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Governance Structure of Public Companies and Mixed Economy Companies under Direct Union Control Based on the Regulation of State Law no. 13.303/2016

Estrutura de Governança das Empresas Públicas e das Sociedades de Economia Mista do Controle Direto da União a partir da Regulação da Lei das Estatais n• 13.303/2016

Estructura de Gobernanza de las Empresas Públicas y Empresas de Economía Mixta Bajo Control Directo Sindical com base en el Reglamento de la Ley Estatales nº 13.303/2016

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KEYWORDS
Governance. Public companies. State-owned companies of the Union. Law of State-owned companies.

Abstract: This research aimed to compare the governance structures of the Federal Government's public companies and mixed-capital companies following the regulation of State Law No. 13.303/2016. It was a qualitative-quantitative cross-sectional comparative study. The universe corresponded to 45 cases (companies). Concerning data collection and analysis techniques, it was classified as qualitative-quantitative since, in the first stage, the documents published on the companies' websites (governance instruments and policies) were collected and, in the second stage, the qualitative data was coded, thus making it possible to count (compliance), taking into account the presence or absence of each of the governance indicators proposed in the study by Carvalho (2019), through the use of descriptive statistics. Based on the analysis of the 64 indicators, it was possible to identify differences in the governance structure of state-owned companies regarding management, control and auditing instruments; information transparency; boards, committees and management; ethics and conflicts of interest.

PALAVRAS-CHAVE
Governança. Empresas públicas. Estatais da União. Lei das Estatais.

Resumo: *Esta pesquisa teve como objetivo comparar as estruturas de governança das empresas públicas e sociedades de economia mista da União, a partir da regulação da Lei das Estatais n° 13.303/2016. Tratou-se de uma pesquisa quali-quantitativa, de caráter comparativo, do tipo transversal (crosssection). O universo correspondeu à 45 casos (empresas). No tocante às técnicas de coleta e análise dos dados, classificou-se como quali-quantitativa, uma vez que, na primeira etapa, coletou os documentos divulgados nos web sites das empresas (instrumentos e políticas de governança) e na segunda etapa os dados qualitativos foram codificando, possibilitando assim, a contagem (conformidade), levando em consideração a presença ou ausência de cada um dos indicadores de governança propostos no estudo de Carvalho (2019), mediante o uso de estatística descritiva. A partir da análise dos 64 indicadores, foi possível identificar que existem diferenças na estrutura de governança das empresas estatais no que se refere aos instrumentos de gestão, controle e auditoria; transparência das informações; conselhos, comitês e diretoria; ética e conflitos de interesse.*

PALABRAS CLAVE
Gobernanza.Empresas públicas. Empresas estatales. Ley de las Empresas Estatales.

Resumen: *El objetivo de esta investigación fue comparar las estructuras de gobernanza de las empresas públicas del Gobierno Federal y de las empresas de capital mixto, siguiendo la regulación de la Ley Estatal 13.303/2016. Se trató de un estudio comparativo transversal cualitativo-cuantitativo. El universo correspondió a 45 casos (empresas). En cuanto a las técnicas de recogida y análisis de datos, se clasificó como cualitativo-cuantitativo, ya que en la primera etapa se recogieron los documentos publicados en los sitios web de las empresas (instrumentos y políticas de gobernanza) y en la segunda etapa se codificaron los datos cualitativos, lo que permitió el recuento (cumplimiento), teniendo en cuenta la presencia o ausencia de cada uno de los indicadores de gobernanza propuestos en el estudio de Carvalho (2019), mediante el uso de la estadística descriptiva. Mediante el análisis de los 64 indicadores, fue posible identificar que existen diferencias en la estructura de gobernanza de las empresas estatales en cuanto a los instrumentos de gestión, control y auditoría; transparencia de la información; consejos, comités y dirección; ética y conflictos de intereses.*

Introduction

The State-Owned Companies Law (Law No. 13,303/2016) defines a state-owned company as an "entity with legal personality under private law, the majority of the voting capital of which belongs directly or indirectly to the Union". To be considered a public company, the state-owned company must have majority voting capital (resources coming exclusively from the public sector). In mixed capital companies, the composition of the share capital allows the participation of the private sector despite the majority of shares with voting rights belonging directly to the Union. Therefore, the subsidiaries have, in their capital composition, the majority of shares with voting rights and may belong directly or indirectly to a specific public company or mixed capital company.

Dependent state-owned companies are defined based on Complementary Law No. 101/2000 in its art. 2nd, as "a controlled company that receives financial resources from the controlling entity to pay personnel expenses or general or capital costs, excluding, in the latter case, those arising from the increase in shareholding". Thus, dependent companies need financial support to maintain their operations, while independent companies manage themselves using resources from operating their activities.

The SOE law enabled innovations in the management of SOEs (public companies, mixed capital companies and their subsidiaries) by regulating the implementation of new governance, risk and compliance standards in the bylaws of these companies. In the same year, decree No. 8,945/16 was issued, which clarified points of the State Law and defined the deadline for the adhesion of said companies, which was delivered by June 2018 to promote the adaptations and practices necessary for this process.

Thus, changes, adaptations and implementation of measures were made by state-owned companies, such as the implementation of integrity codes and segregation of functions within the governance system, with actions aimed at risk management and internal control. This environment of transformation in which state-owned companies are inserted contributed to the expansion of the dimensions of adherence and observance of instruments of control, management, monitoring, corrections, accountability, transparency, awareness, education and training, focused on attention to ethical principles and values morals in the actions developed in the governance structure of state-owned companies. In other words, the companies' management structure must use suitable governance mechanisms. According to Baker and Anderson (2010), good governance is defined as practices, processes, economic performance and the corporation's ability to promote the interests of stakeholders and society effectively.

