

More Information

INDEX

accountability expansion beyond intentional acts, 193 mechanism, 140 shareholder stewardship, 122, 140, 143 social accountability, 143 transnational corporations, 214 See also board accountability accounting and auditing law, 150 accounting council disadvantages, 283-284 enforcement mechanism, 280-281 membership, 281-283 purpose, 277-280 Accursius, Franciscus, 20-22 activism economic impact, 266-270 by hedge funds, 120–122, 131–135, 141-144, 301 by shareholders, 11, 53, 120-122, 131-138, 141-144, 257 advisory vote, 136 Affordable Care Act of 2010 (ACA), 174 - 175agency capitalism, 130 agenda control by shareholders, 261-263, 266 agency cost model, 253-255 agency theory, 39-40, 120, 122, 125 agents, 20, 23 aggregate theory adoption by U.S. Supreme Court, 27, 29,31-34Citizens United decision, 173, 240 comparison with other theories, 10, 17-22, 24-25, 27, 233-235 rejection of, 34, 36

aircraft and airlines, 193-195, 295 Alien Tort Claims Act, 222 Alito, Samuel, 175–177 American Law Institute (ALI), 50, 244 American Tobacco Company, 34 annual shareholders' meeting. See general meeting anti-trust, 34-35 apartheid, 221 appropriative power, 97, 105 artificial entity theory adoption and explanation, 18, 22-23, 31-35, 233-234 comparison with other theories, 10, 17 - 18constitutional law application, 238-239 criminal and tort liability, 241, 243 - 244criticism and rejection, 35, 235, 244 asset lock-in, 295 auditors, 161, 207 Aufsichtsrat. See under Germany Austin v. Michigan Chamber of Commerce, 173 Bainbridge Stephen, 67–69, 276–277, 308-309

308–309
balancing corporate rights and duties,
232–233, 249–250
banks, 76, 137
Bank of the United States v. Dandridge,
27, 29–30, 32
Bank of the United States v. Deveaux,
27, 29–31, 168



More Information

318

INDEX

bankruptcy, 63, 75 Bartolus of Sassoferato, 22-23 behavior modification, 190 Belotti. See First National Bank of Boston v. Bellotti (Belotti) Benefit Corporations, 248 Berle, Adolph, 37, 39, 105, 125, 129, 141 Berle-Means corporation, 41, 47, 49, 130, 141 Bermuda, 35 BHR (Business & Human Rights), 214, 219-220, 223 biodiversity, 156 biogeochemical flows, 156-157 biosphere integrity, 156-157 Bipartisan Campaign Reform Act of 2002, 172. See also Citizens United Blackstone, William, 24-25, 61 Blasius Industries, Inc. v. Atlas Corp., 69 blockholders, 45, 48, 59, 259, 263-264 board accountability entity maximization and sustainability theory, 13, 274-276 stages of accountability, 273-274 shareholder value theory and stakeholder theory, 276-277 to shareholders, 68-69. See also accounting council; general meeting board of directors appointment, 43 constitutional rights, 101-102 corporate governance, 40, 47, 54 charter discretion, 10 dividends, 105 employee representatives, 43 environmental concerns and duties, 150, 158 independence, 51 liability, 60 protection of shareholders, 73 removal without cause, 79 bounded rationality, 108, 110 Boyd v. United States, 180 Braswell v. United States, 167, 182 Braunfeld v. Brown, 176

Bubble Act, The, 25–26

Burwell v. Hobby Lobby Stores, Inc. See

Hobby Lobby

Business & Human Rights. See BHR

(Business & Human Rights)

business judgment rule, 74–76

business records, 182

Cadbury Committee on the Financial Aspects of Corporate Governance, 271-272, 276 Cadbury Schweppes, 133 CA, Inc. v. AFSCME Employees Pension Plan, 72 California, 65, 293 CalPERS (California Public Employees Retirement Scheme), 55, 130–131 Canada, 77, 297 capital markets and cost, 45, 50, 100, 110 - 111capitalism, 56, 116, 129-130 car seats, 199-200 Cedric Kushner Promotions, Ltd. v. King, 177 centralized decision-making governance, 83-86 management, 65-69 power, 100, 106-108, 136 CEO, 1, 6, 48, 203, 223 turnover, 267-268, 295 CERCLA (Comprehensive Environmental Response Compensation and Liability Act), 76 charitable trusts, 62 amendments, 28-29, 169, 256, 261-262, 266 issuance by the government, 24-26, 28-29, 64, 101-102, 233, 295 monopoly privileges, 63 under Delaware General Corporation Law, 81-82 child labor, 216 CID (Corporation's Internal Decision) Structure, 192 Citco Banking Corp NV v. Prusser's Ltd., 290



