

Past, present and future corporate governance lessons

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The Cadbury Report

In 1992, the seminal report focused upon:

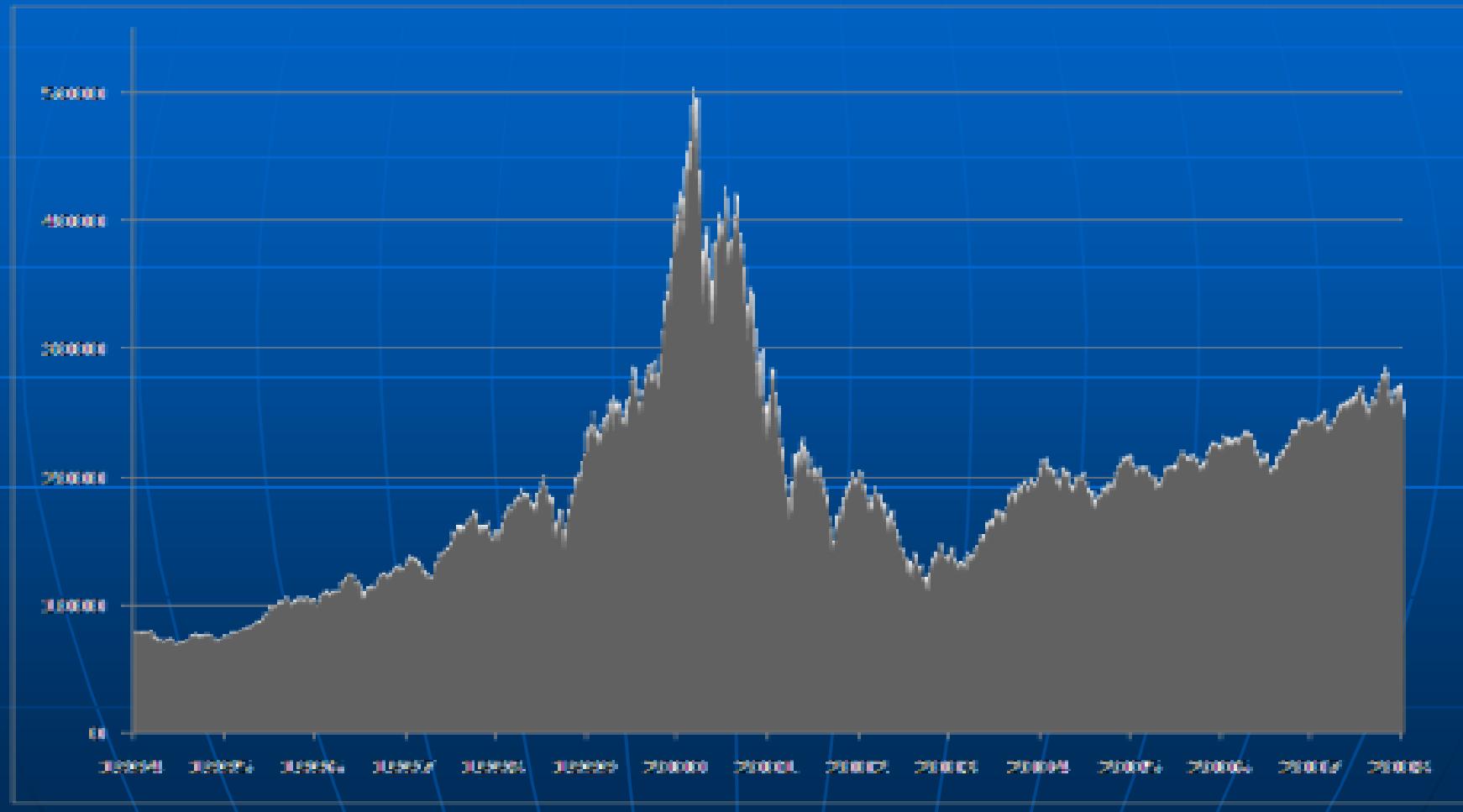
- The Board
- Non Executive Directors
- Executive Directors
- Reporting and controls

But over the last 15 years.....

The Asian Crisis 1997



The dot com boom and bust





The financial crisis of 2008



Lehman Brothers



MELTDOWN ICELAND

How
the
Global
Financial
Crisis
Bankrupted
an Entire
Country

ROGER BOYES

Greece 2010



So what have we learned?

- Hard law rather than soft codes are important
- These hard laws need to be enforced

Huang Guangyu, the richest businessman in China in 2008
was sentenced in May 2010 to 14 years in prison for insider
trading and other financial crimes



On March 12, 2009, Madoff pleaded guilty to 11 felonies and admitted to operating what is probably the largest investor fraud ever committed by an individual. On June 29, 2009, he was sentenced to 150 years in prison with restitution of \$170 billion.

