

## Corporate Governance and Public Reprimand

ZAINI EMBONG & RUHAZNAWATI MD RUDZI

### ABSTRACT

*Public reprimand is a form of enforcement actions taken by Bursa Malaysia against companies that violate listing requirements, with intention to deter future breach and to cultivate good standards of corporate governance and business conduct in the market. Corporate governance is put in place to ensure that companies are managed to the best interest of shareholders. Empirical evidences show that corporate governance and enforcement actions are significantly related. However, none of the studies are done in Malaysian setting. The nature of capital market and the rules and regulations of relevant authority are different from country to country. Hence, it is important to investigate whether enforcement actions is also related to corporate governance in Malaysia. When companies were reprimanded, their reputations and most often share prices will be affected, compromising the wealth of shareholders. If actions were not taken by the relevant authority, confidence in the market may subside and this will affect the development of capital market. The reprimand should also serves as educating mechanism in which the affected companies are expected not to repeat the same offence. This has yet to be investigated. This study therefore extends existing knowledge on public reprimand by providing empirical evidence on Malaysia setting and more importantly whether or not public reprimand serves as educating mechanism. This study employs a cross-section, match-pair design with a sample of 110 companies. Results from logistic regression indicate that there are significant differences in board characteristics between companies that have been reprimanded and those which are not. The test on board characteristics two years after public reprimand however shows that there is no significant changes in board characteristics. Small sample size is among limitations of this study. The findings give insight on the role of enforcement actions in regulating companies and what need to be done by authority.*

*Keywords: Public reprimand; board characteristics; audit committee; Bursa Malaysia*

### INTRODUCTION

The main reason companies decide to go public or get listed is to raise capital. By being a listed company, the company is to raise additional funds through issuance of additional stocks on the capital market. This is partly due to the fact that listed companies carry with them certain reputation due to the criteria that need to be fulfilled before they are qualified to be listed. In other words, only qualified companies can get listed on the stock exchange, hence certain prestige is attached to it. This facilitates the company in raising additional capital. Having good reputations also lead to ability in securing fund at lower cost. In Malaysia, the capital market is managed by Bursa Malaysia Berhad that changes its name from Kuala Lumpur Stock Exchange in 2004. In 2009, the market was restructured from three boards, namely Main, Second and MESDAQ (Malaysian Exchange of Securities Dealing and Automated Quotation) market into only Main and ACE (Access, Certainty and Efficiency) markets. All companies listed in Bursa Malaysia are subjected to rules and regulations set by Bursa Malaysia Berhad, upon admission as well as on a continuing basis. As regulator of Malaysian capital market, it is the duty of Bursa Malaysia Berhad to maintain a fair and orderly market as well as ensure orderly dealings in the securities deposited with Bursa Malaysia ([www.bursamalaysia.com](http://www.bursamalaysia.com)). The rules and

regulations, Listing Requirements being one of them are set in order to protect investors, ensure transparency and maintain high standards of conduct and governance as well as market integrity so that market players can participate in the market with confidence. In line with this, Bursa Malaysia views any breaches to its Business Rules and Listing Requirements seriously and enforcement actions are taken to protect investors as well as to maintain market integrity.

As part of its duty, Bursa Malaysia makes enquiries and investigates potential breaches of rules on annual basis. In the process, the potential breaches or violations detected might not only be against Bursa's Listing Requirements, but may also be against other relevant laws such as the Capital Markets & Services Act 2007 and Companies Act 1965 (which has been revised to Companies Act 2016). If the breaches were against Listing Requirements, Bursa Malaysia is authorised to take actions against the perpetrator. The enforcement actions include warning, caution, reminder, reprimand (private and public) as well as delisting depending on the types and severity of the breaches. All enforcement actions are done privately by Bursa except for public reprimand and delisting. Hence, the public will not know whether the company is subjected to any enforcement actions except for when it is being publicly reprimanded or delisted. Delisting can be seen

as the ultimate action taken against companies found to violate the Listing Requirements. Public reprimand is an official warning issued to companies and this warning is made known to the public through media disclosure. Most often reprimand comes together with monetary fines. Market may react to enforcement actions that are made public, for example through share price. There is evidence that the share prices of the reprimanded companies are found to drop due to the public reprimand (for example, Kwan & Kwan 2011). Preliminary data collected for this study shows that from 141 companies being publicly reprimanded between the years of 2007 to 2011, 80 of them, or 57% got delisted. One of the reasons for enforcement action to be taken as stated by Bursa Malaysia is to deter future breaches, in other words as educating mechanism so that listed companies will not violate any of the Listing Requirements in the future.

The fact that more than half of reprimanded companies were being delisted led us to question whether public reprimand served as educating mechanism to listed companies. Studies on public reprimand are rather limited compared to other matters relating to capital market such as issues related to disclosure and firm values. Kwan and Kwan (2011) for example investigate the effect of public reprimand on share price, confirming prior findings by Chen, Firth, Gao and Rui (2005). Prior studies also identify factors such as visibility of the company (Kedia & Rajgopal 2011), ownership structure (Chen, Jiang, Liang & Wang 2011) as well as restatement (Files 2012) are related to public reprimand. Board of directors plays important role in ensuring that company is operating within the rules and regulations stipulated by authority. Studies on the relationship between enforcement actions and corporate governance are however limited. Romano and Guerrini (2012) and Mangena and Chamisa (2008) are among the limited studies on this subject matter. The importance of corporate governance in ensuring good management of companies cannot be stressed enough. As stated by the chairman of Bursa Malaysia, "When companies are well governed, they are better able to attract capital investment and raise the standing of the capital market as a whole" (Towards Boardroom Excellence: Corporate Governance Guide 2<sup>nd</sup> edition, page 1).

