Are U.S. Corporations Being Overregulated?

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***Abstract*—Throughout the last few centuries since the earliest days of corporate America, the presence of corporate governance structures and policies has always been a necessity. With continual changes inherent to the modern corporate landscape, several notable scandals and concerns have forced many U.S. corporations to develop more effective and efficient methods of corporate governance to better safeguard the interests of shareholders and the general public. This paper explores the issues surrounding the board of directors and executive remuneration, audit and control procedures and large shareholder monitoring, the Sarbanes-Oxley Act of 2002, and the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. The objective of this analysis is to determine whether U.S. corporations are being overregulated and examine the implications and perpetuation of such governance and regulatory policies in the future.**

***Index Terms*—Regulations, corporate governance, united states, corporations, board of directors, executive remuneration, audit and control procedures, large shareholder monitoring, sarbanes-oxley act, dodd-frank act.**

I. Introduction

While a few things within Corporate America have remained static throughout the years, multiple new developments in corporate governance structures and policies have evolved into a mainstay throughout the last few decades. From stricter regulations and more comprehensive codes and guidelines to tighter control and ownership structures, the corporate landscape has incurred many changes over the years. As U.S. corporations have adapted and restructured to meet the ever changing social, market, and regulatory demands that have been placed upon them, it is important to explore the rationale and influence that has prompted such systemic changes in governance methods throughout the corporate environment.

In light of past corporate disasters involving the executive dereliction of Enron and WorldCom through significant acts of fraud and corruption, several substantial changes have manifested themselves throughout recent years in relation to internal corporate governance within U.S. corporations. It has been discovered that up to 83% of corporate collapses have involved both the Chief Executive Officer (CEO) and Chief Financial Officer (CFO) in conjunction with multiple factors pertaining to poor internal controls and an environment of adulterated ambitiousness overshadowed by greed. The aggressive, optimistic, and expeditious growth of such corporations often eclipsed any questionable annual reports, management misconduct, and biased financial reporting and auditing procedures [1]. Due to several corporations that have performed such acts resulting in the loss of many millions of dollars and the destruction of numerous families and lives, such misfortunes have offered others the opportunity to analyze the anatomy of such failures and forge new practices and procedures to attempt to prevent further fraud and corruption in the future.

In an effort to increase public and investor confidence in Corporate America, many companies have proactively taken steps to improve their corporate social responsibilities and internal corporate governance structures and policies. A recent analysis into the inner workings of this approach found that monitoring and incentive programs in addition to adequate remuneration not only improved financial performance, but motivated managers to discover and adopt long-term sustainable methods of corporate governance. However, in implementing such measures it can be difficult at times to convince executives, board members, and shareholders alike to progressively support the development and promotion of such practices in order to reap the administrative, legal, and economic benefits that accompany such changes [2].

Due to the multitude of corporate collapses that stemmed from irresponsible and over leveraged financial and accounting practices which served as catalysts to the economic downturn of the early 2000s and the 2008 Global Financial Crisis, the federal government drafted and enacted two key pieces of legislation intended to implement and enforce new regulations and policies pertaining to corporate accounting and auditing practices in addition to increased risk aversion and improved market discipline within the banking and financial industry. The Sarbanes-Oxley Act (SOX) of 2002 and the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act are external measures of corporate governance which were intended to guide and support the development and implementation of more detailed corporate governance structures and policies in order to provide additional security to shareholders and improve the ethical and financial integrity of many U.S. corporations in the eyes of the general public.

Despite the efforts of many U.S. Corporations throughout the years to increase corporate accountability and transparency and adhere to numerous regulatory requirements through the implementation of both internal and external methods of corporate governance, the issues at hand still support the need for a more conclusive analysis. From multiple internal corporate governance controls pertaining to the board of directors and executive remuneration, to audit and control procedures and large shareholder monitoring in addition to external governance through the Sarbanes-Oxley Act and the Dodd-Frank Act,

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this study will examine the advantages and disadvantages of such corporate governance methods but and review their effect on U.S. corporations, shareholders, and society as a whole.

II. Literature Review

Reference [3] addresses the issue of duality among Chief Executive Officers and the Board of Directors and the influence such dual roles have on governance policies and corporate actions. From there [4] analyze how the duality of CEOs and the board of directors can increase corporate social responsibility disclosures and increase public trust and transparency. On another note [5] found that many shareholders prefer corporate governance structures with split leadership roles in order to foster an uncomplicated and unbiased governance structure and improve independence throughout the company. Research from [6] found that greater executive remuneration and duality not only attracts the most talented and motivated candidates to apply, but aids in maximizing shareholder wealth while ingratiating the CEO into every aspect of corporate business in order to reinforce corporate legitimacy and increase shareholder confidence. However, [7] went on to discover that a substantial correlation exists between the compensation of executives and CEOs in relation to the independence of the board of directors, citing that greater executive remuneration is not always indicative of superior performance and a strong corporate governance structure.

