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THE IMPLEMENTATION OF LEGAL RISK MANAGEMENT IN COMPANIES RELATED TO EARNINGS MANAGEMENT OF MANUFACTURING COMPANIES IN THE CONSUMER GOODS INDUSTRY SECTOR LISTED ON THE INDONESIA STOCK EXCHANGE

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Abstract

This study adopts a socio-legal approach, which is a non-doctrinal method in legal research, to explore the role of Directors in implementing legal risk management and earnings management post-COVID-19 pandemic. The research method integrates various disciplines to gather empirical data needed to address research questions focused on practical issues, policies, and legal changes. This non-doctrinal research combines qualitative and quantitative aspects using empirical data to analyze the impact of effective legal risk management on the financial performance and reputation of manufacturing companies in the consumer goods industry sector during the COVID-19 pandemic. Through comprehensive empirical data collection, this study aims to provide an in-depth understanding of the role of Directors in managing legal risks and earnings management and their impact on the financial performance and reputation of companies during the pandemic crisis. Findings from this research are expected to provide valuable insights for legal practitioners, corporate management, and researchers to develop effective strategies in addressing challenges faced by manufacturing companies in the consumer goods industry sector during the COVID-19 pandemic.

I. Introduction

Legal risk management is an essential element in conducting corporate business activities because as the corporate world evolves and the complexity of company activities increases, it leads to an escalation in the level of risk faced by the company¹. Risk plays an important role in legal risk decisions that cannot be

¹ Suharto T, 'Konsep Penerapan Manajemen Risiko Hukum (Legal Risk) Pada Lembaga Keuangan Dan Perbankan Syariah Di Indonesia', *Hospitality Stp Mataram*, 11.1 (2022), 1–12.

separated from human life. Statisticians state that risk is the spread of actual results from expected results. Risk can be defined as the probability or an expected outcome². Risks can arise due to unfavorable regulations and the non-fulfillment of perfect contractual terms. Failure to manage legal risk can lead to large withdrawals of third-party funds, which can cause liquidity problems, bank closures by the authorities, and even bankruptcy or insolvency³. In investment transactions and measuring business activities when running a company, something needs to be done: analyzing potential bankruptcy, earnings management, risk management, and investment risk. The potential for bankruptcy or bankruptcy must be known to company management, especially earnings management. Earnings management is a technique companies use to manipulate the amount of profit to be higher or lower.⁴ In carrying out legal risk management and earnings management, the role of directors in a company is very important.

Starting from the principle of prudence and the application of risk management above, the full responsibility of the board of directors is emphasized for banks in the form of limited liability companies. The responsibility of the board of directors as the management of a company is regulated in Article 92 paragraph (1) of Law No. 40 of 2007 concerning Limited Liability Companies which states that "The Board of Directors carries out the management of the company for the benefit of the company and by the aims and objectives of the company," as well as regarding good faith and negligence in management regulated in Article 97 paragraph (2) and Article 97 paragraph (3) of the Limited Liability Company Law⁵.

In the wake of the COVID-19 pandemic, legal risk management has become increasingly important in running a company's business activities. The pandemic has had a major impact on various aspects of life, including business activities, resulting in a higher-than-usual level of risk. (Alif Adrian Syafruddin et al., 2021). In this context, legal risk management is key in mitigating the risks arising from the COVID-19 pandemic. One example of the link between legal risk management and the COVID-19 pandemic is the legal uncertainty that arises in connection with new rules and regulations implemented by the government to overcome the pandemic⁶. Companies must understand the legal implications of

² Purnama Y, 'Manajemen Risiko Hukum Pada Perbankan Syariah Di Indonesia', *EKSI BANK (Ekonomi Syariah Dan Bisnis Perbankan)*, 3.1 (2019), 30–39.

³ Suharto T.

⁴ Della Ramadhani Safira dan Nurlita Novianti, 'Pengaruh Potensi Kebangkrutan Manajemen Laba Dan Risiko Sistematis Terhadap Harga Saham (Studi Pada Perusahaan Perbankan Yang Terdaftar Di Bursa Efek Indonesia Tahun 2016-2018)', *Jurnal Manajemen Fakultas Ekonomi Universitas Brawijaya*, 2019.

⁵ *Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas (Indonesia)*.

