OUTSIDE DIRECTORS AND THE JAPANESE BOARD ROOM: AN IN-DEPTH STUDY

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Abstract

The purpose of this paper is to investigate the performance impact at the board level in the corporate governance of Japanese companies. We investigated the composition of outside directors and outside auditors for three years and found evidence, that a higher outside ratio leads to a better performance. As a second step, we cluster Japanese companies into three groups, companies without outside directors, companies which appointed outside directors and companies who apply to the "US-style system." Companies without outside directors every single year show the weakest performance and US-style Japanese companies the strongest what leads to the conclusion that Japanese companies might be better off having a high ratio of outside directors and outside auditors.

Keywords: Japanese Corporate Governance; JUS-style corporate governance, outside director, outside auditor

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1. Introduction

In economic literature there is a long tradition of research arguing to what extent the board of director's size and composition influence their company's performance (for a comprehensive review see Hermalin and Weisbach, 2003; Dalton et al., 1998). There is a worldwide trend toward greater board independence which will be reached through a higher ratio of outside directors. Obviously, US-style companies are forerunners in this trend with a board structure having an average of 80% of outside directors (Bhagat and Black, 1999). Among institutional investors as well as pension fund manager and other professionals, it is not unusual to find advocates, who support the so called "supermajority independent boards". The Business Roundtable recommends a "substantial majority" which should consist mainly of independent directors and CalPERS, the Californian Pension fund, even adopted more extreme guidelines. An "ideal" board of directors should only consist of one inside board member, and this person should be the CEO of the company (Bhagat and Black, 1999). There is clearly a demand towards a more independent boardroom with more outside directors because shareholder activists are increasingly using their power.

This paper studies the performance impact at the board level in the corporate governance of Japanese companies as an in-depth country study for three consecutive years. A strength of our three year in-depth study of corporate governance, compared to a multi-country study, is the strong data availability, which lets us use a much more complete set of dependant and control variables. On the one hand, we look only at the board composition, as to the ratio of outside directors and outside auditors and measure it to the company's performance. As a second step, we divide Japanese companies into three groups and investigate about their performance of each group.

The structure of this paper is outlined as follows. In chapter 2 we discuss our theoretical model for explaining the outside ratio of directors and auditors. The Japanese situation will be shortly introduced in chapter 3. In chapter 4 a segmentation of three different company styles will be done. Chapter 5 introduces our research model and chapter 6 is about data and variables. In chapter 7 we present our



analysis. Chapter 8 highlights the key concepts and some shortcomings in a discussion and in chapter 9 we close our research with a conclusion.

2. Theoretic model

As a theoretic model of our study we take the Agency theory to explain the notion of separation of ownership and control. Managers in modern corporations are in the potential conflict of self interest as they gain control in the firm which might benefit themselves, but not the owners (Denis, 2001; Dalton et al. 1998). Agency theory is in that sense a control-based theory, which can be settled as a frame for argumentation about the board's composition. The theory's underlying argument applies to the board composition in the following way: Outside directors are independent and this leads to superior monitoring. According to this theory, effective boards should be comprised of more outside directors. The conceptual literature supports this argument. There is near consensus that effective boards will be comprised of greater proportions of outside directors (Dalton et al. 1998).

In Japan too, boards came under increasing criticism having insider boards without any kind of separation between monitoring and management. The insider problems were associated with over-investment and delays in restructuring (Miyajima, 2005). As agency theory suggests, Japan should follow the same pattern. A composition of more outside directors should lead to a better performance. In this line of argumentation, inside directors of Japanese companies have incentives to pursue their own interests at the expense of shareholders. Until now, in Japan there is only some anecdotal evidence that small sized boards and a composition of more outside directors will increase a company's performance.

3. Japanese situation

Previously, the Japanese banking-based system was often closely linked to the German system (Sakakibara, 1995). Historically, both countries have been bank-dominated by strong stakeholder-orientation. However, in contrast to the German system of co-determination, Japanese law does not require employee participation at the board level. Japanese boards traditionally have been comprised almost exclusively of managers who served their whole career in the same company (Milhaupt and West, 2004).

