The Contributions of the Role of Independent Directors to the Corporate Governance Regimes of the United Kingdom and the United States

Hammad Nisab, Liverpool John Moores University

Abstract

Independent directors have become a central pillar of corporate governance reforms in both the United Kingdom and the United States, intended to mitigate agency problems, strengthen board oversight, and enhance accountability. Regulatory frameworks such as the UK Corporate Governance Code 2024 and the Sarbanes-Oxley Act of 2002 reflect a shared belief that board independence is essential for effective corporate monitoring. However, this paper critically evaluates whether independent directors have, in practice, made a useful contribution to corporate governance outcomes in either jurisdiction.

Drawing on a comparative doctrinal analysis and detailed case studies, the paper demonstrates that formal independence has not consistently translated into effective oversight. Post-reform corporate failures, including Carillion and Patisserie Valerie in the UK, and Wells Fargo and Boeing in the US, occurred under fully compliant governance regimes dominated by independent directors. These cases reveal a persistent gap between regulatory design and practical performance. Independent directors were frequently constrained by reliance on management-controlled information, limited industry-specific expertise, structural and social bias, and appointment processes influenced by executives.

The paper argues that independence in form does not guarantee independence in substance. While empirical evidence shows that independent directors can contribute positively where they are genuinely engaged, informed, and competent, their effectiveness is undermined by structural weaknesses embedded within current governance frameworks. It is therefore argued that the continued regulatory emphasis on formal independence is insufficient. Meaningful reform requires a shift from formal independence criteria towards functional independence, emphasising access to information, relevant expertise, and genuine capacity to challenge executive power. Without such reforms, independent directors risk remaining symbolically central but practically ineffective within modern corporate governance regimes.

Keywords: Independent directors, corporate governance, board oversight, agency theory, UK Corporate Governance Code 2024, Sarbanes-Oxley Act 2002

1. Introduction

Independent directors have become a central feature of corporate governance reforms in both the United Kingdom and the United States, primarily aimed at mitigating agency problems, strengthening board oversight, and protecting shareholder interests.[1] Regulatory frameworks such as the UK Corporate Governance Code 2024[2] and the Sarbanes-Oxley Act of 2002 (SOX)[3] in the United States have sought to formalise and reinforce the role of independent directors through enhanced independence requirements, board composition rules, and committee structures. These reforms reflect a growing regulatory belief that independent directors are essential for effective corporate monitoring.

However, despite the strengthening of these regulatory frameworks, serious corporate governance failures after these reforms continue to raise doubts about the practical effectiveness of independent directors. In the UK, the collapses of Carillion (2018) and Patisserie Valerie (2019) occurred under the fully operational governance frameworks, revealing deep failures in board oversight, audit scrutiny, and risk management. Similarly, in the United States, post-SOX failures such as the Wells Fargo scandal (2016) and the Boeing 737 Max crisis (2019) demonstrate that even boards dominated by independent directors have failed to prevent misconduct and catastrophic governance breakdowns. These failures suggest that the problem lies not in the absence of regulation, but in the limitations of independent directors' effectiveness in practice.

Although independent directors are intended to enhance governance quality by monitoring executives, reducing agency costs, and ensuring accountability, their actual contribution remains deeply contested. Structural problems such as limited

[1] Marc T Moore and Martin Petrin, *Corporate Governance: Law, Regulation and Theory* (Palgrave 2017) 171-181.
[2] UK Corporate Governance Code 2018.
[3] Sarbanes-Oxley Act 2002, Pub L No 107-204, 116 Stat 745.

access to reliable information,[4] structural and social bias,[5] questionable independence,[6] lack of industry expertise,[7] and excessive reliance on management-filtered data frequently undermine their ability to operate as effective watchdogs. This reveals a persistent gap between the theoretical justification for independent directors and their practical performance within real corporate environments.

This paper critically examines whether independent directors make a genuinely useful contribution to corporate governance in the UK and the US. It argues that while independent directors remain conceptually important, their effectiveness is significantly overstated within current regulatory frameworks. The paper is structured as follows. Section two outlines the theoretical rationale underpinning the role of independent directors. Section three traces the evolution of governance frameworks in both jurisdictions. Section four provides a comparative analysis of contemporary regulatory structures supported by case studies. Section five evaluates the structural limitations that continue to undermine effectiveness. Finally, section six offers reform proposals and concluding observations.

2. Agency Problems and the Rationale for Independent Directors

To critically evaluate the role of independent directors, it is first essential to understand the corporate governance problems they are intended to address, particularly agency costs[8] and board monitoring.[9] In modern corporations, especially within the Anglo-American model, the separation of ownership and control creates a significant discretionary gap.[10] Shareholders provide capital but do not directly control daily management, while executives exercise substantial decision-making authority over corporate resources.[11] This separation creates the risk that executives may prioritise their own interests, such as pursuing short-term gains, empire-building, or excessive remuneration over those of shareholders. Jensen and Meckling famously theorised,

[4] Andrew R Keay, *Board Accountability in Corporate Governance* (Routledge 2016) 83.
[5] Yaron Nili, 'Out of Sight, Out of Mind: The Case for Improving Director Independence Disclosure' (2017) 43(1) Journal of Corporation Law 3, 54.
[6] Ibid.
[7] Wolf-Georg Ringe, 'Independent Directors: After the Crisis' (2013) 14 European Business Organization Law Review 401, 416.
[8] Moore and Petrin (n 1) 177-178.
[9] Brian R Cheffins, *Company Law: Theory, Structure and Operation* (Clarendon Press 1997) 604-605.
[10] Moore and Petrin (n 1) 9.
[11] Ibid.

these agency problems naturally arise when ownership and control are separated, because managers may not always act in shareholders' best interests.[12]

Independent directors, also known as non-executive directors, are intended to be a key mechanism for mitigating the agency costs. They are members of the board who do not have any material or close ties with the company.[13] More specifically, an independent director is someone who has no close or material relationship with the company apart from their role on the board.[14] This means they must not have been employed by the company or its affiliates in the last several years, nor should they have significant business dealings, financial ties, or close family connections with it.[15] These restrictions are intended to safeguard impartiality and ensure that directors can exercise independent judgment, free from the influence of management. Brian R. Cheffins explains, an independent director is someone whose connections to the company could not reasonably be expected to affect their judgment.[16] They are therefore expected to provide objective oversight, acting as a check on executive power and protecting shareholder interests.