⁶ 'Tindak Pidana Korporasi Dan Pencegahannya Dalam Perspektif Manajemen Risiko Berdasarkan ISO 31022: 2020', *Institute Compliance Professional Indonesia*, 2020 <<https://icopi.or.id/tindak-pidana-korporasi-dan-pencegahannya-dalam-perspektif-manajemen-risiko-berdasarkan-iso-31022-2020/>>.

these new policies, such as lockdowns, travel restrictions, or operational restrictions, and take the necessary actions to comply while maintaining business continuity. In addition, the COVID-19 pandemic has also affected corporate earnings management. In a situation of economic uncertainty caused by the pandemic, companies may feel pressured to find ways to optimize profits or minimize losses. This could lead to unethical or even unlawful earnings management practices. Therefore, companies must ensure that their earnings management practices remain by the prevailing rules and regulations.

In this context, the role of directors in carrying out legal risk management and earnings management is very important. Directors are responsible for the company's policies and actions in dealing with the COVID-19 pandemic, including ensuring compliance with applicable laws and regulations and managing the risks that arise. Therefore, based on these problems, this study analyzes the role of the Director in implementing legal risk management and earnings management after the Covid-19 pandemic and how the impact of implementing effective legal risk management on the financial performance and reputation of manufacturing companies in the consumer goods industry sector during the COVID-19 pandemic.

2. Research Method

The form used in this research is socio-legal, which is non-doctrinal research. This research uses methods drawn from various other disciplines to produce empirical data to answer research questions based on problems, policies or legal reforms. Non-doctrinal research can be done qualitatively or quantitatively, while legal research involves calculating numbers or quantities. Bambang Poernomo states that it is necessary to distinguish between the science of law in the abstract realm (alam sollen) and the science of law in the physical realm or real experience (alam sein).⁷ Legal science in the realm of Sein is a science that is classified as the science of legal facts, which mostly includes legal behavior by humans to live in society. Therefore, this research will examine legal regulations, legislation, legal, scientific journals, legal management, etc.

3. Results and Discussion

² The Role of Directors of Manufacturing Companies in the Consumer Goods Industry Sector in Implementing Legal Risk Management and Earnings Management During the Covid 19 Pandemic

⁷ Zuhdi Muhdlorn A, 'Perkembangan Metodologi Penelitian Hukum', *Jurnal Hukum Dan Peradilan*, 12.1 (2012), 189–206.

Directors have primary responsibility for mitigating the company's legal risks. Steps that Directors can take to do this include: Establishing specialized teams or internal committees responsible for monitoring and managing legal risks; Conducting regular internal audits to identify potential legal violations and take preventive action; Developing clear policies and procedures to ensure the company's compliance with applicable laws and rules; Ensuring that all staff and employees understand the importance of legal compliance and receive training⁸.

Every company must face uncertainties and risks that become obstacles in its efforts to achieve its vision and mission. Business and risk cannot be separated. Every business must contain risks both within and outside the company. Therefore, every company must understand and implement risk management to minimize losses caused by these risks⁹.

Director identification evaluates the structure and composition of a company's board of directors. There is a link between this analysis and the identification of directors in some of the data that has been tabulated in this case, namely :

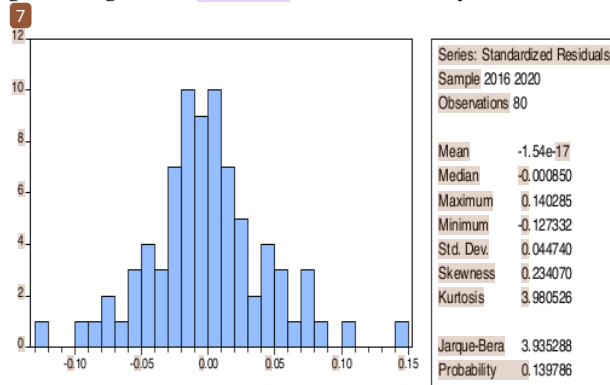
Date: 06/11/21 Time: 11:26					
Sample: 2016 2020					
	DAC	SIZE	OCF	KM	NPM
Mean	-0.001673	25.51940	0.410875	0.105648	0.034811
Median	0.003170	27.62322	0.246548	0.006729	0.059052
Maximum	0.198000	30.75181	2.373932	0.682759	0.227118
Minimum	-0.250000	15.25989	-0.192853	9.33E-05	-0.683727
Std. Dev.	0.069343	5.028453	0.495924	0.181938	0.110456