Nowadays, there are indicators that this system has changed in Japan after the bubble economy. Despite past economic success, Japanese companies faced strong pressure to change their corporate governance system. There is evidence that Japan's legal framework of corporate ownership has changed (Kanda, 2001; Wakasugi, 2004, Seki, 2005). The changes covered corporate law and other regulations as well as the role of the banks and the whole financial system. Several new developments have been introduced in the Japanese financial market. A new stock-swap system and a stock option plan were introduced. Furthermore, companies have to apply the new market accounting standards (Bebenroth, 2003). Since April 2002, even US-style corporate governance system is possible for bigger Japanese companies to choose. This was possible because of an amendment of the Commercial Code.

Besides these legal changes, several attempts were made to introduce a corporate governance code. In 2001 a Japanese corporate governance code was published and in 2004 the "new principles of a corporate governance for stock listed companies" were released (Internet www.ecgi.org/codes). However, Japanese companies do not have to use the British style of comply or explain in case they do not comply with the rules.

4. Japanese - JUS - US - style: segmenting three groups

Through amendment of the Japanese Commercial Code, Japanese companies are given the choice in terms of a governance system. Companies can stay with the old traditional corporate auditor system or they may change to a new US-style auditor system if their size allows them to do so. If companies choose the US-style system, three committees have to be established, for audit, for remuneration, and for nomination. On each of the committees the majority of the directors have to be from outside. The three committee governance system functions within the framework of the new law. In this regard, the responsibilities of the board for business decisions becomes clearer and accountability increases. In many countries where comply or explain rules exist, there is hope that the market will punish non complying companies (Seki 2005).

Now, we are able to segment two groups: traditional ones without any outside directors and US-style companies. The popular press assumes that companies who continued with the traditional Japanese



system of not having any committees and no outside directors might need to explain reasons to the investors. Seki reports that in June 2004 some 43 companies decided to adopt the new system. Our sample only covers manufacturing firms listed on the First Section of the Tokyo Stock Exchange so we have only 24 companies for fiscal year 2003 and 29 for the fiscal year of 2004 and the same number of 29 for the fiscal year of 2005 who changed to a US-style board system.

Somehow more or less in the middle between the traditional Japanese style and the new US-style board system, there is a hybrid model that offers some advantages of the American approach even though it is still based in the Japanese company system. This is segmented as our third group. These companies differ from the traditional ones because they have outside directors.

In the Japanese company system, there is a clear separation between the members of the board and the executive officer on the board. Moreover, non-executive officers are requested to step down from decision making and become board members who have monitoring responsibilities (Miyajima, 2005). They receive the new title of "shikko-yakuin" (non-executive officer). Until 1997 there were hardly any outside directors (Miyajima and Aoki, 2002). Sony was one of the first companies who introduced an executive officer system with so called shikko-yakuin to separate the monitoring board from the operational functional board (Seki, 2005).

Soon after, Sony turned towards a US-style system with nomination committees. In 2004, 678 companies listed on the First Section (some 43.5%) appointed at least one executive officer. Here we call this system as sitting between the traditional Japanese-style and the US-style, hereafter called a JUS-style system (Japanese-US-style). In the fiscal year 2003, in our 821 companies we found 535 traditional Japanese companies. We found 262 JUS-style companies and 24 US-style companies. This tendency changed in fiscal year 2004 from traditional companies to JUS style and US-style companies. From again 821 companies in fiscal year 2004, we found only 507 companies who remained in the traditional style (minus 28). In the fiscal year 2005, we have from 818 companies, exactly 501 who remained to the Japanese system and 288 who are segmented in to the JUS-system.

In overall, JUS companies increased in 2003 from 262 to 285 in 2004, and to 288 in the fiscal year 2005. There was also an increase in the number of US-style companies from 2003 to 2004 by 5 to 29 companies what remained stable in 2005 (see table 1. board structure variables).

5. Research Model

This study focuses on the composition in the board room in Japanese companies. As this research is unprecedented, we decided to divide our sample of companies into three groups. The first are companies who maintain a traditional Japanese board style system without any outside directors. The second group contains Japanese companies who introduced outside directors but remained in the auditor system. The third group exists of Japanese companies who completely changed their board to a US-style system which introduced outside directors but no conventional auditor system. In this US-style system a three committee structure is set up (in Japanese this is called: iinkai to sechi geisha). Then we investigated the general performance of all groups. As of the time lag what needs to be considered, we measured performance with the latest financial data for the years 2004 and 2005 using Tobin's Q.