Reference [8] notes a positive correlation between the voluntary managerial reporting of internal control systems in relation to the frequency of audit committee meetings and the independence of audit committees and the board of directors, purporting that such actions have significantly increased investor confidence and improved corporate governance structures and policies. Moving on from there [9] identifies several financial and nonfinancial indicators that have consistently been used to detect corporate fraud, citing that the ability to monitor and detect such actions is highly dependent on the structures and policies of internal corporate governance. Reference [10] performs research that reveals a significant correlation between large institutional investment holdings and the corporate governance practices of many U.S. corporations, indicating that preferences of different corporate governance methods are based on the desired investment goals of institutional investors. From there another study by [11] addresses the ineffectiveness of strict shareholder monitoring and concludes that allocating resources toward building better management teams and increasing ethics education within the company are much more efficient and effective ways to protect shareholder value than stringent monitoring and oversight practices. Reference [12] performed research that found no distinct correlation between monitoring and corporate forms of governance, citing that monitoring by large shareholders failed to influence financial performance based on different corporate governance structures as observed through empirical studies.

Reference [13] researched the implementation of the Sarbanes-Oxley Act of 2002 (SOX) and its vast regulatory framework which altered many aspects of corporate financial reporting, accounting, and auditing protocols. Moving on from there [14] found that SOX not only redefined the auditing practices of many audit firms, but significantly altered the accounting and business curriculum of many educational institutions throughout the United States. Reference [15] researches the inadequacies of the Sarbanes-Oxley Act in relation to auditing-partner rotations and other accounting and auditing protocols within the corporate environment. Next [16] perform a cost-benefit analysis of SOX compliance and determine that the greater security and accountability this legislation is intended to provide is negated by its prohibitively high costs which extensively drain corporate resources and innovative capacities. Transitioning from there a study by [17] concludes that the formation of the Public Company Accounting Oversight Board (PCAOB) to enforce the regulatory demands of SOX has been highly successful at registering and monitoring the actions of many international and domestic auditing firms.

Reference [18] focuses on the enactment of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act and its multiple directives which are intended to reform corporate governance policies in several key areas. Next [19] found that government intervention through the Dodd-Frank Act has significantly improved the market discipline and financial leveraging for many of the larger banks that have been troubled by their past actions. On another note [20] explore the effects of providing whistleblowers with monetary based incentive programs in exchange for reporting unethical, unlawful, and fraudulent acts. Additional research by [21] dissects the six principles outlined by Secretary Geithner regarding the effective enactment of the Dodd-Frank Act and highlights many of their failures and shortcomings. Lastly [22] address numerous governance and legislative deficiencies of the Dodd-Frank Act that fail to provide broad and equitable regulatory oversight throughout Corporate America and the financial industry. The following research will confront numerous issues regarding the board of directors, executive remuneration, audit and control procedures, large shareholder monitoring, the Sarbanes-Oxley and Dodd-Frank Acts, and the ramifications such corporate governance structures and policies have had concerning the overregulation of U.S. corporations.

III. The Board of Directors and Executive Remineration within U.S. Corporations

Several decades ago almost all U.S. Corporations had consistently proven themselves to be law abiding trustworthy entities that were always continuing to work toward reinforcing positive social, ethical, and business images. However, as the dawn of the new millennium approached, the shining light of capitalism grew a little dimmer with the discovery of multiple corporate scandals involving fraud, deceit, corruption, and outright lies. With the issues surrounding such acts centering themselves in the public eye, many victims and concerned citizens alike demanded resolutions. Consequently, there were several areas in particular that warranted significant improvements.

Quite possibly one of the largest contributors to corporate scandals that have been brought to light over the past two decades concerns the role of the board of directors and executive officers in knowingly orchestrating and perpetuating such fraudulent acts throughout their corporate networks. With more focus in recent times being placed on monitoring and the balance of powers among the board of directors and chief executive officers pertaining to corporate governance structures and policies, one study by [3] noted that Chief Executive Officers who held dual roles with an active position on the board of directors exercised the greatest influence on internal corporate governance policies. Although corporate governance styles and structures vary to some degree based on differing management approaches and the heterogeneity among the CEO and the board of directors, the implementation of both government mandated regulations and internally developed governance protocols yielded little to no improvement regarding the reduced influence of CEOs on the board of directors, the enhancement of board monitoring, or any other internal governance practices. In addition to a lack of any notable self-governing balance of powers or independence in relation to a corporation's CEO and board of directors, it was observed that CEOs continued to exercise a substantial amount of control over the composition and appointments of their board of directors even after the enactment and implementation of new governance regulations.

