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CORPORATE GOVERNANCE LAWS IN DEVELOPED ECONOMIES

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DECLARATION

This is to certify that the Research Paper entitled “CORPORATE GOVERNANCE LAWS IN DEVELOPED ECONOMIES” submitted by Thejas Thekkanatt. in partial fulfillment of the requirement for the degree of LLM (Corporate Banking and Insurance Law) Amity University comprises only my general work & due acknowledgement has been made in the text to all material used. Neither the same work, nor any part thereof, has earlier been submitted to any university for any degree.

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**CORPORATE GOVERNANCE
LAWS IN DEVELOPED
ECONOMIES**

1. Abstract

Within industrialised nations, Corporate Governance regulations are extremely influential in determining the overall regulatory environment. These statutes lay down the rules for how corporations should act, with the goal of making Corporate Governance more open, accountable, and equitable. This chapter will examine the Corporate Governance rules of two major industrialised nations: the US and the UK. We shall analyse the legal frameworks, regulatory authorities, compliance systems, and regulatory frameworks of each country that control Corporate Governance practices.¹

2. Corporate Governance Laws in the U.K.

A robust system of Corporate Governance laws and regulations has developed in the UK to meet new problems and incorporate global best practices. Statutory mandates, regulatory recommendations, and voluntary codes of conduct define the Corporate Governance framework in the United Kingdom. These frameworks seek to enhance stakeholder involvement, shareholder rights, and the effectiveness of board monitoring.²

2.1 Regulatory Framework

Directors, officials, and shareholders are all legally obligated to follow the rules laid down in the Companies Act 2006, which is the principal piece of legislation in the UK that governs Corporate Governance. Directors' responsibilities, shareholders' rights, corporate reporting, and shareholders' remedies are just a few of the important topics covered in the Act.

¹ Tricker, Robert Ian. *Corporate governance: Principles, policies, and practices*. Oxford University Press, USA, 2015.

² Lama, Tek, and Warwick Wyndham Anderson. "Company characteristics and compliance with ASX corporate governance principles." *Pacific Accounting Review* 27, no. 3 (2015): 373-392.

Directors are required to act with care, skill, and diligence; to promote the success of the company; to act within their powers; to exercise independent judgement; to avoid conflicts of interest; and to declare interests in proposed transactions or arrangements. These duties were codified in the Companies Act 2006, which is a key feature of the law. Directors are obligated to operate in a way that benefits the company and its stakeholders, as outlined under these duties.

Corporate Governance in the United Kingdom is shaped by a number of statutes, rules, and regulations, as well as by market forces and the Companies Act of 2006. Listed firms in the United Kingdom are subject to the Financial Reporting Council's (FRC) Corporate Governance Code, which lays out best practices and principles of good governance. The UK Corporate Governance Code has undergone several revisions and updates since its 1992 introduction (when it was still known as the Combined Code) to accommodate evolving market circumstances and governance requirements. Board effectiveness and composition, compensation policy, shareholder involvement, and company culture are some of the topics addressed in the Code. Any publicly traded company must either follow the Code's guidelines or provide an explanation in their annual report for any reasons why they did not. In addition, the Financial Reporting Council (FRC) published the UK Stewardship Code, which lays out guidelines for how institutional investors should interact with investee companies about governance issues and how to promote successful investment stewardship. Improving the investment chain's openness, accountability, and capacity to create value over the long run is the goal of the Stewardship Code.³

³ Ilham, Rico Nur, Arliansyah Arliansyah, Reza Juanda, Irada Sinta, Muhammad Multazam, and Lidia Syahputri. "Application Of Good Corporate Governance Principles In Improving Benefits Of State-Owned Enterprises (An Emperical Evidence From Indonesian Stock Exchange At Moment Of Covid-19)." *International Journal of Economic, Business, Accounting, Agriculture Management and Sharia Administration (IJEAS)* 2, no. 5 (2022): 761-772.

All things considered, the UK's Corporate Governance regulations adhere to a principles-based approach that prioritises openness, accountability, and adaptability. High standards of governance are upheld by corporations, directors, investors, and other stakeholders according to a comprehensive framework that includes the corporations Act 2006, the UK Corporate Governance Code, and the Stewardship Code.

2.2 Compliance Mechanisms

The United Kingdom uses a mix of governmental supervision, market discipline, and shareholder activism to ensure that companies follow all applicable Corporate Governance rules and regulations. In their annual reports and financial statements, listed firms must reveal whether or not they have complied with the UK Corporate Governance Code. If they have not, they must also explain why.