In light of scarcity of studies that look into the link between corporate governance and enforcement actions, this study investigates whether board characteristics can be associated with enforcement actions, in the form of public reprimand. This study intends to provide further evidence on the relationship between enforcement actions and corporate governance in different setting. There are studies on the same issue in South Africa (Mangena & Chamisa 2008), Italy (Romano & Guerrini 2012) but none found using Malaysian setting. Another important objective of this study is to extend current knowledge on the role of public reprimand in educating companies to comply with the rules and regulations set by relevant authority. This study investigates whether public reprimand can trigger changes in the characteristics of the board to enable it to

perform better and avoid violations in the future. Findings from this study will add to current knowledge on the role of authority in enforcing rules and regulations because rules regarding capital market are country specific. In addition, the findings will also provide insight into whether or not the enforcement actions by authority can educate companies into complying to the prescribed rules. The paper is structured as follows; this introduction section is followed with discussion on literature and hypotheses of the study. Next section discusses on methodology followed by results and discussion and ends with conclusion section.

#### LITERATURE REVIEW AND HYPOTHESES

The responsibility for the governance of the company effectively rests with the board of directors because they are the backbone that determines the direction of the company (Rezaee 2005). The role of the board of directors is not only to ensure that the management performs to the benefit of the company and shareholders, but the most basic function is to ensure that the company comply with the rules and requirements set by the authorities. In this study, the board of directors is seen as an agent that assists in protecting the interests of investors as a principal through their continuous monitoring of the company's management. According to Nicholson and Kiel (2007), board members have the knowledge and expertise in the company's operations that enable them to monitor management activities that may affect the interests of investors. The board also needs to maintain that the company complies with all rules set by Bursa Malaysia and ensures that financial information channelled to the investor are reliable. One factor that may contributes to the effective monitoring is the composition and structure of the board of directors. Nicholson and Kiel (2007) find that effective composition and structure of board of directors prevents the company from violating rules. Every capital market in the world has its own regulatory body. In Malaysia, Bursa Malaysia Berhad is entrusted with the operation and management of Malaysia's stock exchange, known as Bursa Malaysia. Every single company listed in Bursa Malaysia is subjected to Listing Requirements. Failure to abide by this requirement will results in companies being subjected to enforcement actions, from fine to delisting. Previous studies have shown that tendency to comply with the rules is higher when there is rigorous enforcement in place. A study by Yeoh (2005) on the compliance behavior of listed companies in New Zealand indicates that the level of compliance with the Listing Requirements of the New Zealand Stock Exchange (NZX) is higher than compliance with Statements of Standard Accounting Practice (SSAP) and International Financial Reporting Standards (FRS). Yeoh (2005) argues that this may be due to the more stringent monitoring and enforcement by NZX. Gao and Kling (2012) made similar conclusion with listed companies in China. They found that the external audit opinion can improve compliance for mandatory disclosure requirements. In addition, the company's internal and external governance environment

are also found to affect the company's compliance with disclosure requirements.

In reference to the case of Enron, Gillan and Martin (2007) stated that the reason for Enron's failure is not just due to its weak corporate governance mechanisms but also due to the federal agency's failure in its monitoring role. They stated that if the deficiencies in corporate governance were addressed early, Enron's troubles could have been resolved. Gillan and Martin (2007) argued that Enron could have continued to operate given some changes to its governance structure such as increase in the independence of the board, stronger internal control system and limit the role of external auditors. It is therefore the role of the authority to protect the integrity of capital market through enforcement actions. The companies on the other hand are responsible to abide by the stipulated rules and regulations, and it is the duty of the board to ensure that this happens. Bursa Malaysia has even come out with "Corporate Governance Guide" to assist members of the board of directors in understanding and performing their duties as board members. The board however, cannot by itself monitor financial transactions and maintain accounting records. But, it is the duty of the board to establish an effective audit committee to overlook the matters relating to financial transactions and corporate reporting. Hence, in looking at compliance issue, the board as a whole and audit committee in specific are the responsible parties.

This study investigates whether public reprimand can be associated with the internal governance mechanism. The most common measure used is the board characteristics. The characteristics that will be tested are the size of the board, the board independence, the duality role of chairman of the board and the frequency of board meeting. This study will also look at the audit committee characteristics on the basis that while the board as a whole look at the strategic matter of the company, audit committee is directly responsible for financial reporting process, the audit process, the system of internal controls and compliance with laws and regulations. There are therefore two main hypotheses on the association between board characteristics and public reprimand, one being the characteristics of the board of directors as a whole and another one on the characteristics of audit committee. The following sub-sections discuss board characteristic and its relationship to public reprimand.

#### SIZE OF THE BOARD AND PUBLIC REPRIMAND

Bursa Malaysia does not prescribe the optimal size of the board of directors. According to MCCG (2007), board should examine its size, with a view of determining the impact of the number upon its effectiveness. Beiner, Drobotz, Schmid, and Zimmermann (2004) argue that the optimal size of board of directors is seven or eight members. The size of the board that is smaller than the optimal size is said to reduce the ability of the board to manage and, conversely, a larger size may reduce the effective functioning of the board of directors as a

decision maker. Adams and Ferreira (2008), Mak and Kusnadi (2005) and Epps and Ismail (2009) argue that smaller board size enables the members to maintain control through discussion, exchange of information and setting objectives more effectively. On the other hand, Lamberto and Rath (2010) stated that it is better to have more members in the board of directors. This is because the tasks or responsibilities of the board can be spread out more widely among members. This allows each director to focus on the areas of their respective duties. In short, findings from previous studies are inconclusive as to whether large or small board size is more effective in performing the monitoring role. The study by Beiner et al. (2004) found that large board size makes communication and control more difficult. Ineffective communication and lack of control may increase the probability of non-compliance and hence may lead to the company being subjected to enforcement actions. Based on the argument of Adam and Ferreira (2009), Mak and Kusnadi (2005) and Beiner et al. (2004), hypothesis one of this study is stated as follows:

$H_{1a}$  – Size of BOD is significant and positively related to public reprimand.

