An examination of legal risk when the Corporate Secretary is the Chief Legal Officer

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Abstract

Corporate Secretary, Board of Directors, Governance, Chief Legal Officer, General Counsel, Litigation Corporate secretaries ("CSs") that also serve as Chief Legal Officers ("CLOs") are legal experts but face conflicting incentives. As CSs, they advise and report to the board about management's actions while also serving a managerial role as CLOs. Accordingly, we examine the relation between firms with a CS that also serves as the CLO ("CLO duality") and future legal issues. In various tests and settings, we find that CLO duality is associated with fewer incidents of shareholder litigation and lower regulatory penalties. These results are concentrated among firms with a high proportion of independent directors, suggesting a complementarity between CLO duality and board independence. We also find that firms with a combined CS and CFO issue fewer restatements. The results are broadly consistent with the CS serving a governance role within modern corporations.

Keywords: Corporate Secretary, Board of Directors, Governance, Chief Legal Officer, General Counsel, Litigation

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The already fundamental role of corporate secretaries in ensuring high standards of good governance at America's public companies has become even more critical in light of recent events, and especially with the enactment of Sarbanes-Oxley and the Commission's governance reforms.

SEC Commissioner Glassman, 2002

I. INTRODUCTION

Extant research on the determinants of governance failures and litigation suggests that boards of directors play a consequential role in curbing corporate misconduct.[1] Despite this literature, we know little about the Corporate Secretary, an information intermediary for the board, who attends all board meetings and serves a role inextricably linked to the risk of litigation. Corporate Secretaries (CSs) advise the board and facilitate communication between the board and various stakeholders. Additionally, they document the board's deliberations ensuring that the decision-making process can withstand legal scrutiny (New York City Bar, 2006; NYSE Governance Services & BarkerGilmore, 2016). Given the nature of these responsibilities, many CSs also serve as Chief Legal Officers (CLOs) of the corporation.[2] While this ensures that CSs have a deep understanding of the firm's legal environment, they also face conflicting incentives that could increase the risk of litigation. Accordingly, we examine whether firms where the Corporate Secretary also serves as the Chief Legal Officer ("CLO duality") are more or less likely to face future legal issues.

CLO duality is very common in the U.S. and has been criticized for creating conflicts of interest.[3] Since CLOs are typically hired by and report to the CEO, they may view the CEO as

[1] Neville et al. (2018) review 135 studies on the relation between board characteristics (e.g. independence) and governance failures such as litigation, fraud, and regulatory violations. For a broader view of research on boards see Adams (2017).

[2] Corporate Secretaries are not required to have a legal background or to be licensed attorneys.

[3] For example, see the Chartered Governance Institute UK and Ireland report of 2013 concluding "The company secretary role should be a direct, primary reporting line to the chairman and is most effective as a standalone position." Accessed: https://www.cgi.org.uk/knowledge/research/the-company-secretary-report (6/2024). See also Egon Zehnder International, 2011; Henley Business School & The Institute of Chartered Secretaries Administrators, 2014; Katz, 2015.

their primary supervisor. As a result, in their capacity as CSs, they may color their communications with the board more positively or, to the extreme, intentionally mislead the board to protect or curry favor with the CEO. As an illustration, consider the case of Apple's former CS and CLO, Nancy Heinen, who falsified documents and misled the board to cover up the backdating of stock options granted to herself and other executives.[4] Conflicts of interest are especially relevant when they relate to legal issues because the board oversees the legal strategy based on information provided by the CS/CLO who ultimately developed the strategy. These conflicts may expose firms to greater legal risks. We refer to this as the "conflicted" explanation as the CLO faces conflicting incentives.

On the other hand, CLO duality has the advantage of a well-informed legal expert serving as the CS. The CLO is responsible for identifying and mitigating legal risks and challenges facing the firm as it executes the operating strategy. They are well positioned to inform and advise the board and ultimately avoid or remediate potential legal issues. Furthermore, as legal experts, they know how to develop processes and documentation to defend against potential legal claims. This firm-specific legal expertise could reduce litigation risk. We refer to this argument as the "expert" hypothesis.