From an agency theory perspective, independent directors are understood as key monitoring agents whose primary function is to reduce agency costs by supervising executive conduct and protecting shareholder interests.[17] Without this external monitoring function, executives are more likely to exercise unchecked control over corporate resources, including their own remuneration, and become entrenched in their positions.[18] This monitoring role is reinforced by legal duties. Although company law differs across the two jurisdictions, the core duties of directors remain largely similar.[19] These duties are generally categorised into the duty of trust and the duty of care.[20] The duty of trust requires directors to act in good faith and in the best interests of the company, avoiding conflicts of interest.[21] They must not use their position to gain unauthorised personal benefits. The duty of care requires directors to exercise

[12] Michael C Jensen and William H Meckling, 'Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure' (1976) 3 Journal of Financial Economics 305.
[13] Bob Tricker, *Corporate Governance: Principles, Policies, and Practices* (4th edn, OUP 2019) 103-104.
[14] Ibid 104-105.
[15] Ibid.
[16] Cheffins (n 9) 98.
[17] Jill Solomon, *Corporate Governance and Accountability* (5th edn, Wiley-Blackwell 2020) 70.
[18] Ibid.
[19] Chris A Mallin, *Corporate Governance* (6th edn, OUP 2019) 200.
[20] Tricker (n 13) 107.
[21] Tricker (n 13) 107.

reasonable skill, care, and diligence in decision-making and to act as a reasonably competent person with appropriate knowledge and experience.[22]

Despite these legal duties, governance challenges persist because executives in large public companies often retain effective control over corporate decision-making.[23] In such companies, share ownership is widely dispersed among a large number of shareholders, each holding only a small stake. This dispersed ownership structure weakens shareholders' ability to monitor management directly. As a result, executives acquire de facto control over corporate affairs.[24] Eugene Fama highlights that this dispersion significantly weakens shareholders' monitoring capacity.[25] These dynamics underscore the critical need for genuinely effective board independence rather than nominal oversight.

However, the assumption that formal detachment alone guarantees effective oversight is increasingly questioned. This paper will critically examine this assumption, but it is important to note that independent directors are not merely passive monitors. They also play an important advisory and strategic role, bringing external expertise and networks to the boardroom.[26] Solomon observes that independent directors enhance the board's strategic capacity by contributing to decisions on mergers, acquisitions, and investment planning.[27] Furthermore, empirical research by Dahya and McConnell provides evidence of their positive potential.[28] Their study of UK firms that adopted Cadbury Committee recommendations found a measurable improvement in financial performance, with return on assets increasing from 7.76 percent to 9.71 percent, attributable to enhanced internal efficiency rather than general economic conditions.[29] Similarly, more recent research on Chinese listed companies, relevant for its insights into information asymmetry and financial misconduct, suggests that independent

[22] Tricker (n 13) 108.
[23] Cheffins (n 9) 606.
[24] Thomas Clarke, Wafa Khlif and Coral Ingley (eds), *Elgar Encyclopedia of Corporate Governance* (Edward Elgar Publishing 2024) 118.
[25] Eugene F Fama, 'Agency Problems and the Theory of the Firm' (1980) 88 Journal of Political Economy 288, 291-293.
[26] Stephen M Bainbridge, *Corporate Governance after the Financial Crisis* (OUP 2012) 86.
[27] Solomon (n 17) 70-71.
[28] Jay Dahya and John J McConnell, 'Board Composition, Corporate Performance, and the Cadbury Committee Recommendation' (2007) 42 Journal of Financial and Quantitative Analysis 535.
[29] Ibid 537-538.

directors are more willing to challenge management in high-risk environments.[30] These findings indicate that independent directors can contribute positively where they are genuinely engaged, informed, and competent. However, this also highlights a critical limitation: their effectiveness is conditional rather than automatic. Independence in form does not, by itself, ensure effective monitoring. This reinforces the central argument of this paper that while independent directors remain theoretically essential, their practical contribution depends on the structural conditions within which they operate.

3. Historical Failures and the Evolution of Governance Frameworks

The modern emphasis on independent directors in corporate governance was shaped by a series of high-profile failures that exposed the inadequacy of board oversight prior to the introduction of contemporary regulatory frameworks. In the United Kingdom, before the Cadbury Report (1992),[31] independent directors were not subject to any codified governance requirements beyond the general fiduciary duties imposed by the Companies Act 1985.[32] In the United States, prior to the Sarbanes-Oxley Act of 2002 (SOX),[33] regulation of independent directors was fragmented. The Securities and Exchange Commission (SEC) imposed disclosure obligations and certain rules on audit committees, while the New York Stock Exchange (NYSE) and NASDAQ listing standards required a minimum presence of outside directors.[34] In addition, fiduciary duties under state corporate law, particularly in Delaware, provided a judicial framework for assessing independence. However, these regimes offered only limited and uneven guidance, leaving boards vulnerable to executive dominance and weak monitoring.

In the United Kingdom, the Guinness scandal (1986) revealed how boards lacking genuine independence failed to prevent market manipulation during a takeover bid,

[30] Yunjing Liu, Bin Wu and Min Zhang, 'Can Independent Directors Identify the Company's Risk of Financial Fraud: Evidence from Predicting Financial Fraud Based on Machine Learning' (2023) 11(3) China Journal of Accounting Studies 465.
[31] Committee on the Financial Aspects of Corporate Governance, 'Report of the Committee on the Financial Aspects of Corporate Governance' (Gee and Co Ltd 1992) (Cadbury Report).
[32] Companies Act 1985.
[33] Sarbanes-Oxley Act (n 3).
[34] Suzanne Le Mire and George Gilligan, 'Independence and Independent Company Directors' (2013) 13 Journal of Corporate Law Studies 443, 468.

including the approval of secret payments amounting to £5.2 million without proper scrutiny.[35] Similarly, the collapse of Maxwell Communications (1991) highlighted the dangers of weak oversight, as Robert Maxwell misappropriated hundreds of millions of pounds from company pension funds while the board, composed largely of compliant or conflicted directors, remained passive.[36] These cases underscored the risks inherent in concentrated executive power and the absence of directors capable of exercising independent judgment. They prompted policymakers to recognise that effective governance required structural safeguards against managerial opportunism.

In the United States, the failures of Enron (2001) and WorldCom (2002) revealed comparable weaknesses.[37] Enron's board consisted of 15 directors, 14 of whom were formally classified as independent,[38] but they failed to prevent or even detect the company's extensive use of off-balance-sheet entities and misleading financial disclosures.[39] This empirical evidence demonstrates that independence in form did not equate to independence in substance, as directors often lacked the scepticism, expertise, and access to reliable information necessary to challenge management effectively. Similarly, WorldCom's board failed to prevent one of the largest accounting frauds in history, despite the presence of outside directors.[40] The collapse of these companies not only devastated investors and employees but also eroded public trust in corporate governance, directly triggering the enactment of the Sarbanes-Oxley Act of 2002, which transformed the regulatory approach to board independence and financial oversight.