The World Bank (2014) highlights that many state-owned companies have weaknesses in controls, internal processes, accounting and auditing practices, compliance procedures, and low information disclosure and accountability levels despite being constituted as public property.

How are the governance structures of public companies and mixed capital companies in the Union based on the regulation of the State Law (13,303/2016)?

Based on the research problem presented, it is essential to define the expression "state company", which has come to be used to designate all companies, civil or business, whose share control belongs to the State, covering public companies, mixed economy companies and other companies that do not have this nature (Marinela, Ramalho & Paiva, 2015).

Given the arguments presented, this research had the general objective of comparing the governance structures of public companies and mixed-capital companies in the Union under direct control based on the regulation of the State-Owned Companies Law. According to the mapping of data from the Secretariat for Development and Governance of State-Owned Companies (2018), the number of directly controlled and independent state-owned companies in the Union, the object of analysis of this study, consisted of 46 companies for the year 2017.

As specific objectives, it sought to analyse the quality indicators of corporate governance for state-owned companies formulated in the study by

Carvalho (2019) and compare the quality of corporate governance in state-owned companies. These objectives enabled empirical contributions to understand the quality of governance of state-owned companies in the Union based on the indicators analysed and, consequently, identify the structure and adherence to governance instruments.

The research presented as an innovation in formulating metrics for analysing this study's 64 governance indicators object. Data on the descriptive analysis of the governance structure of all state-owned companies under the direct control of the Union, based on new indicators, until then, not used in the study by the Secretariat for Coordination and Governance of State-Owned Companies, responsible for monitoring and disseminating information of state-owned companies in Brazil.

Corporate governance

Corporate governance emerged intending to overcome the duality derived from the separation between administration and ownership. Resulting from the “agency conflict” or “principal-agent conflict” and motivated by the discrepancy between the interests of the manager and the owner, the objective of corporate governance entails the creation of a practical set of mechanisms related to monitoring and incentives that aim to ensure that the conduct and performance of managers are aligned with the interests of the principal (Martins et al., 2015).

In this sense, corporate governance presents itself from different theoretical perspectives. Oliveira (2015) defines corporate governance as the set of administrative practices that seek to improve the performance of companies with their businesses, products and services by protecting, in an equitable manner, the different interests of interested parties such as shareholders, customers, suppliers, creditors, employees, governments, facilitating access to company information and improving its management model.

Silva (2016) approaches corporate governance as a set of practices that aim to improve a company's performance, protecting investors, employees and creditors, thus facilitating access to capital.

For Fortini and Shermam (2017), corporate governance seeks to protect the interests of shareholders and the enterprise. It obliquely favours the public interest, preserving jobs and economic movement and protecting the interests involved in that contractual relationship.

In addition, Rosetti and Andrade (2022) define governance as the guardian of the rights of the company's stakeholders through established relationships, enabling companies to be directed and monitored. It can also be understood as a power structure formed within corporations governed by the normative system regulating the company's internal and external relations.

In line with this perspective, Silveira (2015) conceptualises corporate governance as the set of acculturation activities and internal and external mechanisms (incentives or controls) that help people make the best decision for the long term of the organisation, comply with the rules and behave ethically (internal perspective). The concept also includes the principle that companies must be transparent with their stakeholders and ensure the rights of all their shareholders equitably (external perspective).

Therefore, corporate governance is defined as the system by which companies and other organisations are directed, monitored and encouraged. It involves relationships between partners, the board of directors, management, supervisory and control bodies and other interested parties (IBGC, 2015).

Prado (2023) says that Corporate Governance is understood as how executives manage the company, how accounts are rendered, how the relationship between partners, managers, bodies or people who supervise and monitor management and other interested parties, and all subjects who relate to the company (employees, collaborators, target audience, consumers, suppliers, the community and its surroundings, the tax authorities and society in general). Therefore, Corporate Governance structures and instruments must preserve the interests of partners, the actions of executives and the relationship of everyone involved with the company, with rules, processes,

mechanisms, structures and instruments of supervision and accountability, which align and protect everyone's interests, intending to preserve the company's value, facilitating its access to capital and contributing to its longevity.

In the meantime, corporate governance aims to direct and control the activities of an organisation through the creation of structures, rules (formal and informal) and procedures that support the decision-making process (Anderson and Baker, 2010).

From the previously mentioned authors, corporate governance can be summarised as the set of mechanisms and processes that aim to guarantee senior management control of the entity's management. It can also be understood as the set of mechanisms and processes that observe internal and external controls in their actions, guarantee transparency and publicity of acts, make use of clear standards and rules, protect different interests equitably, seek to resolve conflicts of interest and information asymmetry; in addition to being characterised as a set of principles (transparency, equity, accountability, and corporate responsibility) according to IBGC (2015).

According to the MP (2017), governance applied to the public sector aims to essentially understand the leadership, strategy and control mechanisms put into practice to evaluate, direct and monitor management performance, conduct public policies and provide services of interest to society.

Despite different focuses and objectives, public and private organisations have significant similarities in corporate governance practices. In both types of organisations, issues involving the separation of ownership and management that trigger agency problems are common. Thus, the corporate governance of state-owned companies acts as one of the main fronts of a broad effort to establish a more equitable, responsible and transparent business environment, which stimulates the country's economic and social development (Enciso and Martins, (2016) IBGC, (2017).