Even though some may question the effectiveness of internal corporate governance controls relative to the CEO and board of directors, others share an alternative viewpoint on the issue. According to research pertaining to corporate governance and social responsibility disclosures, the independence and size of the board in addition to the duality of a corporation's CEO and board of directors plays an integral role in the governance policies and actions of many corporations. A recent analysis exhibited a positive correlation between the protection of shareholder and stakeholder interests and corporate social responsibility disclosures in relation to the size and impartiality of the board of directors, noting that larger boards who enjoyed more independence and autonomy made better decisions regarding the transparency and control of corporate proceedings in addition to the welfare of the general public. Despite a challenge from others regarding the negative ramifications of CEO duality as an acting and voting member of the board of directors, many CEOs practicing dual roles positively embraced the development and implementation of corporate governance structures in addition to more timely corporate social responsibility disclosures. Therefore, it is evident that many CEOs taking such actions are intending to not only promote trust and transparency through constructive public and corporate relationships, but intend to provide an additional level of security to shareholders and stakeholders through managerial risk aversion and reputational management [4].

Although there are several positive arguments pertaining to the duality of CEOs and the board of directors which attempt to strengthen their stance through the promotion of increased transparency and trust, other studies on the subject take a different approach. One such study found that two of the most important elements that affect corporate governance structures and shareholder interests are the composition of the board of directors and the structure of corporate leadership. This research noted that larger corporations with combined leadership structures encountered significantly more corporate governance proposals by shareholders, indicating that many investors prefer governance structures with split leadership in order to reduce the CEO's concentration of power and improve monitoring of corporate activities. Although shareholders prefer very little duality among the CEO and board of directors, they do prefer the board to be comprised of members that enjoy existing roles as corporate insiders. The premise is that by placing insiders on the board of directors they will not only be more knowledgeable regarding the intricate workings of the firm, but their increased self-interest in the success and prosperity of the corporation will help to protect shareholder value and increase future investment returns. Despite arguments from others that corporate structures of combined leadership offer a wider knowledge base that aids in better managerial decision making, this school of thought is vastly outweighed by the complications and lack of independence that are created through the implementation of such governance structures [5].

Although there are several factors of corporate governance that are influenced by the actions of the CEO and board of directors whether in tandem or independently, another variable that can adversely impact corporate governance policies pertains to the issue of executive pay disparity and remuneration. One study indicates that the disparity in pay between the CEO and other high level executives must be quite sizable in order to encourage a plethora of talented and motivated candidates to apply. Not only will such incentives aid in attracting and selecting the most capable individuals to align corporate and customers goals and maximize shareholder wealth, but it plays an integral part in redefining commensurate compensation based on job duties and responsibilities throughout the corporation as a whole. Although some still contest the merits and implications of CEO duality, this research champions the disparity in pay among dual role executives as a benefit to the firm in two distinct ways. The first point bolsters that executive duality in conjunction with monetary benefits will increasingly populate the candidate pool and intensify the competitiveness for future executive officer positions. Second the fully integrated CEO will not only enjoy an all-encompassing managerial role and adequate monetary rewards, but will serve to reinforce corporate legitimacy and shareholder confidence during periods of economic slowdowns [6].

Regardless of the significant amount of research that exists regarding CEO and executive remuneration relative to the effectiveness of corporate governance structures and policies, there are other studies that challenge the premise of this relationship. One such study conducted by [7] found there to be a substantial correlation between the compensation of executives and CEOs in relation to the independence of the board of directors. Research has shown that executives with positions of duality can greatly influence the decisions of the board and are more prone to successfully negotiate and implement higher executive salaries and greater incentives for CEOs. Although in the past greater executive compensation has been associated with increased shareholder value and stellar corporate and financial performance, such claims are debatable at best. Significant evidence suggests that CEOs and executives who received greater compensation exercised considerably more influence over members of the board of directors and other sizable stakeholders, thus weakening the internal corporate governance structure and dampening the system of checks and balances that was intended to keep corporate powers in equilibrium. Therefore, with some arguing that greater compensation of high-level executives attracts the brightest and most talented candidates to such positions, excessive pay and incentives can also be an indicator of deeper problems within a corporation's governance structure that can significantly decrease shareholder value and negatively impact many facets of managerial decision making and corporate actions far into the future.