More Information

Cambridge University Press 978-1-107-14607-5 — Understanding the Company Edited by Barnali Choudhury, Martin Petrin

> INDEX 319

Citizens United v. Federal Election
Commission
controversy and criticism, 3,
167–168, 172–174
impact on constitutional rights, 12,
172–174, 184, 238–240
non-economic interests, 248
reasoning by the court, 172-174, 184
civil law jurisdictions, 17, 22, 37, 236,
242
Civil War (U.S.), 30
climate change
financial stability, 155-157
planetary boundaries, 147–148
short-termism, 150–151
closely held corporations, 30, 178
collective action, 39, 127, 199
collective guilt and shame, 206-209, 212
collective enterprise, 203-204, 206, 210
collective responsibility, 196–197, 204,
209–210
Collective and Corporate
Responsibility, 191
commitment model, 48
common law
decisions, 71, 101, 103
jurisdictions, 17, 37, 215, 236
Commonwealth nations, 288–290
Companies Act 2006. See under
United Kingdom
compartmentalization, 153
compensation. See executive
compensation
concentrated ownership, 49-50
conflicts of interests, 127, 134, 285
conglomerates, 191–192
constituencies, 4, 10, 38, 47, 73, 124
constitutional rights, 6, 12, 32–34,
167–184, 238–240
Commerce Clause, 184
Contracts Clause, 27–28, 168
criminal procedure, 179–183
Double Jeopardy Clause, 170
Due Process Clauses, 167-168,
170–171
Eighth Amendment, 171
Equal Protection Clause, 31, 34,
168, 170

```
Fifth Amendment, 32, 167-168, 170,
     180 - 182
  First Amendment, 168, 172-179, 239
  Fourth Amendment, 33, 168, 177,
     180 - 181
  Fourteenth Amendment, 34,
     168 - 170
  privilege against self-incrimination,
     32, 167-168, 180-182, 184
  Privileges and Immunities Clause,
     31, 167-169
  religious rights, 174-179
  Seventh Amendment, 168
  Sixth Amendment, 168, 183
  speech rights, 172-174, 237-239,
     246
  Takings Clause, 170, 177
constitutional supremacy, 103
Continental Europe
  abandonment of defining nature of
     the firm, 3
  comparison to other countries,
     41-47,59
  corporate ownership structures, 10
  labor interactions, 38
  reforms strengthening shareholders,
     54-57
  tort and criminal law, 240-241
contractarian. See nexus of contracts
corporate governance codes, 55-56
corporate governance machinery,
     81 - 87
Corporate Manslaughter and
     Corporate Homicide Act. See
     under United Kingdom
Corpus Juris Civilis, 20, 22
corrective mechanism, 134
corruption, 35, 161, 223, 229
country of incorporation, 36
creditor-oriented, 70
criminal liability, 6-7, 12-13, 235,
     240-243, 247
  constitutional rights, 179-183
  moral agency, 191-197, 211-212
  neoclassical economic perspective,
     185-191, 211-212
  norms, 197-200
  punishment, 199-211
```



More Information

320

crisis of identification, 207–209 cruel and unusual punishment, 171 CSR (corporate social responsibility) balancing corporate rights and duties, 232, 237–238, 243–245 human rights, 214–220, 230 public-private debate, 145–146 reporting, 149 customer satisfaction surveys, 307 Czech Republic, 58

DAP (discretionary administrative power)
accountability, 113, 115–116
explanation and rationale, 92–93, 107–110
internal corporate power, 95–97, 100, 103–104
Dartmouth College v. Woodward, 27–30, 32, 169
Deal Decade, 128
defensive shareholder activism, 131–132
defined benefits (DB) pension plans.
See pension plans and funds