OECD (2016) places governments as important owners of state-owned companies and corporate assets. These state-owned companies provide fundamental services (to citizens), such as water, electricity and transport, promoting competitiveness in private companies.

According to the World Bank (2014), corporate governance in state-owned companies focuses on the structures, processes, direction and control of companies. It specifies the rights and responsibilities of the company's stakeholders (including shareholders, directors and managers) and articulates the rules and procedures for decision-making. It also provides the structure to define, implement and monitor the entity's goals and objectives and ensure accountability to different stakeholders.

Therefore, state-owned companies must consider in their governance structure rules and practices of risk management internal control, which support the conduct of administrators and employees through the implementation of policies and practices of internal control, risk management, compliance, transparency, statutory audit committee, management composition, mechanisms to protect shareholders (if applicable), code of conduct and integrity, and reporting channel. In general, the governance structure of state-owned companies focuses on using instruments and policies aimed at the control and transparency mechanisms of business activity, subsidised by their regulations (Law nº 13,303/2016).

For Fontes Filho (2018), the State-Owned Companies Law was a regulatory framework that corroborates the alignment of corporate governance practices and structures of state-owned companies with best international practices—aimed at strengthening internal mechanisms (control systems, autonomy and performance monitoring) and external governance mechanisms (they should be developed to supervise the performance of state-owned companies based on the information disclosed and through evaluation criteria).

In this alignment, Coutinho, Mesquita and Nasser (2019) highlight that Law No. 13,303/2016 emerged as a “response” to corruption in state-owned companies, the lack of transparency and control of their management, as it lists the minimum requirements to be observed for all

state-owned companies. It also made it possible to fill an old gap in the legal system. Table 1 summarises some information about corporate governance listed in the State Law.

Table 1
Summary of Main Governance Practices According to the State-Owned Companies Law

Topics	Articles	Some requirements from the law
Statute	Art.1 Art.6 Art.13	The legal status of the public company, the mixed capital company and its subsidiaries, the Union, the States, the Federal District and the Municipalities that explore the economic activity of producing or selling goods or providing services, even if the economic activity is subject to the Union's monopoly regime, that is, the provision of public services; The statute must comply with rules of corporate governance, transparency and structures, risk management and internal control practices, management composition and, if there are shareholders, mechanisms for their protection; Guidelines and restrictions to be considered when drafting the company's statutes, in particular regarding: constitution and functioning of the Board of Directors, observing the minimum number of 7 (seven) and the maximum number of 11 (eleven) members; specific requirements for the the position of director, subject to the minimum number of 3 (three) directors; constitution and functioning of the Fiscal Council, which will exercise its duties on a permanent basis; constitution and functioning of the Statutory Audit Committee; term of office for the members of the Board of Directors and those nominated for the position of director, which will be unified and not exceed 2 (two) years, with a maximum of 3 (three) consecutive reappointments being permitted; term of office of members of the Supervisory Board not exceeding 2 (two) years, with 2 (two) consecutive reappointments permitted.
Risk management, internal control and internal audit	Art. 9	The public company and mixed-capital company will adopt rules for risk management and internal control structures and practices that cover: actions by managers and employees, through the daily implementation of internal control practices; area responsible for verifying compliance with obligations and risk management; internal audit and Statutory Audit Committee. The internal audit must be linked to the Board of Directors, directly or through the Statutory Audit Committee; be responsible for assessing the adequacy of internal control, the effectiveness of risk management and governance processes and the reliability of the process of collection, measurement, classification, accumulation, recording and disclosure of events and transactions, with a view to preparing financial statements.
External audit	Art. 7	All public companies, privately held mixed capital companies and their subsidiaries comply with the provisions of Law No. 6,404, of December 15, 1976, and the rules of the Securities and Exchange Commission on bookkeeping and preparation of financial statements, including the mandatory independent audit by an auditor registered with this body.
Boards and committees	Art.10 Art.14 Art.17 Art. 18 Art.22 Art.24	They must create a statutory committee to verify the compliance of the process of appointing and evaluating members for the Board of Directors and the Fiscal Council, with competence to assist the controlling shareholder in appointing these members; They must observe the appointment policy when choosing administrators and members of the Supervisory Board; Nomination to the Board of Directors and the board of directors is prohibited; The members of the Board of Directors and those nominated for the positions of director, including president, general director and chief executive officer, will be chosen from among citizens with an unblemished reputation and renowned knowledge; The board of directors is responsible for discussing, approving and monitoring decisions involving corporate governance practices, relationships with interested parties, people management policy and agents' code of conduct; Implement and supervise the risk management and internal control systems established for the prevention and mitigation of the main risks to which the public company or mixed-capital company is exposed, including risks related to the integrity of accounting and financial information and those related the occurrence of corruption and fraud; The Board of Directors must be composed of at least 25% (twenty-five percent) of independent members or at least 1 (one), if a decision is made by minority shareholders; The Statutory Audit committee as an auxiliary body of the Board of Directors, to which it will report directly. The Committee will give its opinion on the hiring and dismissal of an independent auditor; will supervise the activities of independent auditors, evaluating their independence, the quality of the services provided and will supervise the activities carried out in the areas of internal control, internal audit and preparation of the company's financial statements;
		A Code of Conduct and Integrity must be drawn up and published, which provides for: principles, values and mission of the public company and mixed-capital company, as well as guidelines on preventing conflicts of interest and prohibiting acts of corruption and fraud; internal bodies responsible for updating and applying the Code of Conduct and