#### BOARD INDEPENDENCE AND PUBLIC REPRIMAND

Board independence refers to proportion of directors who are not affiliated with the company or independent to the total directors on the board. Higher percentage of independent directors against total number of board members indicates higher board independence. Independent directors are seen as more professional, have a wider perspective and can be more open in ensuring that the management acts in the best interest of the company and its shareholders. According to agency theory, monitoring by independent directors can be more effective, fairer decisions being made, more transparent as well as more objective in views and opinions offered. MCCG (2007) indicates that one-third of the board is independent while MCCG (2012) stated that where the chairman of the board is not independent, the board must comprise a majority of independent directors. According to Bauer, Frijns, Otten and Tourani-Rad (2008), independent director is one of the criteria that can influence the accountability of the board of directors. Independent directors are also seen to increase transparency in the company and compliance with the requirements of higher disclosure (Chen & Jaggi 2000; Gul & Leung 2004). This statement was also supported by Chen et al. (2005), Mangena and Chamisa (2008), Lakshan and Wijekoon (2012), Romano and Guerrini (2012) and Hsu and Wu (2014) who found the independent directors is negatively related to the failure of the company, corporate misconduct and enforcement actions. In line with these findings, the following hypothesis is formulated:

$H_{1b}$  – Board independence is significant and negatively related to public reprimand.



## CEO DUALITY AND PUBLIC REPRIMAND

Chairman of the board of directors is responsible for ensuring the effectiveness of the board in protecting the interests of shareholders. The chief executive officer is responsible for the implementation of all policies and strategies that have been decided by the board of directors of the company. In the Malaysian context, the clarity of each function is necessary to ensure a balance of power and responsibility. Malaysian Code of Corporate Governance, MCCG (2012) stated that the positions of chairman and chief executive officer must be held by two different individuals. In other words, MCCG (2012) does not allow duality functions of CEO for companies listed on Bursa Malaysia. Prior to 2012, the duality role was still allowed for companies listed in Bursa Malaysia (MCCG 2007). Duality refers to the situation where the chief executive officer and chairman of the board of directors of a company are the same individual. Past studies indicate the need for separation of the chairman and chief executive officer in ensuring the effectiveness of the company's operations (Faleye 2007; Cutting & Kouzmin 2000). The study by Lakshan and Wijekoon (2012) found that duality of CEO has a positive relationship with the company's failure. This is due to the lack of effective monitoring by the board since the chairman is also the CEO of the company. A more recent study in Thailand by Kouwenberg and Phunnarungsi (2013) also found that the market reaction to the company in Thailand enforcement action is less serious when there is separation between the chairman and CEO of the company. Based on the findings of previous studies, this study expects the following relationship:

$H_{1c}$  – CEO duality is significant and positively related to public reprimand.

## FREQUENCY OF BOARD MEETING AND PUBLIC REPRIMAND

Board of directors meeting is one of the platforms where the directors can exercise their monitoring role. MCCG (2007) as well as MCCG (2012) suggests for more frequent board meeting to discuss current issues that require the attention of the board members. Frequency of meetings as well as the attendees must be disclosed in the annual reports, and used as one of the measures of board activities in a fiscal year (Kanagaretnam, Lobo & Whalen 2007). Number of meetings may be higher for companies with more complex activities or companies that are experiencing problems. Chen et al. (2005) provides evidence that the frequency of board meetings is positively related to corporate misconduct. This is because the board need to meet in order to address the issues that occur. Jackling and Johl (2009) as well as Brick and Chidambaram (2010) however found the relationship between frequency of meetings and company's performance not significant. In line with Umami Junaida and Rashidah (2011), Kanagaretnam et al. (2007) and Chen et al. (2005), this study predicts that boards will meet more frequently when companies are subject to enforcement in order to discuss the issues as well as

monitoring the management more closely. Accordingly, the next hypothesis is stated as follows:

$H_{1d}$  – Frequency of board meeting is significant and positively related to public reprimand.

## AUDIT COMMITTEE AND PUBLIC REPRIMAND

According to DeZoort, Hermanson, Archambeault and Reed (2002), audit committee that is made up of individuals who are qualified is more able to protect stakeholders with respect to ensuring that financial reporting is reliable as well as implementing effective system of internal control and risk management through continuous monitoring of the management. One important aspect of an effective audit committee is that it composed of expert and independent members. MCCG (2007) recommends every listed company to establish an audit committee consisting of at least three members, majority of which are independent. All members must also be non-executive directors, and audit committee must have at least one member who is a qualified accountant. Listing Requirements also stipulate that audit committee consists of at least one member who is registered with the professional accounting bodies to enable the committee to carry out its responsibilities more effectively and efficiently. Knowledge and experience in accounting, finance and auditing can help committee members in ensuring that companies comply with rules and regulations (Nor Haiza, Takiah & Norman 2006). Abbot, Parker and Peters (2004) provides evidence that independent audit committee with expert members in the field of accounting and finance is negatively related to the restatement of the company. Agrawal and Chadha (2005) supports Abbot et al.'s (2004) findings and reports a negative relationship between expertises of the audit committee with restatement. This means that audit committee with expert members can perform monitoring activities more effectively.

Apart from expertise and the independence of audit committee, the frequency of meetings also plays an important role in ensuring effective monitoring of the management. As with the board of directors, committee meeting can be a suitable platform for discussion of strategic issues faced by the company (Al-Najjar 2011). Zhang, Zhou and Zhou (2007) found that audit committee of companies with weak internal control systems meet more regularly to address these weaknesses. Based on the above discussions on the expertise and independence of audit committee as well as the frequency of meetings among members of the audit committee, the following hypotheses are developed:

$H_{2a}$  – Audit committee independence is significant and negatively related to public reprimand.

$H_{2b}$  – Audit committee expertise is significant and negatively related to public reprimand.

$H_{2c}$  – Frequency of audit committee meeting is significant and positively related to public reprimand.

