, related-party transactions, inside-shareholdings, and remuneration policies in its annual reports and can be described as role model for other companies in different sectors.

Recapitulatory, there is room for improvements, not only concerning analyzed companies but also regarding other companies within examined business sectors. The general commitment to corporate governance and especially the enforcement of mandatory regulations should be pressed ahead in order to establish a framework of sound governance standards.

10. Conclusion

Poland is one of those Central and Eastern European Countries which successfully managed to leave the planned economy of the former socialistic regime behind and effectively developed a market-oriented economic system. Through its transition process of the 1990s political, social, and economic reforms were undertaken to revolutionize and redefine prevalent structures and modes of business operations. Small state-owned companies were rapidly privatized while medium-sized and large national companies were commercialized by several intermediate steps including the NIF program. The banking sector was restructured and the capital market was recreated by the reactivation of the WSE. Additionally, in the course of the Balcerowicz Plan and the overall shock therapy in the country various macroeconomic reforms were undertaken. Drawing a balance of the years under restructuring Poland was a pioneer among other Eastern European transition countries and the new market orientation not only involved economic benefits but also contributed to a manifold accessibility of goods and services and a higher standard of living. After years of reform processes Poland terminated its main transition process and joined the European Union on 1 May 2004. Nevertheless, the high unemployment rate, undercapitalization of small and medium-sized corporations, the underdeveloped transportation infrastructure, and last but not least corruption are still main concerns in Poland.

In order to establish corporate governance mechanisms in Poland an extensive legal framework was created and regulations on governance practices were modeled on international standards and with the aid of foreign experts and organizations. The Polish Corporate Governance Code and the Code of Best Practice for WSE Listed Companies provide recommendations on the topic of sound corporate governance. Governing corporate bodies such as the management and supervisory board are tied to several regulations that determine their duties and responsibilities in connection with company operations and shareholders. Since concentrated ownership is prevalent in Poland and the market for corporate control is of little importance, the protection of minority shareholders is especially considerable. Of major concerns are the commitment to existing governance standards and the enforcement of regulations which have to be effectively promoted. Unfortunately, the lack of enforcement and the little sanction of non-compliance with laws undermine the efficiency and effectiveness of the in other respects sound regulatory framework.

Besides governmental enforcement private ordering and self-regulation are important factors in the establishment of general standards. Private parties such as investment banks, clearing houses, and pension and investment funds contribute to good corporate governance by enforcing their own regulations, supporting monitoring activities, and by improving transparency of corporate operations. However, the prominence of these financial institutions is expandable and should be fostered. Unfortunately, the WSE and the Polish Financial Supervision Authority face a trade-off between enforcing regulations and the threat of loosing companies that might leave the stock exchange for that reason and therefore reduce the pressure on companies that are not keeping all existing conditions of good practices.

Especially with respect to corporate disclosure and transparency, there are large variances among business sectors and particular companies in Poland. Available information on governance practices in companies ranges from absolutely no disclosure to extensive declarations of internal standards and governance mechanisms. This diploma thesis examined the website disclosure and the compliance with mandatory disclosure requirements in annual reports of four listed companies in order to show positive examples of corporate governance and to get an idea of how good disclosure can be done. The compliance with mandatory disclosure requirements was checked up on annual reports with regard to shareholdings by the management and supervisory board, related-party transactions, ownership structures, board remuneration, and corporate governance sections within the reports. Additionally, the voluntary disclosure on company websites was analyzed according to the quantity and quality of provided information.
Generally, the disclosure of companies within the banking sector can be seen as exemplarily and not only encompasses but also often exceeds mandatory requirements. Within the metal and light industry sector there is more variance of disclosure and especially, important corporate and financial documents are often not available in English. Furthermore, several companies of these sectors only provide marginal information of governance issues on their websites. Finally, the ‘other finance’ sector brings up the rear among analyzed business sectors. The main reason for this bad ranking is that a couple of companies do not even offer a corporate website. Furthermore, those companies which have a website generally provide only low quantity and quality of disclosed information.

Recapitulatory, there is an ample field for improvements and both the general commitment to corporate governance and the enforcement of mandatory regulations should be fostered in order to improve actual governance and disclosure standards in Poland.

