**THESIS INFORMATION PAGE**

Doctoral thesis title: **Improving the current law on public corporate governance in Vietnam.**

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**1. Abstracts**

Nearly four decades of transitioning the economy to a market mechanism with careful reforms, Vietnam's economy has made remarkable changes, although there are still many vestiges of the subsidized economy. It is an economy in which most large-scale enterprises are derived from state capital, only a small number of large enterprises are privately owned; Although public companies are publicized, the number of enterprises in which the state holds controlling shares is still high, small and medium-sized public companies account for a large proportion, the structure ownership in the company is highly concentrated. Internal conflicts are mainly conflicts between large shareholders and small shareholders. The ratio of loan capital/equity is high, even in some companies more than ten times higher. The stock market has not really developed as expected, market information is not standard compared to developed markets, and has not effectively supported the behavior control activities of managers and executives of the company. With the impact of economic, political, legal and traditional factors, the law still tends to interfere heavily in the company's internal governance, not considering the role of regulation properly of the market, ignoring the necessary concern about ensuring the management autonomy of enterprises, as well as the lack of incentives needed for public companies to proactively design the governance structure in accordance with the requirements itselft. The construction and reform of the public company governance law has not really focused on saving enforcement costs, and has not properly balanced between the costs of law enforcement and the costs of meeting market rules to build an appropriate corporate governance model. In addition, the integration pressure have made some regulations stereotyped according to the regulations of developed countries, incompatible with the context of Vietnam**.**

To be compatible with economic, political, cultural and legal factors, Vietnam should choose an integrated corporate governance model. This is an integrated model between the corporate governance model based on the external market and the corporate governance model based on the insider, whose goal is to focus on protecting the interests of shareholders on a harmonious basis interests of other important stakeholders, namely creditors and employees. The law only stipulates minimum standards as a basis to ensure the legitimate interests of the parties. The higher standards required by the market will be institutionalized by the Securities and Exchange Commission into a code of corporate governance governed by a “compliance or accountability” mechanism, allowing the company to choose alternative measures on the basis of ensuring functions and adjustment objectives. This set of rules is designed flexibly in proportion to the size, ownership structure, type of internal governance structure, listing status.

In order to successfully apply the above integrated model, the law on public company governance needs to improve the internal governance structure, effectively promote the supervisory role of market forces, combine the supervisory mechanism inside and outside to limit transactions with potential self-interest, build an incentive mechanism to receive information from employees and creditor banks in an effort to limit information asymmetry and reduce costs. information costs, and at the same time synchronously adjust relevant legal provisions towards building a mechanism for early detection of financial instability of the company, ensuring the basic rights of creditor banks in restructuring and resolving corporate bankruptcy.

The improvement of the company’s internal governance structure is adjusted to suit each type of internal governance model. For the two - tier board model, it is necessary to ensure the independence of the Supervisory Board from the Board of Directors and CEO. At that time, in parallel with increasing the authority and responsibility of the Supervisory Board, the requirements on the number of independent members of the Board of Directors can be replaced and reduced by the number of members of the Supervisory Board with the same function. In addition, promoting the position and role of the Supervisory Board in improving the operational efficiency of the enterprise. For the one-tier board model, in addition to enhancing the position and role of the Audit Committee, adjusting the election mechanism and promulgating operational regulations of the Audit Committee; adjust the proportion of independent members of the Board of Directors in the Audit Committee according to the capital size, concentration of ownership and listing status; stipulate accountability for failure to meet requirements on independence of members of the Board of Directors; adjusted the threshold of shares of shareholders to assess the independence of the members of the Board of Directors as well as supplemented regulations to enhance the intrinsic independence of the members of the Board of Directors. Simultaneously, simplify internal governance procedures, promote the active role of major shareholders and attribute their material responsibility for behavior affecting the independence of the Board of Directors and CEO who causes damage to the company, as well as establishes strict controls in case the concentration of shares exceeds the threshold for a entrenchment effect; strengthen the mechanism of decision-making, implementation and control of the decisions of the General Meeting of Shareholders.