The Financial Conduct Authority (FCA) oversees compliance with Corporate Governance requirements for listed companies in the UK. The FCA has powers to investigate and take enforcement action against companies and individuals for breaches of regulatory requirements, including those related to Corporate Governance.⁴

In addition to regulatory oversight, market forces and shareholder activism play a significant role in promoting compliance with Corporate Governance standards in the UK. Institutional investors, proxy advisory firms, and shareholder advocacy groups often engage with companies on governance issues, exercise voting rights at shareholder meetings, and hold directors and executives accountable for their actions.

In addition, shareholders in the United Kingdom have recourse through the judicial system in the event of corporate wrongdoing or a breach of fiduciary obligation. Directors and officials

⁴ Dzulkifli, Andi Muhammad, Muhammad Alwy Arifin, and A. Ummu Salmah. "Effect of the principles of good corporate governance on satisfaction of inpatients at Bahagia type c hospital, Makassar City." *Enfermería Clínica* 30 (2020): 257-260.

can be sued by shareholders for negligence or breach of duty in derivative lawsuits, class actions, or statutory derivative claims.

In general, the UK's regulatory monitoring, market discipline, and legal procedures all work together to ensure that Corporate Governance laws and regulations are followed. Maintaining public trust and confidence in the integrity of UK financial markets requires companies, directors, investors, and other stakeholders to adhere to high standards of openness and good governance.⁵



⁵ Boeva, Bistra, Stela Zhivkova, and Ivan Stoychev. "Corporate governance and the sustainable development." (2021).



3. Corporate Governance Laws in the U.S.

State corporate laws, federal securities laws, regulations of the stock exchange, and self-regulatory groups all contribute to the intricate legal and regulatory structure that governs Corporate Governance in the US. To safeguard investors, maintain honest markets, and encourage corporate responsibility, Corporate Governance in the United States is guided by a mix of legal mandates, regulatory guidelines, and established best practices.⁶

3.1 Legal Framework

The stock Exchange Act of 1934 is the principal U.S. federal statute controlling Corporate Governance. It governs stock exchanges, securities brokers and dealers, proxy solicitation, and mandates corporate disclosure. Federal securities laws and capital markets are primarily regulated by the U.S. Securities and Exchange Commission (SEC), which was formed by the Act.

Periodic financial reports, material event disclosures, and proxy statements for shareholder meetings are among the pieces of information that publicly traded firms in the US are obligated to provide to investors and the general public under the Securities Exchange Act of 1934. The goal of these disclosure standards is to make investing more transparent, safer, and easier for investors.

State corporate laws impact U.S. Corporate Governance in addition to federal securities laws since they regulate the establishment, maintenance, and dissolution of corporations at the state level. The most common place to form a company is in the state of Delaware because of its extensive corpus of corporate law, its provisions for Corporate Governance, and its specialised judicial system that handles business disputes.

⁶ Salim, Ruhul, Amir Arjomandi, and Juergen Heinz Seufert. "Does corporate governance affect Australian banks' performance?." *Journal of International Financial Markets, Institutions and Money* 43 (2016): 113-125.

In addition, companies looking to list on stock markets like NASDAQ and the New York Stock Exchange (NYSE) must adhere to their specific listing rules as well as Corporate Governance requirements. Executive remuneration, shareholder rights, audit committee independence, and board composition are all addressed in these listing guidelines.

3.2 Regulatory Authorities

The Securities and Exchange Commission (SEC) is the principal U.S. regulatory body in charge of monitoring Corporate Governance procedures. Investor protection, market regulation, and enforcement of federal securities laws are the responsibilities of the SEC, an autonomous federal body.

Disclosures pertaining to Corporate Governance, such as annual reports on Form 10-K, quarterly reports on Form 10-Q, and proxy statements on Schedule 14A, are regulated by the SEC's Division of Corporation Finance for publicly traded corporations. In addition to reviewing these documents for disclosure standards compliance, the Division advises businesses on how to understand and comply with SEC requirements.⁷

U.S. Corporate Governance procedures are overseen by the SEC and other regulatory bodies as well as self-regulatory organisations. As an example, the PCAOB ensures that auditors are independent and upholds high standards for audit quality. The Corporate Governance policies of broker-dealers and securities firms are regulated by the Financial Industry Regulatory Authority (FINRA).