Hypothesis for ratio of outside directors and outside auditors

A number of studies discuss the composition of boards in regard of inside and outside directors (e.g. Bonn et al., 2004).

The majority of the studies in this field support the hypothesis that boards with merely inside directors are less effective than boards with outside directors. According to Ezzamel and Watson (1993) using a sample of UK firms, outside directors were associated positively with profitability. Several other researchers have noted a positive relationship between the numbers of outside directors to the firm's performance (Pearce and Zahra, 1992). Only very few studies have shown mixed results in this area (Chaganti et al., 1985). We can say that there is – at least from the US view – a demand for an increase of outside directors so that the board becomes more effective in managerial performance (Bonn et al. 2004).

We want to test the ratio of outside directors and outside auditors to the performance in our sample of companies in fiscal year 2003 to 2005. In our regression analysis we measure the ratio of outside director / auditor to the performance. As traditional companies do not have any outside directors, this argument is therefore applied to two different Japanese boards, to the US-style board companies as well as to JUS system companies with outside directors. Our hypothesis therefore is:



1) A high outside director /auditor ratio leads to higher performance

US-style boards have committees which have to be made up of a majority of outside directors. In contrast to this, JUS companies might only introduce outside directors to a certain degree. Therefore, we suppose that the US-style companies have a higher ratio of outside directors to JUS-style companies. Our hypothesis is:

2) US-style boards have a higher outside director ratio than JUS-style boards

In the ANOVA analysis we measure the performance in our three groups. Here we include again all our 821 companies (818 for the 2005 fiscal year, respectively). Our hypothesis is:

3) Traditional Japanese board system companies have the weakest performance, JUS are in the middle and US-style board companies have the highest performance

6. Data and Variables

In order to undertake this study, several sources of data were necessary. Financial Data for the fiscal years 2004- 2005 were collected from NEEDS-databank, an electronic version. Data about board structure for the years 2003- 2005 were collected from three printed volumes of the version of Yakuin Shikoho (Board of Directors Handbook). Our sample consists of 821 companies in 2003 and 2004 and of 818 in 2005. All of these companies are from the manufacturing sector to eliminate industry-level fixed effects. The sample consists of Japanese First Stock Exchange listed companies, where we found for the first two years 834. For 13 companies we could not find data so we filtered our sample finally down to 821 companies for the fiscal year 2003 and 2004. In fiscal year 2005 three other companies disappeared because of a merger, so that we only gathered data from 818 companies.

Board structure consists as independent variables. Board structure includes the numbers and the ratio for inside and outside directors /auditors. The ratio of outside directors /auditors was measured as outsiders to the total number of directors /auditors. We placed a dummy variable for the traditional Japanese board system (without any outside director), for JUS-style companies (which appointed at least one outside director) and for US-style adopted companies (which introduced three committees).

In economic literature, there are two major methods of measuring the performance of companies. One method to measure performance is accounting based, where for example Return on Assets (ROA) is a popular measure (Hermalin and Weisbach, 1991). The Return could be based on performance, or companies could pay higher dividends for a given level of profits. Another related idea would be that investors could just value the same dividends (or earnings) to a higher level. A second approach to measure performance can be market based. As suggested by Morck et al. (1988), in a market based approach for measuring the performance Tobin's Q can be used. The reason for using Tobin's Q is the idea that it reflects the "value added" of intangible factors, e.g. factors of governance (Hermalin and Weisbach, 2003). Several studies connected to Japan and related to performance use ROA (Yoshikawa and Phan, 2003). As we divide Japanese companies into three groups with different assets, we measure the firm's performance using Tobin's Q as the dependent variable (Our Tobin's Q formula was measured as: (Share Price × Outstanding Shares + Debts (long- and short term)) / Total Assets).

As we have to consider a time lag, therefore, we took the fiscal year of 2004 and 2005 for Tobin's Q and the fiscal year of 2003 and 2004 for our independent variables.

For our control variable we used five variables. LN (Total Assets), LN (Return), fixed asset ratio, growth rate of return (mean for the last 5 years) and growth rate of cash flow (also mean for the last 5 years). For controlling the firm size, we followed the common practice of using LN (assets) as Durnev and Kim (2003). In line with prior research the coefficient on LN (assets) should be negative. These variables can be in contrast to each other. For example, some companies might focus on high turnover or high return, others might focus on growth rate of return or on a high market share. All the financial data was retrieved from NEEDS Databank or otherwise hand searched by EDINET.

