

Index

Abacus, 245	American snareholders, 522
Abacus fund, 185	American Stock Exchange, 356
ABI, 290	Anglo Irish Bank, 275, 281
ABN Amro Bank, 4, 188, 260, 275, 350	Annual Directors' Statement, 320
absence of confidence	annual general meeting, 97, 216
vote for directors, 149	annual salary increases, 144
accounting conventions, 351	annual shareholders meetings, 103
accounting information	Apple, 314
functions, 302	apportioning of rewards, 322
accounting standards, 285, 312	and goodwill, 315
accounting treatment, 315	arbitrage, 47, 157
accounts	'a rising tide lifts all boats', 157, 363
international comparability, 303	Arthur Andersen, 287, 347
purpose, 60	Articles of Association, 36, 43–4, 97–8, 101, 229,
subjective view of managers, 305	235, 305. See company
technical characteristics, 302	as company owner. See shareholder
Acrow, 371	as protection, 89
active management of assets, 134	as sanctions, 202
activist shareholders, 195	asset pricing, 223
adequate procedures regime, 114	asset strippers, 63, 134–6
Ad Hoc Task Force on Corporate Governance, 10	Slater, Jim, 63
Admission Rules, 37	Walker, Peter, 63
Adoboli	Association of British Insurers, 145
UBS, 393	asymmetry
ADT, 150	accounting information, 307
Advisory Conciliation and Arbitration Service, 133	asymmetry of information, 258
agency, 205	atomisation
issues, 149	shares, 88
obligations, 279	attitudes among investment professionals, 212
	audit, 277
relationship, 104, 106	
theory, 21, 25	and internal control, 147
agent. See agency	certificates, 183
aggressive takeover specialists. See asset strippers	comfort, 298
AGM, 215, 229, 288, 320	committee, 138
formalistic exercises, 216	Audit Firm Governance Code, 290
AIG, 185	audit opinions, 283
algorithm-based hedging strategies, 221	auditors, 8, 21, 28, 45, 145, 183, 211
aligning directorial interest, 330	liability, 287
allocating costs, 307	responsibilities, 147
alternate. See directors	Autorite de Marche Financiers, 227
alternative definitions of corporate governance, 16	Aventis, 316
Alternative Investment Market (AIM), 202, 210, 216,	avoidance of taxation, 345
243, 245, 394	DA ' (' (' 252
and accounts format, 312	BA privatisation, 373
Aluminium Wars, 133, 213	BAE, 4
Al-Yamani, 4	BAE Systems
Amazon, 315	and Tanzania, 117
American broking firms, 222	BaFIn
American International Group	German financial supervisory authority, 243
role in the collapse of 2008, 170	Bakan, Joel, 100
American Savings and Loans scandals, 387	Bakrie family, 238

409



balance sheet, 304	bonus
insolvency, 353	banks, 178
shareholder value, 40	culture, 338
banditry, 346	directors, 143, 144
Bank of America, 185	Greenbury, 179
Bank of England, 157, 158, 163-4, 172, 263, 272,	legitimacy and quantum, 327
275, 387	payments, 178
Bank of England Act 1998, 163	systems, 322
banks' accounts	Boots, 133
obscurity, 154	Borsa Italiana, 236, 242
Barber boom, 133	Boulding, Kenneth, 155, 357
Barclays, 172, 260, 350	bounded rationality, 39
Barings Bank, 4, 11, 147, 158, 161, 164-5, 196, 289, 393	BP, 4-5, 13, 238, 353
Barlow Clowes, 158, 161	BP Amoco, 316
Basel III, 177, 246	brand reputation, 313
basic conditions	bribery, 18, 347, 356
procedural governance, 204	Bribery Act 2010, 112, 235, 385
basic pay	British Airways, 366, 373
directors, 143	British Gas, 136
Bank of Credit and Commerce International (BCCI),	British Leyland, 4
7, 136	brokers, 134
Bear Stearns, 170	Brown, Cedric
Beckett, Margaret, 147	MD British Gas, 138
Beecham, 133	BSA, 213
behavioural failings, 181	BSkyB, 362
behavioural governance, 82, 84–5, 153, 157, 164, 170,	Bumi plc, 238, 244
173, 181, 195, 223, 242–3, 275, 298, 322, 341,	bundling
346, 348, 351, 356, 361, 363, 384	of resolutions, 146
and banks, 177	burdens of stewardship, 221
and managers, 242	Bursa Malaysia, 227
as monitoring mechanism, 82	buy-side, 228
supported by law, 101	California 14
Walker's view, 179	Cable & Wireless, 14
behavioural modification, 124	Cadbury, 151
behavioural obligations, 126, 391	Cadbury, Sir Adrian, 15
behavioural problems, 349–50	revised view of governance, 383
groups, 180	Cadbury Committee, 11, 18, 53, 134, 137, 139, 144,
and banks, 175	382. See Cadbury Report
benchmarking, 136, 328	Cadbury definition 10, 18, 25, 56, 382, 394
best available practice, 165	Cadbury definition, 10, 18, 25, 56, 382, 394.
best practice provisions in directorial pay, 143	See corporate governance Cadbury Report, 3, 5, 12, 126, 140, 146, 151–2, 162
beta value, 244	Caparo Industries plc v Dickman, 287
Bhopal, 74, 347	capital
Big Bang, 157, 222, 228, 236, 258, 269, 388	major purposes, 89
market de-regulation 1986, 134	subordinate purposes, 90
Big Eight	Capital Asset Pricing Model, 155, 223, 389
accounting firms, 287	capital growth
BIS, 108	and shareholders, 66
Black Monday, 222	carbon trading scandals, 4
Black-Scholes equation, 334	Carlton Communications, 215
blanket approach	Carphone Warehouse, 4
governance and theory, 226	Carr, Albert Z., 358
blocks of shares, 89	cartel, 365
Blue Arrow affairs, 136	cashflow statement, 304
Blueprint for Financial Regulation Reform, The, 197	catastrophic collapse
BNP Paribas, 169	of companies, 393
board meetings, 29	Cavenham, 135
Board of Banking Supervision, 158	CBI (Confederation of British Industry), 139, 145, 325
board of directors, 384	CDO, 170, 184, 272, 362
boardroom pay, 328	central bank's role, 272
boards	Chaebol, 240
and decision-making, 180	chairman of the board of directors
boiler room schemes, 243	role of, 140