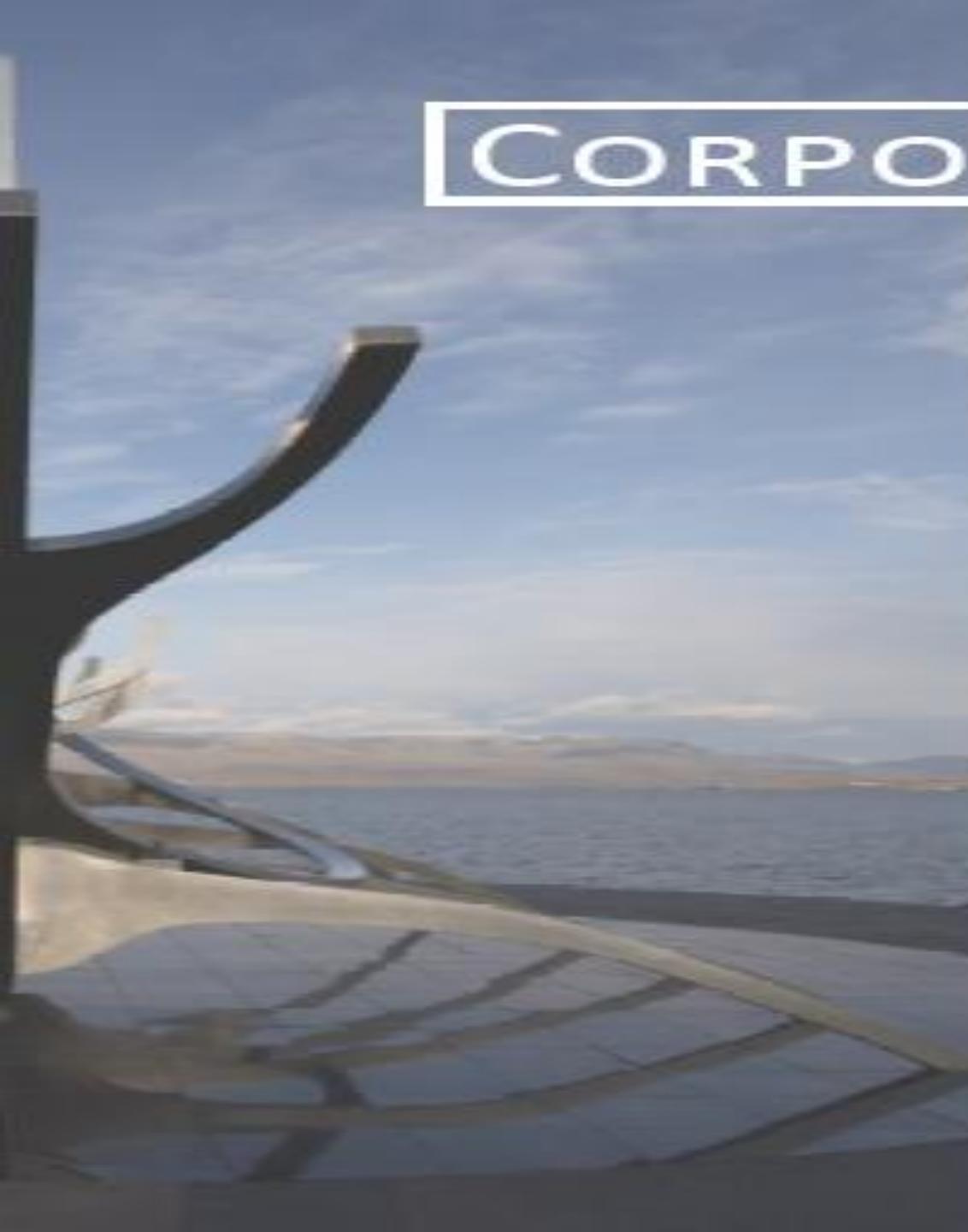


On 7 January 2009, company Chairman Ramalinga Raju resigned after notifying board members and the SEB in India (SEBI) that Satyam's accounts had been falsified over a period of years



- Many of these laws concerning fraud, theft, insider dealing may need to be tightened.
- However, should these crimes be considered more serious than murder etc?

- The Codes need to be revised:



CORPORATE GOVERNANCE

GUIDELINES

3. EDITION

The 2009 Guidelines additions and changes included:

- Independence of Directors
- Communications and goal setting
- Chairman of the Board
- Internals controls and risk management
- Remuneration
- Reporting and disclosure

Have they gone far enough?

- Using independent externals to evaluate boards
- Reporting on board evaluation
- Definition of independence (e.g. significant shareholding 10%)
- Membership of committees
- Composition of boards (e.g. skills specification, gender)
- etc

Walker Report (Nov 2009)

- Board size, composition and qualifications
- Functioning of the board and evaluation of performance
- The role of institutional shareholders: communication and engagement
- Governance of risk
- Remuneration

Board size, composition and qualification

Induction, training and development

Independent professional advice for NEDs

Time commitment (30 – 36 days in appointment letter)

Expertise in risk

FSA interviews

Board performance and evaluation

- NEDS should challenge and test
- Chairman should spend 2/3 of his time
- Chairman should lead
- Chairman should be elected on an annual basis
- Strengthen role of SID
- External evaluation every 2 or 3 years

Institutional shareholders

- New role of stewardship (new code on the responsibilities of institutional investors)
- Commitment to engagement
- Website disclosure of their activities (particularly voting)

Governance of risk

- Separate risk committee from audit committee
- Chief risk officer
- External advice
- Acquisition and disposal
- Risk report in annual report

Remuneration

- Remuneration policy – company wide
- Performance objectives
- Disclosure of remuneration
- If remuneration vote less than 75% remuneration chairman needs to be re elected
- Remuneration consultants

Brazil

- A Stock Exchange (Nuovo Mercado) for those companies that have “good” corporate governance.

The business case for corporate governance has not been persuasive

- 1. Bernard Black – Korea, Russia, Mexico etc
- 2. IFC – Commercial Bank of Romania

However.....

- Fewer than 15% of annual reports in Spain identify the names of the directors.
- We still have so far to go.....

World Bank Ease of Doing Business 2010

Iceland is ranked 14th out of 183 economies.

- Categories include:
 - Starting a business
 - Permits
 - Employing workers
 - Registering property
 - Getting credit
 - Protecting investors
 - Paying taxes
 - Trading across borders
 - Enforcing contracts
 - Closing a business