Ethics	Art. 9 Art. 12	Integrity; reporting channel that allows the reception of internal and external complaints regarding non-compliance with the Code of Conduct and Integrity and other internal ethical and mandatory standards; protection mechanisms that prevent any type of retaliation against people who use the reporting channel; sanctions applicable in case of violation of the rules of the Code of Conduct and Integrity; provision for periodic training, at least annually, on the Code of Conduct and Integrity, for employees and administrators, and on the risk management policy, for administrators; Constantly adapt its practices to the Code of Conduct and Integrity and other rules of good corporate governance practice;
Transparency	Art. 8 Art.10 Art. 12	You must prepare an annual letter; timely and updated disclosure of relevant information, especially that relating to activities carried out, control structure, risk factors, economic-financial data, comments from administrators on performance, corporate governance policies and practices and description of management composition and remuneration; preparation and dissemination of information disclosure policy; preparation of dividend distribution policy; disclosure, in an explanatory note to the financial statements, of the operational and financial data of the activities; preparation and disclosure of the policy for transactions with related parties, in accordance with the requirements of competitiveness, compliance, transparency, equity and commutativity, which must be reviewed at least annually and approved by the Board of Directors; annual disclosure of an integrated or sustainability report; The minutes of the meetings of the statutory committee must be published in order to verify compliance, by the appointed members, with the requirements defined in the appointment policy, and any divergent statements by directors must be recorded; Disclose any and all forms of administrators' remuneration.

Source: Law nº 13.303/ 2016.

Ferraz (2018) shows that the Law on State-Owned Companies fostered impacts in planning, bidding, management, supervision, integrity, transparency, efficiency, equity and corporate responsibility in these companies. It highlights as a strong point of the standard, the rules of oversight and transparency of corporate governance of state-owned companies to resolve conflicts of interest and allow timely control of strategic decisions so that they become corporations at the service of shareholders, of the State and society, with the mission of making the generation of dividends compatible with the public interests that justified their creation.

In this approach, Cristóvam and Bergamini (2019) highlight that the Law on State-Owned Companies made it possible to promote a business culture with an emphasis on compliance practices in processes through the implementation of risk management policies, the adoption of transparency and promotion mechanisms of good governance and compliance practices in the business environment.

Methodological procedures

This research was classified as a cross-sectional comparative study. Gerring (2007) establishes that cross-sectional studies involve different levels of analysis focusing on the comparative variation of the various studies (cross-sections), considering a limited time frame for data collection. In this context, we sought to describe and compare the governance structure of public and mixed capital companies in the Union based on the regulation of the State Law.

The research universe corresponded to state-owned companies directly controlled by the Union. According to the Federal State-Owned Companies Bulletin (2018), state-owned companies total 46 (forty-six). This study was limited to analysing 45 (forty-five companies) since 1 (one) company (binational) was in the process of closing its activities. Of the 45 (forty-five companies), 26 (twenty-six) are public companies (those that have 100% public capital in their structure), and 19 (nineteen) are mixed economy companies (which have public and private capital in their share capital composition).

Regarding data collection and analysis techniques, the research was classified as qualitative-quantitative since, in the first stage, it collected documents (governance instruments and policies) and qualitatively analysed the documents (conformity analysis of instruments of governance published with the indicators covered by this study). Various documents were analysed and made available on state-owned companies'

electronic websites: statutes, code of ethics, code of conduct and integrity, internal regulations, management reports, financial information reports, ombudsman's reports, audit reports, minutes and other governance instruments necessary for analysis. Data was collected and analysed between January and May 2019.

Subsequently, the qualitative data were coded into a database, from which the analyses were carried out. Coding (tabulation) was carried out in a Microsoft Office Excel 2007 spreadsheet, thus enabling quantitative analysis of the indicators. In this way, the count was carried out, taking into account the presence or absence of each of the proposed indicators; that is, the indicators were categorised, and they were assigned a score that varied between 0 (zero) and 2 (two). The company received a score of 0 (zero) when the item was not present, a score of 1 when the question was partially present, and a grade of 2 when the question was present. The 64 indicators analysed were prepared in the study by Carvalho (2019).

Data analysis occurred using descriptive statistics, intending to describe and compare the governance structure of state-owned companies based on percentage and frequency measures, culminating in the classification of the governance structure of state-owned companies (as shown in Table 2).

Thus, the Union's state-owned companies were categorised into the framework bands (intervals) with the respective governance quality categories, as shown in Table 2. The maximum score obtained per indicator is equivalent to 90 (ninety) points (45 companies x 2 points = 90); that is, each company could obtain a score (0.1 and 2) per indicator, which represents 100% of the possible score. The maximum score obtained per company is equivalent to 128 (one hundred and twenty-eight) points (64 indicators x 2 maximum points = 128); that is, each company could obtain a score (0.1 and 2).

Table 2
Framework range based on the proposed indicators

Framing ranges			**Categories**
Numbers	**Points per indicator**	**Points by Companies**	
1	00,0 to 77,6	00,0 to 77,3	Low
2	77,7 to 85,4	77,4 to 85,8	Moderately low
3	85,5 to 93,2	85,9 to 93,5	Moderately high
4	93,3 to 100,0	93,6 to 100,0	High

Source: Own elaboration (2019).

Analysis of Results

The research analysis was composed of all companies directly controlled by the Union, totalling 45 cases (state-owned companies directly controlled by the Union, which are broken down into non-dependent public companies (28.9%), dependent public companies (28.9 %), Publicly-held mixed capital company (13.3%), Privately-held mixed-capital company (24.4%) and Closely-held dependent mixed-capital company (4.4%).

