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Corporate Governance in the Emerging Economies of the Caribbean: Peculiarities, Challenges, and a Future Pathway

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Abstract

Building on corporate governance research and responsible leadership theory this paper examines, through a multiple case approach, three major cases of corporate failures in the emerging economies of Barbados, Jamaica, and Trinidad and Tobago, member states of the Caribbean Community trade bloc. The paper accordingly provides valuable insights into the dynamics of corporate governance in the Caribbean and proposes a responsible leadership approach as a framework to mitigating agency-problems and addressing the changing business contexts of the region. The paper suggests that researchers and practitioners need to develop a more holistic approach towards understanding corporate governance by going beyond traditional governance mechanisms and controls, and incorporating responsible leadership levels of analysis into the equation. It also establishes that regulators, boards, management, and auditors are critical to avoiding corporate failures and that good corporate governance is fundamental to the performance and sustainability of firms and economies as a whole.

Introduction

The importance of corporate governance has been globally recognized evident by the emergence of international standards and responses to the corporate governance debate from all regions of the world. The enactment of new legislation and corporate governance codes and regulations in some countries are also indicative of its increasing importance. Examples of these responses include the development of the OECD Principles of Corporate Governance; the Commonwealth Association of Corporate Governance (CACG) Guidelines for Corporate Governance, and the United States' Sarbanes-Oxley Act of 2002. These measures were not only a response to myriad corporate scandals, but also the result of the appeal from international institutional investors who demanded improved corporate governance in corporations and countries as a condition to invest. The more recent global financial crisis of

2008 as a result of the collapse of many banks and financial institutions further propelled corporate governance on the agenda of all major economies (Crane & Matten, 2010). Understandably, achieving good corporate governance became a central theme in most of the governance related discussions and initiatives in these economies. Despite this growing global corporate governance movement, the Caribbean region's response has however been very limited notwithstanding its own corporate governance challenges.¹

This article therefore examines the major corporate governance crises in three of the major member countries of CARICOM – Barbados, Jamaica, and Trinidad and Tobago, respectively. In each of the cases, failure is attributed primarily to poor internal and external corporate governance practices and have raised questions concerning the roles of regulators, boards, executives, and auditors. The importance of good corporate governance practices for ensuring firm performance and sustainability as well as economic stability is also strongly established. The paper provides valuable insights into the dynamics of corporate governance in the Caribbean and proposes a responsible leadership approach as a framework to mitigating agency problems and addressing the changing business contexts of the region. It suggests that researchers and practitioners need to develop a more holistic approach towards understanding corporate governance by going beyond traditional governance mechanisms and controls, and incorporating responsible leadership levels of analysis into the equation. The article is organized as follows: the first section gives an overview of corporate governance while the second examines the corporate governance landscape of the Caribbean. The third outlines the methodological approach employed in the study, and examines the three cases in detail. An analysis of the commonalities in these cases together with a proposed approach to achieving good governance in the Caribbean is discussed in the fourth section. In general, the paper contributes to corporate governance research in emerging markets and applies the theory of responsible leadership (RL) within the context of corporate governance.

Overview of Corporate Governance

Corporate governance, at its most basic level, establishes the rules to deal with issues related to the separation of ownership and control and so defines the framework in which relationships between a company's management, its board of directors, its shareholders, and other stakeholders interact (CIPE, 2008). For shareholders, corporate governance can provide increased confidence of an equitable return on their investment; while for stakeholders, it can provide an assurance that the organization manages its impact on the environment and society in a responsible manner (Maier, 2005). Corporate governance also encompasses the combination of laws, regulations, listing rules, and voluntary private sector practices that enable the company to attract capital, perform efficiently, generate profit, and meet other legal obligations and general societal expectations (Maier, 2005). It is pertinent to note, however, that there is no universally- accepted definition of corporate governance. This is partly attributable to context specificity, emphasis on different aspects by different

¹ "Caribbean" in this article refers to the 15 emerging economies that are part of the Caribbean Community (CARICOM) established in 1973 to promote economic integration and cooperation as well as to ensure that the benefits of integration are equitably shared. The 15 Member States are: Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, St. Kitts and Nevis, St. Vincent, and the Grenadines, Suriname, and Trinidad and Tobago. The population of CARICOM is just over 16 million and predominantly English-speaking.

professional groups, and theoretical perspectives. Nonetheless, governance is relevant to the performance of both private and public sector organizations, and many of the principles and concepts of governance are applicable to both sectors (Uhrig, 2003).

It has been established that companies can derive various benefits by practicing good corporate governance. A well-governed entity will be more efficient and more likely to produce effective outcomes. Good corporate governance improves access to capital and financial markets and attracts greater investment as well as it strengthens management by shaping a sound company strategy that will generate better profit margins. Empirical research has revealed that over 84 percent of global institutional investors are willing to pay a premium for the shares of a well-governed company over one with a comparable financial record, but that is poorly governed (CIPE, 2005). In addition, good corporate governance minimizes the incidence of corruption and improves the management of risks (Tricker, 2012). It also helps prevent systemic banking crises even in countries where most firms are not actively traded on stock exchanges (CIPE, 2005) as is the case of the Caribbean region. Good corporate governance also involves companies taking into serious consideration their environmental and social footprints by being responsible corporate citizens (OECD, 2004).