chairmen	concealment of information, 370
and Higgs Report, 149	concept of counter-governance, 346
charitable giving, 24	confidence
cheating, 357	as market condition, 204
Chester, Lewis, 391	conflict of interest, 192
Chinese Walls, 252, 388	conglomerate structure, 134
Chi-X, 236	conglomerates, 135
churn rate, 46	Consob, 227
circuit breakers, 251	Consumer Protection and Markets Authority, 103
Citicorp, 274	Continental AG, 366
City Code on Takeovers and Mergers, 260	continuing obligations, 184, 209, 216
City of London, 258	contract failings, 355
civil society	contractualists, 25
conditions required for, 76	control distance, 88
class rights	control fraud, 346
dividends, 93	control of risk, 102
clawback, 308, 336	controlling mind, 110
CLRSG. See Company Law Reform Steering Group	conventional definitions, 392
club governance	conventional theories of governance, 363–4, 381, 385–6
as a style, 205	conventionalist view, 384
club regulation, 158, 236 CME, 138	
Code of Best Practice, 137	Conygar, 217 co-ordinated market economy, 129
collateralised debt obligations, 168–9	corporate citizenship, 24, 66, 76, 384
collateralised mortgage obligations, 162, 169	failure of argument, 67
collective governance breakdown, 154	flaws, 66
Combined Code on Corporate Governance, 146	corporate criminality, 345, 347
companies	corporate failures, 347–8
long-term interests, 63	corporate governance operations
Companies Act 1929, 288	and traditionalist theories, 203
Companies Act 1947, 211	corporate governance structures
Companies Act 1948, 99	financial sector, 154
Companies Act 1985, 63, 65	corporate governance system
directors' obligations, 63	form triumphs over function, 184
Companies Act 2006, 42, 44–5, 60, 63, 76, 82–5,	corporate hypocrisy, 359
89-90, 92, 95, 97-9, 101, 103, 106, 108, 118,	corporate insolvency, 345
126, 216–17, 235, 260, 287, 289, 312, 354, 356	corporate manslaughter, 110
and auditors, 288	Corporate Manslaughter and Corporate Homicide
impact, 85	Act 2007, 110, 235, 385
s532, 288	corporate opacity, 276
company, 21	corporate philanthropy, 18, 69
accounting	as disguised theft, 70
structure, 61	corporate policemen, 66
accounts, 300	corporate responsibility regimes
format, 60	conditions required for, 75
announcements, 258	corporate social responsibility, 23, 66, 359, 384
as a legal person, 102	correction territory, 179
continuing well-being, 117	correlation between firm success
dissolution, 51	and managerial input, 333
governance	corrupt practices, 345
abuse of, 300 liquidation, 347	cost of capital, 17
ownership, 60	counter-governance, 345–6, 348, 356, 362, 381, 391
strategic development, 97	covered short selling, 247
Company Law Reform Steering Group, 42, 83	CR
Company Reports	and 'image', 70
Remuneration Report, 48	managerial failure, 70
company secretary, 21, 98, 384	manipulative advertising, 70
company value, 306	creative destruction, 135
complexity of information	Criminal Justice Act 1993, 253
as a cause of problems, 181	criminal law, 356
comply or explain, 103, 138, 151, 157-8, 163-5, 171	critical governance law, 347
weakness, 165	Crocker
system, 147	and Midland Bank, 188