7. Analysis

We did two types of analyses. First, we analyzed the board composition and came up with two hypotheses about outside directors and the companies' performance. In a second step, we used the ANOVA analysis to investigate the statistical significance of our variables in regard to our three groups.



Our descriptive analyses therefore contain board composition variables. (See table 1 in attachment). When dividing the number of outside directors into three groups, we can see that JUS-style companies in 2003 have on average 1.57 outside directors and US-style companies on average 3.71. For the year 2004 the numbers change only to a small degree. JUS companies have 1.69 outside directors on average and US-style companies 3.52. In 2003, JUS-style companies have an outside ratio of 0.17 in contrast to US-style companies who have an outside ratio of 0.42. In 2004, JUS companies have an outside director ratio of 0.19 and US-style companies of 0.41. In the fiscal year 2005 the numbers change to a small extend. Outside directors in all companies take the value of 0.7, JUS-style companies have 1.63 outside directors and US-style companies increase slightly to 3.59 outside directors. Therefore, our second hypothesis is supported.

In addition to this, we looked at the number of outside auditors. For 2003 we measured 1.37 for traditional Japanese style companies and 1.65 for JUS companies. In 2004 this number changes again only to a small degree. For traditional Japanese style companies to 1.46 and for JUS companies to 1.67. Interestingly, the gap of outside auditors between traditional and JUS companies is only small. In 2005, outside auditors again change to a small extend. In overall there are 1.47 outside auditors, in traditional companies 1.45 and in JUS companies who also have outside directors there are on average 1.65 auditors from outside. (See table 1 in attachment).

According to our data, Tobin's Q for all companies in 2003 is on average 1.23. As our hypothesis suggested, traditional Japanese style companies have the lowest value with 1.18, JUS companies are in the middle with 1.30 and US-style companies have the highest score with 1.61. For 2004, Tobin's Q increased to 1.30 for all companies. After our segmentation, in 2004 we see the same picture. Traditional Japanese companies have the lowest value with 1.25, JUS companies 1.36 and US-style companies the highest value with 1.77 on average. The same situation exists for fiscal year 2005. All companies have an increased average Tobin's Q of 1.58. Traditional Japanese companies have a value of 1.54, JUS-companies of 1.60 and US-style companies even a level as high as 2.19. Therefore, US-style companies clearly outperformed all other companies (measured by their mean, see table 2).

In the next step we undertook a regression analyses. Our ratio of outside directors shows a strong positive influence for Tobin's Q in the year 2004 with a significance of 0.025. We see almost the same results with our ratio of outside auditors (0.023). The R² of our model is 0.126, which means that our sample at the regression analysis can be explained by 12.6%. Other figures, F=10.120, P=0.000 mean that our model is as a whole significant.

We obtain quite similar results for outside directors in the fiscal year of 2005, with significance to a 5% level (0.021). In contrast to this, in 2005 outside auditors are not significant this time (See table 3 and 4). In the year of 2005, our R² is at 0.081, which means an explanation power of 8.1%.

Finally, we investigate the performance of each group. According to our ANOVA analysis, traditional Japanese companies have the weakest performance, JUS-style companies are in the middle and US-style companies have the strongest performance as measured by Tobin's Q. The significance level of differences for each group in fiscal year 2004 is under 1% what means these results are highly significant. In the year 2005 traditional companies against US-style companies and JUS-companies agains US-style companies are in the 1% range of significance (see ANOVA-analysis, table 5 und 6).

8. Discussion

The Japanese board system has changed in the last few years dramatically. Through the introduction of the executive officer system (shikko yakuin system) in many Japanese boards, companies tend to take non-japanese forms of managing. The system, introduced by Sony already in 1997, has spread to several other Japanese companies, like to Hitachi group companies or to Toshiba group companies. In this regard, we investigate the performance of Japanese companies regarding their outside director / outside auditors' policy. We show that in fiscal year 2004 the ratio of outside directors and the ratio of outside auditors had a statistically significant impact on the performance, measured by Tobin's Q. In 2005 the ratio of outside directors still showed a 5% significant level.