With the continuous evolution of governance policies and legislative regulations throughout the U.S. corporate environment, the roles and relationships among CEOs and the board of directors will continue to remain a controversial and questionable issue throughout the landscape of corporate governance. Despite the intentions of chief executives and boards to make decisions based on the best interests of corporations and their shareholders, multiple other avenues of internal governance controls have been developed and implemented as well. With the main objective of increased internal controls focused on fair and legitimate corporate governance structures and policies, the topics of audit and control procedures and monitoring by large shareholders are at the forefront.

IV. U.S. Corporate Audit and Control Procedures and Large Stockholders Monitoring

As evidenced from the past, the auditing protocols and control procedures or lack thereof which were deemed to be instrumental in the corporate collapses of several well-known and highly regarded public companies have since been overhauled. Although there is significant debate regarding internal audit and control procedures within U.S. corporations, the positive benefits of such measures are highlighted through research conducted by [8]. According to this study, a notable correlation was found between voluntary managerial reporting of internal control systems in relation to the frequency of audit committee meetings and the independence of audit committees and the board of directors. Although not all characteristics of the board of directors are related to voluntary disclosures of internal control systems, the size and independence of the board in addition to the duality and directorships of its members may significantly impact corporate transparency. In a time when numerous publicly-traded companies have gone private in an effort to evade many of the mandatory reporting regulations that were introduced through the Sarbanes-Oxley Act, others have taken a different approach. Corporations that consistently provided voluntary reports on internal control systems prior to the Sarbanes-Oxley Act and have remained publicly-traded companies since their inception are a testament to how the transparency and accountability of internal audit and control procedures has significantly increased investor confidence and improved corporate governance structures and policies in relation to other private more reclusive U.S. corporations.

Even though the adoption and implementation of internal audit and control procedures appears to have yielded several beneficial effects throughout the U.S. corporate environment in regards to accountability and transparency, the true magnitude of such changes are subjective at best. However, despite the advocacy of such audit and control procedures, others are quick to target their weaknesses. For instance one study performed by [9] identified several financial and nonfinancial indicators that have consistently been used to detect corporate fraud and erroneous financial reporting. This often entails analyzing quantitative financial factors such as gross margin indexes, accounts receivable indexes, and sales growth indexes in addition to nonfinancial qualitative factors like the concentration of executive powers, strength of management control, turnover rate of senior managers, trading of insider stock, and dubious business practices with limited disclosure. As a result, any imbalances or erroneous data that are observed while examining such factors are often grounds to initiate a more in-depth and conclusive investigation. Although internal audit and control procedures are believed to be an effective means of corporate governance that are intended to prevent fraud, not all forms of governance are created equal. While other studies support the duality of CEOs within the corporate governance structure, this research argues that executives with an excessively wide range of authority have the potential to alter the equilibrium of fair and balanced power and cripple a corporation's independent decision making capabilities. Therefore, it is imperative that any system of internal audit and control procedures be part of a well-defined corporate governance structure with limited and balanced powers that fosters an environment in which upper-level managers and executives retain the authority to guide corporate actions through profitable undertakings and increase the security and value of shareholder interests [9].

Although the implementation of audit and control procedures throughout corporate governance structures can influence financial transparency and accountability in addition to the balance of power within many U.S. corporations, the monitoring and sensitivity to corporate governance configurations has become an increasingly important attribute in regards to levels of ownership and shareholder rights among large institutional investors. According to [10], research concluded that a significant correlation exists between large institutional shareholders and the corporate governance practices of many companies in which they hold ownership. It was also noted that corporations which shared a large degree of ownership with institutional investors were found to be more sensitive to the rights, grievances, and concerns of major shareholders. Furthermore, many large institutional investors make investment decisions based on the corporate governance structures and policies that are being implemented throughout corporations in which they are already major shareholders or those in which they may potentially invest in the future. The reasoning behind such investment decisions is based on the conclusion that more sensitive and well developed methods of corporate governance will decrease monitoring costs associated with outside shareholders, consequently creating a more cost effective return on investment. However, the preferences of institutional investors in reference to different types of corporate governance structures tend to vary based on investment goals. Consequently, large investors seeking opportunities for high growth tend to prefer corporations with greater board governance and oversight while other institutional investors pursuing small-cap corporations with long-term investment horizons focus on governance models that offer greater and more extensive shareholder rights.