Crosland, Anthony, 128 cross-directorships, 143	dividend, 39, 56, 89, 92, 135 correctness, 93
cult of equity, 135, 388	importance to shareholders, 66
cultural change, 115-16	improper payment, 93
active shareholders, 112	payment, 29
culture of businesses, 41	payment from profits, 93
culture of listed companies	returns, 147
Turnbull Report, 151	yield, 135, 204
customer, 21	Docker, Sir Bernard, 35, 213
as stakeholder, 75	Dodd-Frank Act, 48
CWW, 323	domestic boom
	of the sixties, 211
DaimlerChrysler, 316	dot.com bust, 4, 155, 210, 329
Daniels, Eric, 337	Dow Jones, 356
Davies, Howard, 168, 191	dual share class structure, 394
Davies Report	dual-ethics argument, 363–4
Women on Boards, 270	duality of standards, 361
Davis, MP, David, 387	due diligence, 260
deferred income	Dunlop Oil & Marine, 366
pension funds, 372	dynamics of the market, 205
deferred prosecutions, 116 defined benefit schemes, 372	earnings growth 192
defined contribution scheme, 372	earnings growth, 182
definition. See governance. See OECD Report.	earnings per share, 204 economic allocation of resources, 203, 227
See Cadbury Report	economic purpose of stock markets, 203
Delta One desk, 196	Economist Intelligence Unit, 3
denationalisations, 127	effective corporate governance, 144, 147
dereliction	effective governance structure, 180
directors', 144	effective non-executive directors, 165
derivative action, 98, 106, 118	effective regulation, 183
derived purposes	effective status. See company
stock exchanges, 204	effective systemic governance, 153
Deutsche Börse, 236	efficient allocation of resources, 220, 222, 369
different perceptions of value	Efficient Market Hypothesis, 155, 223
options, 336	Efficient Market Theory, 389
different types of insolvency	Einhorn, David, 238
practical effect, 353	Greenlight Capital, 255
dimensional recognition, 392	Eisner, Michael, 330
dimensions of governance, 17	elements of governance, 196
director supremacy, 53	elimination of shareholder wealth, 346
directorial appointments, 45	elimination of risk, 184
directorial remuneration, 144, 235. See directors	Eliot, T. S., 168
directors, 8, 21, 27, 93	employees' options, 330
as controllers of the nexus, 41	emption rights, 45
as prudent controllers, 57	engagement letter
behavioural obligations of, 111	audit, 289
obligations to shareholders, 112	enlightened shareholder value, 106
obligations under Companies Act 2006, 107	ENRC, 244
prioritising claims, 56	Enron, 148, 190, 283, 287, 313, 333, 346–7
removal, 98	Enterprise Act 2002, 103, 366
remuneration, 48	Entertainment Rights plc, 390
responsibilities, 58 working for shareholders, 65	environmental abuse, 371 environmental crime, 345, 371
directors' fees, 90	Equitable Life Scandal, 4
directors' obligations, 102	ethical and moral principles, 347
ss172–76 Companies Act 2006, 45	ethical characteristics
to shareholders, 106	structural governance, 346
disclosure	ethical cleansing, 393
executive pay, 329	ethical precept, 358
disguised returns of capital, 90	EU Takeover Directive 2004, 260
Disney Corporation, 330	Eurasian Natural Resources Corporation
displacement effect	plc (ENRC), 238
bonuses, 339	European Community law, 117
distinctions between shareholders, 215	European executives
distribution of rewards, 327	pay trends, 329



INDEX

413

Ford, 356 European law, 83 Exchange Traded Funds, 271 Ford Pinto Scandal, 360 executive pay, 329. See director remuneration foreign public officials' executive salary formulations, 147 Bribery Act, 113 exit option foreign subsidiaries, 308 shareholders, 336 formal set of instructions. See Cadbury Report expectations gap and audit, 278 Fortune magazine, 190 externalities remit, 197 costs, 371 France extra-territorial, 347 executive pay issues, 322 extra-territoriality, 113 Frankfurt First Quotations Board, 243 extrinsic motivation, 331 Frankfurt Stock Exchange, 243 Exxon Mobile, 316 fraud, 92 fraudulent trading, 355 Facebook, 315 free markets, 365 freedom of access facilitation payments, 114 factors of production to markets, 224 Freeman, R. Edward, 59 money as a, 154 Factory Acts, 157 Freeman-Evans principles, 60 failures Friedman, Milton, 59, 70, 257, 259, 384 frictionless dealing, 225 in bank governance, 181 failures of corporate governance systems, 180 and market abuse, 387, 390 Fair value accounting, 286 and short-selling, 248 false markets, 51 review, 172 FSA vetting of staff, 270 Farepak, 4, 392 'fat cats'. See Greenbury Report FTSE 100, 144, 237 fat cat salaries, 328 FTSE AIM share index, 210 FCA, 45 Fund managers, 221 federal governance structure, 393 Future of Banking Commission, 172 federated governance, 183, 391 fiduciary duty, 22, 34, 38-9, 106 Galleon Fund, 391 fiduciary obligation Gartmore plc, 150 conflicts, 60 Gates, Bill, 40 fiduciary relationship gateways stakeholders, 60 derivative actions, 107 GEC plc, 4 final salary schemes, 372 Finance For Industry, 133 General Electric, 327 general meeting, 42 financial algorithms, 168 financial collapse of 2008, 152 General Motors, 356 Financial Conduct Authority, 263, 266-7 Generali, 243 financial crisis of 2008, 165 Giddens, Anthony, 231 financial journalists, 188 Glaxo Smith Kline, 133, 215 Financial Policy Committee, 267, 387 Glencore plc, 237, 259 Bank of England, 197 going concern, 314 Financial Reporting Council, 145, 147, 290 Goldilocks terms, 146 financial sector, 154 Goldman Sachs, 5, 183, 348, 362 Financial Services Act 1986, 163 Goldsmith, James, 63, 134 Financial Services and Markets Act 2000 (FSMA), good governance, 152, 261, 346, 386, 389 in investments, 212 Financial Services Authority (FSA), 45, 103, 163, 188, Goodhart, Charles, 335 Goodhart's Law, 335 209, 236, 237, 242, 243, 249, 258, 263, 269, 276, 337, 387, 389 goodwill, 313-14 Finansinspektionen, 227 Goodwin, Fred, 275, 351 Firmenwert governance goodwill, 314 and accounts conflict, 305 First Jersey National as a safety-net, 195 and NatWest, 188 as box-ticking, 183 Fitch, 190 as fulcrum, 58 flash crash, 251 as risk management, 56 flaws in governance, 202 characteristics, 301 Focus Media, 241 by principle, 100 Fondiaria-SAI, 243 goodwill, 315 fonds de commerce, 314 governance discount, 244 goodwill, 314 governance failure, 74



