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Article

Reforms of Corporate Governance Codes in Bangladesh: Developments and Future Directions

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Abstract: This research investigates corporate governance (CG) norms in Bangladesh, a developing nation. This study assesses the codes' key aspects and how they have evolved since the first code was released in 2006. This analysis shows that BSEC changed its recommendations from voluntary to mandatory in the subsequent revisions in 2012 and 2018. The modified versions increased board independence compared to the original code, although it is still lower than in some other emerging nations. Recent changes to the rules include conditions on the nomination and remuneration committees, along with some other amendments. However, critical governance components, such as choosing an independent board member as chair, improving board independence, and assuring gender diversity, could be implemented in future code development. It is believed that investors would be more interested in Bangladesh's capital market if the policymakers could make the proposed modifications in accordance with the distinctive institutional features of an emerging economy.

Keywords: corporate governance reform; voluntary and mandatory rules; developing country; Bangladesh



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1. Introduction

While theories of corporate governance lay the groundwork for managers' interactions and control mechanisms on a common platform, corporate governance (CG) codes define the "best practices" that companies in a certain sector or area use to achieve their goals. It also lays forth a set of widely recognized rules to guarantee that directors, management, investors, and the stock market have access to sufficient and high-quality information. However, codes differ based on the unique institutional conditions (political, economic, cultural, and social) that exist in an economy, all of which have a significant influence on stakeholder behaviour and organizational performance. Mihail and Dumitrescu (2021), in this vein, argue that improving corporate governance measures, such as shareholder rights, disclosure quality, and transparency, can considerably benefit businesses. Therefore, governance codes have been issued and updated by both established and emerging economies to protect the transparency of business decisions. Although there has been an upsurge in research and speculation on the impact of CG practices on organisational outcomes, there remains a void in the literature that explores the extent and nature of the regulatory transformation of CG guidelines, followed by proposals for further improvement in the context of an emerging economy. The aim of this study is to evaluate the gradual changes and developments that took place on the verge of code developments in an emerging country, Bangladesh. Moreover, it proposes the principal components of CG guidelines that could be incorporated in future code development that are congenial to the investment atmosphere.

According to Gamble et al. (2015), between 2000 and 2002, more than 20 major corporations in the United States were probed for financial and accounting irregularities. Many companies were found guilty of continuing to falsify financial accounts, and as a result, big companies such as Enron, WorldCom, and Pacific Gas and Electric Company

went bankrupt. Later, in 2001, HIH Insurance of Australia and Palmarat of Italy joined the league, raising questions about the obligations of directors and proving the auditing standard ineffectual. Taking the flaws in CG regulations into account, the history of major CG reforms began in 2002, in the shape of the Sarbanes–Oxley Act, when the United States experienced catastrophic business failures. In China, Meierya or Snjiu expropriated minority owners, while in India, Satyam is regarded as one of the worst corporate scandals in the region to date (Bai et al. 2004). These company failures show that such misconduct and immoral actions harm not just industrialized economies, but also developing and emerging markets. Furthermore, the Asian financial crisis of 1997, major corporate scandals at the turn of the century, and the global financial crisis of 2007–2008 all had a significant role in the formation of governance changes in the corporate sector throughout the world.

Although the critics of the CG amendments claim that reforms encourage businesses to depart from their original structure to a potentially hazardous surrounding, governance reforms have long been acknowledged that the function of boards is to reduce agency conflicts and safeguard shareholder interests (Fauver et al. 2017). Code revisions have a number of notable effects on corporate behaviour and business outcome. Li et al. (2022), for instance, in a study on 31 countries, claimed that board reform significantly minimizes tax avoidance tendencies of firms, and the effect of revision is much more evident in firms having elevated agency conflicts. Since managers, instinctively, have a tendency to deviate from the prime goal of wealth maximization, consistent updates regarding internal governance mechanisms could be an effective tool to monitor managerial activities and constrain their tendency to manage earnings. In one of the latest studies, Cimini (2022) reports that changes in CG mechanisms improve the quality of financial reporting. Koirala et al. (2020), in a study on Indian firms, show that stricter governance guidelines positively influence the risk-taking behaviour of the firms, which ultimately enhances firm value.

Many developing and rising nations, according to Reed (2002), tend to copy the norms and regulations of Anglo-Saxon jurisdiction since many of them were once British colonies. Moreover, increased global market integration is exerting pressure on countries to adopt a unique governance style (Cuomo et al. 2016). The regulatory authority of Bangladesh embraced the westernised model of corporate governance on the basis of legitimacy for the IFOs (Siddiqui 2010) and thus institutionalizing the authoritative rules (Siddiqui and Ferdous 2014). Two significant causes for Bangladesh's 'wholesale adoption' of the Anglo-American CG paradigm were identified in studies (such as Reed 2002; Siddiqui 2010; Siddiqui and Ferdous 2014). First, there are the past financial disasters caused by a failure to properly implement national economic and industrial policy. Second, Bangladesh's strong reliance on financing support from International Financing Organizations (IFOs) puts pressure on the implementation of national policies because IFOs have long partnered with Bangladesh on a variety of development initiatives. Researchers, such as Aguilera and Crespi-Cladera (2016) and Oehmichen (2018), believe that developments in corporate governance legislation are necessary to protect against corporate failures. However, Siddiqui (2010), Siddiqui and Ferdous (2014), Uddin and Choudhury (2008), and Haxhi and van Ees (2010) question the effectiveness of developing codes based on Western-style culture instead of focusing on the current cultural and economic conditions of a country.

Bangladesh is a fascinating case study in CG reform since the country's business sector has been subjected to two distinct codes: a comply-or-explain approach and a rule-based one. Similar to the other emerging nations, the business sector of Bangladesh is plagued by poor monitoring rules (Khan et al. 2015), the paucity of second-order entities (Siddiqui 2010), and inadequate minority shareholder protection (Solaiman 2006). Moreover, in describing the CG practices in Bangladesh, scholars (Biswas 2012; Uddin and Choudhury 2008) express concern that they remain in form but not in reality. In 2006, Bangladesh's capital market saw the maiden CG code, which was based on the "comply or explain" approach. Since companies lack the intention to comply with the soft rules, and the level of compliance was negligible with some reported overstatements (Islam et al. 2020), the regulatory authority

of the country's capital market, the Bangladesh Securities and Exchange Commission (BSEC), updated the guidelines in 2012, making the conditions mandatory. Moreover, the proportion of independent directors (IDs) on the boards was doubled, increasing to 20 per cent from the earlier proportion of 10 percent. After six years, BSEC reviewed and updated the code's third edition in 2018. In this instance, provisions on the nomination and remuneration committee (NRC) are included, plus it clearly demonstrates the qualifications of an ID.