The data above is processed through quantitative calculations, which, if related to earnings management, are 1) Earnings management (DAC) shows that the minimum value of -0.25 was owned by PT Martina Berto Tbk in 2020. The main value is -0.0016, with a standard deviation of 0.0693. Based on the standard deviation value, which is greater than the average value, this means that the data used in the earnings management variable is not normally distributed; 2) Company size (SIZE) shows a minimum value of 15.2598 owned by PT Ultra Jaya Milk Industry Tbk in 2016. The average size value is 25.5194, with a standard deviation of 5.0284. Based on the standard deviation value which is smaller than the average value, this means that the data used in the earnings management variable is normally distributed; 3) Operating cash flow (OCF) has a minimum value of -0.1928 owned by PT Sekar Bumi Tbk in 2017. The average operating

⁸ Muammar Syah Reza, 'Mitigasi Risiko Tanggung Jawab Secara Tanggung Renteng Dewan Komasaris Atas Kerugian Atas Kerugian Perusahaan Perseroan Dalam Perspektif Prinsip-Prinsip Tata Kelola Perusahaan Yang Baik (Good Corporate Governance)', *Lex LATA*, 3.2 (2021).

⁹ Niccolò Machiavelli, 'Fungsi Dan Peran Komite Pemantau Risiko Serta Kontribusinya Dalam Penerapan Enterprise Risk Management Di Indonesia – CRMS.', *CRMS Indonesia* <<https://crmsindonesia.org/publications/fungsi-dan-peran-komite-pemantau-risiko-serta-kontribusinya-dalam-penerapan-enterprise-risk-management-di-indonesia/>>.

3) Cash flow (OCF) value is 0.4108, with a standard deviation of 0.4959. Based on the standard deviation value greater than the average value, the data used in the earnings management variable is not normally distributed; 4) Managerial ownership (KM) has a minimum value of 0.000093 owned by PT Kalbe Farma Tbk in 2016. The average value of managerial ownership is 0.1056, with a standard deviation of 0.1819. Based on the standard deviation value greater than the average value, the data used in the earnings management variable is not normally distributed; the Net profit margin (NPM) has a minimum value of -0.6837 owned by PT Mandom Indonesia Tbk in 2020. The average net profit margin (NPM) value is 0.0348 with a standard deviation of 0.1104. Based on the standard deviation value greater than the average value, the data used in the earnings management variable is not normally distributed.



- The positive and significant effect of company size on earnings management indicates that larger companies in the consumer goods industry sector tend to engage in earnings management practices. This could be due to the increased complexity and scale of operations in larger companies, which may provide more opportunities for manipulation of financial data.
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- The negative and significant effect of managerial ownership on earnings management contradicts the hypothesis, indicating that higher managerial ownership does not necessarily lead to lower earnings management. This may suggest that managers with significant ownership

stakeholders still engage in earnings management for various reasons, such as meeting performance targets or personal incentives.

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Then, in terms of legal risk management analysis, it can be seen that in terms of :

1) Managerial Ownership (KM)

Abnormal data distribution in managerial ownership may raise legal questions about potential conflicts of interest between managers and shareholders. Strict oversight by the board of directors and transparent disclosure of managerial ownership may be necessary to ensure compliance with corporate governance principles.

1) Earnings Management Practices

The abnormal distribution of data in variables related to earnings management, such as operating cash flow and net profit margin, suggests that earnings management practices may not follow accounting principles or corporate law. This may raise legal issues related to violations of financial reporting rules and lead to regulatory sanctions.

The analysis revealed that certain economic variables related to earnings management showed non-normal data distribution. This raises legal concerns about potential conflicts of interest in managerial ownership and possible violations of financial reporting rules in earnings management practices. Therefore, strict supervisory and disclosure measures may be required to ensure compliance with corporate governance principles and applicable legal regulations. Directors, therefore, are responsible for overseeing managerial ownership and potential conflicts of interest that may arise. They must ensure

that the interests of managers are aligned with those of shareholders, and that there is no¹⁰ abuse of power or violation of law related to managerial ownership.