We first identify the determinants of CLO duality, focusing on characteristics associated with litigation risk. Firms with CLO duality are more likely to operate in a high litigation risk industry (36% vs. 27%), have a higher standard deviation of returns (0.11 v. 0.10), are smaller ($3.9b in assets vs. $11.5b), and have greater board independence than firms without CLO duality (75% vs. 71%). Importantly, the first two results suggest that firms with CLO duality are more

[4] Heinen ultimately settled with the Securities and Exchange Commission (SEC), agreeing to a civil fine of $2.2 million and temporary disbarment from serving as a director or officer of a public corporation. See SEC v. Heinen, No. 07-2214 (N.D. Cal. April 24, 2007).

likely to face shareholder litigation than non-CLO duality firms, whereas the latter two results suggest the opposite. Thus, the characteristics that drive litigation do not also drive CLO duality. Furthermore, the last result is consistent with firms perceiving that independent directors counterbalance the conflicting interests of the CS. We also note no statistical relation between the incidence of past legal issues and CLO duality. In total, it does not appear that the ex-ante risk of litigation affects the choice of adopting CLO duality.

To test whether the conflicted or expert hypothesis dominates, we examine the relation between CLO duality and the likelihood of shareholder litigation, regulatory violations and penalties levied for regulatory violations. We examine these outcomes because the CLO has legal expertise, and legal risks can impose significant financial and reputational costs (Karpoff et al. 2008a; Karpoff et al. 2008b). Furthermore, managing legal risks is a priority for corporate boards, as they may be subject to civil and criminal liabilities for failing to properly exercise their fiduciary responsibilities. In univariate tests, we find that firms with CLO duality are 11% less likely to face regulatory violations (a 39% reduction relative to the sample mean), pay 50% fewer penalties when those violations occur (a 103 % reduction relative to the sample mean), and are 4 % less likely to experience shareholder litigation (a 37% reduction relative to the sample mean). We also find that these results (except for the likelihood of a violation) hold in multivariate tests controlling for whether the CLO is highly compensated, firm size, high-risk industry, sales growth, returns, skewness, standard deviation, firm age, and industry- and year-fixed effects.[5] Overall, these results are consistent with the "expert" hypothesis as CLO duality is associated with a lower likelihood of legal issues.

[5] We find that only roughly half of the firms with CLO duality (53%) have a high-paid CLO, relative to 39% for firms without CLO duality. Nonetheless, to ensure that the effects we document are orthogonal to high CLO pay, we control for highly compensated CLOs in all tests.

We next explore whether young firms that bear more legal risk are more likely to have CLO duality, but separate the joint functions as they age, become more sophisticated, and risk declines.[6] Thus, our results may be driven by firms switching from CLO duality to non-CLO duality (separating the roles). We conduct two tests to rule out this explanation. First, we examine whether firms separate the function more often than combine the CLO and CS functions. However, we find that 105 firms in our sample combine the CLO/CS roles, whereas only 57 separate the roles. Second, we conduct difference-in-differences tests to analyze switching firms in the three years after the switch. If the results are driven by the natural tendency of firms to separate the roles as they age and increase in complexity, we should find results that follow switches *from* CLO duality to non-CLO duality. However, we find that the results are generally concentrated among firms that *combine* the CS/CLO roles. We note no consistent or statistically significant change in legal issues for firms that separate the CS/CLO roles. Broadly, these results are not consistent with the endogenous change from CLO duality as firms age and grow in complexity. Instead, our results show that firms switching to combined CS/CLO roles are less likely to experience regulatory violations and have lower penalties.

Independent boards are likely to be more effective monitors (Chen et al. 2015; Frankel et al. 2011). Therefore, we next examine whether the benefit of CLO duality diminishes when the board is less independent. We split the sample into high and low independence groups using the median board independence. We note a statistically significant relation between CLO duality and the likelihood of litigation among high board independence firms (coefficient = -3.39, t-stat = -2.05), the likelihood of regulatory violations (coefficient = -3.35, t-stat = -1.50), and regulatory violation penalties (coefficient = -0.39, t-stat = -2.18). Among firms with independence below the

[6] This hypothesis is inconsistent with the determinants model and prior literature which finds the shareholder litigation is increasing in size (Kim & Skinner, 2012).

median, we find no statistically significant relations. This suggests that firms with an "expert but conflicted" CS (regarding legal issues) that include a high proportion of outside directors are less likely to experience future legal issues.