A plethora of empirical studies have been conducted on CG reform and organisation-level outcomes, such as firm value (Black et al. 2015), risk disclosure quality (Gull et al. 2022), earnings management (Razzaque et al. 2020), and managerial compensation (Luo 2021). For Bangladesh, Islam et al. (2020) attempted to identify the level of overstatement reported in the CG compliance statement and reported that CG reform significantly minimised falsifications of compliance. Biswas (2012), in another study, compares the CG codes issued in 2006 and 2012. Pursuant to this, Bala (2018) conducted a study only to highlight the developments in code provisions between 2012 and 2018 regulations. These studies, however, do not offer any comprehensive suggestions for future editions of the governance guidelines. Moreover, no study as yet has examined the way changes have been adopted over the last decade since the maiden code was initiated. Therefore, this study is a one-of-a-kind endeavour to analyze all three corporate governance codes released by the BSEC, and it adds to the current store of knowledge about corporate governance code reform on at least two grounds. *First*, the study examines the three codes of governance released by the BSEC in 2006, 2012, and 2018 to identify the significant differences between them. *Second*, it, in the light of best practices in other emerging nations, proposes some policy directions that could be incorporated into the future amendment, focusing more on efficiency rather than mere legitimacy.

The remainder of this paper is organized as follows: Section 2 depicts the factors influencing Bangladesh's CG reforms; Section 3 describes the unique characteristics of the CG codes and the differences among them; Section 4 discusses best practices from other emerging economies that could be incorporated into Bangladesh's future CG guidelines, followed by some policy recommendations; and Section 5 draws the concluding remarks.

2. Motives for Corporate Governance Reforms in Bangladesh

RJSC, BSEC, two stock markets, and accounting professional associations, according to Uddin and Choudhury (2008), have all contributed to the growth of Bangladesh's CG structure. All of the institutions are involved in the process of issuing recommendations or requiring corporations to embrace CG best practices. Professional accounting bodies such as the Institute of Chartered Accountants of Bangladesh (ICAB) and the Institute of Cost and Management Accountants of Bangladesh (ICMAB) promote the accounting profession while also incorporating international standards of good practice into their auditing practices.

Donor institutions such as the IMF, ADB, and World Bank invest in many emerging economies to promote long-term growth and the establishment of a stable business sector that demonstrates responsibility and transparency. As a condition of receiving funding, these economic agencies want the government to adopt their well-known corporate governance and accounting methods (Siddiqui 2010). Following the revisions of governance standards in the United States, IFOs took steps to strengthen board accountability to focus on developing a 'disclosure norm for many emerging nations'.

Soon after the first stock market meltdown in 1996, the ADB funded an 80-million-dollar initiative to kick-start market development and restore public trust (ADB 1997; Sobhan 2016). However, an audit of the program titled Operations Evaluation Mission (OEM) concluded that the effort was only partially successful because it was unable to recapture the shareholders' confidence (ADB 2005; Biswas 2015). Furthermore, ADB funded a \$1.07 million initiative to help BSEC enhance capacity so that it could effectively carry out regulatory actions and prepare a CG handbook (ADB 2000). Although the effort failed

to produce a guidebook, it did assist BSEC officials in receiving extensive CG training (Siddiqui 2010).

In 2002, the Bangladesh Enterprise Institute (BEI), with funding from the Department for International Development of the British Government, conducted research on the state of CG in Bangladesh and outlined a prescription for standard CG practices in collaboration with the Global Corporate Governance Forum of the World Bank and the OECD, as well as the Commonwealth Secretariat (Sobhan and Werner 2003). BEI held a seminar on 7 January 2003 as part of the initiative, inviting stakeholders, including former government policymakers, to review BEI's draft CG guidelines and establish a complete CG code. In August 2003, the Chairman of BSEC, along with specialists from both governmental and non-governmental organizations, met to finalize the code provisions (BEI 2004). BEI made the required revisions and issued a proposal in April 2004 called "The Code of Corporate Governance for Bangladesh." According to the research, BEI's all-inclusive code development methodology may have put pressure on businesses to follow the CG code. BEI, as a private entity, did not have the authority to compel enterprises to follow CG rules because the code was voluntary (World Bank 2009). As a result, it suggested the BSEC to adopt the code on a "comply or explain" basis (BEI 2004).

Apart from the BEI effort, autonomous professional groups such as the Institute of Chartered Accountants of Bangladesh (ICAB) performed a project on the condition of CG practices in Bangladesh and presented some recommendations in January 2003, with financial backing from the World Bank (ICAB 2003). In November 2004, ICAB issued a "Draft Code of Corporate Governance—Bangladesh" in response to the report's recommendations (Biswas 2015). In comparison to the ICAB code, the BEI code was able to reflect the opinions of many organizations and hence was more complete. This may have influenced the formulation of BSEC standards to include the BEI code. Eventually, BSEC issued the first set of CG regulations in 2006, and the conditions of the code were made "voluntary" for the listed companies in the stock market of Bangladesh.

According to the voluntary or soft approach of CG regulations, companies are not required to comply with all of the conditions; nevertheless, they are required to disclose the level of compliance with the standards. In a study on the level of compliance, Biswas (2015) reports that the level of compliance was increasing in the regime of the initial code. Islam et al. (2020), in another study, found that falsifications regarding compliance were significantly reduced after the issuance of the second code. Although Biswas (2012) indicates the rate of espousal as a challenge for the codes, the outcome of these studies suggests that companies gradually intend to adopt the best practices over the years. This raises the question of whether the firms' implementation of CG standards is solely affected by external influences, such as foreign donor organizations and the market regulator, or whether the companies themselves realise the beneficial impact of good governance practices. In this vein, Aguilera and Cuervo-Cazurra (2009) argued that the country-level adoption of code provisions depends on legitimacy as well as efficiency. On efficiency grounds, the espousal of CG regulations in the organisational process benefits firms in several ways. Claessens and Yurtoglu (2013) argue that well-grounded governance mechanisms aid in gaining more access to external financing opportunities at a lower cost, which eventually translates into firm performance (Puni and Anlesinya 2020). Moreover, studies (Almaqtari et al. 2021; Chen et al. 2006; Lo et al. 2010) argue that efficient boards help in enhancing reporting quality, minimising corporate fraudulent activities, and monitoring the expropriation of minority shareholders. Furthermore, approximately two-thirds of the listed companies in Bangladesh are dominated by family members (Muttakin et al. 2012), and this whopping proportion can affect the business policy at the expense of minority shareholders. In these circumstances, internal and external governance mechanisms could play a vital role in controlling familial dominance (Chrisman et al. 2018) while satisfying the other camp of investors. Taken together, the interaction of internal and external ingredients serves as a driving force for CG code revisions and firm-level adoption.