414 INDEX

House of Commons Treasury Select governance law impact, 85 Committee, 272 governance mechanisms Household Finance Corp and HSBC, 188 shortcomings, 203 governance problems HSBC, 172 directorial pay, 332 Hypo Bank, 187 governance procedures finance businesses, 156 IBC, 196 governance structure, 196 IBM, 222, 314 listed company, 124 ICB, 275. See Independent Commission on Banking government stocks, 313 Icelandic banks, 4 Granada group, 215 IceSave, 275 greed, 364 ICI, 145 green-mailers, 50 IKB Greenbury, 9 and Stefan Ortseifen, 118 Greenbury, Sir Richard, 140 impairment, 306 Greenbury Committee, 139, 328, 386 imperfections of information available Greenbury Committee Report, 127 to investors, 224 Greenbury recommendations, 146 Imperial Tobacco, 373 Greenbury Report, 142, 152, 178 inability to pay debts as they fall due, 352 Greenspan, Alan, 181 inadequate governance, 201 Gresham's Law, 392 inappropriate activity, 252 Group of 20, 240 incentivising, 325 growth of executive pay, 329 increasing shareholder value, 134, 136 Guinness Scandal, 136 increasing shareholder wealth, 387 incremental coherence, 103 Hampel, 9 Independent Banking Commission, 176, 269, 272 Hampel Committee, 145-6, 386 and bonuses, 179 Hampel Committee Report, 127 remit, 177 Hampel Report, 16, 152 Vickers Commission, 172 Hannam, Ian, 256 industrial accidents, 348 Hanson, James, 63, 134 Industrial and Commercial Finance Corporation, Hanson Trust, 135, 373 133 influential shareholders, 218 Hanwha, 240 Hatfield rail crash, 109 information asymmetry, 41, 51, 253 Hayward, Tony, 238 information exchange as component of effective governance, 190 HBOS, 252 information to shareholders Halifax/Bank of Scotland, 249 headhunting, 328 through Stock Exchange, 190 informational asymmetry, 308 hedge funds, 222, 246, 248, 251 Herald of Free Enterprise, 109 informed shareholder choice, 356 herd effects, 333 insider dealing, 146, 150, 215, 252 Hermes Equity Ownership Services, 15 insider information, 189, 192, 224 Hewitt, Patricia insider trading, 53 SoS Trade and Industry, 289 insidership, 321 HFT, 236, 251 Insolvency Act 1986, 99, 352 insolvency legislation, 92 hierarchy of opinion, 280 Institute of Chartered Accountants, 137, 147 Higgs, Derek, 9, 214 Higgs Committee, 149, 386 Institute of Chartered Accountants in England and Higgs Committee Report, 127, 148 Wales, 290 High Court, 98 Institute of Directors, 145 High Frequency Trader, 226, 248, 388 High Frequency Trading (HFT), 47, 222 institutional funds as stewards, 66 High Pay Commission, 48 institutional holders of shares HIH Insurance, 4 and stewardship, 65 Hill, Andrew, 42 institutional influences Hippocratic Oath, 394 and directorial pay, 330 Hirschman, Albert institutional investment, 150 Exit Voice and Loyalty, 202 institutional investors, 21, 211, 215 HM Treasury, 263 voting at AGM, 216 self-scrutiny, 387 institutional shareholders, 148, 150-1 Hogg, Baroness, 14 somnolence, 212 Hollande, François, 322 insurance home-ownership, 169 PPI Scandal, 336