## PUBLIC REPRIMAND AS EDUCATING MECHANISM

Findings by Zubcic and Sims (2011) indicate that compliance by companies improves after enforcement actions were taken against them. This could be due to increase monitoring by board of directors. This finding partly shows that actions taken by the authority can serve as educating mechanism and triggers changes in companies' corporate governance. According to Agrawal, Jaffe dan Karpoff (1999), enforcement actions can lead to reduction in companies' values due to the possibility of having to incur legal costs. Hence, changes within the company is seen as a necessary and logical response. However, the study by Agrawal et al. (1999) fails to provide evidence of significant changes after the enforcement actions. They conclude that the change do not happen perhaps due to costs factors, or the misconduct is related to the weakness of the internal control system and not the corporate governance structure itself.

Zubcic and Sims (2011) however, is of the opinion that enforcement actions should be able to alter the behavior of the perpetrator. This is because enforcement actions should have made the company realised the importance of complying with rules and regulations (Gunningham & Kangan 2005). In short, all this researches are of the opinion that enforcement actions should have serve as educating mechanism.

In another study, Ferris, Jandik, Lawless and Makhija (2007) found that the structure of board of directors does improved after companies are subjected to legal actions. In line with findings by Ferris et al. (2007), public reprimand is expected to initiate changes in the corporate governance practice of the companies and hence the following hypothesis is proposed:

H<sub>3</sub> – There are significant changes in the characteristics of the board of directors after the companies are subjected to public reprimand.

## METHODS AND ANALYSIS

This study uses purposive sampling technique where the sample is selected based on certain criteria that have been established to meet the needs of the research question (Bryman & Bell 2011). In this study, the criteria is a public company that is subjected to enforcement actions by Bursa Malaysia for committing a breach of its Listing Requirements. The data of companies being subjected to public reprimand is obtained from Bursa Malaysia website. The population is public listed company on the Main Board of Bursa Malaysia from 2007 to 2011. For the period of 2007 to 2011, the number of companies listed on the main board of Bursa Malaysia that are subjected to public reprimand is 141 companies. During this period, a total of 80 companies were delisted for failing to meet the Listing Requirements. The Company is therefore excluded from the sample list as a third hypothesis requires comparisons to be made between pre and post public reprimand, hence

the company need to exist through the period of study. A total of six companies do not have other required data and hence removed from the sample list. This makes the final sample of 55 companies. This 55 companies that are subjected to public reprimand is then matched with companies of similar size and in the same industry during the same period but are not subjected to public reprimand. This is known as match-pair method. The total number of companies included in the analysis of hypotheses one and two are therefore 110 companies.

Data on independent variables is collected manually from annual report of these companies. The required data are size of the board of directors, board independence, duality role of CEO and frequency of board meeting to test hypothesis one. Testing of hypothesis two requires data on independence of audit committee, audit committee expertise and frequency of audit committee meeting. The size of the board is an absolute number. The board independence is measured by percentage of independent members compared to total number of board members. The duality of CEO is a dichotomous variable, '1' given to companies that practice duality and '0' to companies that do not practice duality. Frequency of board meeting is also an absolute number. Similar measures are used for second hypothesis on audit committee. Audit committee independence is measured from the percentage of independent audit members to total number of audit committee members. Expertise is also taken as percentage of audit committee members with accounting qualification to total numbers of audit committee members.

The dependent variable for hypotheses one and two is public reprimand. This is a categorical variable where companies subjected to public reprimand is given '1' and those not subjected to public reprimand labelled as '0'. Because the independent variable is categorical, normal multiple regression cannot be performed but logistic regression is applied instead. Variables that are found to influence public reprimand by previous studies are included in the regression as control variables. These are size of the company and leverage. Size is measured by log of total asset and percentage of total debt to total assets is used to measure leverage. To ensure the findings are robust, additional test using ANOVA is used. The results are discussed in section 4.

The regression model to test hypotheses one and two is as follows:

$$PR = \beta_0 + \beta_1 \text{Size} + \beta_2 \text{Ind\_Board} + \beta_3 \text{Duality} + \beta_4 \text{BoardMeet} + \beta_5 \text{Ind\_AC} + \beta_6 \text{ExpertAC} + \beta_7 \text{ACMeet} + \beta_8 \text{Size\_Co} + \beta_9 \text{Lev} + \epsilon$$

Where;

PR = Public reprimand where '1' is given to companies subjected to public reprimand and '0' to companies which are not

Size\_Board = Size of the board

Ind\_Board = Percentage of independent board members to total number of board members

- Duality = Categorical variable with '1' given to companies that practices duality and '0' otherwise
- BoardMeet = Frequency of board meetings
- Ind\_AC = Percentage of independent audit committee members to total number of audit committee members
- Expert\_AC = Percentage of expert members to total number of audit committee members
- AC Meet = Frequency of audit committee meetings
- Size\_Co = Log total assets
- Lev = Total debt to total assets

Hypothesis three is tested using repeated measure t-test. T-test is used to determine whether there is statistically significant difference between the two sets of data. The second objective of this study is to test whether public reprimand serves as educating mechanism and triggers changes in the board characteristics. Hence it involves repeated tests on the same set of sample at two different points in time, pre and post enforcement actions. Hence, in order to see whether there are changes, the t-test for repeated measures is appropriate (Pallant 2010). Results are discussed in the following section.

#### RESULTS AND DISCUSSIONS

Hypotheses one and two are tested using logistic regression as discussed in section 3. Before the regression is performed, the normal procedure on checking the data is performed including descriptive statistics and correlation analysis. Table 1 presents sample observations consists of companies subjected to public reprimand between year 2007 and 2011 by industry.

As can be seen, majority of the sample is from the trading and services companies followed by industrial goods. The details of breach to Listing Requirements by the companies included as our sample is presented in Table 2.

Some companies are reprimanded for breaching more than one Listing Requirements. This explains the total number of companies that comes to 74 whereas our sample is only made of 55 companies. The reprimanded companies are then matched with similar size companies that are not subjected to public reprimand from the same industry.