3. Corporate Governance Guidelines in Bangladesh

3.1. BSEC's Notification on Corporate Governance Guidelines 2006

As previously stated, donor pressure and the inability to implement previous economic and industrial strategies (Reed 2002; Siddiqui 2010) pushed Bangladesh to adopt corporate best practices standards. On 20 February 2006, the BSEC released a Notification of Corporate Governance Guidelines (hereafter, NCGG). Following BSEC's lead, two stock exchanges (Dhaka Stock Exchange and Chittagong Stock Exchange) added the NCGG to their listing requirements, putting extra pressure on corporations to follow the new standards (Sobhan 2016).

BSEC, like many other nations, took a voluntary or soft approach to governance principles in the beginning since it was a state of "compliance or explain" (BSEC 2006). According to Biswas (2012), the flexibility of this voluntary approach could be an acceptable option at the initiation stage since the companies differ in terms of their nature and size of the business. He further argues that in these scenarios, organizations, either at an early stage or mature, should decide the best standards for them and explain them in the compliance statement. Moreover, the NCGG requires that the number of directors should be between 5 and 20, including the Chairman and an ID. The obligation to preserve the proportion of IDs at one-tenth, subject to a minimum of one, was one of several internal mechanisms legitimized in the rules. The provision for IDs was originally one-fifth of the board size in an earlier version of the NCGG released in January 2006, with a declaration required for the board of directors (BOD) on the projected strategy and risk factors of the company. Due to external pressures caused by various industry groups, the statement of future prospects and probable risk concerns was eliminated, and the proportionate occupancy of IDs was decreased in the NCGG released in the following month of 2006 (Biswas 2012).

According to the NCGG, the IDs are appointed by the elected BOD, and the shareholders must ratify this appointment. As a result, internal directors who are elected for their substantial shareholdings may easily propose people who will be loyal to them, and the goal of choosing IDs to question board decisions will not be met. Furthermore, there is no requirement for an ID to have expertise or experience reviewing financial accounts and compliance reports, which makes the provision a weak one. Nonetheless, the NCGG said that the proportion of shares should be less than 1% of a company's total paid-up capital. The guidelines also state that an ID should not be related to the company's directors, sponsors, or shareholders who own 1% or more of the total paid-up capital through a familial relationship; or have any kind of interest in the company's or subsidiary's affairs; or be a member, director, or executive of any of the stock exchanges or any stock exchange member or stock market intermediary. Furthermore, NCGG did not specify a time limit for an ID to function for a corporation.

The role of board chair and managing director (MD) or chief executive director (CEO) must be held by two separate people, according to condition 1.3 of the notification, indicating that CEO non-duality is preferable to separating important managerial positions from board supervision. There was no indication, however, whether these two roles might be held by members of separate families. If these jobs are tightly linked, such as through familial ties, the real separation of tasks is unlikely to be effective for decision making.

In addition to the financial statements required by section 184 of the Company Act 1994, directors shall submit various statements in the annual report, as specified in condition 1.4. Among many, the key declarations on behalf of the directors are as follows: (a) The financial statements of the company depict the true picture of a company's operations, including cash flows and changes in equity. (b) Appropriate records of account of the issuer company have been maintained. (c) Proper accounting policies have been consistently applied in the preparation of the financial statements. (d) International Accounting Standards (IAS), as applicable in Bangladesh, have been followed in the preparation of the financial statements. (e) The financial statements have been prepared in accordance with the International Accounting Standards (IAS). (f) There are no substantial concerns regarding the issuer's capacity to continue as a going concern. (g) The issuing company's operating results that have significantly changed from the prior year should be noted, and the causes should be

discussed. (h) An abridged version of key operating and financial data for the previous three years is presented. (i) If the issuer company has not declared a dividend (either in cash or stock) for the year, the reasons for doing so have been specified. (j) The number of Board meetings held during the year and attendance by each director has been presented. (k) The pattern of shareholding should be reported indicating the holdings with name wise details of: (i) Parent/Subsidiary/Associated companies and other related parties; (ii) Directors, CEO, Company Secretary (CS), Chief Financial Officer (CFO), and Head of Internal Audit (HIA) and their spouses with minor children; (iii) Executives; and (iv) Shareholders holding ten percent (10%) or more voting interest in the company.

Furthermore, the recommendations suggested the Audit Committee (AC) as the board's only sub-committee at condition three. Replicating the agential view, BSEC included the provisions for AC. Agency theory postulates that AC helps minimise information asymmetry and improve the quality of disclosures (Chung et al. 2005). On empirical grounds, Al-Okaily and Naueihed (2019) report that AC expertise positively affects firm performance. The committee needed a minimum of three directors, including at least one independent member to make the internal assessment autonomous. However, there are no constraints on who may or cannot join AC, which is a big flaw in the regulation. For example, the board chair and/or CEO/MD might be members of the committee, casting doubt on the AC's independence, which goes against the purpose of having an AC (Biswas 2012). Another disadvantage of this philosophy is that, rather than concentrating on all members, it only prefers the chairman of the AC to have accounting or financial competence. However, how can other individuals who are not business literate contribute to the auditing mechanisms? Although the AC members' precise roles and responsibilities were specified, there was no indication of the number of meetings that must be held in a fiscal year. In general, the AC was required to report to the board of directors on matters that it believed had a substantial impact on the company. Furthermore, NCGG condition 3.4 requires the AC to make a report, including any report presented to the board and undersigned by the chair of the AC, describing any committee activity, to be revealed in the annual report. The positive thing about this reporting is that if the board is uninterested in the concerns raised by the AC, the AC can directly report them to the BSEC.