Delaware
annual shareholders' meeting
requirement, 114
charter provisions, 82
directorial discretion, 69, 79,
101–105
managerialism, 51–52, 80
dividends, 105–106
shareholder agenda control and

primacy, 262, 308 shareholders' bylaw authority, 71–72 takeovers, 73–74 democratic forms, 114 derivative actions, 178, 279–281, 292 devaluation, 110

disclosure requirements, 115, 264 diversification, 63, 127, 135 diversity jurisdiction, 27–28, 30 dividends, 101, 105–106, 132, 295 Dodd-Frank Act, 121, 136

director primacy, 48, 70, 100-101,

103-105, 136, 276

INDEX

Dow Chemical Co. v. United States, 181 due diligence. See under human rights duration of existence, 81 duty of care, 76, 82, 85. See also fiduciary duty

East India Company, 24 ecology, 154-156 economic growth, 2, 8, 297 EDITBA (earnings before interest, taxes depreciation and amortization), 267 efficient market hypothesis, 152 election of boards, procedure, 114, 136 of boards, rights of shareholders, 125 contributions and political speech, 172-174, 238-239 See also triennial board election empowerment of shareholders, 253-256, 271 antitakeover regulation, 256–261 reform to insulate managers, 263 - 270shareholder agenda control, 261-263 EMS (entity maximization and sustainability) theory. See board accountability Enron, 272 environmental concerns corporate responsibility, 217-218, 221, 230 performance measurement, 298 sustainability, 150-151, 153, 155-157 equity culture, 135 equity investors asset lock-in, 295 control, 98-100 corporate attributes, 68-69 legitimacy, 110

DAP, 104–105 relationship between managers and investors, 92–93, 95, 97–98, 100

accountability, 111, 113-114

equity relation



More Information

INDEX 321

European Union (EU), 9, 149, 151-153, 158-163 2011 European Commission Communication, 218-219 "High Level Report of Company Law Experts" of 2002, 55-56 Roadmap to a Resource-Efficient Europe, 163 Shareholder Rights Directive, 56, 121-122, 137, 139-140, 142 executive compensation tied to performance, 51-52, 131, 301 hedge fund activism, 132, 134, 267 extended principle of accountability (EPA), 193 external corporate governance mechanism, 128

Federal Rules of Civil Procedure, 179 Federal Trade Commission (FTC), 181 FEC v. National Right to Work Committee, 173 fiction theory. See artificial entity theory fiduciary duty board of directors, 72, 76, 85, 294 controlling shareholders, 13, 286-288, 308 minority activist shareholders, 142 takeovers, 73 financial crisis, 8-9, 57-58, 74, 152 Financial Reporting Council, 138 fines, 183, 189-190, 200-201 First National Bank of Boston v. Bellotti, 172, 183-184 Fisher v. United States, 182 for-profit business entities constitutional rights, 174-178, 248 corporate attributes, 246 long-term projects, 296 origin and transformation from non-profit, 10, 17, 24–26, 30 France, 41-42, 44, 58, 137 Franchise Tax Board v. Alcan, 179 free-rider, 127 French "Nouvelles régulations économiques" of 2001, 55

French, Peter collective responsibility and guilt, 197, 204, 208–209 intentionality, 191–194 moral agency, 187, 194–196 Future of Socialism, The, 129

Gagliardi v. Trifoods International, Inc., 74 Gallagher v. Crown Kosher Super Market of Mass, 176 general meeting accounts by management, 114-115 hedge fund intervention, 265 accounting council interactions, 278-279, 281 role of shareholders, 284–285 fiduciary duty of shareholders, 285 - 292Germany comparative differences, 46 Control and Transparency Act of 1998, 55 Corporate Governance Code 2012, 277 fiction theory, 234-235 labor interactions, 38, 41, 58-59 say on pay regulations, 137 supervisory board (Aufsichtsrat), 13, 277-278, 282-283 Unternehmen an sich, 37 Vorstand (management board), Global Compact. See under United Nations Global Corporate Governance Principles, 55 Global Reporting Initiative (GRI), 220 globalization, 36, 213, 215, 261 global warming, 148 Google, 296-297 Great Depression, 57 Gross National Product, 260 group agent, 192, 194, 196-197 Guidelines for Multinational