Then, Directors are also responsible for ensuring that the company's earnings management practices are carried out in a manner that complies with accounting principles and applicable laws. They must closely supervise the company's financial practices to minimize the risk of rule violations and maintain public confidence. Therefore, the reduced risk of violations can prevent the company from facing legal risks and large losses.

With these legal conditions, companies need to mitigate legal risks by ISO 31022: 2020, which refers to legal risks, regulations, contractual issues and related non-contractual rights and obligations. Seeing the importance of legal risk mitigation, Hukum Online, together with the Indonesian Corporate Counsel Association (ICCA), held an offline discussion on the topic "Effective Management of Corporate Legal Risk Based on ISO 31022" on Tuesday (20/12). The speakers in the discussion were the Secretary-General at the Institute of Compliance Professionals (ICoPI), Agustinus A. Haryono¹⁰.

The implementation of legal risk management in the company includes the implementation of LRM, LRM is an action in managing corporate legal risks (limited liability companies) carried out by the Board of Directors and the Board of Commissioners. LRM is part of ERM, where the LRM process begins when the corporation performs a non-litigation process. Then, Litigation & Non-Litigation, Litigation is the process of litigation conducted by every legal subject within the scope of a general court or special court. Non-litigation is preparing agreements, agreements, licenses or actions not included in the court proceedings. In implementing a treatment plan for legal risks, the corporation must also consider activities with the meaning of carrying out activities to deal with legal risks as in the corporate world that cannot be denied the existence of an unexpected situation and dragging the parties concerned into corporate criminal acts¹¹.

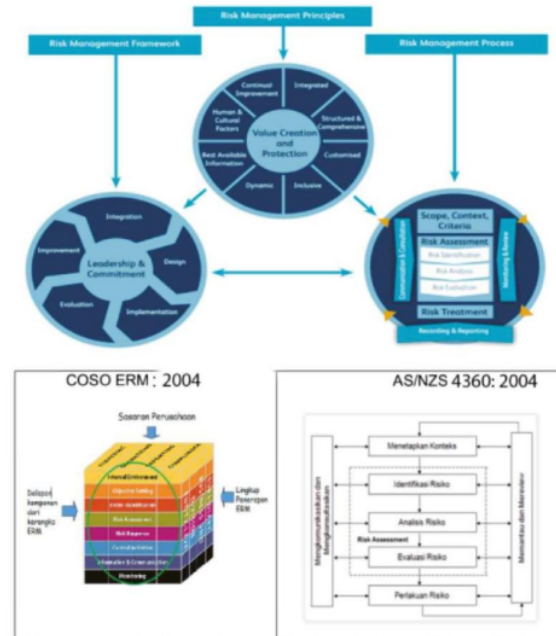
The Impact of Implementing Effective Legal Risk Management on the Financial Performance and Reputation of manufacturing Companies in the Consumer Goods Industry Sector During the COVID-19 Pandemic

An example of risk management implementation and its implementation process is the next discussion by introducing Risk-Based Internal Control (PIBR), which includes elements of Risk-Based Supervisory Planning (PPBR) and the type of supervision recommended by looking at the maturity level of risk

¹⁰ 'Pentingnya Perusahaan Memahami Penerapan ISO Manajemen Risiko Hukum', *Hukum Online* <<https://www.hukumonline.com/berita/a/pentingnya-perusahaan-memahami-penerapan-iso-manajemen-risiko-hukum-lt63a1ada5b6e20/>>.

¹¹ 'Tindak Pidana Korporasi Dan Pencegahannya Dalam Perspektif Manajemen Risiko Berdasarkan ISO 31022: 2020'.

management implementation. A description of the methods of measuring the implementation of risk management for both the public and corporate sectors.



Sumber: diolah dari BPK Pemerintah (2020)
<https://www.bpkp.go.id>

According to the Institute of Risk Management (2012), risk culture significantly impacts decision-making ability and performance achievement. Building or improving the Control Environment is very important in creating a risk management culture. The Institute of Risk Management (2012) identifies four aspects that influence risk culture formation: tone of the Top, Governance, Competency, and Decision-Making. Meanwhile, a risk management system must be developed to support the establishment of a risk culture and management process. Questions about what, who, when, and how risk management should be organized in a clear system. The implementation stage can be reflected in designing risk management policies and establishing a risk management organizational structure determined by the organisation's leadership.