Although the NCGG fails to legitimize any statutory auditor's roles and responsibilities, condition four of the guidelines lists a few services that the external auditor will not perform, including appraisal opinions, financial information system design, accounting record preparation, internal audit services, and any other services that AC performs. Furthermore, there were no restrictions on subsidiary corporations or related party transactions. In a country with concentrated ownership, family control, and hegemony generated by corporate groupings (Haque et al. 2011; Ahmed and Uddin 2018), minority shareholders need access to information about how a firm is affiliated or transacts with related parties. Despite taking proactive efforts to combat familial and political cronyism and correcting the limits of its previous edition, the NCGG released in 2012 concentrated on conventional agency concerns, which are of less relevance in a developing nation such as Bangladesh. However, researchers (such as Biswas 2015; Uddin and Choudhury 2008) believe that the obligatory CG guideline was a beneficial move, at least in terms of bringing all organizations under a common set of standards. This sense of hope is mirrored in the yearly reports, with the number of compliance statements increasing and a rising willingness to follow the rules.

According to Biswas (2012), the BSEC's enforcement section did not penalize any corporations for non-compliance or partial compliance with the NCGG, except by issuing a few reminder letters. Overall, it shows that voluntary principles modelled after those in the United Kingdom failed to promote accountability, openness, and justice in a country with a weak regulatory and legal system. In a review of Bangladeshi firms' CG practices, the World Bank (2009) recommended reforming the present CG legislation due to the absence of outside IDs and well-defined director roles. Together, BSEC finds a means to amend NCGG while also making the rules mandatory.

3.2. BSEC's Notification on Corporate Governance Guidelines 2012

Later, on 3 July 2012, a review was conducted to strengthen the BSEC corporate governance guidelines (henceforth BCGG), upgrading the principles to “comply” from “comply or explain” (BSEC 2012). This time, BSEC adopted the U.S. norm and made compliance mandatory, when previously it had been a bit more liberal. In contrast, two of the rules had a similar style; for instance, they both adhered to agency theory and avoided CEO dualism, making them more compelling on the principal-agent basis. To make the guidelines more effective, BSEC introduced some additional rules to the existing provisions of NCGG while taking subsidiary firms into account.

In addition to making the rules mandatory, the most significant modification to the latter was the rise in the proportion of IDs. Previously, the ratio was one-tenth of the total number of directors, but it has been changed to one-fifth so that ordinary investors other than the inner directors may also be heard. Two schools of thought in CG research, such as agency and stewardship theory, have contrasting views on how the ratio of board independence influences firm performance. According to the stewardship theory (Davis et al. 1997; Donaldson and Davis 1991), top management and inside directors will assist each other as both of them have the desire to pursue an identical objective. The inside director spends long hours dealing with the regular activities of companies (Donaldson and Davis 1991) and has more knowledge about a firm's operation compared to the outsiders (Booth and Deli 1996). In support of the stewardship view, research shows that there exists a negative association between the proportion of the board members and firm performance in the USA (Agrawal and Knoeber 1996), Australia (Grace et al. 1995), and India (Mishra 2020). In stark contrast to the stewardship view, agency theory posits that outside IDs provide essential monitoring functions in an attempt to resolve the agency conflict between management and shareholders (Bathala and Rao 1995) that minimises agency cost (Fama and Jensen 1983). Moreover, prior research on CG reform demonstrates that enhancing board independence improves company performance (Black and Kim 2012) while restricting real earnings management (Razzaque et al. 2020). According to the agential approach, most CG code revisions aim to raise the proportion of IDs on the board (Duchin et al. 2010), and Bangladesh is no exception, increasing the board independence ratio to 20% from 10%. Moreover, shareholder approval is required this time at the AGM following the selection of IDs by the BOD. It might make the BOD more accountable when selecting the individuals to serve as outside board members. In addition, the new regulations require businesses to certify their CG compliance statement before adding it to the annual report. With this addition, the BSEC assures that CG monitoring is more thorough, as the certification of compliance status must come from an external auditor who is not tasked with examining firms' financials.

According to condition 1.2 (g), an ID may work for up to three firms concurrently within a fiscal year. The rules suggested that an ID should work for a company for a maximum of three years with one possible extension. In addition, BCGG standardized the requirement on ID by broadening the criteria of an ID by not only limiting the shareholding to one percent or fewer, including familial ties, but also by clarifying “who” can serve as an ID. As stipulated by the BCGG in requirement 1.3 (ii):

The person should be a Business Leader/Corporate leader/Bureaucrat/University Teacher with Economics or Business Studies or Law background/Professionals like Chartered Accountants, Cost and Management Accountants, Chartered Secretaries. The independent director must have at least 12 (twelve) years of corporate management/professional experiences.

Academics and international organizations have paid considerable attention to the subject of director tenure (Bravo and Reguera-Alvarado 2018). BSEC, in the updated code, has specified the tenure of IDs on the boards. In this vein, Bonini et al. (2017) claim that a longer tenure period enables directors to gather knowledge about previous company activities and disclose more information that has a direct financial benefit to their companies. Moreover, directors who have been on the board for a long time are better at performing

the duty of a watchdog and providing advice (James et al. 2021). According to the revised version of the CG code of Bangladesh, outside directors' initial appointment will be made for 3 years with a provision to extend the tenure for another term, i.e., 6 years. It indicates that the IDs can serve a firm for a limited period, which bears a resemblance to most of the codes across the globe. Pursuant to this, it is argued that the long-tenured independent directors may get closer to managers (Vafeas 2003), resulting in a loss of their independence and capacity for oversight (Hillman et al. 2011).