Unlike developed economies where the link between good corporate governance and publicly-traded shares are obvious, in emerging markets, such as the Caribbean, there is a tendency to overlook its importance. This is largely due to the limited role of the stock market for raising capital and the widespread dominance of smaller firms that do not have listed shares in addition to large family-owned, state-owned, and/or foreign-owned companies whose shares are also not widely traded locally (Oman, Fries, & Buiter, 2003). Yet given the highly interconnected economies that exist and the opportunities that emerging markets provide for investors, corporate governance in such regions cannot continue to be ignored. Further to facilitate a sustained development of these economies, good corporate governance is fundamental.

There are a number of principles as well as structural and behavioral factors that are presented in the literature as ideals for good corporate governance. The question of what constitutes good corporate governance, however, is not as important or as relevant as the question of whether or not governance is present and whether it is the most appropriate form for the particular entity (Uhrig, 2003). This is why it is easier to identify the lack of governance through failure than the presence of sound governance mechanisms and structures through success. Good corporate governance, nevertheless, is commonly presented as entailing the following characteristics: (a) Shareholders elect directors who represent them; (b) Directors vote on key matters and adopt the majority decision; (c) Decisions are made in a transparent manner so that shareholders and others can hold directors accountable; (d) The entity adopts accounting standards to generate the information necessary for directors, investors, and other stakeholders to make decisions; and (e) The organization's policies and practices adhere to applicable local laws (CIPE, 2008).

The Corporate Governance Landscape of the Caribbean

As mentioned earlier, the CARICOM community is comprised of 15 emerging economies where organized markets are nascent and credible governance structures have historically been limited (ECCB, 2003). In each Caribbean state, there are several pieces of legislation designed to enforce order, discipline, regulate businesses, protect the public, and enhance transparency, disclosure, and accountability to ensure an efficiently functioning economy. But due to the individuality of circumstances in each member state, there are disparities within the regulatory system ranging from penalties for offences, effectiveness, and interpretation. These disparities could make doing business difficult, as well as unintentionally allow inadequate controls for regulating a company's behavior and so pose greater risks to the region's financial stability (CTIR, 2005).

Developments in the area of corporate governance in the Caribbean have been limited to the financial sector. These were largely a result of the financial crisis in Latin America, Asia, and Russia that led to an increase in global sensitivity to risks in the international financial markets (ECCB, 2003). In addition, concerns with respect to money laundering and terrorist financing have also triggered pressure for governance related developments in the region. These drove Central Banks to improve levels of supervision and regulation of financial institutions and the adoption of international standards. Nevertheless, within the non-financial sectors adoption of good corporate governance measures has been inadequate. This is because corporate governance is generally considered in the context of promoting investor protection, but less than one percent of the Caribbean population could be deemed as being an active investor (ECCB, 2003:10). Thus corporate governance has not played an important role in regional corporations on account of the lack of institutional-and-retail-investor participation (ECCB, 2003). Moreover, before the CLICO/CFL fiasco of 2009, the Caribbean did not experience the types of crises and losses of investors'/depositors' funds that have occurred in other regions. This, in itself, served to retard the pace in which corporate governance has developed in the region.

On a whole, as a region, the Caribbean faces some inherent corporate governance problems and peculiarities based on the small size of its countries and economies as outlined in Table 2 below. These peculiarities suggest that a formal governance framework in each of the islands is required and that there is a need for an overarching Caribbean response on corporate governance issues. The recommended Caribbean Corporate Governance Code in 2003, for example, was an appropriate regional response to be implemented through the Caribbean Single Market and Economy (CSME), but for various reasons this initiative never materialized (CTIR, 2005). However, there is a higher probability that individual national codes will be established instead given the launched of governance codes in Jamaica (2006) and Trinidad and Tobago (2013).

Table 1: Governance Peculiarities and Challenges in the Caribbean²

GOVERNANCE PECULIARITIES	GOVERNANCE PROBLEMS / CHALLENGES
Overreliance on the Same Pool to Select Directors (Small Director Pool)	<ul style="list-style-type: none"> • Widespread Cross-Directorships • Concept of the Independent Director is difficult to apply • Widespread Conflicts of Interest
Small Number of Public Companies	<ul style="list-style-type: none"> • Low volume stock markets • Under-resourced SECs (unable to attract and retain highly skilled persons) • Unsophisticated governance practices • Concentrated number of shareholders
Dominance of Private Companies	<ul style="list-style-type: none"> • Highly unregulated private sector • Development of Boards and Directors remain limited • Board governance is generally not professionalized
Dominance of Large Family-Owned Firms	<ul style="list-style-type: none"> • Little strategic changes overtime • Limited number of outside Directors • Higher instances of CEO Duality/Executive Chairpersons
Heavy State Involvement in Economic Activities	<ul style="list-style-type: none"> • Governance is conformance driven • State-Owned Enterprises with politicized Board Members
Preference for Commercial Bank Financing	<ul style="list-style-type: none"> • Stock Markets unable to grow/expand
No Overarching Regional Regulator(s)	<ul style="list-style-type: none"> • No commonality or coordination in time of regional crises • Poor monitoring and enforcement of governance related requirements
Weak Legislative Frameworks	<ul style="list-style-type: none"> • Limitation on power/authority of regulators • Limited enforcement of laws • Loop holes conducive for very risky venture
Culture of Poor Enforcement of Laws	<ul style="list-style-type: none"> • Limited consequences for non-compliance