Collectively, these pre-reform failures illustrate the structural deficiencies of boards prior to the codification of independence standards. Independence in numbers did not translate into effective oversight, as directors often lacked the capacity or willingness to challenge executives.[41] The lessons drawn from these scandals shaped subsequent reforms, most notably the Cadbury Report (1992) and the Higgs Review (2003) in the UK, alongside the continuing development of the UK Corporate

[35] Cheffins (n 9) 612.
[36] Cheffins (n 9) 613.
[37] Antony Page, 'Unconscious Bias and the Limits of Director Independence' (2009) 1 University of Illinois Law Review 237, 248.
[38] Liu, Wu and Zhang (n 30) 466.
[39] Paul M Healy and Krishna G Palepu, 'The Fall of Enron' (2003) 17(3) Journal of Economic Perspectives 3,14.
[40] Page (n 37) 238-239.
[41] Cheffins (n 9) 613.

Governance Code, now reflected in its 2024 iteration, and the SOX 2002 reforms in the United States, all of which sought to embed independence more firmly into governance frameworks. These reforms reflected a strong regulatory consensus that independent directors were essential to effective monitoring. However, this consensus was built on the assumption that strengthening formal independence would, by itself, improve board effectiveness. As later sections will demonstrate, this assumption remains open to serious doubt. Even after these reforms, significant governance failures continued to occur, suggesting that the core limitations of independent directors were not fully addressed by regulatory design.

4. Regulatory Frameworks Governing Independent Directors: A Comparative Analysis

Both the UK and the US have developed extensive regulatory frameworks to govern independent directors. This section provides a comparative analysis of these frameworks and tests their effectiveness against post-reform corporate failures.

4.1 The United Kingdom Framework and Case Studies

The regulation of independent directors in the United Kingdom has evolved incrementally through a series of landmark reports and codes. Prior to the Cadbury Report (1992), independent directors were governed only by general fiduciary duties under the Companies Act 1985,[42] with no statutory requirement for board independence. Corporate scandals such as the Guinness and Maxwell cases exposed serious weaknesses in board accountability and demonstrated that legal duties alone were insufficient where boards lacked genuine independence.[43] These failures prompted policymakers to re-evaluate the effectiveness of existing governance arrangements and to develop a structured framework to strengthen independent oversight.

In response, the Cadbury Report (1992) introduced foundational principles for the role of independent non-executive directors (INEDs).[44] It emphasised that INEDs must be

[42] Companies Act (n 32) ss 221-222, 234, 317, 320.
[43] Cheffins (n 9) 612-613.
[44] Cadbury Report (n 31).

independent of management and free from any business or other relationships that could materially impair their judgment.[45] It further emphasised that boards of listed companies should include a minimum of three non-executive directors, the majority of whom must be independent.[46] It also recommended the separation of the roles of chair and chief executive and required audit committees to be composed mainly of independent directors.[47] These recommendations sought to strengthen board monitoring and reduce executive dominance by embedding independence into board structures.

Building on Cadbury, the Higgs Review (2003) strengthened independence requirements by recommending that at least half the board of a listed company should consist of independent non-executive directors.[48] The purpose of this report was to address the agency conflicts between shareholders and management.[49] It also introduced the role of the Senior Independent Director (SID) to enhance accountability and shareholder dialogue and highlighted the importance of independent directors in improving decision-making quality and board monitoring.[50] The recommendations of both Cadbury and Higgs were later incorporated into the Combined Code on Corporate Governance 2003[51] and 2006[52], thereby consolidating the UK's modern governance framework.[53] Further reforms followed with the Walker Review (2009)[54], introduced in the aftermath of the global financial crisis.[55] It specifically recommended that INEDs should significantly increase their time commitment, proposing a minimum of 30 to 36 days annually for directors serving on major bank boards.[56] It further emphasised the need to improve the qualifications and ongoing training of INEDs through business awareness sessions, enabling them to better understand the

[45] Cadbury Report (n 31) para 4.12.
[46] Cadbury Report (n 31) para 4.14.
[47] Cadbury Report (n 31) para 4.35.
[48] Derek Higgs, 'Review of the Role and Effectiveness of Non-Executive Directors' (Department of Trade and Industry 2003) 9.5.
[49] Solomon (n 17) 64.
[50] Higgs (n 48) 7.5, 15.15.
[51] *Combined Code on Corporate Governance* 2003.
[52] *Combined Code on Corporate Governance* 2006.
[53] Tricker (n 13) 124.
[54] David Walker, 'A Review of Corporate Governance in UK Banks and Other Financial Industry Entities' (2009) <https://www.iod.com/app/uploads/2022/02/The-Walker-Review-A-review-of-corporate-governance-in-UK-banks-and-other-financial-industry-entities-7c12bf7b56071cb103fdd7c0a84f28d9.pdf> accessed 29 March 2026
[55] Moore and Petrin (n 1) 183.
[56] Walker (n 54) rec 3.

complexities of the institutions they oversee.[57] These developments reflected growing recognition that formal independence alone was insufficient without adequate time commitment and competence.

At the international level, the OECD Principles of Corporate Governance (1999, revised 2004 and 2015) reinforced the importance of independence,[58] transparency,[59] and accountability.[60] They emphasised that independent directors should be free from material relationships with management, possess adequate competence, and play a central role in audit, remuneration, and nomination committees. These principles influenced UK reforms by aligning domestic governance standards with global best practice.

The culmination of these reforms is the UK Corporate Governance Code 2024,[61] issued by the Financial Reporting Council. The Code requires that at least half the board, excluding the chair, consist of independent non-executive directors.[62] It sets out strict independence criteria, including prohibitions on recent employment, significant business ties, or close family connections with senior management.[63] It also mandates the appointment of a Senior Independent Director and requires that audit,[64] nomination,[65] and remuneration[66] committees be composed largely or entirely of independent directors.[67] These provisions aim to ensure balanced decision-making, prevent board capture, and strengthen accountability.

However, as the following case studies demonstrate, compliance with the Code has not eliminated failures of oversight. Despite the UK's extensive principles-based framework, boards dominated by formally independent directors have continued to approve risky strategies without effective challenge.

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[57] Walker (n 54) rec 1.
[58] Organisation for Economic Co-operation and Development, 'OECD Principles of Corporate Governance' (1999) 43-44 <https://one.oecd.org/document/C/MIN(99)6/En/pdf> accessed 22 March 2026.
[59] Ibid.
[60] Ibid.
[61] UK Corporate Governance Code 2024.
[62] Ibid provision 11.
[63] Ibid provision 10.
[64] Ibid provision 24.
[65] Ibid provision 17.
[66] Ibid provision 32
[67] Ibid provision 12.

4.1.1 Carillion Plc (2018)

The collapse of Carillion in 2018 illustrates the persistent limitations of independent oversight even under the fully operational UK Corporate Governance Code. Carillion's board, and particularly its audit committee, composed largely of independent non-executive directors, failed to provide the level of scrutiny envisaged by the Code. Parliamentary inquiries found that directors 'failed to scrutinise or challenge reckless executives', allowing aggressive revenue-recognition practices and overly optimistic financial forecasts to go unchallenged.[68] This directly contradicted the Code's expectation that independent directors should exercise constructive scepticism and safeguard the integrity of financial reporting.