BCGG, in condition 1.4, mirrors NCGG in that it requires the board chair and CEO roles to be held by distinct individuals, with the chairperson being elected from among the company's directors. Compared to the previous NCGG, it adds additional parts to the directors' report to the shareholders (condition 1.4) to guarantee stronger directors' responsibility to the shareholders. Section 184 of the Companies Act, 1994 (Act No. XVIII of 1994) contains additional disclosures that a firm must discuss or disclose in accordance with BCGG condition 1.5:

- Industry outlook and possible developments in the years to come;
- Performance on the basis of diversified segments and products;
- Possible risks and hazards;
- Cost of Goods Sold, Gross Profit Margin and Net Profit Margin, and continuity of any Extra-Ordinary gain or loss;
- All types of related party dealings with its basis of transactions;
- Utilization of proceeds from public issues, rights issues and/or through any other instruments;
- Any significant variance that occurs between Quarterly Financial performance and Annual Financial Statements;
- Remuneration to directors including independent directors;
- Whether the standards of IAS/IFRS that are adopted in Bangladesh, are followed in the preparation of financial statements focusing on any departures from those;
- A comparative statement on the key operating and financial data for the last 5 years, while in the NCGG version a company is required to present the same for the preceding 3 years.

BCGG makes certain improvements to the AC to make it more independent and effective in assuring a stronger internal control system. It supports the claim of prior research that the audit committee's independence is connected to a reduced cost of capital (Singh et al. 2018) and improved financial transparency (Adams et al. 2010). Although NCGG was limited to ID credentials, BCGG (as per criterion 3.1 (iii)) requires that all members of an AC have knowledge of accountancy and finance, with at least one member having professional experience. It further highlights the importance of including an ID not just for committee members, but also for committee chairs (condition 3.2 (i)). In addition, the existence of at least one ID is required to meet the quorum (condition 3.1 (vi)), which is an excellent way to test the internal directors. However, there is no requirement for a minimum number of AC meetings to be held, which might undermine the regularity of supervision and monitoring if the meetings are only held once or twice. It also specifies the role of an AC in Section 3.2, which includes overseeing the financial reporting process, monitoring the choice of accounting policies and principles, monitoring the Internal Control Risk Management process, overseeing the hiring and performance of external auditors, reviewing related party transactions with management, and reviewing the annual financial statements before submission to the board for approval. Following NCGG, Section 3.2 of BCGG has given AC the authority to report to the BSEC within 6 months of the date of first reporting on any problems that were previously referred to the BOD for action, whereas earlier rules required 9 months. The genuine neutrality of the AC, however, remains an open topic because BCGG does not place any constraints on the presence of the board chair and/or CEO on the committee.

Condition four of the BCGG specifies how statutory auditors can perform their duties as external auditors without engaging in the company's services. This requirement is similar

to condition four of the NCGG, with the exception of the auditing capability restriction if the audit firm's executives or owners have financial interests in the entity to be audited. Therefore, the external auditor's review of the company's financial records will be more open and objective.

The BCGG added two additional requirements, the first of which is subsidiary company guidelines (condition five). Subsection (i) states that the laws governing the composition of the parent company's board of directors will apply to the subsidiary business as well. It also requires that at least one parent company BOD ID be on the subsidiary board of directors (ii). This signifies that the main company's independent viewpoint will be passed down to its subsidiary, resulting in policy consistency across the group of enterprises. Furthermore, pursuant to conditions (iii) and (iv), the subsidiary board's meeting minutes should be transmitted to the parent, and the parent board's minutes should declare that they have examined the subsidiary's operations. Finally, the controlling company's auditor will examine the financial records, particularly the subsidiary company's investments (v). As a result, the financial choices made by the BOD of subsidiaries will be scrutinized, and parallel accounting techniques in both the holding and subsidiary firms may be used.

Another new BCGG requirement is to define the roles of the CEO and CFO, making both more accountable to investors. The board will obtain a certificate from the CEO and CFO stating that there is no proof of false information in the financial statements. It will also say that the financial statements provided are compliant with current accounting standards and legislation. They will also ensure that no transactions were recorded into the statements that were found to be illegal or contrary to the company's code of conduct.

The BCGG further stipulates in condition seven (i) that a firm must receive a certificate from a practising Professional Accountant such as a CA/CMA/CS that outlines whether the company has complied with the governance standards and attach the certificate to the annual report in a fiscal year. It means that investors will have more confidence in the CG compliance status now that a third party has endorsed the company's governance measures. Although it may increase costs for businesses, particularly small businesses (Biswas 2012), it will undoubtedly enhance the level and quality of compliance. Because BSEC only has a few staff to discover improper CG activities, this might serve as the first line of defense against non-compliance and window dressing of compliance.

3.3. BSEC's Corporate Governance Code 2018

To fine-tune the corporate governance guidelines, BSEC amended the BCGG 2012 after 6 years. Corporate governance guidelines (CGC) have been issued by the BSEC under notification no. BSEC/CMRRCD/2006–158/207/Admin/80, dated 3 June 2018, and published in the official Gazette on 10 June 2018 (BSEC 2018). It has been observed that the latest code, in most instances, followed the conditions of its predecessor, BCGG 2012. However, the points that are amended in the CGC 2018 are highlighted below.

In addition to BCGG 2012, CGC 2018 also details the specific qualities of the persons to be appointed as ID. The requisite educational and administrative qualities are spelt out in the code. Moreover, according to the latest guidelines, ID will not be serving more than five listed firms at a time, while the ceiling for this service in the earlier code was only three companies. Furthermore, in the latter guidelines, the IDs require less professional qualification, i.e., 10 years instead of 12 years, as per the earlier guidelines. One plausible reason for enhancing the number of firms to be served at one go and lessening the years of professional experience could be the incorporation of specific attributes required in the latest one, abiding by which, it might be challenging to find as many IDs as before. Following the BCGG 2012, CGC 2018 supports the provision of CEO duality. However, the Chairman will be elected from among the non-executive directors of the company, while the code also requires that the MD/CEO, CFO, HIAC, and CS shall not hold any executive positions in another company simultaneously.

None of the prior codes include the provision of board meetings. In the CGC 2018, it entails, "The company shall conduct its Board meetings and record the minutes of the

meetings as well as keep required books and records in line with the provisions of the relevant Bangladesh Secretarial Standards (BSS) as adopted by the Institute of Chartered Secretaries of Bangladesh (ICSB) in so far as those standards are not inconsistent with any condition of this Code" [CGC 1(6)].

In the case of the director's report to the shareholders, all the conditions of CGC 2018 are quite similar to BCGG 2012. In addition, according to the latest code, directors must report in the form of a statement declaring that the interests of the minority shareholders are protected from any actions taken by or in favour of controlling shareholders. Moreover, a report must be prepared on how the funds are raised by issuing IPO, the right issue or other instruments, and the way of the utilisation of the proceeds, as well as a plan of actions with a suitable justification. Furthermore, the code of conduct for the Chairperson, board members, and CEO must be disclosed, which is recommended by the nomination and remuneration committee and shall be posted on the company website. The companies should maintain a website from the date of listing and provide necessary information as per the listing rules of corresponding stock exchanges.