In the COVID-19 era, there was a simultaneous decline in economic growth in all economic sectors. In the economic sector, the impact on Indonesia was the decline in exports, goods and services, and economic growth performance. Mainly the affected sectors are accommodation, transportation, retail, and

manufacturing, the current account deficit (CAD) due to the decline in goods trade performance and the decline in foreign tourists, as well as a decrease in investor risk appetite which encourages investment in safe heaven. There is a potential decline in revenue, among others, from import duties and PNPB on natural resources. This condition has caused President Joko Widodo to order the cabinet to focus on mitigating the impact of the global economic downturn amid the coronavirus outbreak on national economic growth and stability. Relevant ministries and institutions were ordered to issue several policies that would serve as a stimulus and respond to situation changes. ("Stigma Negatif Akan Menambah Beban Psikologis ODP Akibat Covid-19," n.d.)

Empirically, Istiningrum's research also concluded that risk assessment, which is part of risk management, can provide information to leaders to minimize the impact of risk. Rini Lestari concluded that the implementation of risk management has a significant effect on organizational performance in the public sector.¹² By implementing effective legal risk management, manufacturing companies in the consumer goods sector can identify, evaluate, and manage legal risks that may affect their financial stability. This includes risks related to government regulations, litigation, contracts, and other compliance issues. Implementing proper risk management processes can help companies reduce the potential negative impact of legal risks on their finances.

Effective legal risk management can enhance a company's ability to deal with complex legal challenges, such as those faced during the COVID-19 pandemic. By having good risk management processes in place, companies can quickly adjust to regulatory changes, minimize the risk of legal violations that could harm the Company's finances and reputation, and reduce the impact of insolvency or bankruptcy when improperly managing earnings management and risk management. Good legal risk management is an integral part of effective GCG practices. GCG is a framework designed to ensure that companies conduct their operations with transparency, accountability, fairness and legal compliance. Good legal risk management is important in achieving GCG objectives, especially in safeguarding the company's reputation.

In general, business issues are not solely detached from the situation and responsibilities towards the surrounding community. Rather, the application of GCG principles, which is also implemented by State-Owned Enterprises (SOEs), serves as economic players akin to private entities. The main distinction lies in the fact that in most cases, the state largely manages or owns these enterprises. *Corporate governance* constitutes the processes and structures employed to direct and manage business affairs, aiming to enhance business prosperity and

¹² 'Penerapan Manajemen Risiko, Berinisiatif Menjadi Kreatif Sekaligus Inovatif', *DJKN Kemenkeu*, 2015 <<https://www.djkn.kemenkeu.go.id/artikel/baca/9441/Penerapan-Manajemen-Risiko-Berinisiatif-Menjadi-Kreatif-Sekaligus-Inovatif.html>>.

corporate accountability. Its primary objective is to realize long-term shareholder value while still considering other stakeholders¹³.

Organizations, companies, and State-Owned Enterprises (SOEs) must be able to be accountable for all matters related to applicable regulations as a contribution to the internal hierarchical relationships of the company, stakeholders, the community, and other stakeholders. The organization of General Meetings of Shareholders (RUPS) and Good Corporate Governance (hereinafter referred to as GCG) entails that the company's management must ensure the validity of the RUPS, as failing to do so would indicate a lack of adherence to good corporate governance. The overarching goal of GCG is to ensure that every decision and action of the company is based on compliance with laws and regulations to maintain the company's relationship with stakeholders.¹⁴ The purpose and objective of Good Corporate Governance (GCG), which serves as a reference for companies, are aimed at :¹⁵

1. Encouraging the achievement of corporate sustainability through management based on the principles of transparency, accountability, responsibility, independence, fairness, and equality.
2. Promoting the empowerment and independence of each corporate organ, namely the board of commissioners, the board of directors, and the General Meeting of Shareholders (RUPS).
3. Encouraging shareholders, members of the board of commissioners, and members of the board of directors to base their decisions and actions on high moral values and compliance with laws and regulations.
4. Fostering corporate social responsibility towards society and environmental sustainability, especially in the vicinity of the company.
5. Optimizing the company's value for shareholders while also considering other stakeholders.
6. Enhancing the company's competitiveness nationally and internationally, thereby increasing market confidence, promoting investment inflows, and fostering sustainable national economic growth

GCG is not just a new set of rules for a company; rather, it has been evolving for quite some time, particularly gaining prominence since the economic crisis of

¹³ 'IFSA Amends Blue Book for Remuneration Guidelines', *Guerdon Associates*, 2009 <<https://www.guerdonassociates.com/articles/ifsa-amends-blue-book-for-remuneration-guidelines/>>.