Moreover, independent directors did not adequately understand the complexity of Carillion's long-term contracts, leading to inadequate reviews of operational risks and a culture of 'push for cash at period end' that obscured the company's true financial position.[69] This failure highlights the practical relevance of the Walker Review 2009, which had warned that independent directors must devote sufficient time and develop financial competence to challenge management effectively.[70] In Carillion's case, the board's formal independence did not translate into substantive oversight. Had independent directors rigorously interrogated accounting assumptions or demanded external verification of deteriorating contracts, the scale of the company's financial problems could have been identified much earlier. Carillion therefore demonstrates that compliance with the governance standards did not prevent governance failure where systemic weaknesses limited directors' ability to act as effective watchdogs.

4.1.2 Patisserie Valerie (2019)

The collapse of Patisserie Valerie in 2019 further demonstrates that formal compliance with independence requirements does not guarantee effective oversight. The company's board included independent directors and maintained a functioning audit committee, yet a £94 million fraud went undetected for years.[71] This failure shows that

[68] House of Commons Business, Energy and Industrial Strategy Committee and Work and Pensions Committee, 'Carillion' (HC 2017–19, 769) 1,4.
[69] Ibid 16.
[70] Walker (n 54) rec 1, 3.
[71] BBC News, 'Patisserie Valerie: Four Face Fraud Charges over Collapse' *BBC* (13 September 2023) <https://www.bbc.co.uk/news/business-66800002> accessed 4 December 2025.

independence in form was meaningless in practice, as directors relied excessively on management and external auditors rather than exercising their own judgment.[72]

The case directly contradicts the Cadbury Report's assertion that independent directors must use their access to information to form an informed and critical view, as well as the Code's expectation that audit committees ensure financial integrity and robust internal controls. The board's failure to independently verify cash balances or investigate unexplained discrepancies revealed a deeper structural weakness: independent directors lacked either the capacity or the willingness to scrutinise management. Scholar McLaughlin found that audit committee diversity and independence did not prevent scandals in UK companies, suggesting that independence requirements alone are insufficient without genuine scepticism and expertise.[73] However, independent directors could have limited the scale of the failure by insisting on direct confirmation of cash positions, questioning inconsistencies in financial statements, and commissioning an independent forensic review at an earlier stage. The Patisserie Valerie case therefore demonstrates that even where independent directors are present and committees comply with the Code, oversight collapses when boards fail to challenge, verify and investigate.

Overall, Carillion and Patisserie Valerie show that the UK Corporate framework has not eliminated weaknesses in board oversight. Independent directors, despite meeting formal independence criteria and committee structures, failed to challenge management, scrutinise financial information, or devote sufficient time and expertise to their roles. These failures demonstrate that the problem lies not in the absence of regulation, but in the persistent limitations of independent directors' effectiveness in practice.

4.2 The United States Framework: Rules-Based Approach and Case Studies

In the United States, the regulation of independent directors has developed through a combination of federal legislation, stock-exchange rules and state corporate law.[74] Prior to the Sarbanes-Oxley Act of 2002 (SOX), oversight of independent directors

[72] Ibid.
[73] Craig McLaughlin and others, 'Audit Committee Diversity and Corporate Scandals: Evidence from the UK' (2021) 29 International Journal of Accounting & Information Management 734, 742.
[74] Le Mire and Gilligan (n 34) 468.

was fragmented. The SEC imposed disclosure obligations and certain audit-committee rules, while the NYSE and NASDAQ listing standards required a minimum presence of outside directors.[75] Independence was also assessed through fiduciary duties under Delaware corporate law, which relied heavily on judicial interpretation rather than statutory definition.[76]

The collapse of Enron (2001) and WorldCom (2002) exposed the practical weaknesses of this fragmented system.[77] Although Enron's board contained a large majority of formally independent directors, it failed to detect extensive accounting manipulation and off-balance-sheet financing.[78] These scandals devastated investor confidence and directly triggered the enactment of the Sarbanes-Oxley Act of 2002.

The Sarbanes-Oxley Act marked a watershed moment in US corporate governance. It required audit committees to be composed entirely of independent directors, prohibited members from receiving consulting or advisory fees beyond standard remuneration, and placed responsibility for the appointment and oversight of external auditors on the audit committee.[79] These reforms significantly strengthened the formal position of independent directors within the governance structure. However, analysis suggests that structural independence does not automatically ensure effective monitoring.[80] As Ringe observes, independent directors may face limitations in understanding complex business operations and often rely on information provided by management, which can constrain their oversight role.[81] Criticism has also been raised by some researchers regarding the operation of SOX, particularly section 404, in that the extensive compliance and reporting requirements have increased the responsibilities of audit committees and independent directors, requiring them to oversee complex internal control systems and potentially limiting their capacity to perform effective monitoring.[82]

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[75] US Securities and Exchange Commission, 'Audit Committee Disclosure' (Final Rule), Exchange Act Release No 34-42266, 64 Fed Reg 73389 (29 Dec 1999) <https://www.federalregister.gov/documents/1999/12/30/99-33849/audit-committee-disclosure> accessed 11 December 2025.
[76] George W Dent Jr, 'Independence of Directors in Delaware Corporate Law' (2016) 54 U Louisville Law Review 73-74.
[77] Page (n 37) 237-238.
[78] Moore and Petrin (n 1) 179.
[79] Sarbanes-Oxley Act (n 3), s 301.
[80] Ringe (n 7) 401-404.
[81] Ibid.
[82] Bainbridge (n 26) 7-9

Following the global financial crisis, the Dodd-Frank Act 2010[83] introduced further reforms. It strengthened the role of independent directors on compensation committees,[84] required enhanced disclosure of executive pay,[85] and imposed restrictions on conflicts of interest involving compensation consultants.[86] These provisions aimed to curb excessive risk-taking and reinforce accountability in the wake of systemic financial failure. However, analysis suggests that Dodd-Frank largely extended existing approaches rather than fundamentally transforming how independent directors operate. Brown notes, the Act built upon earlier reforms by expanding the use of independent directors in key board committees and refining independence standards.[87] This indicates a continued reliance on structural independence as a central governance mechanism. At the same time, the effectiveness of this approach depends on the practical performance of independent directors. Empirical evidence suggests that their monitoring role is not always realised in practice. Avci, Schipani and Seyhun find that independent directors may fail to act as effective monitors and, in some cases, align with managerial interests, particularly in high-conflict situations.[88] This suggests that increasing the number of independent directors, as reinforced by Dodd-Frank, does not necessarily guarantee improved oversight.