Up to this point, our examination focused on firms with a Corporate Secretary also serving as the Chief Legal Officer because the CLO is the most frequently title paired with the Corporate Secretary (it occurs in 81 % of our sample). We examine legal outcomes because these issues fall within the purview of the CLO. However, we note that the second most frequently title paired with CS is the Chief Financial Officer (CFO) (which occurs in 5% of our sample). To determine whether the expert hypothesis generalizes to joint CS/CFO roles ("CFO duality"), we examine the relation between CFO duality and the likelihood of a financial restatement and find that firms with CFO duality issue 1.5% fewer restatements. Further, we find that this result is driven by revision ("Little r") restatements, indicating that firms with expert but conflicted CS with respect to financial reporting experience fewer minor misreporting events.

To the best of our knowledge, we are the first to empirically study the role of the Corporate Secretary in firm outcomes for US firms.[7] Given that we explore one dimension of the CS role (i.e. CLO duality), our study is most closely related to those that examine the effects of CLOs in other contexts. Several studies compare firms with CLOs ("CLO firms") and without CLOs that appear in the proxy statement. With respect to disclosure decisions, Kwak et al. (2012) find that CLO firms issue more forecasts, especially bad news and Hopkins et al. (2015) find that CLO firms have lower financial reporting quality, but not to the extent of misreporting. Ham and Koharki (2016) find that CLO firms have higher credit ratings and exert a cautious influence on firms.

[7] Limited research explores the role of the Corporate Secretary in corporate governance in other institutional settings such as Australia (Nowland et al. (2021)) and China (Xing et al. (2019)).

Finally, Jagolinzer et al. (2011) find that firms that require CLO approval for insider trades report lower insider trading profits. We extend these findings by examining the relation between CLO duality and future legal issues that are closely related to the role and expertise of CLOs, not to the CLOs' compensation.

While our results are consistent with a CS serving as an expert advisor to the board, we also note that our ability to draw causal conclusions is limited (given the archival nature of our data). Ideally, we could randomly assign various executives to serve as the CS and observe whether firms avoid issues associated with the expertise of the executive. Clearly, this research design is not feasible. Thus, we conduct several tests to minimize the likelihood that our results are driven by other underlying factors. For example, we find that our results are driven more by firms that combine the CS and CLO roles than those that naturally separate them as firms age, and these roles become more complex.

II. BACKGROUND AND HYPOTHESIS DEVELOPMENT

The passage of the Sarbanes-Oxley Act in 2002 brought sweeping changes to the U.S. corporate governance landscape and increased the magnitude and complexity of corporate reporting and compliance requirements. The heightened regulatory impetus to enhance overall accountability and expand corporate transparency has significantly transformed the roles and responsibilities of a firm's Corporate Secretary and Chief Legal Officer.[8]

2.1 Corporate Secretary

All U.S. states require companies to have a designated Corporate Secretary. While the powers and duties of corporate secretaries are specified by state laws and corporate bylaws, their

[8] After the enactment of the Sarbanes-Oxley Act (SOX) of 2002, the U.S. Securities and Exchange Commission (SEC) commissioner emphasized corporate secretaries' role in "ensuring high standards of good governance", as they guide the board of directors and management in implementing and overseeing corporate governance reforms. See Speech by SEC Commissioner to the American Society of Corporate Secretaries: Sarbanes-Oxley and the Idea of Good Governance, https://www.sec.gov/news/speech/spch586.htm (accessed 5/2024).

duties include setting the board's agenda, developing a firm's governance framework, providing best practices for incorporation, and assisting the board in fulfilling its fiduciary duties to shareholders.[9] In particular, corporate secretaries are expected to ensure that firms are compliant with laws and regulations, keep abreast of activities in securities markets and provide early warnings to management and the board of critical corporate matters (Society of Corporate Secretaries and Governance Professionals, 2021). To aid the board in performing its responsibilities better, corporate secretaries also perform periodic assessments of board structure and governance practices.

Given the nature of the CS role, their understanding of the issues specific to the firm and the legal standards governing the board's conduct can affect the risk of litigation. In particular, the CS is instrumental in ensuring that the board's decision-making process can withstand legal scrutiny. This includes ensuring that the board is properly informed and sufficiently deliberative. As the General Counsel and Secretary of The Walt Disney Company, Alan Braverman noted: "The board will turn to the General Counsel [and Corporate Secretary] and want to know whether they should feel comfortable that they have received the right information, whether the information and whether their deliberative process about whatever decision needs to be made fulfills their fiduciary obligations" (p. 64 of Veasey and Di Guglielmo, 2012).