Promoting the effectiveness of the stock market's regulation on corporate governance, public corporate governance legislation aims to: (i) enhance the efficiency of information disclosure and transparency; (ii) improve the independence and operational efficiency of the external independent auditors; (iii) effectively promote the mechanism to encourage the supervisory role of external shareholders on the basis of harmonizing the interests of small shareholders and large shareholders; (iv) promote accountability of institutional shareholders and investors holding shares in multiple companies with potential conflicts of interest; (v) establish an organization to protect the rights of minority shareholders; (vi) balance interests in state-owned enterprises that meet the requirements of the market and integration.

**2. Novelty of the thesis:**

Compared with previous studies on the law on public corporate governance of Vietnam, the thesis has the following new points:

**About the approach:**

Firstly, the thesis approaches the research problem from a systematic perspective, placing them in the same unified corporate governance system, operating in synchrony. Specifically, the thesis systematically analyzes the influencing factors that are interrelated with each other and their consequences on the law on public company governance of Vietnam, considering the issue of research in the synchronous movement of both internal governance mechanisms and external regulatory mechanisms. From there as a basis for analyzing the nature of the problem to be solved in the law on public corporate governance, as well as assessing the ability to apply economic and legal theory to choose the adjustment method, the way design a system of regulations, control mechanisms and orientations for public companies in accordance with the actual context of Vietnam, reflecting the basic characteristics of the corporate governance system, including the focus and the main direction of supervision and control activities, the interests pursued, the main subjects that need to be protected from the decisions of the directors, the structure of the corporate governance system. In other words, choosing a compatible public corporate governance model. On that basis, complete a number of legal provisions in order to improve the regulatory effectiveness of the law on public corporate governance in a comprehensive manner.

Secondly, the thesis approaches in the direction of considering the socio-economic costs and benefits of adjusting the law on public corporate governance, so that they both ensure efficient use of resources, develop capital markets, limiting the company's social and transaction costs; consider the adjustment of the law on corporate governance of Vietnamese public companies in relation to the market's ability to self-regulate in association with the role and objective of existence of the company in the economy - society.

**About new contributions**: The thesis has contributed to Vietnamese legal science the following new points:

**Firstly,** along with clarifying the content of the concept of corporate governance, corporate governance model, public corporate governance law, the thesis complements Vietnamese legal science with scientific arguments on building and improving the law on public corporate governance in a systematic and comprehensive manner. Those are the factors that Vietnam's public corporate governance law needs to consider, ensuring compatibility to meet the requirements of practice, improving enforcement efficiency and reducing transaction costs for corporation.

**Secondly**, through the analysis and assessment of influencing factors, the thesis identifies the needs of practice and the main nature of the issue that needs to be adjusted in Vietnam's law on public corporate governance, contributes to clarifying and supplementing the arguments for designing and improving the law on corporate governance of Vietnamese public companies. That is the main conflict between the large shareholder controlling management and the small shareholder, not the conflict between the manager who does not hold shares of the company and the small outside shareholder as in countries of the Common law tradition to which a number of practical legal regulations in Vietnam have been directed. In particular, the thesis recognizes the positive role of major shareholders in the supervision and performance of companies in Vietnam, as well as acknowledging the entrenchment effect in some cases when shareholders or block of shareholders holding a percentage of shares can control the decision-making of the General Meeting of Shareholders and absolutely influence the decision of the Board of Directors. On the contrary, it also shows the limitations of small shareholders in promoting the long-term interests of the company. This is different from previous studies that advocated promoting a distributed ownership structure, enhancing the rights of small shareholders and ignoring limitations from the abuse of power of small shareholders to the detriment of company's long-term interests, as well as the unfairness of incurring monitoring costs.