Descriptive analysis is performed to primarily check on the normality of data as well as checking on extreme data points. The results of descriptive analysis is presented in Table 3.

As indicated in Table 3, based on the values of skewness and kurtosis, there is no serious issues of normality. The means of each characteristics tested also shows a slight difference between companies subjected to public reprimand and those that are not. Binomial relationship can be gauged from correlation analysis, and is presented in Table 4.

Besides indicating binomial relationship between independent variables and dependent variable, correlation analysis can also be used as an early detection of multicollinearity. Pallant (2010) suggests that correlation value of less than 0.8 indicates no serious issue of multicollinearity. As can be seen in Table 4, multicollinearity is not a major concern in this case, except for the variables frequency of board meeting (BoardMeet) and audit committee meeting (ACMeet). As indicated in Table 4, the correlation value of these two variables is 0.8, hence raising concern on the possibility that the two variables are measuring the same thing. The high correlation in this case does not indicate that the two variables are measuring the same thing because audit committee and board members constitute of different group of people. This brings us to conclude that there is no major issue regarding multicollinearity and proceed with hypotheses testing (Gujarati & Porter 2010). The tests on hypotheses are hence performed and the results are presented in Table 5.

As presented in Table 5, some of the hypotheses are supported. Results on the tests of hypothesis one on board characteristics show that board independence and frequency of board meetings are positive and significantly associated with public reprimand. The result on BoardMeet supports  $H_{1d}$  and confirms earlier findings by Kanagaretnam et al. (2007) and Chen et al. (2005). The findings indicate that in Malaysia, the board of companies that are subjected to reprimand meet more often compared to those that are not subjected to reprimand, implying that board meets more often when there is problem to be handled. The results on board independence (Ind-Board) although significant is however not in the predicted direction, and hence  $H_{1b}$  is not supported. The positive coefficient indicates that

TABLE 1. Sample statistic according to industry

Industry	Number of companies	Percentage
Consumer goods	3	5.5%
Trading and services	20	36.4%
Construction	9	16.4%
Industrial goods	12	21.8%
Property	7	12.7%
Infrastructure project companies	1	1.8%
Finance	1	1.8%
Technology	2	3.6%
Total number of companies	55	100%

TABLE 2. Types of breach on Listing Requirements

Sub-paragraph	Details of the breach	Number of companies from the sample
P2.19	Failure to comply with instructions issued by Bursa Malaysia.	2
P8.27(1)	Failure to ensure that all notices convening general meetings contain sufficient information to enable a member to decide whether to attend the meeting.	1
P9.03(1)	Failure to make immediate public disclosure of any material information.	6
P9.16(1)(a)	Failure to ensure that each announcement is factual, clear, unambiguous, accurate, succinct and contains sufficient information to enable investors to make informed investment decisions.	30
P9.16(1)(c)	Failure to ensure that each announcement is balanced and fair and avoid, among others, the omission of material facts.	1
P9.19(19)	Failure to immediately announce to the Exchange the winding-up order made against the listed issuer or any of its subsidiaries or major associated companies.	1
P9.19(24)	Failure to immediately announce to the Exchange any disposal of shares in another corporation or any other event which results in such corporation ceasing to be a subsidiary of the listed issuer.	1
P9.19(34)	Failure to immediately announce to the Exchange any deviation of 10% or more between the profit after tax and minority interest stated in a financial estimate, forecast or projection previously announced or disclosed in a public document and the announced financial statements, giving an explanation of the deviation and the reconciliation of the deviation.	2
P9.19(35)	Failure to immediately announce to the Exchange any deviation of 10% or more between the profit or loss after tax and minority interest stated in the announced unaudited financial statements and the audited financial statements, giving an explanation of the deviation and the reconciliation of the deviation.	1
P9.19(45)	Failure to immediately announce to the Exchange any pending litigation or occurrence of circumstances of a material nature in which the listed issuer being a mining, plantation or timber corporation or any of its subsidiaries may be involved which may affect its income derived from title to or possession of any of its properties, licences or concessions from governmental authorities.	1
P9.21	Failure to ensure all announcements made to the Exchange pursuant to these Requirements are published on the company's website, as soon as practicable after the same are released on the Exchange's website.	1
P9.22(1)	Failure to announce to the Exchange, an interim financial report that is prepared on a quarterly basis ("quarterly report"), as soon as the figures have been approved by the board of directors of the listed issuer, and in any event not later than 2 months after the end of each quarter of a financial year.	7
P9.23	Failure to issue company's annual report that includes annual audited financial statements together with the auditors' and directors' reports of the listed issuer, to the Exchange and shareholders within 4 months from the close of the financial year of the listed issuer.	12
P10.04(1)	Failure to ensure that a valuation is conducted where a transaction involves an acquisition or disposal of any real estate or any corporation which owns real estate.	2
P10.08(1)	Failure to announce the related party transaction to the Exchange where any one of the percentage ratios of a related party transaction is 0.25% or more.	1
P10.08(2)(c)	Failure to appoint an independent adviser who is a corporate finance adviser within the meaning of the SC's Principal Adviser Guidelines, before the terms of the transaction are agreed upon where the percentage ratios of a related party transaction is 5% or more.	1
P10.08(4)	Failure to appoint a main adviser, who is a Principal Adviser where the percentage ratios of a related party transaction is 25% or more other than a Recurrent Related Party Transaction.	1
P15.09(1)	Failure to appoint an audit committee from amongst its directors composed of not fewer than 3 members, non-executive directors, with a majority of them being independent directors; and at least one member of the audit committee is a member of the Malaysian Institute of Accountants, or have at least 3 years' working experience and passed the examinations specified in Part I of the First Schedule of the Accountants Act 1967, or a member of one of the associations of accountants specified in Part II of the First Schedule of the Accountants Act 1967.	1
P16.11	Failure to comply with all Listing Requirements subject to consultation with the SC led to de-listing of the company.	2