Additionally, the CS documents the board's decision-making process, which can play a central role in litigation against the company.[10] For instance, shareholders sued Walt Disney after the board of directors approved a $140 million severance package for Michael Ovitz, who had

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[9] We did not find any variation in state laws restricting or requiring the use of CLO duality over our sample period. Delaware, California, New York and Nevada corporate laws explicitly state that the same person may hold the office of Corporate Secretary as well as another office.

[10] For example, Section 142(a) of the Delaware General Corporation Law requires an officer "to record the proceedings of the meetings of the stockholders and directors in a book". The CS typically carries out this function.

served as the CEO for one year.[11] Shareholders alleged that directors failed to adequately investigate the agreement and noted the sparse notes of the discussions. The court found that "the documentation is far less than what best practices would have dictated," and subsequent observers have noted that balancing completeness without providing too much information raises note taking to an art form. Veasey and Di Guglielmo (2012) illustrate the importance of note taking on litigation "the General Counsel and Corporate Secretary can provide substantial support to the board, and the corporation generally, in minimizing litigation problems 'by ensuring that corporate actions likely to be challenged by shareholders are documented in carefully prepared minutes'" (p.70).

Finally, board correspondence and documentation can affect whether board communications are protected under attorney-client privilege. How the CS documents board minutes and labels board materials can determine whether the materials are protected or are subject to discovery and scrutiny. In short, how well the CS performs her duties can have a direct effect on litigation risk.

2.2 Chief Legal Officer

Chief Legal Officers (also known as "General Counsel") are the head of the legal department and typically have direct reporting lines to both the board of directors and the CEO.[12] Although they are often part of and advise the management team, the CLO has fiduciary duties to the company and not individual managers. Despite this, a common conflict they face is that they are hired by and report to the CEO but have professional responsibilities to represent the company when interests conflict with those of executives (Heineman 2016).

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[11] See re: the Walt Disney Co. Derivative Litigation, 731 A.2d 342 (Del. Ch. 1998).

[12] Section 307 of the Sarbanes-Oxley Act mandated a reporting obligation to the audit committee if a CEO fails to take appropriate remedial measures when presented with evidence of a material violation of securities laws, breach of fiduciary duty or similar violation by the company. Thus, many corporate managers have a reporting line to the board of directors.

Recent empirical studies have compared firms with a CLO as a named executive officer with those firms without (based on compensation). On the one hand, firms with highly paid CLOs may face greater litigation risk as they tend to utilize more aggressive accounting practices (Hopkins et al., 2015) and have greater credit risk (Ham & Koharki, 2016). On the other hand, these firms are associated with lower compliance and monitoring breaches (Morse et al., 2016), and a greater likelihood of issuing forecasts (especially bad news forecasts), mitigating the risks related to information asymmetry (Kwak et al., 2012). Furthermore, companies where trades require CLO approval have lower insider trading profits for (Jagolinzer et al. 2011). In short, the compensation of CLOs is associated with a wide variety of effects, some that appear to increase the risk of litigation and others that decrease litigation risk.

2.3 Hypothesis development

Given the above discussion, it is not clear whether firms with combined CS and CLO roles face more or fewer legal issues than firms where these roles are separated. Firms that do not have CLO duality typically staff the CS position with an officer in the finance/accounting function, someone temporary, or from the outside. On the side of benefits to duality, relative to these other possible corporate secretaries, the CLO is privy to internal assessments of legal risks and has a better understanding of how to minimize litigation risk through actions described above. Even relative to other attorneys, the CLO has a deeper understanding of the individual issues facing the firm. Thus, the dual CLO is better positioned to alert the board to legal issues on the horizon and help develop effective strategies to address impending issues.[13] Further, the dual CLO can facilitate information exchanges with the board, note taking, advice and documentation that can limit

[13] As a practical matter, the form and content of notes taken during board meetings can affect the board's vulnerability to litigation in the event of discovery. However, as these notes are not public, it is not clear that they would affect the likelihood of a firm to face litigation (Katz 2019).

litigation risk. Finally, when the CLO is not the CS, she spends less time with the board. Accordingly, Veasey and Di Guglielmo (2012) suggest that a Corporate Secretary who is also the CLO "can provide substantial support to the board, and the corporation generally, in minimizing litigation problems".[14] Therefore, the legal expertise available when combining the CLO and the CS roles may lead to fewer future legal issues. We refer to this as the "expert" explanation.