INDEX

415

insurance companies, 46	Langbar, 346
intangible assets, 313	Lapthorne, Sir Richard, 14
intangible goods, 155	Large, Andrew
intellectual property, 313, 353	Chairman SIB, 163
intention	law of unintended consequences, 224
and insolvency, 355	Lawson, Nigel, 189
inter-company comparisons, 146	Leeson, 196
interests of shareholders, 135	Leeson, Nick, 161
interests of managers	legal capacity. See company
conflict with shareholders, 306	legal entity principle, 110
interests of shareholders, 139, 155	legal personality, 100
interests of stakeholders	legal rights. See shareholders
abuse of, 71	legalist/traditionalist view, 47
interim results, 97	legislative framework
internal control	for corporate governance, 103
framework, 148	LeGrand, Julian, 278
internal controls, 146	Lehman Brothers, 170, 174, 180, 182, 184, 248, 270,
internal corporate governance, 171	281, 285, 349, 390
internal mechanisms	Lex Column
in financial sector, 188	Financial Times, 256
internally generated goodwill	liabilities of partners, 30
accounting treatment, 315	* · * · * ·
	liability caps, 299 Liability Limitation Agreements, 288
international accounting conventions, 306	
International Accounting Standards Board 320	liberal market economy, 128
International Accounting Standards Board, 320	lisense to trade
International Corporate Governance Network, 181	licence to trade
International Joint Conference on Artificial	and regulation, 230
Intelligence, 222	light touch regulation, 158, 164, 173, 183, 386
intrinsic motivation, 331	Ligresti, Salvatore, 243
Invensys, 13	limited liability, 30, 32, 96–7
investment grade	limited prosecutorial resources, 117
and ratings agencies, 184	liquidity, 204
investment management activity, 151	listed companies, 84, 123
Investment Management Regulatory	listing agreement, 123
Organisation (IMRO), 164	Listing Authority, 85. See Stock Exchange
inward-facing aspect, 57. See corporate governance	listing obligations, 84
inward-facing governance, 393	listing process, 313
IoD, 325	Listing Requirements, 143
irrational allocation of resources., 339	Listing Rules, 45, 85, 102, 209. See Stock
	Exchange
Jaedicke, Robert	LLA, 289, 291
Professor of Accounting, 149	Lloyds Insurance, 158, 161
JJB, 4	Lloyds TSB, 337
J.P. Morgan, 170, 237	LME, 138
Judge Dredd, 256	Lockheed, 59
judgemental aspect	London Stock Exchange, 145, 210, 227,
and audit, 285	245, 290
	London Stock Market, 222, 258
Kahneman, Daniel, 333	Long-Term Capital Management, 155, 165, 223
Kerviel, Jerome	longitudinal aspects of governance, 71
Societe Generale, 393	longitudinal governance, 57, 76, 82
Keydata, 4	long-term ownership of shares, 205
Keynes, J M, 53, 340	Lonrho, 135
King II. See King Report	Lowenstein, Roger, 224
King Committee, 11	LSE, 236, 242
King Report, 18, 60	
King's Cross fire, 109	Macondo, 362, 391
KPMG, 289	Deepwater Horizon. See BP
Kraft	Madoff, Bernard, 281, 386
and Cadbury, 261	maintenance of good governance. See governance
Kylsant, Lord, 351	managerial reward, 309
•	manipulation
labour costs, 136	of accounts, 308

manipulation of information, 345

Lamfalussy, 246



416 INDEX

Nadir, Asil, 138 market abuse, 189, 345, 387 Market Abuse Directive MAD, 253 naked short-selling. See short-selling market efficiency, 225 NAPF, 290 market for control, 315, 377 NASDAQ, 356 market for corporate control, the, 203 National Association of Pension Funds, 145 National Enterprise Board, 133 market imperfections, 388 Market Participants Group, 290 National Institute of Economic and Social market perfection, 205 Research, 274 market regulations National Research and Development as protections, 202 Corporation, 133 market-makers, 134 natural justice, 99 markets for control, 39 increases in shareholder value, 386 Marks and Spencer, 140 negative aspects of governance. See countergovernance mark-to-market, 285 Marx, Karl, 25 negligence, 109 Mathewson, George neo-corporatism, 132 RBS, 350 nexus of contracts, the, 21 mature markets, 357 New York Federal Reserve, 168 New York Stock Exchange, 356 maximisation of wealth shareholders, 204 New Zealand Maxwell, Robert, 7, 138 cartel investigations, 367 Mayfair Set, 134, 214 News Corporation, 362 measuring the return News International, 151 News of the World, 362 to shareholders, 60 Mediobanca, 243 nexus of contracts, 24-5, 38, 41, 58 Memorandum of Association, 92 no limit schemes, 332 Merck, 334 Nolan Committee, 10 NOMAD (Nominated Adviser), 216, 245, 394 merger, 315 merger method as regulatory agent, 216 accounting, 316 effective sanctions, 216 Merrill Lynch, 161, 169 nomination committees, 146 MF Global, 392 Nomura, 196 Microsoft, 40, 314 non-executive directors, 182 MiFID, 227, 253 and banks, 164 minimising taxation role in corporate collapse, 148 Northern Rock, 169, 189, 272, 275 and governance, 310 minority shareholders, 235 Nozick, Robert 25 Mirror Group scandals, 7 NYSE Euronext, 236 mischief Jobbers, 134 and audit, 281 misconduct. See directors obligations of directors, 104 mis-selling insurance, 179 limited procedural obligations, 222 Mitchells and Butlers, 4, 261, 391 obligations of stewardship, 393 mobilisation of funds OECD, 9-11, 113, 181 stock exchanges, 209 definition, 56, See corporate governance Model Articles, 89. See articles of association off-balance sheet vehicles, 313 Model Code on Directors Dealings, 209, 253 Office of Fair Trading (OFT), 366, 369 Monobank plc, 243 oligopoly monopoly of violence, 230 and audit, 279 Moody's, 190 Olympus Corporation, 240 moral hazard, 23, 272, 339 Olympus Scandal, 118 open abuse Morgan Stanley, 249, 252 of shareholders' positions, 203 mortgage debt role in financial collapse, 184 open-outcry, 236 Mouchel, 260, 348 Operating and Financial Report Muddy Waters LLC, 238 proposal, 318 Multi-lateral Trading Facilities (MTF), 236 operational dimension of governance, 384 multiple obligations. See agency theory operational governance, 57, 76, 82 Murdoch, Rupert, 362 oppression of minorities, 99 option rights Myners, 9, 151 Myners, Lord, 214 exercise of, 331 Myners, Paul, 150 option valuation problems, 334 Myners Committee Report, 127 Myners Report, 150 options, 328