Even though some may support the monitoring of corporate governance structures and policies by large institutional investors, others defend a more contrarian view. One study by [11] found that different managerial styles, efficiency of monitoring, and ethics education greatly influenced the expense and effectiveness of shareholder monitoring. When managers and high-level executives are deemed to be of high moral and ethical character, much more indirect low-level monitoring is the preferred course of action. Not only is less pressure applied to management and corporate functions afforded the ability to operate more autonomously, but the monitoring resources of large shareholders are free to be utilized more efficiently elsewhere. However, when the ethical culture among management could benefit from improvement, shareholders should focus their efforts on ethics education as a substitute for overly strict monitoring. In the event that implementing corporate ethics education does not significantly improve governance and managerial decision making after all other options have been exhausted, it is now up to the discretion of shareholders to devise an effective and efficient method to closely monitor corporate activities. Although monitoring by large shareholders might be the most feasible alternative in rare cases, this research concluded there to be no premier model of corporate governance that secures and improves shareholder value. Consequently, in an attempt by large shareholders to improve corporate governance, allocating resources toward building better management teams and increasing corporate ethics education have been found to be much more efficient and effective ways to protect shareholder value than stringent monitoring and oversight practices [11].

Despite numerous studies both supporting and challenging the effects of large shareholder monitoring on corporate governance structures and policies, several empirical studies performed by [12] found no discernible difference between large shareholder monitoring and governance based financial performance in relation to institutional investor activism, characteristics of the boardroom, and anti-takeover policies [12].

Even though notable research and multiple studies have been conducted regarding the impact of large shareholder monitoring on corporate governance structures and policies, the continued debate over the significant effects of such actions leave many plausible arguments yet to be explored. However, with increased audit and control procedures and large shareholder monitoring focused on improving internal corporate governance structures and policies, little has been mentioned regarding different forms of external corporate governance that have been proposed and implemented throughout the years. With the main goal of corporate governance focused on improving transparency and accountability throughout the U.S. corporate environment, this introduces the passage of government legislation intended to enforce more stringent auditing and oversight regulatory protocols.

V. Effects of Sarbanes-Oxley Act 2002 on U.S. Corporations

As a response to numerous corporate disasters and the demise of International, Enron, Tyco, and Adelphia. In 2002 Congress authorized the Sarbanes-Oxley Act which was intended to increase the transparency of financial reporting and restore the public's confidence in Corporate America and the financial markets. This legislation spearheaded many issues that were deemed to be root causes of the previously mentioned corporate failures through the implementation of a vast regulatory framework that changed many aspects of corporate auditing, accounting, and financial reporting protocols. The most important directives of this act focused not only on improving auditor independence through the creation of the Public Company Accounting Oversight Board, but implemented mandatory internal control and financial reporting requirements, a compulsory code of ethics, improved whistleblower protections, and substantial penalties for failure to comply with regulatory requirements [13].

Although the Sarbanes-Oxley Act has been slow to gain acceptance and is considered by some to be an inadequate and unnecessary attempt by legislators to regulate and control the accounting and auditing practices of many U.S. corporations, numerous positive changes have resulted from its enactment. According to research performed by [14], the Sarbanes-Oxley Act fundamentally changed the auditing oversight of many CPA firms and enacted a new code of professional conduct by which corporate attorneys and accountants are required to follow. In addition to substantial improvements regarding accounting, auditing, and ethical practices within the U.S. corporate environment, the ramifications of this legislation redefined the landscape of many other fields of study extending far beyond the realms of corporate America. Due to such changes, the curriculum of many Universities and business schools all across the country have been forced to modify and adapt their accounting and business programs to incorporate many of the regulatory and procedural modifications that have stemmed from this legislation. Many of these changes challenge students to exercise a comprehensive understanding of forensic accounting and business and fraud risks associated with risk assessment, in addition to documenting and linking controls to audit evidence and possessing the knowledge and ability to deal with the Public Companies Accounting Oversight Board and multiple other forms of corporate governance [14]. Therefore, recent business graduates entering the workforce will not only have had much more exposure to the regulatory confines of the Sarbanes-Oxley Act, but will be better prepared to tackle new corporate and legislative demands which are vital to preventing fraud, corruption, and corporate collapses in the future.