Although dual CLOs clearly have the knowledge and skills to mitigate legal risks, they face conflicting incentives to do so (Practical Law Corporate & Securities. (2022)). Conflicts can arise in two ways. First, the CLO usually reports to and is hired by the CEO but has professional responsibilities to represent the company and not management. Therefore, if managers' incentives diverge from a company's incentives, CLOs may stray from their professional responsibilities to the company. Second, the CLO is responsible for properly informing and advising the board but knows that the board will use this information to evaluate and oversee the CLO along with the rest of the executive team. These conflicts and the duties of the CS create incentives and opportunities for the CLO to "gloss over" legal issues and color discussions with the board in a positive light.[15,16] As a result, the board could be poorly informed about the risks of managerial decisions and less capable of mitigating potential issues.

A 2007 case involving the SEC and McAfee, Inc.'s former GC and Corporate Secretary, Kent H. Roberts, indicates the potential dangers of a conflicted CS. Roberts was charged for his role in an options backdating scheme that increased the value of his stock options by approximately $197,500. He filed false stock ownership reports and misleading proxy statements with the SEC.

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[14] One anonymous Executive Vice President, General Counsel & Corporate Secretary of an IT Services and IT Consulting firm describes the CS and CLO functions as "distinguished but complementary".

[15] Warren J. Casey and Michael T. Rave, partners of law firm Day Pitney LLP, in an interview with Metropolitan Corporate Counsel.

[16] Additionally, one CS/CLO we spoke with indicated that, it would be easy in his capacity to "cover his tracks" by misinforming the board of any mistakes he made or issues that arose because of errors in judgment.

The Director of the Commission's Division of Enforcement indicated that Roberts flouted his duties as McAfee's CLO by subverting the very systems that he was charged with safeguarding to improperly benefit himself and others.

As a final point, both the CS and CLO roles are demanding and require diligence to limit litigation risk (Practical Law Corporate & Securities. (2022), Garcia (2019)). One person who fulfills both capacities will necessarily have less time and attention to devote to any singular role, leading to less effective management of legal risks. Considering the previous discussion, we refer to this as the "conflicted" explanation, as the CLO faces conflicting incentives including time allocation challenges.

In summary, it is not clear whether the "expert" or "conflicted" explanation dominates, on average. Therefore, we state our hypothesis in the null form.

H1: Firms that have combined Corporate Secretary and CLO roles experience no difference in the likelihood and severity of future legal issues.

III. SAMPLE AND RESEARCH DESIGN

3.1 Sample Selection

Our sample includes all publicly traded U.S. firms covered by BoardEx, where the identities of both the CS and CLO (and unique ID numbers) are available.[17] Therefore, firm-years with only a CS (and no CLO) identified are excluded from our study.[18] Treatment firm years are years in which the identities of the CS and CLO are the same. The control firm years are the years in which the CS and CLO are not the same. Consistent with prior research, the data is parsed to identify

[17] Boardex obtains information on directors, senior managers, disclosed earners (highest paid executives) from multiple data sources including SEC filings, company press releases, corporate websites and US stock exchanges among other sources. Further, we exclude financial firms and utilities as these face unique regulatory environments.
[18] Without this restriction we cannot be certain whether the firm has CLO duality or not. Since the CS is a required position, the identity of the Corporate Secretary is generally available while the identity of the CLO is less common.

variations in CS and CLO titles (Ham & Koharki, 2016; Hopkins et al., 2015).[19] This process resulted in an initial sample of 25,661 firm-year observations (3,741 firms). The sample begins after Sarbanes Oxley (2003) to ensure that all firms operate in similar regulatory environments. Further, to allow time for legal resolutions captured as our outcome variables of interest, and avoid the shift in internal corporate communications during the Covid-19 pandemic, we end the sample in 2019

The outcomes of interest include securities class action lawsuits from the ISS securities class action services research database and regulatory actions and penalties from the Corporate Research Project of Good Jobs First's Violation Tracker ("Violation Tracker").[20] Recent studies use Violations Tracker to examine co-opted boards and corporate misconduct (Zaman et al., 2021), financial reporting incentives and wage theft, visits from headquarters and local newspapers, and misconduct (Heese et al., 2022; Heese & Pérez-Cavazos, 2019) and corporate monitors (Gallo et al., 2023). Financial statements and stock return variables were obtained from Compustat and CRSP, respectively. CLO compensation data were obtained from ExecuComp. Sample sizes differ across analyses because of merging across datasets.