Alongside federal legislation, stock-exchange rules further institutionalised board independence. The NYSE requires that listed companies maintain a majority of independent directors on their boards and provides that no director qualifies as independent unless the board affirmatively determines that the director has no material relationship with the company.[89] NASDAQ adopts a similar approach, prohibiting relationships that, in the board's opinion, would interfere with independent judgment.[90]

In Delaware, independence is defined through case law rather than statute. Courts adopt a fact-specific approach, examining whether personal or financial relationships

[83] Dodd-Frank Act 2010.
[84] Ibid s 952.
[85] Ibid s 951-953.
[86] Ibid s 952.
[87] J Robert Brown Jr, 'The Demythification of the Board of Directors' (2015) 52 American Business Law Journal 131-133.
[88] Sureyya Burcu Avci, Cindy A Schipani and H Nejat Seyhun, 'The Elusive Monitoring Function of Independent Directors' (2018) 21 University of Pennsylvania Journal of Business Law 235, 236 237.
[89] New York Stock Exchange, *Listed Company Manual*, s 303 A.01.
[90] NASDAQ Stock Market, *NASDAQ Listing Rule,* Rule 5605(a)(2).

compromise a director's ability to exercise objective judgment. In *Sandys v Pincus*,[91] for example, the Delaware Supreme Court held that a director's co-ownership of a private jet with a controlling shareholder created reasonable doubt about her independence. This jurisprudence reflects a realistic recognition that independence cannot be reduced to formal criteria alone. Despite this robust, rules-based framework, post-reform failures have persisted.

4.2.1 Wells Fargo (2016)

The Wells Fargo account-fraud scandal in 2016 demonstrates that even under the strengthened Sarbanes-Oxley framework, independent directors failed to prevent systemic misconduct. The company's board was formally compliant with SOX requirements, with audit and risk committees composed of independent directors, yet millions of unauthorised customer accounts were created over several years.[92] This misconduct was not isolated but reflected a deeply entrenched sales culture incentivising employees to meet unrealistic cross-selling targets.

Despite repeated warning signs, including whistleblower complaints, regulatory inquiries, and internal audit reports, the board did not intervene effectively.[93] Independent directors relied heavily on management's explanations and failed to interrogate the root causes of misconduct.[94] Congressional hearings later revealed that the risk committee, dominated by independent directors, had received information about sales-practice problems but did not pursue deeper investigation.[95] This failure illustrates that independence in form did not translate into independence in substance.

The scandal also exposed the limitations of SOX's emphasis on audit committees. While Wells Fargo's audit committee met independence criteria, its focus remained

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[91] *Sandys v Pincus*, No 157, 2016 (Del Sup Ct, 5 December 2016), 10-12.
[92] Paul D Witman, 'Teaching Case: "What Gets Measured, Gets Managed" The Wells Fargo Account Opening Scandal' (2018) 29 Journal of Information Systems Education 131.
[93] Wells Fargo & Company, 'Sales Practices Investigation Report of the Independent Directors of the Board of Directors' (10 April 2017) 2, 9–10, 11–17 <https://lowellmilkeninstitute.law.ucla.edu/wpcontent/uploads/2018/01/WF-Board-Report.pdf> assessed 12 December 2025.
[94] Ibid 11-17; Brian Tayan, 'The Wells Fargo Cross-Selling Scandal' (2019) 3-5 <https://www.gsb.stanford.edu/faculty-research/publications/wells-fargo-cross-selling-scandal> accessed 22 March 2026.
[95] US Senate Committee on Banking, Housing, and Urban Affairs, *An Examination of Wells Fargo's Unauthorized Accounts and the Regulatory Response* (Hearing, 20 September 2016) 16-17.

narrowly on financial reporting rather than broader operational risks. As a result, directors overlooked the cultural and ethical dimensions of misconduct that ultimately caused reputational and financial damage. Independent directors could have limited the scale of the failure by independently investigating whistle-blower complaints, challenging sales incentives that encouraged misconduct, and holding senior executives accountable at an earlier stage. Wells Fargo therefore illustrates that compliance with statutory independence requirements did not prevent governance failure where directors lacked scepticism, persistence, and the willingness to confront entrenched executive practices.

4.2.2 Boeing 737 Max (2019)

The Boeing 737 Max crisis in 2019 further demonstrates that corporate failures persisted despite boards meeting independence requirements. Boeing's board, operating within the formal independence framework mandated by SOX and NYSE listing standards, nevertheless failed to prevent or respond effectively to catastrophic safety failures.[96] The crashes of two aircraft, resulting in hundreds of fatalities and the global grounding of the 737 Max fleet, revealed profound weaknesses in board oversight.[97] Investigations revealed that Boeing's board lacked effective structures for safety oversight. In the absence of a dedicated safety or risk committee, responsibility fell indirectly to the audit committee, which failed to rigorously interrogate engineering and safety risks.[98] Directors accepted management's assurances about the aircraft's Maneuvering Characteristics Augmentation System (MCAS) without demanding independent verification or external expert review.[99] This failure reflected a lack of technical expertise among independent directors, who were unable to challenge complex engineering representations.

[96] David F Larcker and Brian Tayan, 'Boeing 737 MAX' (2024) 6-7 <https://corpgov.law.harvard.edu/2024/06/06/boeing-737-max/> accessed 22 March 2026.
[97] Ibid 6-8; See also Hamid Mehran, 'Market Structure and Governance of the Boeing Company' (30 August 2024) 1-3 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4942174> accessed 22 March 2026.
[98] Larcker and Tayan (n 96) 6-7.
[99] Josephine Nartey 'The Boeing 737 MAX Crisis: An Ethical Analysis of Corporate Governance Failures and the Conflict Between Profit and Safety' (23 June 2025) 3-4, 10-11 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5316121> accessed 22 March 2026.

Against this background, boardroom dynamics further weakened oversight. Senior executives controlled the information presented to the board, framing safety risks as technically contained and manageable. Independent directors, meeting part-time and lacking direct access to engineering data, were therefore unable to challenge management's assurances in any meaningful way. As a result, the board failed to prioritise safety oversight, despite SOX and NYSE expectations that independent directors play a central role in risk management. Independent directors could have mitigated the scale of the failure by demanding independent technical assessments of the MCAS system, establishing a dedicated safety oversight mechanism, and refusing to rely solely on management representations in matters involving passenger safety. The scale of Boeing's reputational and financial damage illustrates the consequences of governance arrangements in which independence exists largely in form.

Taken together, Wells Fargo and Boeing demonstrate that the SOX and related listing rules have not eliminated weaknesses in board oversight. Independent directors, despite meeting formal independence criteria and committee structures, failed to challenge management, detect misconduct, or prevent catastrophic outcomes. These post-reform failures reveal recurring structural weaknesses: informational dependency on executives, lack of industry-specific expertise, and boardroom dynamics that marginalise independent directors.