INDEX 417

primacy of directors, 50 orderly market, 53 ordinary shareholders primacy of the shareholder, 383 disadvantaged by rules, 224 primacy of the shareholders' interests, 383 primary function Osborne, Andrew and Punch Taverns, 256 stock exchanges, 203 outward-facing governance, 393 primary industries, 40 ownerless nature primary market, 204, 313 of listed companies, 394 function, 207 ownerless plcs, 394 shares, 54 Prince, Chuck, 275 P/E valuations, 135 principal and agent, 252, 327, 338, 340 Paddington rail crash, 109 problem, 341 Parmalat, 148, 280, 284, 288, 346 relationship, 44, 48, 50, 332, 383-4 small and large companies, 38 passporting, 243 pathological theory, 42, 331 company characteristics, 100 principal causes of governance failure, 182 Paulson hedge fund, 391 principle-based, 12, 22 payment protection insurance, 75 principle-based governance, 124. See UK corporate governance PCM hedge fund private limited company, 27, 28 scandal, 391 Pension and Investment Research private shareholder, 258 Consultants, 147, 299 probity of the companies, 206 pension fund abuse, 345, 372 probity of the market, 206 pension fund trustees, 151 procedural, 164, 298, 363 pension funds, 46 procedural, behavioural, structural and systemic as corporate policemen, 46 aspects of governance pension funds differences, 226 and equities, 211 procedural and behaviour governance dimensions, pensions, 150 385 procedural aspects of governance, 100 perfect market, 223, 388 perfect market theories, 364 procedural failings, 168, 181, 348, 350-1 performance-related pay procedural governance, 82-3, 85, 99, 152, 157, 204, 242, 261, 301, 341, 346, 348, 355-6, 361, 384, directors, 143 personal liability, 43 391 perverse incentives and banks, 177 and regulation, 231 and bonuses, 340 and short-selling, 206 Peston, Robert, 128 Photo Me International plc as foundation, 82 fined by FSA, 390 as legal requirement, 82 physical constraints significance of, 83 on trading, 225 procedural mechanisms, 88 PIRC, 299 procedural problems, 351 placement, 95 procedural requirements plcs, 28, 43 ownership, 88 plea bargaining, 116 procedural set of governance Pluthero, John, 323 as protection, 82 poison pill, 373 procedural short-cuts, 348 poison-pill' provisions, 50 Proceeds of Crime Act 2002, 115 policy failures, 382 production of goods Polly Peck, 135 in economic activity, 154 professional shareholder ponzi scheme, 281 Power, Michael, 278 power of, 228 power of the stakeholder, 138 profit and loss account, 304 PRA, 276 profit-maximising environment pre-emption rights, 41, 95 and accounts, 310 programme trading, 222 preferential rights of access instituional shareholders, 215 Project Columbus' Premafin, 243 RBS, 350 Premier Foods, 325, 391 prop desks, 272 proper valuation premium for control, 314 premium listing, 237 and reward, 333 price of the promise, the property rights share subscriptions, 88 shares as, 394 Price Waterhouse Coopers, 289 proprietary share-dealing, 157



418 INDEX

proprietary traders, 248 remuneration decisions proprietorial responsibility, 76 and risk, 174 proprietorial trading techniques, 226 remuneration policy, 146 prospectuses remuneration report, 217 complexity, 313 remuneration surveys, 146 protection of the laws, 100 rent provision of services and regulation, 231 in economic activity, 154 Repo, 105, 281, 286 report Prudential Assurance, 213 Prudential Conduct Authority, 266 company performance, 97 Prudential Regulation Authority, 103, 263, 266-7 repurchase agreements, 286 psychological studies reputational intermediaries, 21, 188, 386 on motivation, 331 research and development spending, 315 public limited company, 27-8 Residential Mortgage-Backed Securities, 272 Punch Taverns, 255 residual control, 33 purposes of a stock market, 203 residual rights, 57, 88 pursuit of shareholder wealth, 377 resource allocation, 346 put up or shut up powers, 260 shareholder primacy, 209 responsibility of good faith, 149 Qinetiq, 376 restrictive practices, 155 quality of information retained earnings as a source of funding, 209 and evaluation of companies, 221 quantitative easing, 172, 195 return capital exceptional circumstances, 90 race-course revenue recognition, 306 stock exchanges likened to, 206 revised views, 15 reward consultants, 328 Railtrack, 4 Rhenish model, 257 railways acts, 157 Rajaratnam, Raj, 391 Rich, Marc, 372 Rank Group, 147 rights shareholders, 97 ratchets bonuses as, 329 rights issue, 96, 309 ratings agencies, 170, 184, 188, 190, 387 rights to ownership, 47 charging policies, 190 ring fence rational economic calculator, 16 banking activities, 393 rational intentions, 23 ring fence changes Vickers Report, 178 Rawls, John, 25 Royal Bank of Scotland (RBS), 4, 173, 218, 260, 275, risk, 171, 313 338, 350, 389 as a systemic problem, 221 Reckitts, 323 excessive, 178 recurrent themes of corporate collapse, 350 risk appetites, 222 risk management redemption by post, 170 redress and governance, 182 shareholders, 97 risk profile and shares, 204 regulated persons, 246 regulation, 230 role of chief executive, 140 regulators, 21, 188 role of shareholders regulatory activity, 263 government reviews, 147 regulatory agents, 232 Rolls Royce, 315 regulatory controls Rothschild, Nathaniel, 238 weakness, 133 Rowland, Roland 'Tiny', 63, 134 regulatory cost, 212 Royal Ahold, 148, 346 Royal Dutch Shell, 4, 51, 370 regulatory environment, 53 regulatory lag, 163, 183, 247, 269, 286 Royal Mail Line case, 211, 287, 351 regulatory oversight, 183, 348 Rudd, Sir Nigel. See Invensys failure and lack, 183 rule of law, 45 rule-based, 12 regulatory spectrum, 232, 346, 392 relationship between directors and shareholders. See articles of association Sainsbury, 215 relationship, chairman and chief executive, 138 sale with no recourse, 286 relative power Salomon Brothers, 169 institutional investors, 215 Sampson, Anthony, 127 remuneration committee, 143, 146, 328, 331, Sants, Hector, 266 Sarbanes-Oxley Act 2002, 283