In our segmentation part of our analysis, we show that traditional Japanese companies showed the weakest performance and US-style board companies the strongest; JUS-companies (with outside directors) were located somewhere in the middle (verifying our Hypothesis 3).

There are some shortcomings with this study. It is to mention that the meaning of independence in Japan needs to be interpreted. By amendment of the Commercial Code in 2002 the first Japanese definition of an "outside director" was established. An outside director is defined as a person who has not been director, officer or employee of the same company or its subsidiaries. Furthermore, this person does



not have the role of executive in the business of the company. However, neither a clear requirement nor independence of an outside director is clearly specified (Seki, 2005). In the Japanese case, this has been so far difficult as many outside directors are in fact not thought to be independent (particularly not to the CEO) as they come from Government, other banks or from other companies with which they have a long-standing-relationship. Hermalin and Weisbach call these outside directors "affiliated" or "grey" directors (Hermalin and Weisbach, 2003). Japan is clearly considered to have insider dominated boards (Charkham, 1994).

Some of these independent directors (as well as auditors) are so called "amakudari' (sent from heaven). That means these outside directors came from a bureaucracy position into the company after their retirement. These managers might still have close connection to their previous office and act rather according to their recommendations but not independent.

Another example is when outside directors where sent from another group company. For example, in the Toyota Jidoshiki company there is one outside director, however, he is sent from Toyota motors. It is questionable whether this person can really be seen as an independent outside director. Finally, a remark has to be done to our category system in regard to the "Japanese-US-style", the so called "JUS-system". This is a new system to categorize Japanese companies what has not been done yet, therefore, a comparison can not be done to other research.

If Japanese companies remain in the bank based system, our performance measure with Tobin's Q might not be appropriate. It would be interesting to see if the results would be robust using other measures for performances. Last but not least, in future research, it could be valuable to look at the ratio of outside directors in regard to foreign shareholders. There might be a relation between outside directors and foreign ownership, as it is the case in Sony, where even the president of the "Japanese" company is an American.

9. Conclusion

We investigated the composition of outside directors and outside auditors and applied them to all Japanese manufacturing companies which are listed on the First Section of Tokyo Stock Exchange, a set of 821 (818 respectively) companies. We obtained the newest data for three consecutive years, 2003 2004 and 2005. Our performance was measured by Tobin's Q for the year 2004 and 2005. We found that the ratio of outside directors and outside auditors mattered for both in 2004 and for outside directors also in 2005. Companies having a high ratio of outside directors as well as a high ratio of outside auditors outperformed the other companies clearly.

In the next stage, we divided the Japanese companies into three groups. The first group contained traditional companies (without outside directors). The second group consisted of new-style Japanese companies which appointed at least one outside director (called JUS companies). The third group, only small in number (in the range of 24 to 29), existed of companies who decided to follow the US-style company system. In this regard, traditional Japanese companies showed the weakest performance, US-style Japanese companies showed the strongest. Companies who appointed at least one outside director (called JUS-style companies) were found somewhere in the middle.

Our results are not only important for academics but also for practitioner. These results suggest Japanese companies to introduce more outside directors into their boards and, to some degree having more outside auditors. Furthermore, in case Japanese companies want to finance themselves through the market, they might think about introducing a US-style system. In our two years' Tobin's Q test with a small sample, US-style companies performed much better than the others.

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Appendices

Table 1. Board Structure Variables for fiscal years 2003, 2004 and 2005

Year	Style	Total	No. of	Outside	Ratio of	No. of	Outs.	Ratio of	No. of
		Size	Directors	Directors	Outs. D.	Auditors	Audit.	Outs A.	Comp.
03	ALL	13.87	10.16	.61	.07	3.71	1.42	.38	821
	JPN	13.71	9.91	0	0	3.81	1.37	.36	535
	JUS	14.61	10.77	1.57	.17	3.85	1.65	.42	262
	US	9.25	9.25	3.71	.42	0	0	0	24
04	ALL	13.55	9.81	.71	.08	3.74	1.48	.39	821
	JPN	13.48	9.61	0	0	3.87	1.46	.38	507
	JUS	14.15	10.25	1.69	.19	3.91	1.67	.43	285
	US	8.97	8.97	3.52	.41	0	0	0	29
05	ALL	13.57	9.83	.70	.08	3.74	1.47	.39	818
	JPN	13.51	9.63	0	0	3.87	1.45	.37	501
	JUS	14.15	10.27	1.63	.18	3.88	1.65	.42	288
	US	8.97	8.97	3.59	.42	0	0	0	29

Source: Data from Nikkei Needs Databank, and from EDINET-Databank.