In the current context, it is the banking sector that has the highest supervision while other sectors such as insurance, trust business, credit unions, and pensions are still lagging behind. This is because commercial banks play a dominant role in the financing of privately-owned entities. The supervision of banks, however, has been heavily focused on protecting customer deposits rather than shareholders' funds or with general matters of corporate governance (CTIR, 2005). There are nine (9) Central Banks among the fifteen (15) CARICOM member states with each having its own governance guidelines that have been used to guide the behavior of banks, insurance and other financially related institutions in their respective jurisdictions. There are also a number of Security Exchanges across the region – Barbados, Trinidad & Tobago, Jamaica, Guyana, and the Eastern Caribbean – with clear listing rules and regulations. These governance guidelines and listing rules have all been heavily influenced by international developments (CTIR, 2005).

² *Source:* Derived from an analysis of data from the Caribbean Trade and Investment Report: Corporate Integration & Cross-Border Development, 2005 and Report on the Caribbean Corporate Governance Forum, 2003.

Despite the region's peculiarities and challenges, good corporate governance will provide the Caribbean with many benefits that can increase economic stability and sustained development. These benefits include enhanced self-regulation of companies, positive societal recognition due to a transparent internal governance structure, and a reduction in the supply side of corruption (ECCB, 2003).

Methodological Approach

This paper is interested in the causes and consequences of three major cases of financial collapse in the Caribbean. It is exploratory in nature and aims not only to provide clarity to the dynamics that existed in these cases but also to propel further research in the area. In this context, the article seeks to provide in-depth insights as opposed to establish relationships between variables. A multiple case study approach was therefore adopted to allow an understanding of complex issues and is considered a robust research method, particularly, when a holistic, in-depth investigation and explanation of a social phenomenon is required (Yin, 2013). Data derived from archival records, secondary literature and desktop research have been employed to examine the three cases. Each element assisted in the corroboration of information as well as the creation of the case summaries.

Case 1: Trade Confirmers Limited (Barbados)

The first case to be considered is the collapse of *Trade Confirmers (Barbados) Limited*. Information for this case was obtained from the Report of the Commission of Inquiry into the Causes of the Collapse of Trade Confirmers (Barbados) Ltd, 1988. Trade Confirmers (Barbados) Limited (TCBL) was incorporated on March 31, 1982 under the Barbados Companies Act with an authorized share capital of \$5,000,00. Based on the Memorandum of Association, TCBL offered a variety of financial services. These included carrying on the business of financiers, discounting trade bills, acting as a confirming house, drawing bills of exchange, granting loans to individuals and firms, acquiring shares of other companies and guaranteeing the performance of their contracts, and carrying on the business of insurers. After one year of operation, TCBL was designated a Financial Institution on April 8, 1983 on recommendation of the Central Bank of Barbados. This new status allowed the Central Bank to exercise a measure of control over TCBL by conducting periodic inspections of its books and accounts.

TCBL launched a successful advertising and sales campaign boosted by the promise to pay above-market interest rates on deposits, particularly, higher than those offered by the established commercial banks. By the end of August 1983, TCBL had received deposits to the total of US\$2.4M. Almost four (4) years later, TCBL went into receivership on October 9, 1987. On February 29, 1988, a Commission of Inquiry was appointed to investigate and report on:

- 1. The causes of the collapse of Trade Confirmers (Barbados) Ltd;**
- 2. Whether the business of Trade Confirmers was carried on negligently or with intent to defraud depositors or other creditors, and shareholders, or in any way that was unfairly prejudicial to, or unfairly disregarded, their interests; and**
- 3. To make such recommendations as considered appropriate.**

The Commission found that TCBL was under-capitalized from the beginning of its operations and in breach of various financial regulations. The Central Bank inspection in May 1984, one year after becoming a financial institution, revealed that the funding of TCBL was provided by fixed deposits totaling US\$4.3M, share capital amounting to US\$973K and Bank borrowings amounting to US\$2.8M. The excess of deposits to share capital was a concern for the regulators as well as the narrow base of the deposits. Nine (9) customers held deposits of \$100K or more and two (2) had balances of approximately US\$800K. This coupled with the fact that the majority of deposits (83%) were for periods of two years and less made the deposit base very volatile. Withdrawal of either or both of these deposits could have placed the institution in a serious liquidity situation.