Despite extensive research that has been conducted citing several beneficial effects resulting from the implementation of the Sarbanes-Oxley Act, others share a different viewpoint on the issue. One study found that although the new regulatory requirements pertaining to the code of ethics and auditing-partner rotations has markedly improved the accounting and auditing protocols within the corporate environment, this legislation was drafted with one significant weakness. Notwithstanding the best efforts of the Sarbanes-Oxley Act to alter auditing practices, the most up to date regulations require the same auditing firm to assign a new lead auditor each time an audit is performed on the same corporation. However, this research purports that the Sarbanes-Oxley Act should demand more stringent auditing-firm rotation requirements which would necessitate different auditing firms to audit different corporations in order to ensure a more independent and unbiased assessment of corporate financial and accounting activities. The premise is that not only would such changes increase the accuracy of accounting and financial statements and improve the confidence of investors, but would create a new competitive marketplace that would provide additional elements of security, accuracy, and responsibility throughout the accounting and auditing industry [15]. Consequently, in an effort to counter any future corporate collapses analogous to the likes of WorldCom, Enron, Tyco, and Adelphia, it is essential that the Sarbanes-Oxley Act continue to be altered and adapted in order to provide the highest degree of protection and oversight that it was intended to deliver.

In addition to failures by the Sarbanes-Oxley Act (SOX) to require rotations among auditing firms and corporations in relation to the performance of independent and unbiased audit reports and assessments, other studies have been performed challenging the prohibitive costs associated with SOX auditing and regulatory compliance. Research conducted by [16] constructed a cost-benefit analysis which found that firms spent $4.4 million on average to remain SOX compliant, with larger firms averaging $8.5 million and smaller firms spending around $1.25 million. While proponents of the legislation advocate that such requirements significantly improve the monitoring of corporate accounting practices and increase investor confidence in the financial markets, the underlying effects of SOX have yielded several negative byproducts since its enactment. By requiring chief executives to be personally involved in SOX compliance measures, many are fretful that management will become too risk averse when contemplating future investment strategies which will lead to a decline in future profitability and shareholder value. In addition, there is concern that top-level management will be forced to devote excessive resources to SOX compliance which will restrict their innovative and productive capabilities and degrade their competitive advantage. This research confirmed that in the years following the implementation of SOX, corporate cash flows declined by an average of 1.3% and annual sales decreased by 1.8% in relation to costs associated with SOX compliance of $6 million for small firms, $7 million for medium size firms, and $39 million for large firms [16]. Therefore, despite the greater security and accountability this legislation was intended to support, the extensive drain on corporate resources and innovative capacities in addition to its prohibitively high costs negate many of the positive benefits it was meant to provide.

One of the greater concerns surrounding the passage and implementation of the Sarbanes-Oxley Act has been the ability of the federal government to effectively and efficiently regulate auditing and accounting practices throughout the independent auditing industry. In an attempt to address the issue, the Public Company Accounting Oversight Board (PCAOB) was created to serve as the governing and regulatory body responsible for registering and inspecting public accounting firms and enforcing adherence to board regulations. According to research performed by [17], as of 2012 the PCAOB has 1,452 registered auditing firms in the U.S. and 911 international firms with many from China, India, and the United Kingdom. Aside from tracking the registration of auditing firms, it is the duty of the PCAOB to conduct periodic inspections of all registered auditors, brokers, and dealers. In 2012 the board conducted 253 inspections, including 77 international inspections of foreign auditing firms and another 45 inspections of brokers and dealers. Overall, the results of this study found the PCAOB to be an effective and well-guided agency that has comprehensively and successfully accomplished a very difficult and arduous task. Backed by the full faith and credit of the United States of America, the PCAOB has proven its mission statement to "protect the interest of investors and further the public interest in the preparation of informative, accurate, and independent audit reports" to be much more than just words [17]. Despite numerous contrary viewpoints regarding the effectiveness of the Sarbanes-Oxley Act on improving corporate governance structures and policies, in response to the 2008 financial crisis an additional piece of legislative framework was enacted to overhaul business practices within the financial industry and increase corporate responsibility and regulatory oversight.

VI. Implications of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act

While it is the intention of many corporate governance policies to increase transparency and oversight, aside from the Sarbanes-Oxley Act and several other pieces of legislation, it is fairly rare for lawmakers to enact regulations that substantially limit the scope of business. However, in 2010 Congress passed the Dodd-Frank Act in response to the subprime mortgage crisis which was preceded by poor lending practices, vast deregulation, varying interest rates, fraudulent financial activity, and a failure of regulatory oversight. Although this legislation was implemented to prevent a future crisis of greater or equal magnitude, it highlighted the need for broad changes throughout corporate governance policies in several key areas. The directives of the Dodd-Frank focused on restoring financial stability, increasing enforcement powers and regulatory supervision, reforming operational and regulatory structures, and increasing the protection of investors and consumers alike [18].