Enterprises. See under OECD



More Information

322

Hale v. Henkel, 34, 180–181 Hansmann, Henry, 62–63, 67, 75–76, 86 hazardous industries and waste,

76, 86 hedge fund

activism and influencing boards, 120–122, 131–135, 141–144, 301 agenda control, 261–263

economic impact, 258–259, 266–270 reform to insulate managers,

263-266

Hobby Lobby (Burwell v. Hobby Lobby Stores, Inc.)

controversy and criticism, 3, 167, 239–240

corporate characteristics, 246–247, 296

impact on constitutional rights, 12, 169

reasoning by the court, 174-178

Holocaust, 208

home state, 36, 101

Hoschett v. TSI International Software,

Hudson's Bay Company, 295 human capital, 40, 46–47, 52–53, 304

human rights, 12, 152, 213–228

due diligence, 226–230 duty to respect, 225–228

HRDD (Human Rights Due Diligence), 227

importance to businesses, 216
United Nations guiding principles,

nited Nations 217–225

ILO (International Labour Organization), 231

Declaration on Fundamental Principles and Rights at Work, 223, 225

Tripartite Declaration of Principles,

incarceration, 183, 187–190, 200, 202 India, 221

Industrial Revolution, 25–26 indefinite duration, 62, 65–68 insiders, 108–100, 124, 257