INDEX

419

Satyam, 4, 281, 346, 371	shareholder-directors, 91
savings funds	shareholdings
insider dealing, 150	atomisation, 46
Schumpeter, Joseph, 135	shares
Schwed, Fred, 228, 247	as long-term property, 47
Securities Act of 1933 USA, The, 253	compulsory sale, 47
Securities and Exchange Commission (SEC),	fundamental characteristics of ownership, 50
245, 289	rights of ownership, 47
Securities Exchange Act of 1934 USA, The, 253	shares as property. See shares
second King Report. See King II	Shonfield, Andrew, 127
Second World War, 155, 211	short-term profit-maximisation
secondary activities, 40	pernicious effects, 77
secondary banking crisis, 133, 155, 246, 267,	short-sellers, 206
272, 352	short-selling, 247
secondary market, 204, 313	and legality, UK, 249
shares, 53	short-term trader, 207
Securities and Investment Board, 163	short-termism, 337
Self Regulating Organisation, 163	Siemens, 4
self-certificated mortgage, 170	signalling behaviour, 362
sell-side, 228	significance of the individual shareholder, 383
Senior Independent Non-Executive Director,	simple cash shortage
148, 206	insolvency, 353
Sepil, Mehmet, 238	SIND, BP, 149
service businesses	Singapore, 165
value, 40	Sino-Forest Inc, 238, 346
settlement	Sirbir, 4
of shares, 206	Skilling, Jeffrey, 333
shadow banking, 245	Slater, Jim, 134
share certificates, 90	Slater Walker Group, 135
share exchange, 317	small shareholder
share option schemes	discrimination against, 389
a factor of the control of the contr	
and directorial pay, 330	Smith, Adam, 32, 46, 365 Smith and Tycon committee reports
share options, 50, 144, 330	Smith and Tyson committee reports
shareholder, 8, 9, 17, 20–1, 58, 145, 153, 162, 384	redundant, 152
and accounting information, 300	Smith Report, 127, 148
and accounts, 304	Smithers, Andrew, 340
and audit, 289	smoothing effect of options, 331
and banks, 179	SocGen, 196
and regulation, 231	social inclusion, 169
as central to governance, 55	social obligations
as owners of companies, 40	of companies, supposed, 384
as stewards, 135	Societe Generale, 4
as subordinate parties in contract, 41	soft assets, 40
collaboration, 46	sole traders, 30
control, 43	solvency 2, 246
directors' pay, 144	solvency regulations, 246
interests. See stakeholders' treatment	sophisticated share ownership strategies, 205
involvement, 205	sophisticated financial instruments, 182
meetings, 45	South Africa, 11
ownership, 41, 46, 53, 386	special notice, 98
'power' emasculated, 217	special purpose acquisition companies, 238
powers, 41	special resolution, 89
primacy, 26, 40, 126, 358	Special Resolution Unit
remuneration, 48	Bank of England, 273
reserve power, 44	specialised investment banks, 388
residual contract, 55	specific stratagems
returns, 144, 328	and HFT, 226
return maximisation, 370	speculators, 135
rights, 76	stagflation, 133
risk, 71	stakeholder, 20, 59
sanction, 143	and regulation, 232
supremacy, 43, 45, 47, 371	definition, 59
value, 327, 357, 363-4, 383, 391	stakeholder influence, 383
wealth, 362, 365, 374	stakeholder interests, 106



