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FIDUCIARY DUTIES OF SUPERVISORY BOARD MEMBERS AND DIRECTORS IN STATE-OWNED ENTERPRISES AS A DETERMINANT OF CORPORATE GOVERNANCE EFFECTIVENESS

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ABSTRACT

This study examines the economic and governance implications of fiduciary duties imposed on supervisory board members and directors of state-owned enterprises (SOEs). The paper conceptualizes fiduciary duties as an institutional mechanism designed to mitigate agency conflicts, align managerial incentives, and enhance asset management efficiency. Particular attention is paid to conflict-of-interest risks, accountability structures, and the interaction between public objectives and corporate decision-making. The analysis demonstrates that the effectiveness of fiduciary regulation depends not only on formal legal codification but also on the practical delineation of discretion, liability, and governance safeguards. The findings contribute to the understanding of fiduciary governance models in transitional and state-influenced corporate systems.

ФИДУЦИАРНЫЕ ОБЯЗАННОСТИ ЧЛЕНОВ НАБЛЮДАТЕЛЬНОГО СОВЕТА И ДИРЕКТОРОВ ПРЕДПРИЯТИЙ С ГОСУДАРСТВЕННЫМ УЧАСТИЕМ КАК ФАКТОР ПОВЫШЕНИЯ ЭФФЕКТИВНОСТИ КОРПОРАТИВНОГО УПРАВЛЕНИЯ

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ABSTRACT

В статье анализируются фидуциарные обязанности членов наблюдательных советов и директоров госпредприятий, их роль в снижении

Корпоративное управление, фидуциарные обязанности, государственные предприятия, агентские издержки, конфликт интересов, эффективность управления, государственное участие.

агентских издержек и повышении эффективности управления активами при учёте рисков конфликта интересов и необходимости усиления прозрачности и ответственности.

Contemporary corporate governance theory conceptualizes the firm as a nexus of contracts within which ownership and control are structurally separated. This separation gives rise to classical agency problems stemming from the divergence of interests between principals and agents. Within this framework, fiduciary duties represent a central governance mechanism intended to constrain managerial opportunism, reduce agency costs, and promote value-consistent decision-making.

From an economic perspective, fiduciary duties establish behavioral standards that regulate managerial discretion. Their functional role is not limited to legal compliance; rather, they serve as institutional constraints preventing the diversion of corporate resources for private benefit. By shaping incentives and limiting opportunistic behavior, fiduciary obligations contribute to more efficient asset utilization and improved governance outcomes.

Theoretical approaches emphasize that fiduciary duties reflect the distinctive nature of corporate relationships rather than merely a set of formal legal prescriptions. Fiduciary corporate relations possess a specific object, content, and subject structure. Managers, endowed with discretionary authority over corporate assets, operate under conditions of heightened trust, which necessitates obligations of loyalty, reasonableness, and good faith. Importantly, the object of fiduciary relations extends beyond proprietary interests to encompass the integrity of the corporate control system itself. This interpretation positions fiduciary duties as an institutional device for maintaining equilibrium among stakeholders rather than solely as a liability regime.

Such a conceptualization assumes heightened relevance in enterprises with state participation. In these entities, governance structures are influenced by the coexistence of commercial objectives and public policy considerations. Consequently, fiduciary duties perform a dual function: ensuring corporate efficiency while safeguarding public accountability. The trust-based dimension of fiduciary relations is therefore amplified, as managerial decisions may affect not only firm-level performance but also broader socio-economic outcomes.

Despite their recognized importance, the scope and universality of fiduciary duties remain subject to scholarly debate. An expansive interpretation may strengthen managerial discipline, enhance investor protection, and limit opportunistic conduct. However, excessive broadening of fiduciary standards may generate legal uncertainty, elevate regulatory risks, and inadvertently discourage managerial initiative. A critical concern involves the substitution of ex ante economic assessments with ex post legal evaluations, potentially inducing overly risk-averse managerial behavior. This tension underscores the necessity of balancing accountability mechanisms with the preservation of managerial discretion.

The debate is particularly salient for transitional and emerging corporate governance systems. In such contexts, the design of fiduciary regulation must reconcile two competing objectives: preventing abuses of authority while avoiding the suppression of legitimate entrepreneurial risk-taking. Effective fiduciary frameworks therefore require not only statutory articulation but also the development of coherent application criteria, including business-purpose analysis, economic rationality tests, and contextual evaluation of managerial information sets.

The governance significance of fiduciary duties is especially pronounced in state-owned enterprises. In SOEs, traditional agency conflicts are compounded by the presence of public interests, political considerations, and multi-layered accountability structures. These factors increase the probability of goal misalignment and inefficient resource allocation. Fiduciary obligations thus become a critical instrument for stabilizing governance incentives and reducing systemic inefficiencies.

In the Republic of Uzbekistan, the evolution of corporate governance regulation reflects a gradual shift toward a fiduciary-oriented governance model. Historically, managerial conduct was governed by general corporate law provisions. Recent legislative developments, however, have introduced a more explicit recognition of fiduciary standards, particularly through the Law “On Joint-Stock Companies and Protection of Shareholders’ Rights.” This regulatory framework codifies the obligation of directors and supervisory board members to act in the interests of the company and its shareholders, thereby institutionalizing core fiduciary principles.

The economic rationale underlying these provisions lies in their capacity to mitigate agency risks and enhance investor confidence. Standards of good faith and reasonableness are designed to prevent the misappropriation of corporate assets and reduce value-destroying managerial behavior. Such mechanisms are directly linked to firm valuation stability and governance credibility.

A significant regulatory advancement involves the formalization of fiduciary duties through explicit statutory prohibitions and restrictions. These include limitations on the misuse of corporate resources, participation in competing activities, and failure to prevent conflicts of interest. From an economic standpoint, these constraints reduce the likelihood of private-benefit extraction and opportunistic decision-making, thereby improving governance efficiency.

Complementary governance safeguards are provided by the Law "On Conflict of Interest," which establishes mechanisms for the early identification, disclosure, and resolution of conflicts capable of distorting managerial incentives. In state-participated enterprises, conflicts of interest present amplified risks due to the potential interaction of administrative and commercial influences. Disclosure and recusal requirements serve to enhance decision-making objectivity and reduce transaction inefficiencies.

The institutionalization of fiduciary duties also establishes the foundation for managerial liability. Economically, liability mechanisms function as incentive-alignment tools rather than punitive instruments. When appropriately calibrated, they deter opportunistic conduct without discouraging legitimate risk-taking. This logic is consistent with the internationally recognized business judgment rule, which preserves managerial autonomy provided that decisions are undertaken in good faith, with due care, and absent conflicts of interest.

For Uzbekistan, the refinement of analogous governance principles holds particular significance in light of ongoing state asset management reforms and efforts to improve SOE performance. The effectiveness of fiduciary governance models ultimately depends on the precise delineation of discretion, accountability, and enforcement mechanisms.

In conclusion, fiduciary duties should be understood as both legal and economic governance instruments. Their role extends beyond formal compliance, encompassing incentive alignment, agency-cost reduction, and the stabilization of corporate decision-making processes. In state-influenced corporate systems, the development of coherent fiduciary frameworks constitutes a necessary condition for enhancing governance effectiveness and improving asset management outcomes.

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