Although the heightened regulatory oversight implemented by the Dodd-Frank Act has been met with significant opposition from many throughout the financial services industry, several positive changes have stemmed from its commencement. One such study performed by [19] found that market discipline throughout the banking industry has improved drastically since the passage of this legislation. Citing a notable increase in yield spreads and a statistically significant reduction in default risk proxies, these changes resulted from a 94% reduction in unsecured and subordinated debt and a 47% drop in size discounts that are being carried and offered by the colloquially known “too-big-to-fail” banks. Consequently, the implementation of the Dodd-Frank Act has markedly improved the market discipline and financial leveraging of many larger banks that have been troubled in the past, however further improvements can still be made regarding the market discipline of smaller banks and the continuous reduction of unsecured debt and size discounts that are still utilized by larger banks [19].

Of the numerous problems in the past that have shadowed almost every major fraud and corruption scandal that has ever rocked corporate America, many such disasters have stemmed from inadequate whistle-blowing and incentive policies that could have prevented or greatly lessened the ramifications of the resulting corporate misfortunes. A unique attribute of the Dodd-Frank Act specifically confronts these issues through the implementation of monetary based financial incentives for whistleblowers. According to research performed by [20], monetary incentives have been shown to increase the amount of thought one puts into a decision, influences an individual’s motivation and goals, and alters the response to one’s emotional triggers, thus increasing the likelihood that a person who observes unethical or unlawful acts will report such behavior to the appropriate authorities. Furthermore, incentive programs have notably improved relationships between lower-level employees and upper-level management, fostering an environment where misconduct is more likely to be reported due to an appreciable culture of shared insight and knowledge in addition to the implementation of new whistle-blowing compliance programs and policies.

Although several studies bolster the positive effects of the Dodd-Frank Act, others are quick to challenge. One study conducted by [21] cites the six principles outlined by Secretary Geithner regarding the effective enactment of the Dodd-Frank Act. Almost two years after the passage of this legislation, many of these principles are failing to materialize and in some cases even being violated. The first principle drawn by Geithner refers to the speed at which the 250-400 new regulations were intended to be enacted, however as of 2012 over 75 percent of the deadlines to implement these new guidelines had subsequently lapsed. The failure of government officials to consult with industry leaders and explore the ramifications of such regulatory actions on the general public highlights the shortcomings of the second principle. Avoiding the layering of new rules over old ones is the third principle that was contradicted, with lawmakers forcing new regulations upon the banking industry while failing to repeal older statutes. The fourth principle vows to support the continued freedom and innovation essential to economic growth within the financial industry, however many of the corporate resources that typically would have served as innovative catalysts to financial prosperity are instead being diverted in order to successfully navigate through the excessive regulatory demands of this legislation. In regards to leveling the playing field throughout global financial markets and the U.S. banking industry as addressed by the fifth principal, almost two years later little to nothing has been accomplished by the newly created Consumer Financial Protection Bureau or the Financial Stability Oversight Council in protecting the rights of consumers and banks throughout the United States or internationally. The sixth principle ordered greater coordination and cost regulating measures among many federal agencies tasked with enforcing this new legislation, however the growing failures of coordination and order within agencies that were intended to provide solutions to the financial crisis has instead created a regulatory disaster of its own [21].

Besides the multiple shortcomings of the Dodd-Frank Act that have recently been highlighted through the systemic failure of numerous principles outlined by Secretary Geithner that were deemed to be essential to the successful implementation of this legislation, another study conducted by [22] addresses numerous other regulatory and legislative deficiencies that have resulted from this legislation. Citing several inadequacies within its framework, the Dodd-Frank Act fails to provide broad and equitable regulatory oversight throughout the entire corporate and financial industry. In addition to only providing guidance to address problems of the past, it also fails to outline any procedures or regulations to confront future market risks that may be created through new and emerging innovative financial means. Furthermore, the levied fines and punishments that have been outlined throughout this legislation are deemed to be weak and inadequate, failing to act as an effective deterrent in preventing future fraud and corruption. While many of the regulations spawned by the Dodd-Frank Act are theoretically sound, in reality taxpayers and corporations are among those who stand to suffer the most. From the increasing financial burden on taxpayers to fund the additional agencies and regulators required to enforce the rules, to the greater manpower and resources that must be provided by corporations in order to remain in compliance, the only thing that has truly been created by the Dodd-Frank Act is an increasingly complex system shrouded in greater bureaucratic overregulation that not only breaks down efficiency but raises costs for corporations and consumers alike.