According to the theories of governance, the board of directors is in charge of monitoring, supervising, and connecting businesses to their surroundings (Carter et al. 2010). The board then assigns particular responsibilities to various groups of specialists to carry out certain tasks, and NRC is one of the major sub-committees among them. The aim of the formation of an NRC is to design the remuneration package for the directors and the executives in a way that attracts quality personnel, which eventually minimises information asymmetry and agency costs and enhances firm performance (Harymawan et al. 2020). There was just one board sub-committee, AC, under the prior codes. In the CGC 2018, however, another board sub-committee, NRC, is added to the list. The NRC comprises at least three non-executive directors of the company including a minimum of one ID, which excludes the Chairperson of the board. It is noteworthy to mention that all the members of this committee will be non-executive directors of the board, and it shall be headed by an ID. The Chairperson of NRC must attend AGM. Moreover, specific roles of the committee are also outlined in the latest code. Among others, key roles include formulating the criteria for determining the qualities and independence of directors and top-level officials and designing their remuneration packages. Additionally, it will develop, recommend, and review the human resource and training policies of a firm on an annual basis.

While the BCGG 2012 requires only an annexure on the status of compliance, the CGC 2018 entails additional two annexures. Annexure-A details the declaration by the CEO and CFO on six issues and certification on three issues, jointly signed by them, and Annexure-B details the certification by the professionals on compliance.

The key points of differences among all the three corporate governance guidelines issued by the BSEC so far are outlined in Table 1.

Table 1. Differences among the corporate governance guidelines issued by BSEC.

Conditions	NCGG 2006	BCGG 2012	CGC 2018
Basis of Compliance	Comply or explain	Comply	Comply
Board Size	Between 5 and 20	Between 5 and 20	Between 5 and 20
Independent Director			
Proportion	One-tenth (1/10th) of the BOD	One-fifth (1/5th) of the BOD	One-fifth (1/5th) of the BOD
Appointment	Elected by the BOD	Nominated by BOD and approved by the shareholders in the AGM	Nominated by BOD and approved by the shareholders in the AGM
Qualifications	No conditions mentioned as such	BCGG outlined the persons who shall be appointed as ID	In addition to BCGG, CGC also details the qualities of the said persons.

Table 1. Cont.

Conditions	NCGG 2006	BCGG 2012	CGC 2018
Work Experience	No conditions mentioned as such	At least 12 years of professional experience	At least 10 years of professional experience in the positions mentioned above
Professional Affiliation	ID shall not be connected to any of the stock exchanges as a member/director/executive or share-holder/director/executive of any member or intermediary of stock exchanges	ID shall not be connected to any of the stock exchanges as a member/director/executive, share-holder/director/executive of any member or intermediary of stock exchanges; or an executive during the immediate past 3 years of any audit firms that are engaged in internal control services	ID shall not be an executive who has been a part of the same company for the preceding 2 years; a member of TREC; a director or member or intermediary of any of the stock exchanges; and not a director or an executive during the immediate past 3 years of any audit firms that are engaged in internal control services
Limit on Service	No conditions mentioned as such	ID will not be serving more than three listed firms at a time	ID will not be serving more than five listed firms at a time
Maximum Tenure of Service in a Company	No conditions mentioned as such	3 years with a provision to extend the tenure for another term, i.e., 6 years maximum	Three years with a provision to extend the tenure for another term. An ID can also be reappointed after a time gap of 3 years from the completion of consecutive two terms or 6 years
Disqualification on Eligibility	No conditions mentioned as such	ID shall not be convicted either by the court for non-payment of a loan granted by any financial institution or convicted on the grounds of immoral activities	ID shall not be convicted either by the court for non-payment of a loan granted by any financial institution or convicted on the grounds of immoral activities
Vacancy of Position	No conditions mentioned as such	The post of an ID should not remain vacant for more than 90 days	The post of an ID should not remain vacant for more than 90 days
Board Chair and MD/CEO			
CEO Duality	The positions of Chairman and CEO of a company shall <i>preferably</i> be held by different individuals	It is mandatory that the positions of Chairman and CEO of a company shall be held by different individuals	It is mandatory that the positions of Chairman and CEO of a company shall be held by different individuals
Selection Criteria for Chairperson and CEO	The Chairman will be elected from among the directors of the company	The Chairman will be elected from among the directors of the company	The Chairman will be elected from among the non-executive directors of the company, while the MD and/or CEO shall not hold a similar position in another listed company. In the event of the chairperson's absence, the other board members can elect one from among the non-executive directors.

Table 1. Cont.

Conditions	NCGG 2006	BCGG 2012	CGC 2018
Board Meetings	No conditions mentioned as such	No conditions mentioned as such	“The company shall conduct its Board meetings and record the minutes of the meetings as well as keep required books and records in line with the provisions of the relevant Bangladesh Secretarial Standards (BSS) as adopted by the Institute of Chartered Secretaries of Bangladesh (ICSB) in so far as those standards are not inconsistent with any condition of this Code” [CGC 1(6)]
Directors’ Report to Shareholders			
Preparation of Financial Statements	A declaration that the management has fairly prepared the financial statements, proper books of accounts have been maintained, and IAS as adopted have been followed	A declaration that the management has fairly prepared the financial statements, proper books of accounts have been maintained, and IAS/IFRS as adopted have been followed	A declaration that the management has fairly prepared the financial statements, proper books of accounts have been maintained, and IAS/IFRS as adopted have been followed
Summary of Key Operating and Financial Data	Preceding 3 years	Preceding 5 years	Preceding 5 years
Appointment or Reappointment of Directors	No conditions mentioned as such	Shall disclose a brief resume of the director, nature of expertise with prior experiences of working as a director or member of board committees	The company shall disclose a brief resume of the director, nature of expertise with prior experiences of working as a director or member of board committees
Directors’ Remuneration	No conditions mentioned as such	Shall disclose remuneration to all directors including ID	Shall disclose remuneration to all directors including ID
Related Party Transactions	No conditions mentioned as such	A statement of all such transactions shall be disclosed	A statement of all such transactions showing the amount, nature, and basis of dealings shall be disclosed
Deviations of Operating Results	The variance of financial performance from the previous year along with reasons	The variance of financial performance between quarters and annual horizons by explaining the reasons	The variance of financial performance between quarters and annual horizons by explaining the reasons
Minority Shareholders’ Interest	No conditions mentioned as such	No conditions mentioned as such	A statement declaring that the interests of the minority shareholders are protected from any actions taken by or in favour of controlling shareholders
Board Meetings and Minutes	Disclosure of the total number of meetings held in a fiscal year along with individual director’s attendance	Disclosure of the total number of meetings held in a fiscal year along with individual director’s attendance	Disclosure of the total number of meetings held in a fiscal year along with individual director’s attendance; the minutes of the meetings shall be recorded as per the provisions laid by BSS as adopted by ICSB

Table 1. Cont.