Moreover, shareholder activism and litigation are important mechanisms for holding companies and their directors accountable for Corporate Governance failures or breaches of fiduciary duties in the U.S. Shareholders have the right to bring derivative actions, class actions, or securities fraud lawsuits against companies and their officers

⁷ Larcker, David, and Brian Tayan. *Corporate governance matters*. FT Press, 2020.

4. Comparative Analysis of Developed Economies

Comparing Corporate Governance systems across developed economies provides valuable insights into the diverse regulatory approaches, legal frameworks, and governance practices adopted by different countries. While developed economies share common objectives of promoting transparency, accountability, and investor protection, they often exhibit variations in regulatory structures, cultural norms, and market practices. In this section, we conduct a comparative analysis of Corporate Governance in the United Kingdom, the United States, and Japan, three prominent developed economies with distinct governance models and regulatory regimes.⁸

4.1 United Kingdom

The United Kingdom's Corporate Governance framework is characterized by a principles-based approach, emphasizing flexibility, disclosure, and stakeholder engagement. The UK Corporate Governance Code, issued by the Financial Reporting Council (FRC), sets out principles of good governance and best practices for listed companies, focusing on board effectiveness, shareholder rights, and risk management.

One of the key features of the UK governance system is the unitary board structure, where executive and non-executive directors work together to oversee corporate affairs and protect shareholder interests. The UK Code emphasizes the importance of board independence, diversity, and competence in ensuring effective oversight and decision-making.

Moreover, shareholder engagement and dialogue are integral components of the UK governance model, with investors encouraged to exercise their voting rights, engage with companies on governance issues, and hold directors accountable for their actions. The

⁸ Cain, Matthew D., Jill E. Fisch, Sean J. Griffith, and Steven Davidoff Solomon. "How corporate governance is made: the case of the golden leash." *U. Pa. L. Rev.* 164 (2015): 649.

Stewardship Code, also issued by the FRC, sets out principles for institutional investors to promote effective stewardship of investments and engage with investee companies on governance matters.

Overall, the UK's governance framework is characterized by a blend of statutory requirements, regulatory guidance, and market practices aimed at fostering transparency, accountability, and shareholder value.

4.2 United States

Multiple bodies of law, including federal securities laws, state corporate laws, regulations of stock exchanges, and self-regulatory organisations, shape the framework for Corporate Governance in the US. Disclosure standards, proxy rules, and insider trading prohibitions for publicly traded firms are outlined in the 1934 Securities Exchange Act, which is administered by the Securities and Exchange Commission (SEC).

The dual-board structure, in which independent directors and executive directors have distinct responsibilities, is a defining element of American governance. Management and the chief executive officer are in charge of running the day-to-day business, while the board of directors is in charge of setting the company's strategic direction, managing risks, and paying executives. There is a strong correlation between shareholder activism and litigation in the United States, which in turn influences business practices and behaviour. Shareholders can hold firms accountable for violations of their fiduciary obligations or securities fraud through derivative actions or securities lawsuits, as well as by proposing resolutions and nominating directors. Overall, the US governance framework is characterized by a mix of statutory requirements, legal precedents, and market forces aimed at protecting investors, promoting market integrity, and fostering corporate accountability.⁹

⁹ Moore, Marc, and Martin Petrin. *Corporate governance: law, regulation and theory*. Bloomsbury Publishing, 2017.

4.3 Japan¹⁰

Japan's Corporate Governance system has undergone significant reforms in recent years to address governance failures, improve board effectiveness, and enhance shareholder rights. Historically, Japanese companies were characterized by a consensus-based decision-making model, with a focus on long-term relationships, loyalty, and social cohesion.

Nevertheless, Japan has instituted changes to bolster Corporate Governance standards and increase shareholder value in reaction to economic difficulties and corporate scandals. With an emphasis on board independence, transparency, and shareholder involvement, the Corporate Governance Code lays out standards of excellent governance and best practices for listed firms. It was introduced by the Financial Services Agency (FSA) and the Tokyo Stock Exchange (TSE).

One of the key features of Japan's governance system is the emphasis on board effectiveness and diversity, with reforms aimed at increasing the number of independent directors, improving board oversight, and enhancing risk management practices.

Moreover, shareholder activism is gaining traction in Japan, with institutional investors and foreign shareholders increasingly vocal about governance issues, executive compensation, and capital allocation decisions.

Overall, Japan's governance framework is evolving towards greater transparency, accountability, and shareholder value, reflecting broader trends towards convergence with international governance standards.