During this first inspection, it was discovered that loans and advances were at US\$8.7M. This represented a loan-to-deposit ratio of 204% and clearly indicated that TCBL was severely over-lent. The inspectors also found that there was a lack of up-to-date financial information on borrowers and that many of them had poor credit ratings at other financial institutions. TCBL was also guilty of breaches of the *Rate of Interest Act*, the *Hire Purchase Act*, the *Exchange Control Act*, and the stipulations in relation to unsecured loans to directors. In fact, two directors had already obtained advances from the company which were unsecured. In November 1984, a second inspection was conducted and revealed that very little had changed in the operations of TCBL. The number of deposits had decreased from 97 to 91 and borrowings from commercial banks had increased by 37%. In addition, approximately 40% of the loans portfolio was classified as either "adverse," "sub-standard," or "doubtful."

The incompetence and negligence of the auditors were also prevalent in this case. The Inquiry found that both the audit senior and the audit partner had no experience in auditing financial institutions. Audit working papers that were reviewed during the commission showed a considerable lack of planning and failure to consider issues such as materiality, income recognition criteria, and loan loss provision.

The negligence, incompetence, and irresponsible attitude of the Board of Directors and management also significantly contributed to TCBL's collapse. Although the company was in a dangerous and risky position, the Board declared and paid a seven percent dividend in 1985 and 1986. The undercapitalization and the difficulty the company was entering with high-risk customers should have prompted a more prudent and responsible decision. The Commission of Inquiry eventually concluded that:

- **The business of TCBL was carried on by the Directors in a manner that unfairly prejudiced and unfairly disregarded the interest of the depositors, shareholders, and creditors.**
- **The Directors were negligent in failing to exercise due care and diligence in the management of the company.**
- **The Chairman and the Managing Director withdrew funds of the company without the authority of the Board of Directors.**
- **The Managing Director caused fictitious entries to be made in the account books of the company and that several of these transactions appeared to be fraudulent.**

- The auditors failed to adhere to generally-accepted auditing standards in the acceptance and execution of the audit.
- The Central Bank of Barbados failed to exercise its powers under Section 36 of the *Central Bank Act*, allowing them to place restrictions on Trade Confirmers.

Although the Commission of Inquiry provided its findings to the Director of Public Prosecutors, no one has been charged and/or prosecuted to date.

Case 2: The Jamaica Financial Crisis

From the mid-1980s, Jamaica took steps to liberalize its financial sector with a view to creating an environment conducive to efficient financial intermediation and the strengthening of the Central Bank's ability to influence money and credit variables (Kirkpatrick & Tennant, 2002). By 1990, the Central Bank had removed the ceilings placed on banking system credit, and announced the unification of the cash reserve and liquid assets ratio. Savings rates were also totally deregulated, enabling commercial banks to set their own rates. In addition, the foreign exchange system was liberalized and the exchange rate subsequently was determined by market conditions and the movement of foreign exchange in and out of the country became unrestricted (Kirkpatrick & Tennant, 2002).

These liberalization policies resulted in significant changes in Jamaica's financial landscape. According to Kirkpatrick and Tennant (2002:1935), the financial sector experienced rapid asset expansion with significant operations among commercial banks and non-bank financial institutions. The assets of the commercial banks represented 50% of the total assets of the financial sector by late 1997. The number of non-bank financial institutions also increased from 8 in 1985 to 25 in 1993, with assets increasing in nominal terms from US \$0.25B in 1986 to US 0.44B in 1993 (Peart, 1995:15).

In addition to the increased in non-bank financial institutions, there was a significant increase in the number of large financial conglomerates during this period. These conglomerates, according to Green (1999:4), were created by insurance companies to exploit the financial arbitrage provided by the existence of differential cash reserve requirements and differences in the level of supervision over the various subsectors of the financial system. Typically, these conglomerates were comprised of a merchant bank, a commercial bank, a building society, an insurance company, and other firms/subsidiaries. The business models were complex with inter-company shareholdings, interlocking boards of directors, common management, and extensive inter-group transactions (Kirkpatrick & Tennant, 2002). These entities expanded aggressively with innovative financial services and failed to maintain the required prudent financial practices. However, as a result of the interlocking nature of these conglomerates, there was a high risk of contagion, which made the entire sector vulnerable to financial instability. Further, the private sector's allocation of banking system credit rapidly increased throughout the period from US\$0.53B in 1985 to US\$0.84B in 1993 (Kirkpatrick & Tennant, 2002:1936). There was, in fact, an unsustainable credit boom in which loans and investments were made without proper risk assessment or appropriately valued collateral.