3.2 Research Design

We use the following multivariate regression model to empirically examine the association between CLO duality and legal actions:

$$LegalAction_{it} = \beta_0 + \beta_1 CLO\ Duality_{it-1} + \beta_2 Highly\ Paid\ CLO + \beta_3\ HighRiskIndustry_{it-1} + \beta_4 Assets_{it-1} + \beta_5 SalesGrowth_{it-1} + \beta_6\ Return_{it-1} +$$

[19] These earlier studies focused on the General Counsel (GC) as a highly paid corporate executive and used Standard and Poor's Executive Compensation database (ExecuComp) to identify the variations of the GC title. While ExecuComp covers 3500+ companies, BoardEx covers 20,000+ public and private companies (covering 900,000+ directors, senior management, and disclosed earners).

[20] We are grateful to Philip Mattera of Good Jobs First for providing us with the Violations Tracker data as of June 2021.

$\beta_7 ReturnSkewness_{it-1} + \beta_8 ReturnStandardDeviation_{it-1} + \beta_9\, Turnover_{it-1} +$

$\beta_{10} FirmAge_{it-1} + \varepsilon_{it}$

(1)

$LegalAction$ captures the likelihood of being the subject of a securities class action lawsuit or a regulatory enforcement action brought by a federal, state, or local government agency or the penalty associated with the regulatory violation. Specifically, in securities class action lawsuit models, $Lawsuits$ is an indicator variable equal to one if the firm is named in a securities class action lawsuit for a class period that includes the firm year and zero otherwise.[21] In regulatory action models, $Regulatory\ Violation$ is an indicator variable equal to one if the firm is the subject of regulatory enforcement in that firm year and zero otherwise.[22] $Violation\ Penalty$ is the log of one plus the dollar value of the associated penalties assessed in a given firm year.[23] The variable of interest, $CLO\ Duality,$ is an indicator variable equal to one if the same person fills the CS and CLO roles for firm year *t-1* and zero otherwise.

Following Kim & Skinner, (2012), our control variables include those that predict legal actions. $HighRiskIndustry$ captures firms that operate in industries facing high levels of securities litigation (Francis et al., 1994).[24] Kim & Skinner, (2012) show that larger ($Size$) and more profitable ($SalesGrowth$) firms are more likely to be sued. Greater levels of stock volatility ($ReturnStandardDeviation$), declining stock prices ($Return$), and higher stock turnover ($Turnover$) are also predictive of litigation risk. In addition, we control for firms' age ($FirmAge$) as firms may separate the CS and CLO functions as they age, and these roles become more

[21] Coding the litigation variable in this manner captures the period over which the firm allegedly engaged in misleading behavior and not the period during which the case was (somewhat arbitrarily) filed.
[22] The Violations Tracker dataset does not include details on the period of the offense, so we are limited to using the date the regulatory violation is filed.
[23] Only regulatory enforcements with penalties of $5k or more are included in the Violations Tracker dataset.
[24] These industries include biotech, computer, electronics and retail.

demanding. All independent variables are lagged, as we are interested in the *ex ante* risk of legal action. In addition, all continuous variables are winsorized at the top and bottom 1% to limit the influence of outliers.

Our models also include industry- and year-fixed effects to capture within-industry variation and control for time-invariant omitted characteristics.[25] Since residuals could be correlated across years or firms, we corrected standard errors and related t-statistics by clustering by firm and year dimensions to obtain less biased standard errors (Petersen, 2009).

IV. EMPIRICAL RESULTS

4.1 Descriptive statistics

We begin our empirical analyses by providing a detailed characterization of CLO duality (i.e., combined CS and CLO roles) between 2003 and 2019. In Panel A of Table 1, we classify our sample by whether the CS and CLO roles are combined (identified as *CLO Duality* firms) by year. An average of 81% of the 25,661 firm-years have CLO duality. We do not note any trend in CLO duality over time, as the proportion of firm years with CLO duality ranges from 79% to 83% in the sample period. Thus, any variation we observe is primarily cross-sectional. Panel B of Table 1 demonstrates that large proportions of firms with CLO duality operate in each of the designated industries, indicating that industry membership is not an important determinant of CLO duality.[26] Panel C of Table 1 demonstrates that the most common title jointly associated with the CS role is the CLO role (81%), followed by the CFO function (5%), and the accounting function (3%).[27] Interestingly, although the CS role is increasing in prominence and duties, only a small proportion