**Thirdly**, by considering, comparing and evaluating each factor affecting the effectiveness of public corporate governance law enforcement as well as the experience of other countries, the thesis proposes to perfect the corporate governance model in accordance with the context of Vietnam, contributing to enhancing the effectiveness of the regulation of public corporate governance law, promoting the regulatory role of the market and the company's business autonomy. It is an hybrid model between the internal structure-based corporate governance model and the market-based corporate governance model with a "compliance or accountability" mechanism and allows for functional substitution. In other words, different from the mechanical assembly of internal governance structures, the new model integrates the regulatory mechanism of the law and the regulation of the market as a unified and rhythmic operating system to improved regulatory efficiency of the market compensates for the rigidities of the law and better ensures the freedom of business of the company. Accordingly, in addition to meeting the minimum standards specified in legal documents, depending on actual conditions, the company can actively implement the higher requirements of the Code of Corporate Governance flexibly issued by the State Securities Commission, or applied for alternative measures according to the functions of the agency in the company to meet the regulatory objectives of the Code of Corporate Governance and presented to the Securities and Exchange Commission. Of course, this Code is only a concretization of market requirements in accordance with relevant laws.

**Fourthly**, the thesis recommends a system of new and synchronous legal solutions, contributing to perfecting the provisions of Vietnamese law, compatible with the actual conditions of Vietnam, consistent with the proposed corporate governance model. In the internal governance structure of the company, the thesis proposes to ***apply a flexible mechanism in proportion to the ratio***. Accordingly, the number of independent members of the Board of Directors, the scale of transactions with related person that need to be controlled and the internal transaction control mechanism are adjusted according to the internal governance model, capital size, ownership structure, listing status; stipulate a reasonable threshold for share ownership ratio to determine the independence of the members of the Board of Directors according to the capital size. In addition, the thesis also ***recognizes the*** ***effectiveness of supervision of members of the Supervisory Board holding shares of the company and major shareholders*** by adjusting relevant regulations. The thesis proposes to adjust the negative effects of shareholders or controlling shareholders on the decision of the Board of Directors to cause damage to the company by stipulating their liability to compensate for damage; required disclosure of voting policy of major shareholders holding the majority of shares in multiple companies with conflicting interests at the same time. In addition, the thesis also recommends regulations to encourage external tools to support the market to regulate the behavior of managers, contributing to reducing law enforcement costs and improving company performance.

**Fifthly**, the thesis recommends specific legal solutions to harmonize the interests of key stakeholders associated with the long-term interests of the company, considering it as part of the company's social responsibility and helping the company increase the value of its social capital. These are legal solutions to help employees and credit providers early detect and prevent risks, protect their legitimate interests, as well as ensure their ability to participate and support in the process of reducing information asymmetry, reducing monitoring costs.

**Finally,** through studying the corporate governance model of countries with concentrated ownership structure and the state capital accounts for a large proportion in the ownership structure, the thesis also predicts the possibility that the representative of the state's controlling capital in the company may abuse the right to use the company's assets for personal political purposes against the wishes of the majority of shareholders, or abuse political position participate in policy making to thereby disadvantage other investors; discovered inadequacies in ensuring the interests of shareholders after the state recovered assets lost from the case related to the violations of state agencies. At the same time, we recommend legal solutions to limit the above situation.

**3. Possibility of application in practice or issues that need continued research**

 The thesis contributes to systematically elucidate the fundamental theories of public corporate governance law, especially the factors affecting the public corporate governance law, as well as the needs and contents of the law on public corporate governance. Thereby, ***creating a theoretical premise for the consolidation of practical legal norms on public corporate governance in Vietnam***.

 Through building a general picture of the practical needs of public corporate governance legislation in Vietnam, the thesic ***provides the practical basis for the improvement of legal provisions on corporate governance in Vietnam***.

 On the basis of the above scientific arguments, the thesis ***recommends the corporate governance model, the adjustment method of the law on corporate governance and solutions*** to complete a number of relevant regulations to improve the efficiency of the law on corporate governance.

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