INDEX

institutional investors

old comparative corporate

governance, 39, 41, 43

shareholder activism, 52–53, 129–132, 134–135, 143

disclosure requirements, 56, 139

influence of, 10, 56, 59, 120–121, 301

monitoring mechanism and accountability, 122, 138–140, 142,

144, 151 internal power legitimacy, 108–110

internalized norms, 199, 202 International Bill of Rights, 225, 231

International Organization for

Standardization (ISO), 225, 298
International Shoe Co. v. State of

International Shoe Co. v. State of Washington, 171

intentionality, 191, 193, 196

intrinsic corporate attributes, 66–70

inversion transactions, 35

investor paradigm, 11, 123, 140, 142–144

Italy, 23, 41, 44, 137

Japanese National Pension

Fund, 139 J.J. McCaskill Co. v. United States, 177

John Shaw & Sons v. Shaw, 102 joint stock company, 63–64 jury, 170–171, 183

VDIa (lassa manfa musa a sa di di

KPIs (key performance indicators), 158–161

Kraakaman, Reinier, 62–63, 66–69, 75–76, 86

labor

codetermination, 45

interests, 38, 40, 43-44, 48, 59

laws, 43, 49-50

membership, 58

mobility, 52

rights, 221

turnover, 307

Labour Government of the 1960s. *See under* United Kingdom

land-system integrity, 156



INDEX 323

large-scale projects, 295, 311	long-term business plan and interests,
law and economics theories	122, 138, 158–160, 254
corporate attributes, 4, 91, 94, 245, 313	long-term performance and stability,
criminal punishment, 185	80, 131, 135, 147
sustainability, 151–152	
legal fiction	MacAndrews & Forbes Inc., 34
Citizens United decision, 239–240 contractarian view, 123, 236	machinery of corporate governance,
origin, 23, 169	81–87
social responsibility, 244–245	Malaysian Stock Exchange, 139
	managerial accountability mechanisms,
legal personality, 24, 66–68, 294	93, 114, 116
legitimacy checked by accountability	managers and management
mechanisms, 92–93	agency cost reduction, 254, 263
	control and power, 8, 24, 48, 54, 128
executive power, 11, 108–110	mergers and acquisitions, 257–258
sustaining internal power imbalance,	performance, 53, 127
106–109	political power, 36
rationale for corporate governance	managerialism, 51–52, 124, 129, 140
mechanisms, 113–116	mandatory works councils, 44
Lennard's Carrying Co. v. Asiatic	margin purchasing, 134
Petroleum Co. (Lennard's case), 242	market forces, 129, 188, 253, 256
levers, 81–84	market correction, 255, 257, 263
liability	Marshall, John
board of directors, 77, 83–86	corporate attributes, 27–30, 32, 169,
criminal versus civil, 187–189, 194,	184, 233
197–198	corporations lacking citizenship, 168
double (multiple), 76–77, 85	real entity view, 32
managers, 75–76	Marxist, 94
parent company for subsidiaries,	Massachusetts Bay Company, 297
151	McDonnell-Douglas Corp.,
pro-rata, 65, 75, 86	193, 195
real entity theory, 233	Means, G., 39, 141
shareholders, 60, 76–77, 81–86 life-cycle focus, 159	measuring performance
life expectancy of corporations,	alternative to observable metrics,
302–303, 311	302–303
limited liability	observable metrics, 299–300
corporate attributes, 17, 25, 66–69,	problems in measuring, 297–299
83, 186, 246, 293	shareholder primacy paradigm, 307–309
historical evolution, 26, 30, 62–65, 236, 293	short-term and long-term interests, 300–302
rejection, 20	systems thinking, 304–307, 309–310
risk-taking and business judgment	media corporations, 173–174
rule, 75–76	mens rea, 241–242
Limited Liability Act of 1865, 293	mergers and acquisitions, 126, 133,
liquidity. See transferability	257–258, 261
of shares	Middle Ages, 3, 20, 295
Lochner court, 34, 184	Model Penal Code (MPC), 244



More Information

324 INDEX

OECD

monopolies, 30, 63 Moran v. Household International, Inc. (Moran doctrine), 51 multinational corporations, 17, 35-36, 213, 215, 221 municipalities, 19, 22, 233, 293-294 mutual funds, 53, 131 natural persons, 27, 32, 173, 175, 201, perpetual existence of corporations, 294 - 295long-term and short-term metrics, Nature of the Firm, The (Coase), 123 Nestlé, 221 Netherlands, The, 58 New International Regulatory Framework, 222 New York, 64-65 New York Central & Hudson River Railroad Co. v. United States, 179 nexus of contracts contractarian view of shareholders, 122 - 129critiques, 11, 120, 140-143, 201, 203, 245-246 theory explanation, 3-7, 9, 91-92, 117-118, 232, 236-238 Nigeria, 221 Nike, 221 Noble v. Union River Logging Railroad, 170 - 71non-economic interests, 247-249 non-profit corporations and organizations attributes, 62, 293-294, 296 constitutional rights, 172-173, 176 - 178shift from non-profit to for-profit, 10, 17, 24-29 social function, 247-248 non-totalitarian governance systems, 106 normative justification, 114 North Dakota, 261 Northern Pipeline Co. v. Marathon Pipe Line Co., 170

board accountability, 271 Guidelines for Multinational Enterprises, 158, 215, 218, 221, 225, 229-230 pension reform, 56-57 social responsibility, 217–218 offensive shareholder activism, 312 oil companies, 30, 221 Oklahoma Press Publishing Co. v. Walling, 180 outsiders, 108, 124, 202, 206, 243 ownership model, 39, 103, 125, 141 Paramount Communications, Inc. v. Time Inc., 73 parent company, 151, 159, 162 partnerships, 62-63, 66, 68, 293, 295 Pembina Consolidated Silver Mining Co. v. Pennsylvania, 31-32 pension plans and funds defined benefit plans, 40, 47, 52-53, 56-57, 59 institutional investors and shareholder activism, 129-131, 139, 151, 301 Taft-Hartley, 40 perpetual existence corporate attributes, 25, 66, 186, 293-295 measuring performance, 296, 298, 303, 310 shareholder primacy, 307-308 personal jurisdiction, 171 Pettit, Philip collective responsibility and guilt, 204, 208 group agent theory, 192-194 moral agency, 187, 194, 197 punishment, 201 planetary boundaries, 11, 156-157 poison pill, 256-257, 261, 265 pollution, 249 poverty, 148 PRA (principle of responsive adjustment), 193 primacy. See director primacy; shareholder primacy