[25] Since our variable of interest (*CLO Duality*) is relatively stable over time within firm we include industry-fixed effects (rather than firm-fixed effects). We do, however, implement difference-in-difference tests over a sample of firms that experience a change to or from CLO duality during the sample period.
[26] We define a firm's industry by the two-digit primary SIC code.
[27] Prior surveys typically find that approximately 80% of Corporate Secretaries are also CLOs (NYSE Governance Services & BarkerGilmore, 2016)

of firm-years have a standalone CS (3%). Panel D of Table 1 summarizes the final sample used in our main analyses.

In untabulated analyses we observe a monotonic decline in the proportion of firms with CLO duality as firms age. The proportion of firm-year observations in our youngest group (0-9 years) is 84%, but it is only 67% for firm-year observations in our oldest group (60-69 years). Finally, when examining CLO's pay status, we find that among firms with CLO duality 53% have a high-paid CLO, relative to 39% for firms without CLO duality.

Table 2 presents descriptive statistics. Across the sample used in our regressions, 82% of the firm-year observations report CLO duality. Further, 27% of firm-years have a regulatory enforcement action brought by a federal, state, or local government agency, and 10% face shareholder litigation.[28] For these firms with a regulatory violation, the average penalty assessed is \$2.3M. Firms in industries with a high risk of litigation account for 34% of the sample. We observe that the sample firms have high independence, with the proportion of independent directors exceeding the industry average for 68% of firm years. In fact, board independence averages 75% for the sample firms. Lastly, we find that the CLO is one of the highest-paid corporate executives at 50% of the sample firms with compensation data.

Table 3 shows that, relative to firms without CLO duality, firms with CLO duality have a lower incidence of regulatory violations (0.25 versus 0.36), shareholder class action lawsuits (0.09 versus 0.13), and lower regulatory penalties (\$1.7M versus \$5.0M). In terms of firm characteristics, firms with CLO duality are more likely to have a CLO who is also a highly paid executive (0.53 versus 0.39). CLO duality firms are smaller (a mean total asset value of \$3.9 billion relative to \$11.5 billion for non-CLO duality observations), younger (25 years old versus 30), have higher stock

[28] The proportion of firms with regulatory violations in our sample is similar to other studies using the Violations Tracker data that also find high proportions of firms with violations (for example, Heese et al., (2019)).

trading volume (turnover ratio of 2.7 versus 2.5) and have more volatile stock returns (standard deviation of 0.11 versus 0.10). Although firms with CLO duality are more likely to operate in industries with high litigation risk, univariate analyses provide evidence that CLO duality is associated with a lower likelihood of lawsuit incidence. Table 4 shows correlations, which are similar to the univariate results in Table 3. Most importantly, CLO duality is negatively correlated with litigation, regulatory violations, and regulatory penalties.

4.2 Determinants of the CLO Duality structure

Given that we are the first to empirically analyze CLO duality among US firms, we seek to develop an understanding of the determinants of the CLO duality structure within public firms. Our choice of independent variables is based on recent practitioner articles and prior corporate governance research. The size ($Assets$), maturity ($Firm\ Age$) and complexity of the business ($Number\ of\ Business\ Segments$) as well as the sector in which the firm operates, are likely to guide decisions to combine the CS and CLO roles (Egon Zehnder International, 2011; Harvard Law School Center on the Legal Profession, 2016). Increasing and tougher regulations have pushed companies to prioritize risk management. Therefore, the regulatory environment ($High\ Risk\ Industry$) and past litigation (*Past Lawsuit, Past Regulatory Violations and Past Cumulative Violation Penalty*) influence CLO duality (Egon Zehnder International, 2011; Harvard Law School Center on the Legal Profession, 2016).

We also include an indicator variable for whether the CLO is one of the top highest-paid corporate executives ($Highly\ Paid\ CLO$) to ensure that we capture a unique firm characteristic. Prior research has found that firms with highly paid CLOs utilize more aggressive accounting practices (Hopkins et al., 2015) and have increased credit risk (Ham & Koharki, 2016) although these firms have lower insider trading profits (Jagolinzer et al., 2011), more voluntary disclosures, (Kwak et al., 2012) and lower compliance and monitoring breaches (Morse et al., 2016).