TABLE 3.Descriptive statistics

Variables	Minimum Value	Maximum value	Mean	Std Dev	Skewness	Kurtosis
Companies subjected to public reprimand						
Size Board	4.00	13.00	7.509	1.770	0.536	0.175
Ind_Board	0.25	0.83	0.468	0.132	0.752	0.330
BoardMeet	2.00	23.00	6.582	3.924	3.051	9.850
Ind_AC	0.50	1.00	0.855	0.156	-0.241	-1.717
Expert_AC	0.00	1.00	0.347	0.147	1.961	7.155
ACMeet	2.00	16.00	5.809	2.474	2.838	8.864
Size_Co	4.24	6.98	5.491	0.557	0.591	0.181
Lev	0.19	2.38	0.618	0.304	2.508	11.105
Companies not subjected to public reprimand						
Size Board	5.00	13.00	7.518	1.861	1.132	1.598
Ind_Board	0.22	0.60	0.410	0.886	0.373	-0.280
BoardMeet	2.00	10.00	4.773	1.457	1.366	3.347
Ind_AC	0.60	1.00	0.838	0.157	0.008	-1.913
Expert_AC	0.00	1.00	0.355	0.167	1.841	5.470
ACMeet	1.00	10.00	4.555	1.777	0.416	4.587
Size_Co	4.54	6.77	5.463	0.511	0.664	0.082
Lev	0.05	0.84	0.432	0.194	0.294	-0.995
Duality role			Frequency		Percentage	
Companies subjected to public reprimand			11		20%	
Companies not subjected to public reprimand			7		13%	

TABLE 4.Correlation analysis

	PR	Size_Board	Ind_Board	Duality	BoardMeet	Ind_AC	Expert_AC	ACMeet	Size_Co	Lev
PR	1.000									
Size_Board	-0.003	1.000								
Ind_Board	0.252**	-0.328**	1.000							
Duality	0.098	-0.248**	0.150*	1.000						
BoardMeet	0.293**	0.080	0.162*	-0.002	1.000					
Ind_AC	0.054	0.058	0.334**	0.058	0.200**	1.000				
Expert_AC	-0.027	-0.156*	0.049	0.129	0.093	0.114	1.000			
ACMeet	0.309**	0.084	0.071	0.051	0.800**	0.191**	0.008	1.000		
Size_Co	0.026	0.341**	-0.116	-0.037	0.002	-0.044	-0.012	0.086	1.000	
Lev	0.343**	-0.047	0.074	0.175**	0.349**	0.030	0.046	0.332**	0.140*	1.000

Note: \*\* Significant at 1%

\* Significant at 5%

the companies that are subjected to public reprimand has higher board independence compared to companies that are not subjected to public reprimand. In Malaysia, studies on the relationship between board independence and failure of the company (Shamsul Nahar 2006), the company's performance (Nazli Anum 2010) and the delay in the audit report (Umi Junaidah & Rashidah 2011) found no significant relationship. In this respect the independent board members in Malaysia may have less influence in the company. The independent directors may also be less familiar with the operation of the company, hence less effective in the performing their tasks. The size of the board

and duality are on the other hand do not show significant relationships to public reprimand, hence  $H_{1a}$  and  $H_{1c}$  are also not supported.

Table 5 also presents results on hypotheses 2 regarding the characteristics of audit committee. The results show that  $H_{2a}$  on audit committee independence and  $H_{2c}$  on the frequency of audit committee meeting are significant while  $H_{2b}$  on audit committee expertise is not supported. The results are basically consistent with previous research on similar issues such as Nor Haiza et al. (2006) on audit committee independence and Zhang et al. (2007) on the frequency of audit committee meeting.



TABLE 5. Logistic regression analysis

Independent variables	Coefficients	Std Dev	Wald Value	Sig. p
Size_Board	0.173	0.107	2.637	0.104
Ind_Board	6.981	1.824	14.641	0.000*
Duality	0.133	0.465	0.082	0.775
BoardMeet	0.233	0.128	3.327	0.068**
Ind_AC	-2.002	1.134	3.119	0.077**
Expert_AC	-0.737	1.078	0.468	0.494
ACMeet	0.388	0.176	4.879	0.027*
Size_Co	-0.422	0.344	1.502	0.220
Lev	3.177	0.895	12.602	0.000*

Note : \* Significant at 5%

\*\* Significant at 10%

Nagelkerke value  $R^2 = 0.367$

Correct prediction value = 73%.

TABLE 6. Comparison of board characteristics pre and post public reprimand

Independent variables	Panel A (Pre)		Panel B (Post)		Mean difference	df	t	Sig. (2-tailed)*
	Mean	Std Dev	Mean	Std Dev				
Size_Board	7.527	1.884	7.164	1.761	0.364	54	1.508	0.137
Ind_Board	0.486	0.147	0.475	0.120	0.012	54	0.717	0.476
Duality	0.200	0.404	0.182	0.389	0.018	54	0.375	0.709
BoardMeet	6.527	3.863	6.655	3.262	-0.127	54	-0.191	0.849
Ind_AC	0.886	0.156	0.896	0.151	-0.011	54	-0.449	0.655
Expert_AC	0.360	0.184	0.383	0.171	-0.023	54	-1.368	0.177
ACMeet	5.945	2.391	5.182	1.553	0.764	54	2.046	0.046*

Note : \* Significant at 5%

Hypothesis three is tested using repeated measures t-test. This is to see if there is any changes in the board characteristic for the company that are subjected to public reprimand two years after being reprimanded. The results of the test is presented in Table 6.

As can be seen from Table 6, the only variable that is significantly different is frequency of audit committee meetings. Expectedly, the frequency of meeting is less after the reprimand indicating that the committee meets more often in order to solve the issues. In general, the results do not support the contention that enforcement actions by authority serves as educating mechanism. The relevant authority may have to consider the types of action that can act as educating mechanism as oppose to punishment mechanism, so that companies can be self-regulating in the long-run.