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12. Appendix

Abstract

The necessity of good corporate governance is not a new issue and has gained even more importance in consequence of major economic scandals, corporate collapses, and management failures in recent years. Additionally, reliability, accountability, and transparency of a company and its management are relevant factors when searching for external sources of finance. Good corporate governance structures must take corporate and economic-specific circumstances into account such as the degree of the separation of ownership and control, the ownership identity, internal and external monitoring mechanisms, the market for corporate control, product market competition, and the legal corporate environment. Therefore, this diploma thesis first of all discusses the historical and theoretical background of the separation of ownership and control and clearly points out most important mechanisms of sound corporate governance.

After this look at general corporate governance issues transition economies in Central and Eastern European countries are examined at the exemplification of Poland. During the 1990s Poland had to undergo several political, social, and economic reform processes in order to overcome the socialistic regime and to develop market economies of industrialized countries. Besides macroeconomic reforms, former state-owned companies were privatized, the banking sector was restructured, and the Polish capital market was recreated by the reactivation of the Warsaw Stock Exchange. Additionally, corporate governance had to be revolutionized and new mechanisms had to be defined including fundamental changes in legislation and in corporate behavior. Specific focus of this diploma thesis lies on the creation and execution of corporate governance mechanisms in Poland, related strengths and weaknesses, and their effectiveness. In order to evaluate the general commitment and enforcement of governance regulations actual disclosure standards in Poland are analyzed. Therefore, the website presentation and the compliance with mandatory disclosure requirements in annual reports are examined in order to get a general idea of the real effectiveness and efficiency of corporate governance standards. Evidence and case studies suggest that transparency and disclosure largely various among Polish industry sectors and companies. There is an ample field for improvements of both the general awareness of the importance of sound corporate governance and the enforcement of mandatory regulations.

Abstract (German)

Vor allem in den letzten Jahren nahmen Diskussionen rund um das Thema Corporate Governance zu und die Notwendigkeit guter Unternehmensführung wurde durch jüngst auftretende Wirtschaftsskandale und Unternehmenszusammenbrüche besonders verdeutlicht. Zusätzlich sind Glaubwürdigkeit, Verantwortlichkeit und Transparenz eines Unternehmens relevante Faktoren auf dem externen Kapitalmarkt. Corporate Governance Strukturen berücksichtigen unternehmens- und wirtschaftsspezifische Umstände wie beispielsweise den Grad der Trennung von Eigentum und Kontrolle, die Identität der Eigentümer, interne und externe Überwachungsmechanismen, den Kontroll- und Produktmarkt und das unternehmensrechtliche Umfeld. Um einen Überblick über diese Thematik zu verschaffen befasst sich diese Diplomarbeit anfänglich mit den Hintergründen der Trennung von Eigentum und Kontrolle und identifiziert die wichtigsten Faktoren und Mechanismen guter Corporate Governance.

Nach dieser Einführung werden Übergangsländer in Zentral- und Osteuropa am Beispiel von Polen analysiert. Politische, gesellschaftliche und wirtschaftliche Reformen in den Neunzigern zielten darauf ab das System der Planwirtschaft in Polen durch ein System der Marktwirtschaft abzulösen. Neben speziellen makro-ökonomischen Reformen galt es Staatsbetriebe zu privatisieren, den Bankensektor zu restrukturieren und den polnischen Kapitalmarkt durch die Wiederbelebung der Warschauer Börse wiederherzustellen. Ebenfalls musste das Verständnis von Corporate Governance neu definiert werden und adäquate Mechanismen geschaffen werden, die Änderungen in der Gesetzgebung und in der Führung und Kontrolle von Unternehmen beinhalteten. Im Speziellen befasst sich diese Diplomarbeit mit der Gestaltung und Kontrolle von Corporate Governance Mechanismen in Polen und untersucht diesbezügliche Stärken und Schwächen und deren Wirkungsweise. Um die Einhaltung von Corporate Governance Regulierungen näher zu betrachten werden außerdem die Quantität und Qualität der aktuellen Unternehmenspublizität in Polen analysiert. Besonderes Augenmerk liegt dabei auf der Veröffentlichung von relevanten Informationen auf Unternehmenswebseiten und auf der Einhaltung von Offenlegungspflichten in den Jahresberichten. Studien zeigen große Unterschiede in der Unternehmenspublizität sowohl zwischen verschiedenen Industriesektoren als auch zwischen einzelnen Unternehmen. Demnach sollte speziell das Bewusstsein der Wichtigkeit guter Corporate Governance gefördert werden aber auch die Kontrolle von Regulierungen und Offenlegungspflichten in Polen verbessert werden.

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