

The Management of Company Directors Conflicts of Interest in Large Corporations and the Issue of Public Interest

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Abstract : The research investigates the existence of a public interest consideration or rationale for the management of directors' conflicts of interest within large public corporations. This is conducted through extensive literature review and theories on the definition of conflicts of interest, the firm and purposes of the fiduciary duty of loyalty under which the management of these conflicts of interest find their foundation. Conflicts of interest is an elusive, diverse and engaging subject, a cross-cutting problem of governance which involves all levels of governance, ranging from local to global, public to corporate or financial sectors. It is a common issue that affects corporate governance and corporate culture, having a negative impact on the reputation of corporations and their trustworthiness. It is clear that addressing this issue is imperative for good governance of corporations as they are increasingly becoming and are powerful global economies with significant power and influence in the society. Similarly, the bargaining power of these powerful corporations has been recognised by international organisations such as the UN and the OECD. This is made evident by the increasing calls and push for greater responsibility of these corporations for environmental and social disasters caused by their corporate activities and their impact in various parts of the world. Equally, in the US, the Sarbanes-Oxley Act like other legislation and regulatory efforts made to manage conflicts of interest linked to corporate governance, in many countries indicates that there is a (global) public interest in the maintenance of the orderly functioning of commerce. Consequently, the governance of these corporations is tremendously pivotal to the society as it touches upon a key aspect of the good functioning of society. This is because corporations, particularly large international corporations can be said to be the plumbing of the global economy. This study will employ theoretical, doctrinal and comparative methods. The research will make use largely of theory-guided methodology and theoretical framework – theories of the firm, public interest, regulation, conflicts of interest in general, directors' conflicts of interest and corporate governance. Although, the research is intended to be narrowed down to the topic of conflicts of interest in corporate governance, the subject of company directors' duty of loyalty and the management of conflicts of interest, an examination of the history, origin and typology of conflicts of interest in general will be carried out in order to identify some specific challenges to understanding and identifying these conflicts of interest; origin, diverging theories, psychological barrier to definition, similarities with public sector conflicts of interest due to the notions of corrosion of trust, the effect on decision-making and judgment, "being in a particular kind of situation", etc. The result of this research will be useful and relevant in the identification of the rationale for the management of directors' conflicts of interest, contributing to the understanding of conflicts of interest in the private sector and the significance of public interest in corporate governance of large corporations.

Keywords : conflicts of interest, corporate governance, corporate law, directors duty of loyalty, public interest

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