It was, therefore, not surprising that by the mid-1990s, the initial boom of the financial sector began to show clear signs of burst. Private sector credit that grew by almost 70% in 1993 drastically declined to 25% in 1996. The profitability of the sector was also on the decline with a reduction in the return on assets of commercial banks. The banking system's capital base had also deteriorated to 3% compared to 8% of the international standard for capital adequacy (Green, 1999: 21). In addition, most of the insurance companies were plagued by the mismatch of assets and liabilities. In the early 1990s, the life insurance industry entered into the aggressive advertising campaigns for short-term and equity-linked products by offering high rates of return. Imprudent investment of these short-term savings in long-term assets, mainly real estate, resulted in illiquidity problems for the life insurance industry. The illiquidity problems in the life insurance industry served as the catalyst for the financial crisis of 1997. The illiquidity problems in the life insurance industry that was precipitated by the downturn in the real estate and stock markets rapidly spread to affiliated commercial banks that were subsequently forced to turn to the Central Bank for liquidity support. In 1995, one commercial bank received US\$0.11B in liquidity support and in 1996 approximately US\$0.16B was given to two other banks. As the problems in the sector worsened, depositors withdrew their savings from what were perceived to be weak institutions, mainly indigenous with local management, and deposited these funds with branches of foreign banks (Green, 1999:24). These events culminated in 6 of the then 9 commercial banks which accounted for 60% of the deposits; 5 life insurance companies which accounted for 90% of the premium income; one third of all merchant banks; and several building societies being insolvent. In order to address the escalating problems within the sector, the government established the Financial Sector Adjustment Company Limited (FINSAC) in January 1997 to deal with the troubled institutions. By the end of 1997, the Government of Jamaica assumed control of a number of failed financial institutions, including CNB, Eagle Commercial Bank, Workers Savings and Loan Bank, Island Victoria Bank, and Jamaica Citizen Bank (Kirkpatrick & Tennant, 2002; Swaby, 2011)).

The Jamaican crisis was arguably induced by financial liberalization that facilitated the financial sector's vulnerability to systemic failure. With the removal of interest rate ceilings and credit controls, banks were able to finance riskier ventures for higher returns, however, this also increases the probability of the occurrence of agency conflicts which may lead to a lower level of managerial prudence and hence greater financial fragility (Kirkpatrick & Tennant, 2002). In the Jamaican case, these tendencies were evident. There was deterioration in the quality of loan portfolios as well as high levels of non-performing loans. In addition, there were several instances of financial imprudence due to the following:

- **Inexperience and inadequate skills for screening and monitoring higher-risk lending;**
- **Agency conflicts between managers/owners and depositors;**
- **Innovative, but risky attempts to maintain market share;**
- **Related-party transactions; and**
- **Managerial overspending.**

These can be further delineated as follows: (a) the absence of or failure to comply with proper internal control procedures, (b) poor risk management and inadequate portfolio diversification; (c) poor quality of management and strategic planning, (d) the failure to exercise due diligence and care; (e) a high incidence of connected party lending; and (f) breach of fiduciary duty and fraud (CTIR, 2005).

Case 3: The CLICO/CLF Meltdown (Trinidad &Tobago)

CLICO was the largest insurance company in the Caribbean, the flagship of its parent company, CL Financial (CLF). In turn, CLF was the largest privately-owned conglomerate in the Commonwealth Caribbean with operations spanning its core business of insurance, but which also included financial services, real estate development, manufacturing, agriculture and forestry, retail and distribution, energy, media, and communications (Browne, 2011). CLF operated in 32 countries through its associated and joint venture companies, and through more than 65 subsidiaries spanning the Caribbean, Florida, Europe, the Middle East and Asia. Until 2009, it controlled assets in excess of TT\$100B (Soverall, 2012: 167). CLF also owned 55% majority ownership of Republic Bank, Trinidad and Tobago's largest commercial bank, as well as Methanol Holdings of Trinidad Ltd., which operated M5000, then the world's largest methanol plant. It also controlled the British American Insurance Company (BA) which is one of the main insurance companies in the Eastern Caribbean. In addition, the four largest financial institutions in CLF managed assets of over TT\$38B which constituted approximately 25% of Trinidad and Tobago's GDP (Soverall, 2012: 167)).

This impressive business portfolio was unfortunately plagued with a flawed business model. CLICO was a subsidiary of the parent company, CL Financial. However, CLICO functioned as the primary source of deposits that were used to finance CLF's expansion through investments and acquisitions held in the name of other entities in the group (Soverall, 2012). The nature of the ownership structure of these enterprises significantly varied. Some were wholly-owned and managed by CLF, others were simply investments that CLF did not participate in managing, and some were a mixture of both. In some cases, CLF borrowed from other subsidiary financial institutions to invest, and in most cases it used CLICO, Clico Investment Bank Limited (CIB), British American Insurance Company (BA), or Caribbean Money Market Brokers (CMMB) as the conduit to purchase investments or borrowed from them to do so. In short, CLICO became the guarantor for many of CLF's assets most of which were heavily pledged and, therefore, limited in terms of the potential proceeds from asset sales.

By operating with such a model, the Central Bank of Trinidad and Tobago (CBTT) alleged that CLICO operated both an external Ponzi scheme in which the insurance company took in new money from policyholders and mutual fund investors, as well as an internal Ponzi scheme in which money was diverted or misappropriated away from CLICO to fund CIB, CLF, and other group entities with little or no prospect of return (Henry, 2009). In other words, CLICO took large numbers of deposits on a short-term basis paying high interest rates and used them for long-term investments which resulted in significant cash flow problems that precipitated its ultimate collapse.