#### CONCLUSION

The results indicate that there are certain differences in the characteristics of the board as well as the audit committee between companies that are subjected to public reprimand and those that are not. In specific, the results indicate that board members as well as audit committee members meet more frequently when there are issues or problems to be resolved. The Listing Requirements do not prescribed the optimal number of meetings that the board should have but

the company should clearly disclose the frequency of the meeting. From the studied sample, the average meetings is about four times per year. The meeting frequency for the reprimanded companies goes down from 6 meetings on average in the year of reprimand to 4 meetings on average two years after being reprimanded. This enhances the contention that board meets more frequently when there is problems to be tackled. The same goes for audit committee. This partially proves that corporate governance mechanism is an important feature in ensuring that companies are governed in the best interest of the shareholders. However, it also raise questions on what is the real function of the board. Should not the board monitor the management and prevent the company from being subjected to enforcement actions? The board is supposed to set direction and strategy for the company and making sure that shareholders wealth are maximized. The venue in which this can be done is the board meeting. Future study can investigate into the optimal number of board meeting in relation to company's performance.

The second objective of this study is to investigate whether enforcement actions by the authority can be taken as educating mechanism. In other words, can public reprimand by Bursa Malaysia be taken as a trigger that encourage the companies to change especially in their corporate governance structure. The results however do not support this contention. The findings show that there

are barely changes in the characteristics of the board and audit committee of the reprimanded companies two years after being reprimanded. This brings us to suggest that the authority revisit the form of enforcement action to be taken against companies that violate the rules and regulations set by the authority.

This study is however not without limitation. The period of two years taken as comparison may not be long enough to allow for ample changes to take place. Future study can look at longer comparison period. A more in-depth case study can also be conducted on the repeated offenders in order to understand the reasons for violation and the failure to change accordingly. On the other hand, given the emphasize on good corporate governance practices by Malaysian authority especially Securities Commission of Malaysia, companies are basically already complying with the best practice code. This can explain the little changes in term of the structure found by this study. Further studies could focus on the potential changes in term of ethical or behavioural aspects of those governing the companies.

#### ACKNOWLEDGEMENTS

We would like to express our gratitude towards Universiti Kebangsaan Malaysia for making this research a possibility. The corresponding author would also like to acknowledge the grant provider under the grant code FRGS/1/2013/SS05/UKM/01/2 for the financial assistance.

We also like to thank the participants of Global Conference on Business and Economics Research GCBER 2017, August 14-15, UPM, Malaysia for their valuable inputs.

#### REFERENCES

- Abbott, L.J., Parker, S. & Peters, G.F. 2004. Audit committee characteristics and restatements. *A Journal of Practice and Theory* 23(1): 69-87.
- Adams, R.B. & Ferreira, D. 2008. Do directors perform for pay? *Journal of Accounting and Economics* 46: 154-171.
- Agrawal, A. & Chadha, S. 2005. Corporate governance and accounting scandals. *Journal of Law and Economics*, 48: 371-406.
- Agrawal, A., Jaffe, J.F. & Karpoff, J.M. 1999. Management turnover and governance changes following the revelation of fraud. *Journal of Laws and Economics* 42: 309-342.
- Al-Najjar, B. 2011. The determinant of audit committee independence and activity: Evidence from the UK. *International Journal of Auditing* 15(2): 191-203.
- Bauer, R., Frijns, B., Otten, R. & Tourani-Rad, A. 2008. The impact of corporate governance on corporate performance: Evidence from Japan. *Pacific-Basin Finance Journal* 16: 236-251.
- Beiner, S., Drobetz, W., Schmid, F. & Zimmermann, H. 2004. Is board size an independent corporate governance mechanism? *International Review of Social Sciences* 57(3): 327-356.
- Brick, I.E. & Chidambaran, N.K. 2010. Board meetings, committee structure, and firm value. *Journal of Corporate Finance* 16: 533-553.
- Bryman, A. & Bell, E. 2011. *Business Research Methods*. United Kingdom: Oxford University Press.
- Bursa Malaysia Securities Berhad Main Market Listing Requirements. [http://www.bursamalaysia.com/misc/system/assets/15741/listing\\_requirement\\_main\\_market\\_consolidated\\_010317.pdf](http://www.bursamalaysia.com/misc/system/assets/15741/listing_requirement_main_market_consolidated_010317.pdf)
- Chen, G., Firth, M., Gao, D.N. & Rui, O.M. 2005. Is China's securities regulatory agency a toothless tiger? Evidence from enforcement actions. *Journal of Accounting and Public Policy* 24: 451-488.
- Chen, G., Firth, M., Gao, D.N. & Rui, O.M. 2006. Ownership structure, corporate governance, and fraud: Evidence from China. *Journal of Corporate Finance* 12: 424-448.
- Chen, C.J.P. & Jaggi, B. 2000. Association between independent non-executive directors, family control and financial disclosures in Hong Kong. *Journal of Accounting and Public Policy* 19: 285-310.
- Chen, D., Jiang, D., Liang, S. & Wang, F. 2011. Selective enforcement of regulation. *China Journal of Accounting Research* 4: 9-27.
- Cutting, B. & Kouzmin, A. 2000. The emerging patterns of power in corporate governance: Back to the future in improving corporate decision making. *Journal of Managerial Psychology* 15(5): 477-511.
- DeZoort, F.T., Hermanson, D.R., Archaibeault D.S. & Reed, S.A. 2002. Audit committee effectiveness: a synthesis of the empirical audit committee literature. *Journal of Accounting Literature* 21: 38-75.
- Epps, R.W. & Ismail, Tariq H. 2009. Board of directors' governance challenges and earnings management. *Journal of Accounting and Organizational Change* 5(3): 390-416.
- Faleye, O. 2007. Does one hat fits all? The case of corporate leadership structure. *Journal of Management and Governance* 11(3): 239-259.
- Ferris, S.P., Jandik, T., Lawless, R.M. & Makhija, R.M. 2007. Derivative lawsuits as a corporate governance mechanism: Empirical evidence on board changes surrounding filings. *Journal of Financial Quantitative Analysis* 42: 143-166.
- Files, R. 2012. SEC enforcement: Does forthright disclosure and cooperation really matter? *Journal of Accounting and Economics* 53: 353-374.
- Gao, L. & Kling, G. 2012. The impact of corporate governance and external audit on compliance to mandatory disclosure requirements in China. *Journal of International Accounting, Auditing and Taxation* 21: 17-31.
- Gillan, S.L. & Martin, J.D. 2007. Corporate governance post-Enron: Effective reforms, or closing the stable door? *Journal of Corporate Finance* 13: 929-958.
- Gujarati, D.N. & Porter, D.C. 2010. *Basic Econometrics*. International Edition. McGraw-Hill Education – Europe.
- Gul, F.A. & Leung, S. 2004. Board leadership, outside directors' expertise and voluntary corporate disclosures. *Journal of Accounting and Public Policy* 2: 351-379.
- Gunningham, N. & Kangan, R.A. 2005. Regulation and business behavior. *Law and Policy* 27: 213-218.
- Hsu, H.H. & Wu, Y.H. 2014. Board composition, grey directors and corporate failure in the UK. *The British Accounting Review* 46(3): 215-227.
- Jackling, B. & Johl, S. 2009. Board structure and firm performance: Evidence from India's top companies. *Corporate Governance: An International Review* 17(4): 492-509.