INDEX 325

prisoner's dilemmas, 205-206	Reconstruction, 169, 184
privacy rights, 181, 246	Reebok, 221
private equity firms, 131	Rehnquist, William, 171
private nature of corporations, 117–118, 145	Religious Freedom Restoration Act (RFRA), 175
privatization, 213 probation, 190	research and development, 35, 138, 300, 306–307
profits	residual earnings, 126
distribution of, 105	respondeat superior, 179
future reflected in share price,	retirement wealth, 53-54
296–297	return on assets (ROA), 267-268
internal corporate power, 101	risk-taking, 11, 74-77, 86, 136-137
international economic regime,	Roe, Mark, 39, 45
216	Roman law, 3, 10, 17–19, 22–23, 233
maximization as goal, 142, 150,	royal control, 24–26
152–156, 188–189, 207, 246, 305, 307, 309–310, 313	Russian Volunteer Fleet v. United States, 170
measuring performance, 299-300,	
303–304, 306, 307, 311	sale of assets, 131
social responsibility, 219	Santa Clara County v. Southern
pro-labor policies, 45, 54	Pacific Railroad Company, 31–32,
pro-shareholder policies, 53–56, 58	169–170
proxy	say on pay regulations, 121, 136–137
statements, 71–72, 270	scandals, 272
voting, 115, 261–262, 301	Schultz, Howard, 1, 6
See also derivate actions	searches and seizures, 238
public model of corporations,	SEC (Securities and Exchange
118-119	Commission), 36, 50–51, 71, 265,
public-private debate, 119, 145–147	298, 301
public purpose, 37 publicly held, 30	securities laws, 36, 39, 264–265, 298,
punitive damages, 171, 241	301, 314
pullitive damages, 1/1, 241	Sen, Amartya, 205, 209
quasi-public power, 92	separation of ownership and control, 68–70
quasi public power, 72	
railroads, 30-31, 170-171, 197, 297	separation of powers, 170 share buy-backs, 132
rational persons, 124, 127, 187–188,	shareholder primacy
198, 205	comparison to director primacy,
real entity theory	136
constitutional rights, 173,	corporate purpose, 307–308, 310
238–243	criticism, 46–47, 117, 120, 163
comparison with other theories, 10,	measuring performance, 298,
17–18, 27, 34	302
origin and adoption, 18-25, 29-32,	nexus of contracts theory, 8-9,
34, 36, 235–236	125
social responsibility, 244	sustainability, 149–152, 154
tort and criminal liability, 7, 247	Shareholder Rights Directive. See under
reasonable doubt standard, 188-189	European Union



More Information

326

INDEX

standing, 171, 175-176, 178-179 shareholders bylaw authority, 10, 71-73 Starbucks, 1, 6, 314 centric policy reforms and reality, state of incorporation. See home state 41, 52, 81, 129, 144, 313 steel companies, 30 collective enterprise, 210 Stevens, John Paul, 168, 174 control, 38, 44, 47-48 Stewardship Code. See under United democracy, 9, 135 Kingdom fiduciary duties, 286-288, 308 subpoenas, 180, 182 subsidiaries, 151 orientation, 83-86 paradigm, 253, 256, 259, 261, supervisory boards, 13, 278-279 263-264, 269 supplier costs, 307 powers and sophistication, 41, 52 sustainability, 11, 114, 137, 145-165 stewardship, 11, 122, 137-140, 142 assurance, 161-162 business as usual, 147-149, 155, 163 standing requirement, 178-179 business plan, 158-161 shareholder value theory, 272 development, 153, 155 share price future profits, 296-297 public-private debate, 146-149 barriers and possibilities, 149-154 hedge fund activism, 121, 141 measuring performance, 299-300, non-financial reporting requirements, 160-162 302-303, 307 shareholder primacy, 150 reform proposals, 154-162, 165 Shell, 221 transformation, 165 value, 157 short-selling, 134 Sustainability Accounting Standards short-termism avoidance, 47, 152 Board (SASB), 298 causes of, 2, 47, 52 Sustainable Companies Project, 148-149, 151, 153-154 measuring performance, 299-300 negative consequences, 137-138, systems thinking. See under measuring 266 performance shareholder stewardship and empowerment, 140, 142, 255, 264 Taft-Hartley, 40 Shroeder government (Germany), 58 takeovers, 71, 80 social choice theory, 192 antitakeover regulation, 256-261 social contract logic, 96, 106 consideration of non-shareholders, social democracy theory, 119 72 - 74social responsibility. See CSR contractarianism, 127-129 (corporate social responsibility) premiums, 258, 261 social welfare theory, 119-122, 140, 153 target companies, 133 sole proprietor, 98, 176, 293, 295 taxation special meetings, 79 avoidance and evasion, 1, 6, South Africa, 139, 221 180, 203 Southern Union v. United States, 183 closely held to largely held stakeholder theory corporations, 30-32 board accountability, 276 discretionary administrative power, criticism, 7, 145-146 92, 96-97, 106 explanation, 4-7, 297 for emissions, 157 Standard & Poor's (S&P) 500, 260, imposed on banks, 27 300-302 multinational enterprises, 35



