CEO AND CORPORATE GOVERNANCE: A COMPARATIVE STUDY IN FRANCE, GERMANY AND USA

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Abstract

Corporate governance broadly refers to the mechanisms, processes and relations by which corporations are controlled and directed. Governance structures and principles identify the distribution of rights and responsibilities among different participants in the corporation (such as the board of directors, managers, shareholders, creditors, auditors, regulators, and other stakeholders) and include the rules and procedures for making decisions in corporate affairs. In France, the governance of an SA (société anonyme) can be organized as a unitary or a dual structure. Unitary structure is the most widely-used structure that consists of a board of directors (conseil d'administration), headed by a chairman and a chief executive officer (CEO) (directeur général) who runs the company. Both positions can be held by the same individual. Dual Structure consists of a management board (directoire) composed of up to five members running the company, and a supervisory board (conseil de surveillance) that oversees the management board. The management board's members and its chairman are appointed and dismissed by the supervisory board, whose members are appointed by the shareholders. In German corporate governance, a Vorstand is the executive board of a corporation (public limited company). It is hierarchically subordinate to the supervisory board (Aufsichtsrat), as German company law imposes a two-tier board of directors. German law confers executive powers on the executive board as a body. It is expected to act collectively and collegially. Unlike the executive committee (aka operating committee or executive council) of a US company, the executive board is not an adjunct of the CEO (managing director). The German executive board has real decision-making power. It is, by law, the managing body of a company and cannot be instructed by any legal person, be they natural or artificial, to act in such a way as to harm the business. Executive board members are personally liable for accepting any such instructions. The US system of corporate governance offers CEOs a great deal of power to influence. According to the US system, CEOs are powerful because of their dual role as chairman of the board.

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