- Kanagaretnam, K., Lobo, G.J. & Whalen, D.J. 2007. Does good corporate governance reduce information asymmetry around quarterly earnings announcements? *Journal of Accounting and Public Policy* 26(4): 497-522.
- Kedia, S. & Rajgopal, S. 2011. Do the SEC's enforcement preferences affect corporate misconduct? *Journal of Accounting and Economics* 51: 259-278.
- Kouwenberg, R. & Phunnarungsi, V. 2013. Corporate governance, violations and market reactions. *Pacific-Basin Finance Journal* 21: 881-898.
- Kwan, J.H. & Kwan, S.K. 2011. Violation of listing requirements and company value: evidence from Bursa Malaysia. *International Review of Business Research Papers* 7(2): 257-268.
- Lakshan, A.M.I. & Wijekoon, W.M.H.N. 2012. Corporate governance and corporate failure. *Procedia Economics and Finance* 2: 191-198.
- Lamberto, A.P. & Rath, S. 2010. The survival of initial public offerings in Australia. *The International Journal of Business and Finance Research* 4(1): 133-147.
- Mak, Y.T. & Kusnadi, Y. 2005. Size really matters: Further evidence on the negative relationship between board size and firm value. *Pacific-Basin Finance Journal* 13: 301-318.
- Malaysian Code of Corporate Governance 2007.
- Malaysian Code of Corporate Governance 2012.
- Mangena, M. & Chamisa, E. 2008. Corporate governance and incidences of listing suspension by the JSE Securities Exchange of South Africa: An empirical analysis. *The International Journal of Accounting* 43: 28-44.
- Nazli Anum Mohd Ghazali. 2010. Ownership structure, corporate governance and corporate performance in Malaysia. *International Journal of Commerce and Management* 20(2): 109-119.
- Nicholson, G.J. & Kiel, G.C. 2007. Can directors impact performance? A case-based test of three theories of corporate governance. *Corporate Governance. An International Review* 15(4): 585-608.
- Nor Haiza Abd Aziz, Takhiah Mohd Iskandar & Norman Mohd Saleh. 2006. Pengurusan perolehan: Peranan kualiti audit dan urus tadbir korporat. *International Journal of Management Studies* 13: 163-188.
- Pallant, J. 2010. *SPSS Survival Manual: A step by step guide to data analysis using SPSS*. England: Open University Press.
- Rezaee, Z. 2005. Causes, consequences and deterrence of financial statement fraud. *Critical Perspectives on Accounting* 16: 277-298.
- Romano, G. & Guerrini, A. 2012. Corporate governance and accounting enforcement actions in Italy. *Managerial Auditing Journal* 27(7): 622-638.
- Shamsul Nahar Abdullah. 2006. Board structure and ownership in Malaysia: The case of distressed listed companies. *Corporate Governance* 6(5): 582-594.
- Towards Boardroom excellence: Corporate governance guide*. 2nd edition available at [http://www.bursamalaysia.com/misc/system/assets/7257/listing\\_requirement\\_guidelines\\_cg\\_guide\\_2.pdf](http://www.bursamalaysia.com/misc/system/assets/7257/listing_requirement_guidelines_cg_guide_2.pdf)
- Umami Junaidah Hashim & Rashidah Abdul Rahman. 2011. Board independence, board diligence, board expertise and impact on audit report lag in Malaysian market. *Finance and Corporate Governance Conference*.
- Yeoh, J. 2005. Compliance with mandatory disclosure requirements by New Zealand Listed Companies. *Advances in International Accounting* 18: 245-262.
- Zhang, Y., Zhou, J. & Zhou, N. 2007. Audit committee quality, auditor independence and internal control weaknesses. *Journal of Accounting and Public Policy* 26: 300-327.
- Zubicic, J. & Sims, R. 2011. Examining the link between enforcement activity and corporate compliance by Australian companies and the implications for regulators. *International Journal of Law and Management* 53(4): 299-308.

Zaini Embong\*  
 Fakulti Ekonomi dan Pengurusan  
 Universiti Kebangsaan Malaysia  
 43600 UKM Bangi Selangor  
 MALAYSIA  
 E-mail: zainiembong@ukm.edu.my

Ruhaznawati Md Rudzi  
 Politeknik Kota Kinabalu  
 Jalan Politeknik  
 88460 Kota Kinabalu, Sabah  
 E-mail: ruhazna@polikk.edu.my

\*Corresponding Author