The descriptive analysis of the 64 (sixty-four) corporate governance indicators prepared by Carvalho (2019) made it possible to highlight the conference and analysis of the governance instruments of state-owned companies in the Union. The score received by each company is found in Appendix (A).

Indicator 1 (one) aimed to identify whether companies had minimum requirements in their statutes such as the constitution of the board of directors, additional specific requirements for the position of director, performance, individual and collective, annual frequency of statutory members, mandatory constitution of the fiscal council, mandatory constitution of the statutory audit committee, unified term of office for members of the board of directors and members of the board of directors and performance of members of the fiscal council. It was found that all companies have them; that is, 100% of companies have adapted their statutes to the requirements set out in the Law on State-Owned Companies.

Indicator 2 (two) verified the existence of

corporate governance policies for state-owned companies, and the data revealed that all (100%) have governance policies. Indicator 3 (three) sought to verify whether companies define periods for reviewing internal policies. It was found that 53.3% partially define it; that is, they mention it but do not define the periodicity. Companies not listing this information represent 35.6%, and only 11.1% of those surveyed define the periodicity.

Indicator 4 (four) verified the existence of a defined period for reviewing corporate governance policies and practices in companies. For this indicator, 71.1% partially define it. Companies that do not list this information represent 26.7%, and for those that define the frequency, only 2.2%.

Indicator 5 (five) verified whether there is a defined period for reviewing people management policies. It found that 82.2% of companies do not list a period for reviewing policies in their governance instruments; 13.3% define it partially, and 4.4% define the periodicity.

Indicator 6 (six) sought to verify whether companies have risk management policies. The data shows that 86.7% of companies have risk management policies in their processes, and 13.3% partially have them. Indicator 7 (seven) showed whether the information generated by internal control and auditing is made available to different stakeholders. It was found that 86.7% of companies make the information available and that only 13.3% do not make it available.

Indicator 8 (eight) sought to identify whether the integrity and risk management area has its responsibilities as set out in the bylaws. It was found that 64.6% of companies highlight in their statutes the duties of integrity and risk management; 20% partially evidence, that is, they mention but do not make the attributions clear, and 15.6% do not show it. Indicator 9 (nine) identified whether the company has someone responsible for the compliance and risk function. It was found that 68.9% have someone accountable for the role; 17.8% mention the respective areas in their governance instruments but do not make clear who is responsible; and 13.3% do not have a guardian. Indicator 10 (ten) sought to ensure that the duties of the person responsible for the compliance and risk function are defined. It was found that 82.2% define who is responsible for the function; in contrast, 8.9% partially do and do not have a person responsible.

Indicator 11 (eleven) indicated whether companies have a risk management and internal control system. It was found that 88.9% of companies have it, and 11.1% have it partially. Indicator 12 (twelve) confirmed whether some internal policies or standards provide for internal control. It was found that 86.7% of companies have; 8.9% partially have it; that is, they mention it in their statutes but do not present rules or policies that regulate internal control, and 4.4% do not have one.

Indicator 13 (thirteen) pointed to the identification of companies having an internal control unit. The data shows that 93.3% of companies have it, 4.4% partially, and 2.2% do not. Indicator 14 (fourteen) verified whether there are regulations for preparing and assessing internal control recommendation reports. It was identified that 42.2% have it, 40% do not have one, and only 17.8% have this practice regulated.

Indicator 15 (fifteen) confirms the existence of a regulatory policy on the independence of internal control. 51.1% make it clear; 26.7% list partially; that is, they mention the areas of activity but do not clarify whether this occurs independently, and 22.2% do not emphasise independence.

Indicator 16 (sixteen) verified whether internal control prepares a recommendation report. It identified that 42.2% of companies elaborate, pointing out the flaws and errors and suggesting improvements. 35.6% publish reports with little detail on the actions carried out, and 22.2% do not disclose them.

Indicator 17 (seventeen) showed whether internal control maintains communication with senior management. It was identified that 84.4% have this practice, 11.1% do not have it, and 4.4% do it partially. Indicator 18 (eighteen) verified whether there is a definition of the internal audit areas of activity. It was found that 71.1% of companies have defined areas of activity and that 28.9% partially have them. Indicator 19 (nineteen) showed whether internal audit evaluates process risks: 82.2% evaluate, whereas 15.6% partially

evaluate and 2.2% do not.

Indicator 20 (twenty) sought to verify whether the actions carried out in the company by different bodies are subject to control by internal audit. It was found that 93.3% of companies make it explicit, as opposed to 4.4% of organisations that partially emphasise it and 2.2% that do not. Indicator 21 (twenty-one) sought to identify whether the control structure is clear: it was found that 48.9% have a clear partial control structure; 40% have established how control is organised and how it is structured; in contrast, 11.1% do not have it.

Indicator 22 (twenty-two) confirms whether the risk factors are presented. The data shows that 71.1% of companies identify. For 20%, there is partial evidence; that is, they list in a generic way that risks must be mitigated but do not detail what they are, while 8.9% do not.

Indicator 23 (twenty-three) identified whether internal auditing is independent in carrying out its work. In 95.6% of cases, it was found that they have independence in carrying out their work and that only 4.4% partially do.

Indicator 24 (twenty-four) verified whether the reports prepared by internal auditing are published online. It was found that 93.3% of companies disclose this and that 6.7% do not have this practice. Indicator 25 (twenty-five) detected whether companies make financial information public by publishing financial statements through websites and/or mass circulation newspapers. It was found that 97.8% of companies disclose their financial statements, and only 2.2% do not.