¹⁴ Sri Sulistiyanto dan Rika Lidyah, 'Good Governance : Antara Idealism Dan Kenyataan', *Modus Journal*, 14.1 (2002).

¹⁵ M. Shidqon Prabowo, *Dasar-Dasar Good Corporate Governance* (Yogyakarta: UII Press, 2018).

1997 in Indonesia. The collapse of various companies during that period, influenced by poor corporate governance practices, led to the establishment of the National Committee on Corporate Governance Policy (hereinafter referred to as KNKCG) in 1999, based on the Minister of Coordination and Economic Affairs Decree No. KEP/31/M.Ekuin/08/1999. This committee issued the first set of GCG guidelines, which were subsequently refined several times until the last revision in 2001. Since the issuance of the GCG guidelines, fundamental changes have occurred, and the government has increasingly recognized the importance of implementing GCG in the public sector¹⁶. GCG is divided into five concepts: transparency, accountability, fairness and equality, responsibility, and independence. *Transparency* refers to providing clear information to stakeholders. *Accountability* ensures that management and executives are responsible for their decisions and actions. *Fairness and equality* guarantee fair treatment for all stakeholders. *Responsibility* involves corporate social and environmental responsibility. *Independence* ensures that decision-making is not influenced by personal or external interests.¹⁷

The positive or negative impact of risks related to the reputation of manufacturing companies in the consumer goods industry sector is closely related to the effective implementation of legal risk management and principles of GCG is :

- 1) The positive or negative impact of risks related to the reputation of manufacturing companies in the consumer goods industry sector is closely related to the effective implementation of legal risk management and principles of GCG.
- 2) The positive or negative impact of risks related to the reputation of manufacturing companies in the consumer goods industry sector is closely related to the effective implementation of legal risk management and principles of GCG.

Therefore, the effective implementation of legal risk management and compliance with GCG principles are key to managing the impact of risks¹⁸ on the reputation of manufacturing companies in the consumer goods industry sector. Companies that are able to manage risks effectively and act ethically are likely to have a positive impact on their reputation, while those that fail to do so will face detrimental negative consequences. Hence, it is important for companies to proactively integrate legal risk management and GCG practices into their business strategies.

¹⁶ abowo.

¹⁷ Adrian Sutedi, *Good Corporate Governance* (Jakarta: Sinar Grafika, 2011).

¹⁸ Adrian Sutedi, *Hukum Ekspor Impor* (Jakarta: Raih Asa Sukses, 2014).

4. Conclusion

Legal risk management is an important element in carrying out the company's business activities, especially in dealing with the complexity and escalation of risks companies face, especially during the COVID-19 pandemic. With the economic downturn, the role of directors in implementing legal risk management and earnings management is very important, especially in ensuring the company's compliance with applicable laws and regulations and managing the risks that arise. Effective implementation of legal risk management can assist companies in identifying, evaluating, and managing legal risks that can affect their financial stability and reputation, especially in the consumer goods sector. Legal risk management is key in mitigating risks arising from regulatory changes, and legal uncertainty companies face.

Then, there is a close relationship between implementing effective legal risk management and applying Good Corporate Governance (GCG) principles, which is a framework to ensure transparency, accountability, fairness, and legal compliance in carrying out company operations. There is a close relationship between implementing effective legal risk management and applying Good Corporate Governance (GCG) principles, which is a framework for ensuring transparency, accountability, fairness, and legal compliance in carrying out company operations. Thus, companies in the consumer goods sector must pay attention to and implement effective legal risk management strategies and adhere to GCG principles as an integral part of their business practices to face the challenges faced during the COVID-19 pandemic and maintain operational sustainability and corporate reputation.

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