4.3 Comparative Evaluation of the Challenges of Independent Directors

Taken together, the UK and US frameworks reflect a shared regulatory consensus that independent directors are essential to effective corporate governance. Both systems have progressively tightened independence requirements, formalised board-composition rules, and expanded the responsibilities of independent directors within key board committees. Despite these extensive frameworks, repeated corporate failures in both jurisdictions show that formal independence has not consistently translated into effective oversight. The UK's principles-based 'comply or explain' model has, in cases like Carillion and Patisserie Valerie, been susceptible to a box-ticking culture where compliance becomes a procedural exercise rather than a genuine system of accountability. The US's mandatory, rules-based approach, as seen at Wells Fargo and Boeing, has similarly failed to guarantee effective monitoring,

producing its own form of compliance culture without ensuring substantive oversight. In both jurisdictions, boards that were fully compliant on paper failed to challenge management, scrutinise risk, or prevent collapse. This persistent gap between regulatory design and practical outcomes raises fundamental doubts about whether independent directors make a genuinely useful contribution in practice.

5. The Persistent Challenges to Independent Director Effectiveness

The corporate failures in both the United Kingdom and the United States reveal a persistent and troubling disconnect between regulatory design and practical governance outcomes. Despite the formal strengthening of independence requirements through frameworks such as the UK Corporate Governance Code 2024[100] and the Sarbanes-Oxley Act of 2002,[101] boards composed largely of independent directors have repeatedly failed to prevent misconduct, financial misstatements, and catastrophic oversight breakdowns. The collapses of Carillion and Patisserie Valerie in the UK, alongside the scandals at Wells Fargo and Boeing in the US, occurred within governance regimes that formally complied with independence and committee-based oversight requirements.

These cases demonstrate that independence in form does not ensure independence in substance. In each instance, directors were constrained by structural factors such as reliance on management-controlled information, limited industry-specific expertise, and boardroom dynamics that discouraged sustained challenge. The persistence of governance failures under compliant boards suggests that regulatory emphasis on formal independence has not addressed the practical limitations that undermine effective monitoring. A more nuanced understanding of board independence, grounded in real oversight capacity rather than formal criteria alone, is therefore essential if governance frameworks are to achieve their intended objectives.

5.1 Information Asymmetry

One of the most significant limitations undermining the effectiveness of independent directors is their limited access to adequate and reliable information.[102] As Andrew

[100] Corporate Governance Code (n 61).
[101] Sarbanes-Oxley Act (n 3).
[102] Keay (n 4) 87.

Keay highlights, empirical research in the United States found that 78 per cent of independent directors rely solely on managers and executive directors for company information.[103] This dependence directly compromises their ability to exercise genuine independent judgment. Similarly, Yaron Nili observes that independent directors often lack direct access to corporate data and instead rely heavily on information filtered through the CEO and senior management.[104] As part-time board members, they frequently lack the time, resources, and technical capacity to properly analyse complex board materials.[105] In many cases, board papers are circulated shortly before meetings, leaving insufficient time for meaningful scrutiny. Directors are thus unable to independently verify information, weakening their capacity to provide effective oversight.[106] This informational dependency, starkly evident in the Boeing case where directors relied on management's assurances about the MCAS system, leaves them unable to independently verify information. In addition to information dependency, boardroom power dynamics further weaken independent monitoring. Independent directors are typically excluded from the company's day-to-day operations, limiting their ability to detect concealed misconduct.[107] Board agendas are frequently set by the CEO, while one or two senior executives control the flow of information presented to the board.[108] As a result, independent directors often receive only carefully filtered material.[109] This imbalance in control severely restricts their capacity to challenge management effectively. Without genuine independence of information and agenda-setting, independent directors risk becoming symbolic rather than substantive monitors of executive behaviour.

5.2 Lack of Expertise

Although the failures of earlier corporate scandals led to major regulatory reforms such as the Sarbanes-Oxley Act in the United States and the Higgs Report in the United

[103] Ibid 83-84.
[104] Yaron Nili, 'The Fallacy of Director Independence' (2020) Wisconsin Law Review 491, 506.
[105] Ibid.
[106] Ibid.
[107] María Gutiérrez and Maribel Sáez, 'Deconstructing Independent Directors' (2013) 13(1) Journal of Corporate Law Studies 63, 65-66; Sureyya Burcu Avci, Cindy A Schipani and H Nejat Seyhun, 'Do Independent Directors Curb Financial Fraud: The Evidence and Proposals for Further Reform' (2018) 93 Indiana Law Journal 757,759.
[108] Keay (n 4) 84-85.
[109] Ibid.

Kingdom, the 2008 Global Financial Crisis later revealed that these reforms had not eliminated the fundamental weaknesses within corporate governance. Despite enhanced independence requirements and stricter regulatory oversight, poor board monitoring and excessive risk-taking continued within major financial institutions.[110] Scholars argue that independent directors frequently lack the time, expertise, and detailed business understanding required to supervise complex financial operations effectively.[111] As Ringe observes, independent directors can become 'too independent', in the sense that their detachment from management deprives them of the practical knowledge necessary to exercise meaningful supervision.[112]

Empirical research further supports this concern. Studies indicate that banks with a higher number of independent directors who lacked financial expertise performed the worst during the Global Financial Crisis.[113] The crisis itself followed the collapse of the IT bubble, after which low US interest rates fuelled a housing boom.[114] Banks invested heavily in complex financial products such as mortgage-backed securities (MBS) and collateralised debt obligations (CDOs).[115] The valuation of these instruments became extremely difficult, even for internal risk managers.[116] This raises serious doubts as to whether independent directors, who were even further removed from daily operations, possessed the technical competence required to challenge such risky strategies. The Boeing case powerfully illustrates that in complex, safety-critical sectors, a lack of technical expertise among independent directors can have catastrophic consequences. This demonstrates that independence without expertise may weaken, rather than strengthen, board supervision.

5.3 Appointment and Independence Concerns

A further persistent weakness lies in the appointment process of independent directors.[117] Although both the UK and the US frameworks formally require

[110] Solomon (n 17) 65.
[111] Ringe (n 7) 401, 416; Solomon (n 17) 76; Keay (n 4) 87.
[112] Ringe (n 7) 416.
[113] Ringe (n 7) 417.
[114] Douglas W Diamond and Raghuram G Rajan, 'The Credit Crisis: Conjectures about Causes and Remedies' (2009) 99(2) American Economic Review: Papers & Proceedings 606.
[115] Ibid 606-607.
[116] Ibid 608.
[117] Jean Jacques du Plessis, Anil Hargovan and Jason Harris, *Principles of Contemporary Corporate Governance* (4th edn, Cambridge University Press 2018) 99-100.

independent directors, CEOs and management often retain strong influence over who is appointed.[118] Nili argues that a major weakness within current governance system is the excessive discretion given to boards in determining independence.[119] This allows companies to classify individuals as independent even when close professional or personal relationships with management exist. This problem is clearly illustrated by the appointment of Tim Cook, CEO of Apple, as lead independent director at Nike in 2016, at a time when both companies were collaborating on the Apple Watch Nike+.[120] Despite the close commercial relationship, Cook was still formally labelled independent.[121] This demonstrates how easily independence can become a formal label rather than a substantive safeguard, thereby undermining effective oversight and shareholder protection.