stakeholder risk	Svanberg, Carl-Henric, 149
relationship to shareholders, 71	Sydney Stock Exchange, 12
stakeholder theory, 55, 58–9	'synthetic' debt instruments, 169
problems with, 60	systemic dimension, 153, 170
stakeholders, 17, 28, 55–6, 58, 60–1, 65, 71, 109, 145,	systemic dimension of corporate governance, 133
153, 373, 384	systemic dimension of governance, 202
and accounts 66, 309, 10	systemic failure, 265
and accounts, 66, 309–10 and audit, 279	systemic governance, 19, 154, 170, 173, 181, 242–3,
and financial crisis, 154	275, 322, 363, 384, 392 and banks, 177
interests, 139	and financial sector, 195, 197
role of, 394	systemic governance failure
shifting priorities, 384	2007–8, 188
stakeholder-shareholder balance, 156	systemic inadequacies, 350
Standard & Poor, 190	systemic mechanisms
standard of shareholder control, 44	and financial sector, 188
standard pay policies	systemically-significant companies, 339
boardroom pay, 143	
Stanford Business School, 148	takeover, 50, 314-15
Stanford Research Institute, 59	and shareholders' interests, 316
State	takeover bid, 309
and company accounts, 309	Takeover Code, 50
and regulation, 230	Takeover Panel, 260-1
as stakeholder, 75	takeover vehicles, 134
State domination of the economy, 128	tax advantages, 43
State intervention, 230	tax avoidance, 377
Statens Pensjonsfond – Utland Norway, 388	tax collection, 309
statute law	tax evasion, 377, 392
as basis of procedural governance, 101	taxation, 100
statutory obligations	TBTA – 'too big to audit', 390
inefficient allocation of resources, 221	TBTF – 'too big to fail', 390
Stevenson, Lord	technical characteristics. See company
and HBOS, 249 stewards	technocratic approach governance and Turnbull, 148
institutional investors, 150	temporal trading advantages, 226
stewardship, 47, 76, 104, 135, 148, 205, 215–16, 222,	temporal/longitudinal components
229, 309, 347, 372, 384, 386, 388, 394	of governance, 384
and HFT, 221	tension
and regulation, 232	usefulness and accuracy, 308
as a trading obstruction, 206	terms of reference
Stewardship Code, 150, 192	Cadbury Committee, 137
stewardship theory, 21, 23, 25	Walker Review, 174
Stock Exchange, 37, 45, 101-2, 137, 156, 188, 305, 312	tertiary activity, 40
Stock Market, 223	Tesco, 333
stockbrokers	Thatcher Government
as intermediaries, 189	1980s reforms, 127
Strategic Report	The Economist, 59, 210
by directors, 320	The Investors Chronicle, 59
Straw, Jack, 118	The Marchioness, 109
strength of governance systems, 202	theories of motivation
structural dimension of governance, 115	and directorial pay, 330
structural governance, 100, 149–50, 164, 181, 195, 235, 242, 263, 276, 298, 322, 337, 341, 345–8,	Thomas Cook, 48, 217, 332 timing boundaries
351, 356, 362–3, 384–5, See governance	and bonuses, 337
structural governance failure, 185	tobashi, 281
structural rigidity	Tomkins, 135
and bonuses, 329	too big to audit, 164
structure of accounts, 312	as a cause of failure, 182
subsidiary companies	Toronto Stock Exchange, 238
and shares in holding co, 92	Townsend Thoresen, 109
super-equivalence, 83, 92, 253	trading insolvently, 353
super-normal gains, 223	traditional governance theory, 377
sustainability, 135	traditional/conventional theory of shareholder
sustained inability to meet debts, 355	primacy, 388



INDEX

42.1

traditionalist corporate governance, 126 uncertainty, 306, 365 traditionalist theories, 42, 220, 226, 235, 277 undervalued sale, 91 and dismissal of directors, 180 UniCredit, 243 embedded in codes of governance, 203 Union Carbide, 347 implicit assumptions of, 206 Unipol, 243 United States v O'Hagan, 253 of corporate governance, 144, 179, 364 reality gap, 202 universal banks, 338 traditionalist view, 30, 41, 53, 55, 206, 336, 338, 341 Unlisted Securities Market, 209 See corporate governance use of options, 330 of governance, 117, 157, 309, 322, 340 users of accounts, 303 traditionalist/conventional theory of governance, 357 utmost good faith, 144 traditionalist/conventional view undermined by law, 385 Vallares, 244 traditionalist/legalist approaches, 123 Valler plc, 238 valuation of assets, 304 traditionalist/legalist theory, 47, 55 traditionalist/legalist view, 40, 46 See corporate valve doorkeepers' governance ratings agencies, 387 traditionalist/nexus viewpoint, 148 Vanderbilt, Cornelius, 327 venture capital, 22, 33, 44, 151 Trafigura, 372 transaction cost theory, 21, 23, 25 verification transaction costs and audit, 279 distorting effects, 225 Vickers, Sir John, 173 transaction prices Vickers reforms, 178 differentials, 225 Vickers Report, 173 Treadway Commission Report, 147 Villiers, Charlotte, 312 virtual market Treasury veto on company financing, 211 HFT as, 226 volatility of the market; and CAPM, 223 Treasury Committee of the House of Commons, 181 Trinity Mirror, 374 Triple Bottom Line, 310 voting rights, 89 criticism, 312 VW, 324 true and fair view, 61, 286, 298, 305 trust property Walker, Sir David, 174. See Walker Report pensions, 372 Walker, Peter, 134 trustees, 104, 221 Walker Review, 4, 146, 150, 172-3, 176, 196, 270, 386 Tullett Prebon, 196 and banking commission, 176 Turnbull Committee, 147, 164 Wall of Money, 211 Turner, Lord, 264 and FSA review, 172 weapons of mass financial destruction, 168 Turner Report, 127, 173-4, 176, 196, 265 Weavering Capital, 108 Turquoise, 236 Welch, Jack, 327 Tyrie, Andrew, 15 White, Gordon, 63, 134 Tyson, 151 Wilson Committee, 211, 214 Tyson Report, 127, 148 winding up, 99 Wolf, Martin, 340 uberimae fides, 22 Wolfson Electronics plc, 390 UBS, 196 Woolworths plc, 390 UK Bribery Act 2010, 18 'world-class' managers, 138 UK corporate governance, 12 World Crossing, 150 UK Corporate Governance Code, 37, 45, 50, 85, 102, Worldcom, 150, 346 123-4, 126, 147, 175, 209, 228, 291, 386 'fit for purpose', 175 written resolutions, 44 wrongful trading, 355 supporting distinctions between shareholders, 215 Xstrata plc, 237, 259 UK Listing Authority, 245

Yellow Book, 138

ultimate insolvency, 354