Table 2. Dependant variable (Performance, Tobin's Q)

	2003					2004			2005			
Tobin'sQ	ALL	JPN	JUS	US	ALL	JPN	JUS	US	ALL	JPN	JUS	US
CompanyN	1.23	1.18	1.30	1.61	1.30	1.25	1.36	1.76	1.58	1.54	1.60	2.19

Table 3. Regression analysis for all Companies in 2004

Coefficient a

			PRC	SPRC		
Model		В	SE	Beta	t	Significance
1	С	.363	.234		1.550	.122
	03Number of Director Size	-5.109E-03	.005	044	972	.331
	03Ratio of Outside Director	.567	.252	.089	2.254	.025
	03Number of Auditor Size	3.439E-02	.044	.036	.779	.436
	03Ratio of Outside Auditor	.249	.110	.091	2.274	.023
	LN(Total Asstes03)	1.753E-03	.036	.004	.049	.961
	LN(Return03)	9.000E-02	.032	.198	2.852	.005
	Fixed Assets Ratio03	-1.915E-03	.000	204	-4.870	.000
	Growth Rate of Return03	2.825E-03	.001	.108	2.499	.013
	Growth of Rate of Cash Flow03	5.214F-03	.002	.143	3.299	.001

a. Dependent: Tobin's Q 2004

Table 4. Regression analysis for all Companies in 2005

Coeffficient a

		NSF	NSPRC SPRC				
Model		В	SE	Beta	t	Significance	
1	С	.480	.265		1.814	.070	
	04Number of Director Size	-6.290E-03	.006	044	969	.333	
	04Ratio of Outside Director	.554	.228	.097	2.428	.015	
	04Number of Auditor Size	-2.454E-03	.047	002	052	.959	
	04Ratio of Outside Auditor	-4.298E-02	.117	015	367	.714	
	LN(Total Asset04)	6.035E-03	.037	.011	.165	.869	
	LN(Return04)	.118	.033	.232	3.575	.000	
	Fixed Assets Ratio04	-1.411E-03	.000	145	-3.522	.000	
	Growth Rate of Return04	3.097E-03	.001	.103	2.269	.024	
	Growth of Rate of Cash Flow04	2.538E-03	.002	.056	1.232	.218	

a. Dependent: Tobin'sQ 2005



R²'=0.126, F=10.120, p=0.000.

R²'=0.081, F=6.717, p=0.000.

Table 5. ANOVA analysis for 3 groups in 2004

LSD Dependent: Tobin's Q2004

(I) 04Corporate Governance STYLE: JAP=1,JUS=2,US=3	(J) 04Corporate Governance STYLE: JAP=1,JUS=2,US=3	Average's Difference	SE	Significance	95% Confidence Interval		
		(I-J)			Min.	Max.	
1	2	-0.1098*	0.0441	.013	1963	0233	
	3	-0.5186*	0.1121	.000	7386	2986	
2	1	0.1098*	0.0441	.013	.0233	.1963	
	3	-0.4088*	0.1145	.000	6336	1840	
3	1	0.5186*	0.1121	.000	.2986	.7386	
	2	0.4088*	0.1145	.000	.1840	.6336	

^{*.} Statistically significant at .05 level

Table 6. ANOVA analysis for 3 groups in 2005

LSD Dependent: Tobin's Q2005

(I) 05Corporate Governance STYLE: JAP=1,JUS=2,US=3	(J) 05Corporate Governance STYLE: JAP=1,JUS=2,US=3	Average's Difference	SE	Significance	95% Confidence Interval		
		(I-J)			Min.	Max.	
1	2	-6.7E-02	6E-02	.257	1837	.0491	
	3	-0.6507*	0.1531	.000	9513	3501	
2	1	6.73E-02	6E-02	.257	049	.1837	
	3	-0.5834*	0.1562	.000	8900	2768	
3	1	0.6507*	0.1531	.000	.3501	.9513	
	2	0.5834*	0.1562	.000	.2768	.8900	

^{*.} Statistically significant at .01 level