Conditions	NCGG 2006	BCGG 2012	CGC 2018
Additional Statements/disclosures	In case of failure to declare dividends in any form, the company should provide the reasons	In addition to NCGG, additional statements by the board to be included, such as industry outlook; segment- or product-wise performance; risk and concerns; and cost of goods sold, gross profit, and net profit margin.	All the documents required in BCGG 2012, plus a statement on how the funds were raised by issuing IPO, right issue, or other instruments and the way of the utilisation of the proceeds and future plan of actions with suitable justification. Moreover, three additional disclosures have been added: company dealing with goods for applicable case only, changes in extraordinary gain/loss, and specific related party transactions.
Code of Conduct for Chairperson, Board Members and CEO	No conditions mentioned as such	No conditions mentioned as such	NRC shall recommend this and shall be posted on the company website
Number of Board Sub-Committees	1, only AC	1, only AC	2, AC and NRC
Audit Committee			
Composition	At least three directors of the company including a minimum of one ID	At least three directors of the company including a minimum of one ID	At least three non-executive directors of the company, including a minimum of one ID that excludes the Chairperson of the board
Qualification	Only the Chairperson of the AC should have a professional qualification and experience in accounting and finance	All members of the audit committee should be “financially literate” and at least 1 (one) member shall have accounting or related financial management experience	All members of the audit committee should be “financially literate” and at least 1 (one) member shall have accounting or related financial management experience of 10 years
Chairperson of AC	The board should select one member of the AC as Chairman	The Chairman of the AC should be an ID	The Chairman of the AC should be an ID; if the Chairperson of the audit committee remains absent, one of the members who are present can act as a Chair for that meeting
Number of Meetings	No conditions mentioned as such	No conditions mentioned as such	At least four meetings in a fiscal year with a provision to call an emergency meeting
Meeting Quorum	No conditions mentioned as such	At least one ID shall attend the meeting	The quorum of the AC meeting shall be constituted by the presence of either two-third members of the committee or two members, whichever is higher. However, attendance of an ID is mandatory

Table 1. Cont.

Conditions	NCGG 2006	BCGG 2012	CGC 2018
Role of AC	No conditions mentioned as such	Specific roles outlined	Specific roles outlined; moreover, prior to the submission of financial statements to the Board for approval, AC shall arrange a meeting with the external statutory auditors for assessment of financial records
Nomination and Remuneration Committee (NRC)			
Composition	No conditions mentioned as such	No conditions mentioned as such	At least three non-executive directors of the company including a minimum of one ID that excludes the Chairperson of the board
Appointment	No conditions mentioned as such	No conditions mentioned as such	Nominated and appointed by BOD and the board can remove any member of NRC
Meetings	No conditions mentioned as such	No conditions mentioned as such	At least one meeting in a fiscal year with a provision to call an emergency meeting
Quorum	No conditions mentioned as such	No conditions mentioned as such	The quorum of the AC meeting shall be constituted by the presence of either two-third members of the committee or two members, whichever is higher. However, attendance of an ID is mandatory
Chairperson	No conditions mentioned as such	No conditions mentioned as such	Shall be an ID, and the Chairperson of NRC shall attend AGM
Role of NRC	No conditions mentioned as such	No conditions mentioned as such	Specific role outlined; among others, key roles include determining the qualities and independence of directors and top-level officials and designing their remuneration package
External/Statutory Auditor	Some provisions outlined on the activities of statutory auditors	In addition to NCGG, BCGG incorporates a clause on shareholdings by any of the employees in the firm they audit as long as they are involved in auditing that company	In addition to BCGG, CGC incorporates a clause on ensuring the presence of the representative of the statutory auditor at the AGM to answer the queries of the shareholders

Table 1. Cont.

Conditions	NCGG 2006	BCGG 2012	CGC 2018
Subsidiary Company (SC)	No conditions mentioned as such	Provisions of holding company (HC) to form the BOD will remain the same for the SC with at least one ID of the HC to be appointed in the SC; the minutes of the SC shall be presented to the BOD meeting of HC, and AC will investigate the financial statements of SC	Same as BCGG
Duties of CEO and CFO	No conditions mentioned as such	The CEO and CFO shall issue a certificate to the BOD regarding the quality of the financial statements	In addition to BCGG, the Code also requires that the CEO, CFO, HIAC, and CS shall not hold any executive positions in another company simultaneously
Website	No conditions mentioned as such	No conditions mentioned as such	The companies should maintain a website from the date of listing and provide necessary information as per the listing rules of corresponding stock exchanges
Reporting and Compliance	Only directors' report confirms the compliance status	On top of the directors' report, BCGG requires that a professional such as CA/CMA/CS shall issue a certificate on the quality of compliance.	The Code follows BCGG, but specified that the professional who shall provide a certificate of compliance should be appointed at the AGM
Annexures	Annexure on status of compliance only.	Annexure on status of compliance only.	Additional two annexures are included. Annexure-A details on declaration by the CEO and CFO on six issues and certification on three issues, jointly signed by them, and Annexure-B details the certification by the professionals on compliance
Gender Neutrality in Wording	No (e.g., Chairman)	No (e.g., Chairman)	Yes (e.g., Chairperson)

4. The Best Is yet to Be Implemented: Some Policy Recommendations

Following [Islam et al. \(2020\)](#), this study further claims that increasing the number of IDs has been shown to be successful at least in reducing the degree of CG overstatements. Additionally, IDs have made the chairman positions of several board committees, such as the audit committee and the nomination and pay committee, necessary to ensure superior accountability. Taking the discourse around CG codes into account, this study suggests some policy guidelines to address while further reform is underway.