More Information

Cambridge University Press 978-1-107-14607-5 — Understanding the Company Edited by Barnali Choudhury , Martin Petrin Index

INDEX 327

performance measurement, 298, 301, 304, 310 rationale, 185, 194, 197, 201, 204, 211 - 212real entity view, 34 subsidized pension plans, 57 team production, 5, 41, 48, 209, 210, 280 tender offer, 257, 259, 265 third party punishment, 201-203 TNCs (corporate responsibility and accountability for transnational corporations), 214-215, 220-222 tort liability corporate duties and responsibilities, 6-7, 13, 248-249 limited liability for shareholders, 75 - 76neoclassical economic view, 187 pro rata shareholder liability, 86 real entity theory, 7, 235-237, 240-243, 247 TSR (Total Shareholder Return), 299-301, 303, 311 trading with the enemy, 35 transferability of shares corporate attributes, 63, 65-67, 69, 293 corporate governance machinery, 83 - 87restrictions, 82 transparency coalition, 54, 58 Trian Funds, 133 triennial board election, 265-266 Treatise of the Law of Private Corporations Aggregate, 26 Trustees of Dartmouth College v. Woodward, 233 two tier boards, 277-278

Ulpian, D., 19–22 ultra vires theory, 236 unincorporated business entities, 98, 100, 102, 176 Union Carbide Corporation, 221 United Kingdom abandonment of defining nature of the firm, 3 advisory vote on executive compensation, 136

bank regulations, 77 civil and criminal liability, 241-242 Companies Act 2006, 2, 9, 79, 244, 314 comparison with other countries, 61, 65, 70 Corporate Manslaughter and Corporate Homicide Act, 242 DAP, 101 derivative actions, 280-281 dispersed ownership, 41 employee representation on boards, 282 - 283Labour Government of the 1960s, 80 Model Articles, 101 ownership, 128-129 risk regulations, 74 say on pay regulations, 121 shareholder power, 42, 48, 52, 79, 81, 85, 95 shareholder and hedge fund activism, 131, 133 shareholder responsibilities and stewardship, 137, 142, 286, 288-290 social responsibility, 150 Stewardship Code, 138-140 United Nations, 216-217, 220-222 Framework (UN Protect, Respect and Remedy Framework), 214, 218, 223 Global Compact, 223-224 UNGP (Guiding Principles on Business and Human Rights), 12, 215, 218, 220, 223-231 Human Rights Commission, 222-223 United States v. Burger, 181 United States v. Hubbell, 182 United States v. Martin Linen Supply Co., 170 United States v. Morton Salt Co., 180 United States v. White, 182 Unocal Corp. v. Mesa Petroleum Co. (Unocal doctrine), 51 Unseen Revolution, The, 129 Unternehmen an sich. See under Germany

vicarious liability, 241–243 Vietnam War, 208



More Information

328

vocational training, 226

Vorstand (management board). See

under Germany
voting, 115, 126

wealth maximization, 5, 9, 244, 314–316 hedge funds, 141 sustainability, 272, 274–276 INDEX

welfare state, 80
Western Turf Association v.
Greenberg, 34
working conditions, 216
World Bank, 57, 215
Worldcom, 272
World Economic Forum, 222
World War II, 17, 50, 208