Indicator 26 (twenty-six) indicated whether companies disclose explanatory notes for financial statements, operational data and related activities. It confirmed that 95.6% of companies disclose, and only 2.2% do not disclose or do so partially.

Indicator 27 (twenty-seven) sought to certify whether the reporting and approval of accounts are disclosed: 93.3% of companies publish reports on their approved accounts, 4.4% partially disclose it, and 2.2% do not have this practice. Indicator 28 (twenty-eight) sought to certify whether companies disclose the annual corporate governance letter, and it was confirmed that 91.1% of companies do disclose it, as opposed to 8.9% that do not disclose it.

Indicator 29 (twenty-nine) sought to demonstrate whether the reports contain information about the governance instruments used by companies. It was found that 95.6% mentioned the governance policies used in their reports. However, 4.4% do not provide this information. Indicator 30 (thirty) sought to ensure companies disclose their policy on transactions with related parties following the competitiveness, compliance, transparency, equity and commutativity requirements. It was noticed that 71.1% of companies disclose policies, in contrast to 28.9% which do not disclose them.

Indicator 31 (thirty-one) sought to verify whether companies annually disclose the integrated or sustainability report. It was found that 71.1% of companies disclose both, 8.9% partially disclose, and 20% do not disclose.

Indicator 32 (thirty-two) sought to verify whether companies publish the minutes of meetings of the board of directors, their committees and the fiscal council on their websites. It was found that 91.1% of companies disclose, 2.2% partially disclose, and 6.7% do not disclose. Indicator 33 (thirty-three) sought to verify whether companies disclose their risk administration and management policies on their websites. It was found that 82.2% of companies disclose; however, 8.9% partially disclose or do not disclose.

Indicator 34 (thirty-four) aimed to identify whether companies are audited annually by an external auditor. It was identified that an independent auditor audits 91.1% of companies, and 8.9% are partially audited. Otherwise, the information disclosed is outdated (referring to the years 2015 and 2016), despite these companies being required to have their financial statements audited annually by an independent auditor.

Indicator 35 (thirty-five) aimed to identify whether external audit reports are disclosed as an annexe to the financial statements and information published annually. It was found that 86.7% of companies disclose; however, 8.9% do so partially, and 4.4% do not disclose.

Indicator 36 (thirty-six) aimed to verify whether the number of board members (at least

seven and at most eleven members) is defined in the companies' statutes. It was confirmed that 66.7% of companies comply with the legal provision, although 33.3% partially meet this condition; the number of board members is below the minimum.

Indicator 37 (thirty-seven) aimed to identify whether the terms of office of the board of directors and board of directors are provided for in the statute (two years, with up to three consecutive renewals permitted). It was found that 91.1% of companies define mandates, and only 8.9% do not establish these deadlines.

Indicator 38 (thirty-eight) confirms whether the mandates of the members of the Supervisory Board are provided for in the companies' statutes (two years, with up to two consecutive reappointments permitted). It was found that 91.1% predict and 6.7% partially foresee; that is, they define a shorter period equivalent to one year, with renewal being permitted, and 2.2% do not define a deadline. Indicator 39 (thirty-nine) showed whether there are defined policies for occupying management and board member positions. It was confirmed that 91.1% of them define it, 6.7% do not, and 2.2% do it partially.

Indicator 40 (forty) was intended to verify whether the statute uses technical competence criteria to occupy the advisor and director positions. It was identified that 84.4% of companies use criteria, 11.1% do not use them, and 4.4% use them partially.

Indicator 41 (forty-one) shows whether the statute provides for the requirements to be an administrator of state-owned companies: it was found that 86.7% of companies demonstrate the requirements, 8.9% do not show evidence, and 2.2% do so partially. Indicator 42 (forty-two) is intended to confirm whether the statute provides the requirements to be observed when appointing members. It was found that only 46% specify the criteria to be observed, 44.4% do not, and 8.9% partially define them.

Indicator 43 (forty-three) determines whether the statute provides for situations where appointing a board of directors and management representatives is prohibited. 77.8% of companies predict, 15.6% do not, and 6.7 partially establish.

Indicator 44 (forty-four) highlights precise reputation requirements and technical training to assume management positions and board of directors members. It appears that 84.4% list, 13.3% do not present, and 2.2% show it partially.

Indicator 45 (forty-five) sought to identify whether the statute provides for independent members of the Board of Directors (minimum 25%). It was confirmed that 100% of companies define the number of independent members in the board's composition. Indicator 46 (forty-six) sought to identify whether the statute provides administrators and advisors with a detailed and individualised remuneration policy. It was found that 53.3% provide partial evidence; that is, they mention it but do not detail it; 28.9% are present, and 17.8% do not show it.

Indicator 47 (forty-seven) identifies whether the statute prohibits the accumulation of management and council positions. It was found that 84.4% of companies do not forecast, compared to only 13.3% who forecast and 2.2% who do so partially.

Indicator 48 (forty-eight) shows whether companies have a statutory audit committee. It was identified that 97.8% have it and 2.2% do not have it. Indicator 49 (forty-nine) sought to verify whether companies have a statutory eligibility committee, and it was verified that 100% of companies do. Indicator 50 (fifty) sought to identify whether companies have a code of ethics or conduct: 97.8% have both codes combined or in separate documents, and 2.2% do not.