Although numerous studies have been conducted both supporting and challenging the effects of many corporate governance structures and policies, the true implications of such actions are debatable at best. Therefore, despite vast amounts of research that have focused on the impact of corporate and government mandated regulatory policies throughout U.S. corporations, the long-term ramifications of such structural and political changes leave significant developments and trends open to more comprehensive future exploration.

VII. Outlook on the Futire Regulation of U.S. Corporation

Over the course of the past few decades many regulatory and governance policies have changed throughout corporate America. Although the evolution of corporate governance has produced several restrictive effects in the form of stricter regulations, more comprehensive codes and guidelines, and tighter control and ownership structures, several notable improvements have been made. As the general public and government legislators have demanded governance and regulatory reform in response to a rash of corporate failures, many sweeping changes have occurred from the floors of Wall Street to the steps of Capitol Hill. The premise of such efforts was to increase transparency, responsibility, and accountability throughout all U.S. corporations and improve investor confidence in the financial markets.

In response to numerous corporate collapses that have manifested themselves throughout the years as a result of significant accounting and financial fraud, there has been an increased effort in recent years to more closely monitor chief executives and the board of directors in addition to implementing internal audit and control procedures and increasing large shareholder monitoring. The increasing concern for the structure and actions of corporate governance entities and the monitoring of internal control systems and large stakeholder investments has created an environment inundated with significant oversight and procedural protocols. With many U.S. corporations and investors having benefitted from increased oversight of top-tier executives and improved monitoring of corporate activities, the future outlook and prospects of internal corporate governance structures and policies looks to be quite positive. As the U.S. corporate culture continues to evolve and problems of the past are continually shadowed by more pressing issues in the future, it is essential that corporations continue to improve their structures and policies of internal corporate governance in order to safeguard the interests of executives, employees, and shareholders alike. To ensure that corporate catastrophes of the past are never to be repeated, the need for effective power balances among leadership, improved audit and control procedures, and more efficient shareholder monitoring has never been more vital.

Despite the introduction of several new forms of internal corporate governance that have been implemented throughout much of corporate America, many of these actions have stemmed from additional government regulations that have been enacted through the Sarbanes-Oxley Act of 2002 and the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. Notwithstanding the inherent weaknesses of these legislative acts and their failure to effectively implement, monitor, and enforce many of their incomplete regulatory requirements, the increasing trend of governmental and regulatory oversight is one that will experience continued proliferation in order to provide security and transparency to the financial markets, corporations, and investors alike. Even though the implementation of such legislation may act as a drag on the resources and innovative capacities of many U.S. corporations, the need to protect corporate integrity and safeguard the interests of shareholders has played an integral part in the evolution of such regulatory reform. Therefore it is essential to the future success and prosperity of all U.S. corporations to continue to effectively and efficiently comply with the increasing presence of regulatory and corporate governance practices in order to satisfy the growing needs of the general public and many government and financial based entities.

VIII. Summary and Conclusion

The landscape of corporate governance has significantly changed throughout the past several decades due to numerous financial, accounting, and corruption scandals that have come to fruition over the years. While increased regulation and oversight through both internal and external means have become a mainstay of the U.S. corporate environment, there are significant findings to support the continuing evolution of corporate governance practices and policies.

Despite the criticisms and objections that some have levied against such actions, the main focus of corporate governance is to improve the health and security of U.S. corporations and their many investors. Throughout this analysis it is evident that the implementation of both internal and external corporate governance measures share a positive correlation with corporate accountability and transparency in addition to greater investor confidence.

When analyzing the effectiveness of such governance methods, many are only as good as those responsible for their execution and enforcement. While corporate governance measures generated significant upside when correctly implemented, positive results could easily be negated through ineffective enforcement by corporate and governmental regulatory entities. Therefore the success of such governance structures and policies is extremely dependent on the effective implementation of such measures.

Although some may consider the progressively restrictive measures of corporate governance to be harmful and exhaustive forms of overregulation, numerous fraudulent corporate acts of the past have warranted the implementation and support of such changes throughout recent times. Due to the relentless evolution of corporate governance within the U.S. corporate environment, increasingly complex demands will continuously require companies to face new governance and regulatory challenges far into the foreseeable future. Consequently it is essential that corporate America continue to embrace and adapt to such changes in order to effectively and efficiently safeguard the interests of corporations, employees, and shareholders alike.

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