Over time, structural and social bias further erodes independence.[122] Nili explains, long-serving independent directors often develop close personal and professional bonds with other board members and senior executives.[123] These relationships gradually weaken objectivity and reduce the willingness to challenge management decisions. Even where directors were independent at the time of appointment, continued service may compromise their ability to act impartially.[124] This social dynamic likely contributed to the passivity of boards at Wells Fargo and Patisserie Valerie, where directors failed to challenge entrenched executives.

5.4 Structural and Regulatory Limitations

Persistent weaknesses also stem from the regulatory design of corporate governance systems. In the United Kingdom, the 'comply or explain' model encourages flexibility but has also enabled symbolic compliance.[125] Despite high levels of formal reporting compliance, serious corporate collapses such as Northern Rock, RBS, HBOS,

[118] Stuart Rosenstein and Jeffrey G Wytt, 'Outside Directors, Board Independence, and Shareholder Wealth' (1990) 26 Journal of Financial Economics 175-176; du Plessis, Hargovan and Harris (n 122) 100; See also Solomon (n 17) 73.
[119] Nili, 'The Fallacy of Director Independence' (104) 503.
[120] Nili, 'Out of Sight' (n 5) 37.
[121] Ibid.
[122] Ibid 54.
[123] Ibid.
[124] Ibid.
[125] Edwin Mujih, 'Corporate Governance Reform and Corporate Failure in the UK' (2021) 42(4) Company Lawyer 1, 3-4.

Carillion and BHS occurred under full governance frameworks.[126] These companies possessed the correct board structures and committees on paper, yet oversight failed in practice.

By contrast, the United States follows a rule-based model, built on mandatory statutory and exchange requirements under the Sarbanes-Oxley Act of 2002[127] and Dodd-Frank Act 2010.[128] Nonetheless, even this rigid framework has failed to guarantee effective monitoring.[129] Both regimes have increasingly produced a box-ticking culture, where compliance is treated as a procedural exercise rather than a genuine system of accountability.[130]

Taken together, these persistent limitations, information dependency, executive agenda control, lack of technical expertise, flawed appointment practices, structural bias, and symbolic compliance continue to undermine the practical usefulness of independent directors. Although independent directors remain central to UK and US corporate governance in theory, real-world evidence demonstrates a substantial disconnect between regulatory expectations and practical performance. As a result, it remains open to doubt whether independent directors can consistently fulfil their monitoring role in a manner that meaningfully restrains executive power and protects shareholder interests in practice.

6. Reform Recommendations

The post-reform failures examined in this study show that tightening formal independence tests is not enough. In both the UK and the US, boards satisfied independence requirements yet still failed because independent directors remained structurally constrained by information dependence, limited expertise, and executive influence. Reforms must therefore shift from formal independence *to* functional independence.

First, governance frameworks should strengthen independent access to information**.** Independent directors, especially those on audit and risk committees, should have

[126] Ibid.
[127] Sarbanes-Oxley Act (n 3).
[128] Dodd-Frank Act (n 83).
[129] Brown (n 87) 132.
[130] Mujih (125) 4.

clear authority to obtain unfiltered internal data, commission independent reviews, and engage external experts without relying on management. The failures at Wells Fargo and Boeing illustrate that independence is ineffective where directors receive only management-controlled narratives.

Second, boards in complex or safety-critical sectors should be required to include relevant expertise**,** particularly within key committees. Carillion and Boeing show that independent directors often lack the technical competence to interrogate complex financial or engineering risks, making "constructive challenge" unrealistic. Independence should therefore be paired with competence, not treated as a substitute for it.

Third, reforms should reduce management influence over appointments by strengthening nomination independence and tenure controls**.** Where CEOs shape the pipeline of independent candidates, independence becomes procedural. Enhanced disclosure of relationships, stricter tenure expectations, and a more robust role for genuinely independent nomination committees would reduce relational capture and improve board scepticism over time.

Finally, regulators should discourage box-ticking by focusing on substantive oversight outcomes rather than structural compliance alone. Whether under the UK's 'comply or explain' model or the US rule-based approach, boards can meet formal thresholds while failing to challenge management. Governance assessments should therefore prioritise evidence of active scrutiny, escalation of red flags, and committee effectiveness, rather than mere satisfaction of independence criteria.

Overall, the evidence suggests that independent directors can contribute meaningfully only where reforms address the conditions that prevent them from operating as effective monitors in practice.

7. Conclusion

This paper has critically evaluated whether independent directors make a useful contribution to the corporate governance regimes of the United Kingdom and the United States. While both jurisdictions have significantly strengthened independence requirements through frameworks such as the UK Corporate Governance Code and

the Sarbanes-Oxley Act, the analysis demonstrates that formal independence has not consistently translated into effective board oversight.

Post-reform corporate failures provide compelling evidence of this gap. In the UK, the collapses of Carillion and Patisserie Valerie occurred under fully compliant governance frameworks, yet boards dominated by independent directors failed to challenge management, scrutinise financial risks, or respond to warning signs. Similarly, in the United States, the Wells Fargo scandal and the Boeing 737 Max crisis revealed profound oversight failures despite boards meeting SOX and stock-exchange independence requirements. These cases illustrate that independence in structure does not guarantee independence in substance.

The paper has shown that independent directors remain constrained by persistent structural weaknesses. Heavy reliance on management-controlled information limits their ability to exercise independent judgment. A lack of industry-specific expertise undermines their capacity to interrogate complex financial, operational, or technical risks. In addition, appointment processes often allow executives to influence the selection of independent directors, while long tenures and boardroom dynamics further weaken objectivity over time. Together, these factors reduce independent directors to largely reactive and symbolic actors rather than effective monitors of executive power.

However, the analysis does not suggest that independent directors are inherently ineffective. Empirical evidence demonstrates that when independent directors are genuinely engaged, informed, and competent, they can improve performance, enhance accountability, and reduce agency costs. Their potential value lies in substantive oversight rather than mere formal compliance.

Overall, this paper concludes that it remains open to doubt whether independent directors make a consistently useful contribution to corporate governance under current UK and US frameworks. While independence remains a central regulatory objective, its effectiveness depends on deeper structural conditions that enable directors to challenge management meaningfully. Without reforms that address information asymmetry, expertise deficits, and executive influence, independent directors are likely to remain independent in name but limited in practice.