Indicator 51 (fifty-one) sought to indicate whether the code of ethics or conduct defines standards of behaviour based on principles and values to avoid conflicts of interest. It was identified that 93.3% of codes are based on principles and values, while in 4.4%, this is partially the case, and in 2.2%, it is not.

Indicator 52 (fifty-two) aims to verify whether the code of ethics and conduct lists the ethical principles or values to be observed. 95.6% list and 2.2% do not list or partially list. Indicator 53 (fifty-three) sought to determine whether the code of conduct provides confidentiality rules for specific information. It was identified that 77.8% predict, 15.6% do so partially, and 6.7% do not have this

practice.

Indicator 54 (fifty-four) sought to demonstrate whether companies have precise mechanisms to ensure that senior management, employees and collaborators act following standards of behaviour based on values and principles. It was found that 88.9% have precise mechanisms. In contrast, the data showed that 6.7% showed partial evidence, and 4.4% did not show evidence.

Indicator 55 (fifty-five) sought to find out whether companies foresee applicable sanctions in case of violating the Code of Conduct and Integrity rules. It was identified that 62.2% of companies present; 31.1% define this partially, that is, they emphasise that, in the case of violation, the appropriate punishments will be applied, but they do not list the instances or the type of punishment, and 6.7% do not show it.

Indicator 56 (fifty-six) aimed to identify whether companies have an integrity or compliance code. It was found that 88.9% of companies have one, 8.9% do not have one, and 2.2 partially have it. Indicator 57 (fifty-seven) was intended to demonstrate whether compliance mechanisms guarantee independence in investigating signs of irregularities. It was identified that 77.8% of companies make their independence evident; 11.1% partially guarantee it; that is, they mention that compliance is responsible for investigating signs of irregularities but do not make their autonomy of action explicit, and 11.1% do not show it.

Indicator 58 (fifty-eight) focused on understanding whether compliance mechanisms promote accountability. It was found that 75.6% showed, 13.3% provided partial evidence, and 11.1% did not offer responsibility.

Indicator 59 (fifty-nine) sought to confirm whether companies provide training for internal employees, at least annually, on the code of conduct or integrity. It was confirmed that 88.9% of companies predict, 8.9% have no training plans, and 2.2% do so partially; that is, they mention training but do not define the frequency. Indicator 60 (sixty) aimed to identify whether companies provide external employee training on the code of conduct or integrity at least annually. It was found that 88.9% determine training, 8.9% do not foresee such training, and 2.2% do so partially.

Indicator 61 (sixty-one) sought to certify whether companies have a reporting channel: 97.8% do, and 2.2% partially own it. Indicator 62 (sixty-two) sought to present whether companies present the number and reasons for complaints relating to the previous year. It was found that only 22.2% disclose, 57.8 do not present the information, and 20% partially disclose; that is, they present a report containing the number of complaints but do not detail the reasons.

Indicator 63 (sixty-three) sought to identify whether there are internal policies to prevent conflicts of interest. It was shown that 84.4% have it. In contrast, 8.9% do not have it, and 6.7% have it partially.

Indicator 64 (sixty-four) highlighted whether internal bodies are responsible for updating and applying the Code of Conduct and Integrity. It was found that 80% of companies have a body responsible for updating and applying the code of conduct and integrity; 13.3% do not show evidence; and 6.7% list partially; that is, they do not make it clear who is responsible for updating and applying the codes.

The 64 (sixty-four) indicators were grouped into their respective dimensions: Management, Control and Audit (D1), composed of 24 (twenty-four) indicators, obtaining an average of the sums a total of 69 points; Information Transparency (D2) consisting of 11 (eleven) indicators, obtained 81 points; Councils, Committees and Management (D3) composed of 13 (thirteen) indicators, obtained 68 points; and Ethics (code and conduct) and conflict of interests (D4), consisting of 14 (fourteen) indicators, received a total of 77 points.

The indicators with greater compliance were found to be linked to the dimension (D2), and the indicators with less adherence were related (D1). Below is Table (1) with the ranking of dimensions (Table 3).

From a universe of 45 (forty-five) companies allocated in their respective groups, the value of the F statistic, calculated, indicated that the differences in the averages obtained for the groups of companies are statistically significant ($F= 3.832$; $p= 0.010$).

Table 3
Dimension ranking

Dimension	Position	Description	Sum average	Category
2	1st	Information Transparency	81	Moderately high
4	2nd	Ethics (code and conduct) and conflict of interests	77	Moderately high
1	3rd	Management, Control and Audit	69	Low
3	4th	Councils, Committees and Management	68	Low

Source: Own elaboration (2019).

This means that the averages of at least two companies (obtained from the observed indicators) are different and that these companies have better governance indicators (Table 4).

It can be seen that there is an increase in the average of 84 (eighty-four) in the group of non-dependent public companies and 94 (ninety-four) dependent public companies. There is a slight variance in the average of 95 (ninety-five) Companies in mixed capital companies. The averages fall for companies in privately held companies to 84 (eighty-four) and for dependent privately held companies, with an average of 71 (seventy-one).

Table 4
Ranking of indicators by groups of companies

Position	Companies	Number of companies	Average
1st	Mixed economy company	6	0,95
2nd	Dependent public companies	13	0,94
3rd	Non-dependent public companies	13	0,84
4th	Privately held mixed capital company	11	0,84
5th	Closed capital dependent mixed economy company	2	0,71
Total		45	0,88

Source: Own elaboration (2019).

Final considerations

Regarding the contributions of this study, the construction of a metric can be presented, with classification ranges by indicators and companies, categories (low, moderately low, moderately high and high) that make it possible to analyse the governance structure of state-owned companies of the indicators proposed in the study by Carvalho (2019).