4.4 Comparative Analysis

¹⁰ Lupu, Iulia. "The indirect relation between corporate governance and financial stability." *Procedia economics and finance* 22 (2015): 538-543.

When comparing Corporate Governance systems across the United Kingdom, the United States, and Japan, several key differences and similarities emerge:

1. **Regulatory Framework:** While all three countries have robust regulatory frameworks for Corporate Governance, the UK and the US rely more on principles-based regulation, whereas Japan has traditionally favored a rules-based approach. This reflects differences in legal traditions, cultural norms, and governance philosophies.

2. **Board Structure:** The UK and Japan have unitary board structures, with a single board overseeing corporate affairs, while the US has a dual-board structure with separate roles for executive and independent directors. Board independence and diversity are increasingly emphasized in all three countries to enhance oversight and decision-making.

3. **Shareholder Rights:** Shareholder rights and activism are more prevalent in the US compared to the UK and Japan, where traditional corporate cultures and stakeholder relationships have historically been prioritized. However, all three countries are experiencing increasing shareholder activism and engagement as investors seek to hold companies accountable and enhance shareholder value.

4. **Stakeholder Engagement:** The UK and Japan emphasize stakeholder engagement and dialogue as integral components of Corporate Governance, whereas the US tends to focus more narrowly on shareholder interests. However, there is growing recognition in all three countries of the importance of stakeholder engagement in promoting long-term value creation and sustainability.

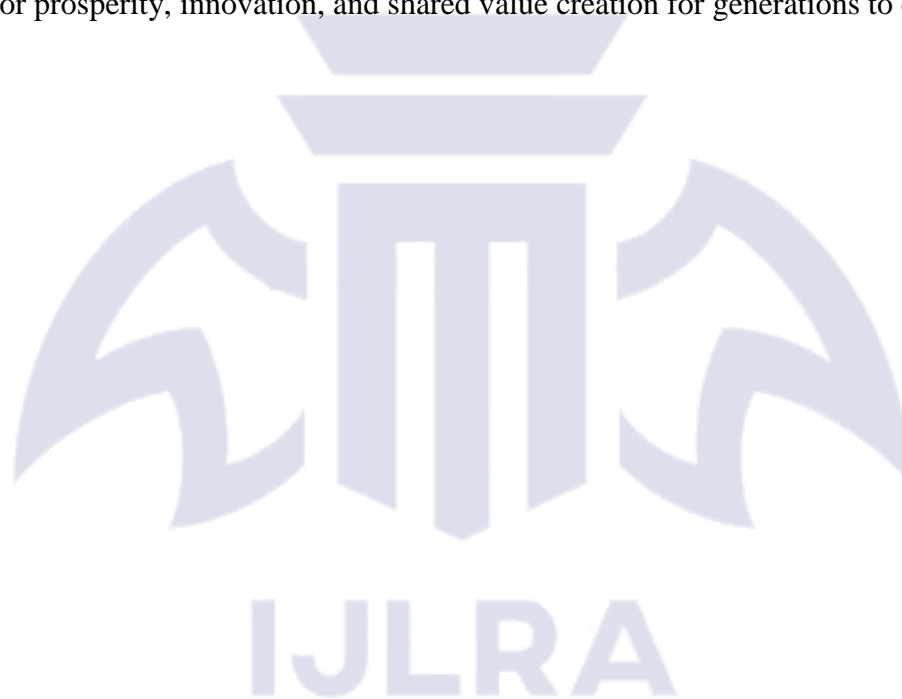
In conclusion, while the United Kingdom, the United States, and Japan have distinct Corporate Governance systems and regulatory frameworks, they share common objectives of promoting transparency, accountability, and shareholder value. By understanding the strengths and weaknesses of each governance model, policymakers, regulators, and corporate

leaders can identify opportunities for improvement and adaptation to meet evolving market conditions and stakeholder expectations.



5. Conclusion

In conclusion, Corporate Governance is a cornerstone of economic development, driving growth, stability, and sustainability in economies worldwide. By promoting transparency, accountability, investor confidence, and responsible business conduct, strong governance frameworks contribute to inclusive and resilient economic growth, support job creation, and advance societal well-being. As we navigate the complexities of a rapidly changing global economy, it is imperative that we continue to prioritize governance reforms, address governance gaps, and foster a culture of integrity, trust, and sustainability in Corporate Governance practices. Together, we can build a future where governance excellence serves as a catalyst for prosperity, innovation, and shared value creation for generations to come.



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