However, the warnings of this collapse emerged years before. A 1998 Report of the Office of the Supervisor of Insurances had raised the red flags of the affairs of CLICO. The Report indicated that CLICO had failed to satisfy its statutory fund, a basic safeguard used to ensure the soundness of insurance companies. The fund recorded a TT\$62.4M deficit in 1992, a \$1.3M deficit in 1993, a \$64.7M deficit in 1995, a \$574.1M deficit in 1996, and a \$690M in 1997 (Bagoo, 2010). The 1998 Report stated that CLICO was “technically insolvent,” broke the law by paying dividends when its statutory fund was in deficit, apparently understated liabilities through the failure to submit acceptable actuarial certificates, and was using policyholders’ funds to offer guarantees to affiliates. The report further revealed that the lag in the company’s efforts to satisfy the statutory fund became a perennial problem. CLICO had also requested the Office of the Supervisor of Insurances to approve a debenture for TT\$571M from CLF. The Office however refused noting the company’s low returns and the lack of free assets to support the debenture as well as the company defaulting in 1996/1997 on payment of \$4M on an existing debenture issued to CLICO in 1992. The 1992 debenture was a result of CLICO’s loan to CLF which increased from \$350M in 1995 to \$571M in 1996 (Bagoo, 2010). The Supervisor of Insurances therefore questioned the ability of CLICO to pay an additional sum of \$158M per annum plus interest on this new debenture. The Report stated that it was disturbing that CLICO had continued to use policyholders’ funds to make unsecured loans to its parent company (CFL) that was heavily leveraged and with little capital reserves. Despite this report, and therefore the Central Bank’s awareness, no steps were taken to address these glaring breaches.

There are always underlying vulnerabilities in the origin of a crisis which may include a combination of factors ranging from poor-risk management, mismatches between assets and liabilities, excessive leveraging of available capital, poor liquidity management, inadequate capital (whether or not capital grows insufficiently as the institution’s liabilities expand), hubris among management, and outright fraud. In the case of CLICO/CLF, there were: a mismatch between assets and liabilities, excessive leveraging of balance sheet assets, a preponderance of intragroup transactions, an absence of an effective risk management framework, and plain capital inadequacy (Soverall & Persaud, 2013). These, in turn, were compounded by a weak legislative and regulatory infrastructure in which CLF – the holding company – was not subjected to adequate formal regulatory oversight and practiced poor internal governance when it did pay attention to such detail (Soverall & Persaud, 2013). These five factors are also related to a lack of good governance practices among the boards of directors, executives, external auditors, and regulators of CLICO/CFL. The consequences of years of persistent bad management and governance within CLICO/CLF together with inaction by regulators were eventually manifested in 2009. The global financial crisis of 2008 was simply the catalyst for the inevitable meltdown of CLICO/CLF.

The collapse of CLICO/CLF forced the intervention of the Government of the Republic Trinidad and Tobago (GORTT) because the financial condition of CLICO, CLICO Investment Bank (CIB), and British American Insurance Company (Trinidad) Limited (BA), subsidiaries of the parent company, CL Financial, threatened the interest of depositors, policyholders, and creditors of these institutions and posed danger of disruption or damage to the financial system of Trinidad and Tobago (GORTT, 2009). This intervention was formalized through a Memorandum of

Understanding (MOU) between the GORTT and CLF dated January 30, 2009. The overarching aim of the MOU was to protect the interest of depositors, policyholders, and creditors of these institutions as well as to correct the financial problems of CLICO, CIB, and BA.

In a move towards correcting the financial condition of these companies, CLF agreed to sell all its shareholdings in Republic Bank Limited (RBL), Methanol Holdings (Trinidad) Limited (MHTL), and Caribbean Money Market Brokers Limited (CMMB). CLF also agreed to the selling of all or any of its other assets as may be required to achieve the said correction (MOU, 2009). In addition, the proceeds of the sale of assets would be applied to satisfy the statutory fund requirements for CLICO and BA under the Insurance Act of 1980 and the balancing of the third-party assets and liabilities portfolio of CIB. However, in the event that there was a shortfall after the application of the proceeds realized from the sale of the assets, CLF warranted to provide collateral which could include a secured charge on the fixed and floating assets of CLF, CLICO, and BA; this amount was to be sufficient to secure any financial assistance to be provided by GORTT in respect of that shortfall for the purpose of maintaining public confidence and stability in the financial system (GORTT, 2009). Moreover, according to the MOU, CLF agreed that "CLICO and BA will restructure its business and operations to conform to traditional life insurance business lines in a manner approved" by the Central Bank of T&T, including "a reconstitution of the Board of Directors, Board Committees and senior management" whose selection were to be approved by the government (GORTT, 2009:4). The corrective measures also included the need for CLICO/CLF to fundamentally change and adopt a more robust and less risky business model, and to change its corporate governance structure (Williams, 2009).

From the Commission of Enquiry into the failure of CLICO, it was further revealed that the Central Bank had a number of concerns about the quality of CLICO's corporate governance, specifically the infrequency with which the CLICO Board met and the limited number of independent directors on its board (Commission of Enquiry, 2012). The board seemed to be simply a rubber-stamp of decisions made by the Executive Chairman. Furthermore, CLICO operated without an Audit Committee or Risk Committee as well as without an Investment Committee (Commission of Enquiry, 2012). Therefore, there was poor monitoring of decisions, risks, and investments. Moreover, conflicts of interest were prevalent.