- (a) According to studies, a higher number of IDs contributes to board resource endowment, which improves company performance in both non-profit ([Blevins et al. 2022](#)) and for-profit ([Kyere and Ausloos 2021](#)) organizations. Moreover, [Virk \(2017\)](#) shows that having more IDs on the boards promotes better adherence to the CG standards and is more successful in reducing the degree of CG breaches by Indian corporations. In another study, [Krause et al. \(2016\)](#) view managerial traits and social integration

of a board chair as a resource for the organisations. Pursuant to this, [Jensen \(1993\)](#) contends that the chair of the board should be independent in order to carry out its monitoring duties effectively. Therefore, the chairpersons who are independent directors can contribute more with their oversight capabilities with their resourceful competence and experience. To promote the beneficial role of IDs on boards, policymakers may consider the cases of some developed countries, such as the UK and Australia. Even in India, one of the fastest growing emerging countries, chair independence is encouraged although not mandatory. Independent directors, as board chairs, would be a significant step forward in ensuring openness and fairness in the decision-making process.

- (b) Due to variations in culture, government policy, economic situations, ownership structure, and other factors, it is usually assumed that institutional disparities exist between developed and developing nations ([Ahmed and Uddin 2018](#)). As a result, the expanded application of westernised CG laws has had little success in emerging markets. In Bangladesh, the government prefers to hire directors in state-owned firms based on political affiliations with the ruling party, which is regarded to be one of the main causes of poor performance (even the majority of the companies are facing operating loss). Furthermore, familial domination is usual in Bangladesh. With their undisputed backing in the boardroom, family directors do not necessarily change CG practices from the inside, but rather undertake actions that are just a regulatory eyewash ([Ahmed and Uddin 2018](#)). In this situation, boosting the proportionate participation of non-family members might be a viable approach for challenging family and kinship. The ratio of IDs to board size is also given importance in industrialized nations to amplify board monitoring activities. According to clause 49 of the Indian corporate governance code, it requires that 33% of the board seats must be occupied by the IDs if the board chair is a non-executive director; however, this proportion rises to 50% if the chairperson is an executive director. [Black and Khanna \(2007\)](#), in an empirical study on CG reform, claim that reform with a higher ratio of director independence fosters firm value. In another study on Chinese CG reform, [Liu et al.'s \(2015\)](#) report that the code amendment in terms of one-third board independence enhances firm performance. Considering the outcome of this research, policymakers of Bangladesh may also consider raising the ID ratio to at least 1/3rd, as the other emerging nations such as India and China have implemented, which is likely to serve as a source of quality advice and counsel as well as a catalyst for board oversight.
- (c) Researchers (e.g., [Adams and Ferreira 2009](#); [Carter et al. 2003](#)) contend that diverse boards can function more successfully as monitors owing to the incorporation of directors with non-conventional traits, which enhances board independence. Considering the benefits of including women directors on the boards, countries such as Italy, France, and Norway have included the provision of gender quota on the boards. Even in India, a minimum of one female director is mandatory for corporate boards. While women's involvement is prioritized in CG legislation throughout the world ([Adams and Ferreira 2009](#)), Bangladesh's regulatory authority has yet to establish a requirement that recognizes the importance of gender diversity in the boardroom. In a study of listed Vietnamese companies, [Nguyen et al. \(2015\)](#) found that boardroom gender diversity has a favourable and significant effect on firm value. Prior studies on Bangladeshi firms report that there exists a positive association between gender diversity and firm performance ([Muttakin et al. 2012](#)) and corporate voluntary disclosure ([Rouf 2016](#)). On theoretical and empirical grounds, our research advocates including a gender diversity strategy in future CG code revisions.
- (d) The regularity with which the directors meet is seen to be an essential means of enhancing the board's effectiveness ([Adams and Ferreira 2009](#); [Conger and Lawler 2009](#)). It is essential that the board of directors holds more meetings, thus improving their power to counsel, control, and enforce discipline inside an organization in order to improve corporate business performance ([Ntim and Osei 2011](#)). According

to studies, increasing the number of board meetings has a favourable and substantial impact on business performance (Kyei et al. 2022; Oziegbe and Cy 2021) and voluntary disclosures in annual reports (Barros et al. 2013). Therefore, the future development of the governance code could also set the provision of the minimum number of board meetings, ideally at least four times a year, for addressing policy and strategic problems and overseeing management actions, similar to other emerging and developed nations.

5. Conclusions

Bangladesh is an intriguing instance for evaluating the regulatory authority's reform attempts undertaken since 2006. BSEC has thus far introduced three codes in which it has attempted to implement modifications in accordance with worldwide best practices. According to the CG code of 2006, Bangladeshi enterprises have alternatives for explaining governance violations. Nevertheless, according to the codes released in 2012 and 2018, there is no room for noncompliance, much alone clarification of deviation from conformance. The requirements of the code have been enhanced to guarantee openness and accountability in the performance of the board and management. In addition, the most recent guideline includes provisions for nomination and compensation. Therefore, the NRC will be responsible for establishing policies surrounding the nomination of board members and the compensation of directors and the CEO. This is a noteworthy measure that establishes a realistic benchmark and performance-based compensation for top officials. However, some of the limitations still persist even in the 2018 version of the code.

Thus, this study attempts to offer some policy guidelines on some of the vital governance aspects that could be incorporated in the future code development stage. The proposals include: choosing an independent board member as chair; strengthening board independence; ensuring gender diversity on the board; and ensuring a minimum number of board meetings. If policymakers can incorporate these essential adjustments into the next update on CG regulations, it is believed that board supervision would be more independently managed and ultimately focus on the interest of the minority shareowners. Consequently, the investors would be more inclined to invest in Bangladesh's capital market.

Despite its contributions to the study, it has certain drawbacks. Because the analysis investigates solely the salient facets of CG reforms and does not analyze the impact of reform on the organisational outcomes of Bangladeshi firms. Therefore, future research might examine the effect of code reforms on firm-level characteristics such as disclosure quality, firm performance, or corporate risk. It will also be interesting to investigate how managerial opportunism and agency cost behave with the amendments of code provisions in an emerging country.

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