Evidence indicates differences in the governance structure of the 45 companies and the groups (public companies and mixed capital companies) of state-owned companies regarding the use of governance instruments. This implies that differences are present in the various groups and within the groups of companies themselves and that companies are improving their governance structure, although this process of adherence is occurring disproportionately; that is, some are advancing in the formalisation and structuring of corporate governance policies, while others are slowly pursuing the same process.

The ranking by group of companies showed the group of dependent public companies and mixed capital companies in first position, followed by non-dependent public companies. The groups of companies in closed-held mixed-capital and privately-held mixed-capital companies occupied the worst positions, third and fourth, respectively.

The company that occupied the best position was CAIXA, followed by the companies CONAB, BANK OF AMAZÔNIA, TELEBRAS, CDC, CODESA, EBSERH, CDRJ, EBC, EMBRAPA, EPL, BANK OF BRAZIL, BNDES; AMAZUL, CPRM, IMBEL, VALEC, CODEVASF, CODEBA, DATAPREV, CEITEC, PETROBRAS, EMGEA, HCPA, and BNB.

In contrast, the companies that had the worst rankings were CASEMG, ABGF, COIN HOUSE, SEPRO, POST OFFICE ECT, HEMOBRAS, FINEP, CEASAMINES, CEAGESP, HNSC, and CODOMAR (Appendix A).

The indicators that occupied the best positions in the ranking were those that emphasized information related to the company's status;

corporate governance policies; reputation requirements, technical training to assume the positions of director and member of the board of directors; statutory audit committee; training internal employees on the code of conduct or integrity; disclosure of financial information; independence of internal audit; prohibition of accumulation of management and council positions; eligibility committee; disclosure of explanatory notes; code of ethics or conduct; audit control; reporting and approval of accounts; reports contain information about the governance instruments used; disclosure of the administration and risk management policy; number of board members; risk management policy; reports prepared by internal audit; risk management and internal control system; internal control unit; and forecast of the terms of office of the board of directors and board of directors.

The indicators that occupied the worst positions were those that emphasised the period for reviewing internal policies on corporate governance and people management practices; duties of the integrity and risk management area; risk management policy; control structure; disclosure of related party transaction policies; annual disclosure of the integrated report; forecast of the number of independent members of the Board of Directors; forecast of the remuneration policy for administrators and advisors; and provision of training for external employees on the code of conduct or integrity.

Given this, it is recommended that future research replicate this study with the same group of companies, carrying out a longitudinal analysis to evaluate the temporal evolution of these governance instruments, which can also be replicated for state-owned companies, companies under indirect control and public organisations.

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APPENDIX A (Company Ranking)

Companies Score				
Companies	Score (0 – 128)	Companies Ranking	Score (0 – 128)	
Non-dependent public companies				
ABGF	97	CAIXA	120	High
BNDES	113	CONAB	118	Moderately high
CAIXA	120	BANCO DA AMAZÔNIA	118	Moderately high
CASA DA MOEDA	97	TELEBRAS	117	Moderately high
CORREIOS ECT	89	CDC	117	Moderately high
DATAPREV	111	CODESA	117	Moderately high
EMGEA	110	EBSERH	116	Moderately high
EMGEPRON	103	CDRJ	116	Moderately high
FINEP	84	EBC	115	Moderately high
HEMOBRÁS	88	EMBRAPA	115	Moderately high
INFRAERO	109	EPL	115	Moderately high
PPSA	107	BANCO DO BRASIL	115	Moderately high
SEPRO	96	BNDES	113	Moderately high
Dependent public companies		AMAZUL	113	Moderately high
AMAZUL	113	CPRM	113	Moderately high
CEITEC	111	IMBEL	113	Moderately high
CODEVASF	112	VALEC	113	Moderately high
CONAB	118	CODEVASF	112	Moderately high
CPRM	113	CODEBA	112	Moderately high
EBC	115	DATAPREV	111	Moderately high
EBSERH	116	CEITEC	111	Moderately high
EMBRAPA	115	PETROBRAS	111	Moderately high
EPE	109	EMGEA	110	Moderately high
EPL	115	HCPA	110	Moderately high
HCPA	110	BNB	110	Moderately high
IMBEL	113	INFRAERO	109	Moderately low
VALEC	113	EPE	109	Moderately low
Privately held mixed capital company		ELETROBRAS	109	Moderately low
BANCO DO BRASIL	115	CDP	109	Moderately low
ELETROBRAS	109	CODERN	109	Moderately low
PETROBRAS	111	CODESP	109	Moderately low
TELEBRAS	117	PPSA	107	Moderately low
BANCO DA AMAZÔNIA	118	EMGEPRON	103	Moderately low
BNB	110	CBTU	103	Moderately low
Privately held mixed capital company		CASEMG	99	Low
CASEMG	99	ABGF	97	Low
CEAGESP	75	CASA DA MOEDA	97	Low
CEASAMINAS	80	SEPRO	96	Low
CDC	117	CORREIOS ECT	89	Low
CDP	109	HEMOBRÁS	88	Low
CDRJ	116	FINEP	84	Low
CODEBA	112	CEASAMINAS	80	Low
CODERN	109	CEAGESP	75	Low
CODESA	117	HNSC	54	Low
CODESP	109	CODOMAR	41	Low
CODOMAR	41			
Mixed economy company dependent on closed capital				
CBTU	103			
HNSC	54			

Source: Own elaboration (2019).