Discussion

These three cases underscore the importance of internal and external governance practices in the financial sector. Internally, it is evident that the role of management and the core principles of management, and the management of risk were inadequately exercised in these cases. Prudent leadership from the boards of directors would have ensured better monitoring of management's behavior as well as adequate risk management which would, in turn, have protected the interests of depositors, shareholders, and other stakeholders. The directors, however, failed in their fiduciary duties and neglected to fulfill their roles with the duty of care and skills required. Therefore, whilst corporate governance frameworks existed from a statutory standpoint, in practice, compliance with these was highly unobserved. Further, both management and boards of directors in these cases may not have possessed the required

competency to govern their respective institutions within the complexities of the ever-evolving innovative financial activities.

Externally, there were a number of key regulatory gaps. Regulators failed to properly supervise and take appropriate actions in each of the cases examined. This might be a result of a combination of factors such as incompetence, lack of resources, and political interference. Without robust supervision and timely actions, the vulnerabilities increased overtime leading to these crises. Arguably, the smooth functioning of financial institutions will always depend on the quality of oversight by regulatory bodies. In addition, the legislative framework in the jurisdictions in which these cases occurred did not only failed, in certain aspects, to provide regulators with the level of supervisory authority needed but also lagged in comparison to the rapidly evolving operations and complexities of financial institutions. The regulatory gaps together with the deficiencies among the various boards, management teams, and auditors clearly demonstrate the importance of good corporate governance practices for firm performance and sustainability.

Table 2: Common Governance Problems in the Three Cases

COMMON GOVERNANCE PROBLEMS	TRADE CONFIRMERS	JAMAICA'S CRISIS	CLICO/ CFL
	✓	✓	✓
	✓	✓	✓
	✓	✓	✓
	X	✓	✓
	✓	✓	✓
	X	✓	✓
	✓	✓	✓
	✓	✓	✓
	✓	✓	✓
	✓	✓	✓

From a theoretical perspective, the agency theory offers valuable insights to understanding the behavior of managers and directors in these cases. The “model of man” underlying the agency theory is that of the self-interested and opportunistic agent rationally maximizing his/her own personal economic gain. The model is individualistic and is predicated upon the notion of an in-built conflict of interest between owner/principal and manager/agent. Moreover, the model is one of an individual calculating likely costs and benefits, and thus seeking to attain rewards and avoid punishment, especially financial ones (Donaldson & Davis,

1991). Based on this premise, agents may commit “moral hazards” merely to enhance their own wealth at the cost of their principals (Jensen & Meckling, 1976). Assuming that the principal and the agent are mainly concerned about maximizing their personal wealth, agency theory argues that the agent may not always act in the best interests of the principal as evident in the decisions and actions of management in three cases examined. Examples include the managers in *Trade Confirmers* who defrauded depositors, creditors, and other shareholders; or in the case where the financial institutions in Jamaica engaged in significantly increased risk-taking, leading to the deterioration in the quality of loan portfolios and revealing a divergence of interests between managers/owners and depositors; or with the CLICO/CFL in terms of management using policyholders’ deposits and investing in exceedingly high levels of vulnerable ventures, ultimately exposing these depositors to unprecedented risks/losses. A major structural mechanism to curtail such managerial “opportunism” is the board of directors. This body provides a monitoring of managerial actions on behalf of shareholders. Such impartial review will occur more fully where the chairperson of the board is independent of executive management. Where the chief executive officer is chair of the board of directors, the impartiality of the board is compromised. However, in each of the cases examined, it is evident that the board of directors did not provide impartial oversight of management and thus failed to represent and protect the interests of principals. In short, in each of the cases the agents committed “moral hazards” as argued in the agency theory.

Historically, the region’s pursuit of good corporate governance has been generally slow with limited pressure from government, the media, civil society, or even the professional and academic communities. Prior to the CLICO/CLF meltdown, the region had not experienced any corporate failures that had region-wide consequences as demonstrated in the cases examined. Thus it was reasonable to expect that in the years following the CLICO/CFL meltdown, there would have been pressure from various constituents for game-changing corporate governance reforms across the region. However, this has been relatively limited. The CLICO/CFL meltdown finally prompted calls by Caribbean leaders for greater regional cooperation on matters of regulation and supervision of such firms. CARICOM leaders recognized the need to not only effect appropriate reform in financial sector policy, but also the need to enhance national regulatory and supervisory systems, including rationalization and consolidation of these systems across the region for ensuring safety, soundness, and stability in the financial services sector (CTIR, 2010). Furthermore, in recognizing that there is significant financial integration across the region based on both organic growth and mergers and acquisitions, cross-border supervision – according to these leaders – needs to be critically enhanced by the regional regulatory organizations: the Committee of Central Bank Governors (CCBG), the Caribbean Association of Insurance Regulators (CAIR), the Caribbean Group of Securities Regulators (CGSR), and the Regional Competition Commission (CTIR, 2010).