Bibliography

Codes, Legislation and Other Rules

Combined Code on Corporate Governance 2003

Combined Code on Corporate Governance 2006

Companies Act 1985

NASDAQ Stock Market, *NASDAQ Listing Rules*

New York Stock Exchange, *Listed Company Manual*

Sarbanes-Oxley Act 2002

UK Corporate Governance Code 2018

UK Corporate Governance Code 2024

US Securities and Exchange Commission, 'Audit Committee Disclosure' (Final Rule), Exchange Act Release No 34-42266, 64 Federal Register 73389 (29 December 1999)

Cases

Sandys v Pincus, No 157, 2016 (Del Sup Ct, 5 December 2016)

US Senate Committee on Banking, Housing, and Urban Affairs, *An Examination of Wells Fargo's Unauthorized Accounts and the Regulatory Response* (Hearing, 20 September 2016)

Books

Bainbridge, Stephen M, *Corporate Governance after the Financial Crisis* (OUP 2012)

Cheffins BR, *Company Law: Theory, Structure and Operation* (Clarendon Press 1997)

Clarke T, Khlif W and Ingley C (eds), *Elgar Encyclopedia of Corporate Governance* (Edward Elgar Publishing 2024)

du Plessis JJ, Hargovan A, and Harris J, *Principles of Contemporary Corporate Governance* (4th edn, CUP 2018)

Keay AR, *Board Accountability in Corporate Governance* (Routledge 2016)

Mallin CA, *Corporate Governance* (6th edn, OUP 2019)

Moore MT and Petrin M, *Corporate Governance: Law, Regulation and Theory* (Palgrave 2017)

Solomon J, *Corporate Governance and Accountability* (5th edn, Wiley-Blackwell 2020)

Tricker B, *Corporate Governance: Principles, Policies, and Practices* (4th edn, OUP 2019)

Journal Articles

Avci SB, Schipani CA, and Seyhun HN, 'The Elusive Monitoring Function of Independent Directors' (2018) 21(1) University of Pennsylvania Journal of Business Law 235

Avci SB, Schipani CA and Seyhun HN, 'Do Independent Directors Curb Financial Fraud: The Evidence and Proposals for Further Reform' (2018) 93 Indiana Law Journal 757

Brown Jr, JR, 'The Demythification of the Board of Directors' (2015) 52(1) American Business Law Journal 131

Dahya J and McConnell JJ, 'Board Composition, Corporate Performance, and the Cadbury Committee Recommendation' (2007) 42(3) Journal of Financial and Quantitative Analysis 535

Dent Jr GW, 'Independence of Directors in Delaware Corporate Law' (2016) 54 U Louisville Law Review

Diamond DW and Rajan RG, 'The Credit Crisis: Conjectures about Causes and Remedies' (2009) 99(2) American Economic Review: Papers & Proceedings 606

Fama EF, ‘Agency Problems and the Theory of the Firm’ (1980) 88(2) Journal of Political Economy 288

Gutiérrez M and Sáez M, ‘Deconstructing Independent Directors’ (2013) 13(1) Journal of Corporate Law Studies 63

Healy PM and Palepu KG, ‘The Fall of Enron’ (2003) 17(3) Journal of Economic Perspectives 3

Jensen MC and Meckling WH, ‘Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure’ (1976) 3(4) Journal of Financial Economics 305

Larcker DF and Tayan B, ‘Boeing 737 MAX’ (2024) <https://corpgov.law.harvard.edu/2024/06/06/boeing-737-max/> accessed 22 March 2026

Le Mire S and Gilligan G, ‘Independence and Independent Company Directors’ (2013) 13(2) Journal of Corporate Law Studies 443

Liu Y, Wu B, and Zhang M, ‘Can Independent Directors Identify the Company’s Risk of Financial Fraud: Evidence from Predicting Financial Fraud Based on Machine Learning’ (2023) 11(3) China Journal of Accounting Studies 465

McLaughlin C and others, ‘Audit Committee Diversity and Corporate Scandals: Evidence from the UK’ (2021) 29 International Journal of Accounting & Information Management 734

Mehran H, ‘Market Structure and Governance of the Boeing Company’ (30 August 2024) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4942174> accessed 22 March 2026

Mujih E, ‘Corporate Governance Reform and Corporate Failure in the UK’ (2021) 42(4) Company Lawyer 1

Nartey J, ‘The Boeing 737 MAX Crisis: An Ethical Analysis of Corporate Governance Failures and the Conflict Between Profit and Safety’ (23 June 2025) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5316121> accessed 22 March 2026

Nili, Y, ‘The Fallacy of Director Independence’ (2020) Wisconsin Law Review 491

Nili, Y, ‘Out of Sight, Out of Mind: The Case for Improving Director Independence Disclosure’ (2017) 43(1) Journal of Corporation Law 3

Page A, ‘Unconscious Bias and the Limits of Director Independence’ (2009) 1 University of Illinois Law Review 237

Ringe WG, ‘Independent Directors: After the Crisis’ (2013) 14(3) European Business Organization Law Review 401

Rosenstein S and Wyatt JG, ‘Outside Directors, Board Independence, and Shareholder Wealth’ (1990) 26(2) Journal of Financial Economics 175

Tayan B, ‘The Wells Fargo Cross-Selling Scandal’ (2019) <https://www.gsb.stanford.edu/faculty-research/publications/wells-fargo-cross-selling-scandal> accessed 22 March 2026

Witman PD, ‘Teaching Case: “What Gets Measured, Gets Managed” The Wells Fargo Account Opening Scandal’ (2018) 29 Journal of Information Systems Education 131

Reports

Committee on the Financial Aspects of Corporate Governance, ‘Report of the Committee on the Financial Aspects of Corporate Governance’ (Gee and Co Ltd 1992)

House of Commons Business, Energy and Industrial Strategy Committee and Work and Pensions Committee, ‘Carillion’ (HC 2017–19, 769)

Higgs D, ‘Review of the Role and Effectiveness of Non-Executive Directors’ (Department of Trade and Industry 2003)

Walker D, ‘A Review of Corporate Governance in UK Banks and Other Financial Industry Entities’ (2029) <https://www.iod.com/app/uploads/2022/02/The-Walker-Review-A-review-of-corporate-governance-in-UK-banks-and-other-financial-industry-entities-7c12bf7b56071cb103fdd7c0a84f28d9.pdf> accessed 29 March 2026

Wells Fargo & Company, ‘Sales Practices Investigation Report of the Independent Directors of the Board of Directors’ (10 April 2017) <https://lowellmilkeninstitute.law.ucla.edu/wpcontent/uploads/2018/01/WF-Board-Report.pdf> assessed 12 December 2025

Other

BBC News, ‘Patisserie Valerie: Four Face Fraud Charges over Collapse’ (13 September 2023) <https://www.bbc.co.uk/news/business-66800002> accessed 4 December 2025

Organisation for Economic Co-operation and Development, ‘OECD Principles of Corporate Governance’ (1999) <https://one.oecd.org/document/C/MIN(99)6/En/pdf> accessed 22 March 2026