Although enhancing the regulatory and supervisory systems will aid in improving the quality of governance practices, there are doubts concerning the extent to which a positive behavioral change would occur among managers and directors. This is based on the observation that where stiffer governance regulations or laws and penalties have been enacted, a decline in corporate scandals did not necessarily occur. For instance, following the series of major corporate and accounting scandals affecting Enron, Tyco International, Adelphia, Peregrine

Systems, and WorldCom in the United States, the Sarbanes-Oxley Act (SOX) of 2002 was passed. This act established new or enhanced standards for all U.S. public company boards, and management and public accounting firms. As a result of SOX, top management must individually certify the accuracy of financial information. In addition, penalties for fraudulent financial activity became much more severe. SOX increased requirements for the independence of outside auditors who review the accuracy of corporate financial statements, and increased the oversight role of boards of directors (Kimmel, Weygandt, & Kieso, 2011).

Yet it was primarily irresponsible governance and leadership which caused the 2008 global economic crisis. This underscores the inherent limitations of regulatory and compliance driven measures, and forces us to consider other strategies to achieve effective governance and leadership (Pless & Maak, 2011). SOX has neither prevented frauds nor instituted fairness, but it has created the perception that stricter governance laws were needed to safeguard investors. As a result, SOX-type regulations were subsequently enacted in other countries such as Canada (2002), Germany (2002), South Africa (2002), France (2003), Australia (2004), India (2005), Japan (2006), and Italy (2006). Nonetheless, it is still highly contentious whether a fundamental change in the attitude and behavior of boards and executives has not occurred. This suggests that strategies aimed at improving governance must give closer attention to the ethical dimensions of good governance.

It is based on this perspective that a compliance-regulatory focus needs to be significantly complemented with the building of a practice of Responsible Leadership (RL). RL represents a concept that bridges the fields of social responsibility and leadership and can be appropriately applied in the study and practice of corporate governance. Although the definition of RL is evolving, it can be considered as intentional actions taken by leaders to benefit the stakeholders of the company/and or actions taken to avoid harmful consequences for corporate stakeholders and the larger society (Stahl & Sully de Luque, 2014:238). RL crosses levels of analysis by considering individuals, groups, and organizations as a whole and compared to related forms of leadership such as ethical or values-based, RL has a unique applicability to the upper levels of organizations (Waldman & Balven 2014). This includes executives, and certainly the board of directors, who are charged with directing and controlling the decisions and behavior of the organization. Therefore, at the core of RL is the focus on how individual perceptions, decisions, and actions, particularly those at senior levels, impact on the social and financial performance of their organizations (Stahl & Sully de Luque, 2014).

Responsibility is one of the core pillars of corporate governance and requires that directors carry out their duties with honesty, probity, and integrity (GCGF, 2008) while recognizing the rights of stakeholders established by law or through mutual agreements. This encourages cooperation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises (OECD, 2004). This core pillar has been given limited attention in the attempts to improve corporate governance in the region. RL not only addresses corporate scandals, but it extends in scope to consider the changes in and new demands of business contexts (Waldman & Galvin, 2008). RL therefore takes a stakeholder approach to governance whereby the importance of ethics and social responsibility to organizational effectiveness through engagement of diverse stakeholder groups accentuates

the duties of businesses and boards of directors beyond profitability and shareholder returns (Singhapakdi, Vitell, Rallapalli, & Kraft, 1996) This is in contrast to the still dominant, limited economic view that a business's sole responsibility is to maximize profitability and returns to shareholders. While companies use the stakeholder language, their actions reflect the dominance of shareholder primacy in a rapidly changing world where sustainability is paramount.

Pless and Maak (2011) maintained that RL and stakeholder approaches are not just inextricably linked, but RL provides a convincing perspective on how to connect leadership to stakeholder engagement. By making leader-stakeholder relationships the center of attention, RL focuses on the responsibilities that leaders have in relation to different stakeholder groups (shareholders, investors, regulators, customers, employees, communities, environment etc.). With this general demand for corporate sector involvement in socio-economic solutions, firms need leaders who embrace a system of decision-making that enables them to assess decisions in relation to relevant stakeholders. This approach should become integral to the culture and moral fiber of the organization and uniformly applied across its operations. It also suggests that even board governance has to be approached in this manner to create a RL approach to business.

Stakeholders demand that businesses and their leaders take active roles in fostering responsible behavior, internally and externally to the organization, such as creating responsible organizational cultures, pursuing sustainability, and acting like good corporate citizens (Maak, 2007). The scope of RL is directly linked to the increasing attention by various stakeholders to the role and responsibility of business leaders in the pursuit of a global common good. In this context, the scope of good corporate governance changes. Neither boards of directors, management, or regulators should focus only on shareholder interests because society now demands that the interests of all key stakeholders be considered in a balanced manner. Profit remains critical, but the way in which it is derived becomes the key challenge with the new demands of and changes in business contexts. An RL approach is integral to responding to these contexts.

This article provided insights into the state of corporate governance in the Caribbean by examining three major governance failures experienced in the region and proposes a responsible leadership approach to corporate governance because it is much more relevant to the changing business contexts of the region. Further research is certainly required, but the paper creates a framework to continue the discourse on Caribbean corporate governance.

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