Lastly, our determinants model captures the governance environment, CEO characteristics, and economic determinants. The percentage of independent directors on the board ($Board\ Independence$ %) controls for the effect of the governance environment on CLO duality. Following Linck et al. (2008), we include an indicator for whether the CEO is also the chairman of the board ($CEO - Chairman$) and CEO age ($CEO\ Age$) as determinants of the firm's choice to equip the board with a CS that is versed in legal affairs (i.e., legal expert). We also incorporate a measure of growth opportunities ($Sales\ Growth$) and firm performance ($Returns$).

Table 5 presents the results of our determinants analysis. We find that firms with highly compensated CLOs are more likely to have CLO duality. Similarly, firms with a greater proportion of independent board members are more likely to have a Corporate Secretary who has the legal acumen to keep the board apprised of legal risk. This is consistent with independent boards prioritizing legal risk management. However, larger and older firms and firms with strong stock market performance are less likely to adopt CLO duality. This indicates that as firms increase in age, size, and stock returns, they exhibit a preference for a more independent CS (i.e., a CS that advises the board independent of the legal function). In addition, when the CEO also serves as the chairman of the board, firms are less likely to adopt CLO duality, which is consistent with firms preferring a CS that is free from legal responsibilities.

Columns (1) to (3) of Table 5 include varying controls for whether past legal actions influence a firm's decision to adopt CLO duality. Interestingly, we do not find evidence to support the view that firms respond to different legal actions by combining the CS and CLO roles.

4.3 The association between CLO duality and legal outcomes

Table 6 reports the results of the multivariate regressions of CLO duality on legal actions. Column (1) demonstrates that firms with CLO duality are 3.2% less likely to face shareholder litigation (a decline of approximately 30% on the mean rate). We also find that firms with CLO duality are 2% less likely to be subject to regulatory violations, but this result is not statistically significant. Finally, we find that firms with CLO duality are assessed 38% lower penalties for regulatory violations. In untabulated tests, we also control for CEO characteristics, CEO age and an indicator variable for whether the CEO is also the Board Chair and find similar results to those presented in Table 6.[29] The coefficients on the control variables results are broadly consistent with prior literature. We find that both the likelihood of being subject to a regulatory violation enforcement and the likelihood of being subject to a shareholder class action lawsuit are significantly greater for larger firms and for firms with higher sales growth. Operating in a high litigation risk industry is positively related to the likelihood of litigation, but negatively related to regulatory violations. Overall, our main results are broadly consistent with the univariate results and indicate a lower likelihood of future legal issues for firms with CLO duality.

As discussed above, one concern with the research design in Table 6 is that underlying firm characteristics could drive both the role of the CS and future legal outcomes. Next, we complement our main tests using OLS with two other methods, designed to mitigate this potential endogeneity issue.

First, we implement short-window difference-in-differences tests around switches to and from CLO duality. While these tests are not randomly assigned experiments, they limit the effect

[29] In additional untabulated tests, we control for whether the CLO is a member of the board and find similar results.

of possible confounding characteristics or events, as they would have to change with the switch to (or away from) CLO duality during the same period.

Table 7 reports the number of firms that switch to (or away from) CLO duality. We find that a larger number of firms combine rather than separate the roles (105 firms vs 57 firms), indicating that variation in our sample is not driven by firms that endogenously separate the roles as they age and become more complex. It also stands in contrast to calls for companies to separate the CS and CLO roles (Egon Zehnder International, 2011; Henley Business School & The Institute of Chartered Secretaries Administrators, 2014; Katz, 2015), as many firms choose not to do so.

Considering the results of our multivariate regressions in Table 6, we should observe that a switch to CLO duality (i.e., combining roles) is associated with a lower risk of future legal actions following the change, and a switch away from CLO duality (i.e., separating the roles) is associated with an increased risk of future legal actions following the change. We limit our sample to firms that made a permanent switch, that is, once a switch was made, that structure remained in place for the duration of the years in the sample to exclude firms that made multiple short-term changes in CLO duality during the sample period, as these switches are likely provisional assignments.[30] To examine switches to CLO duality, we include switching firms as well as firms that reported no CLO duality throughout the entire sample (these are firms that had the option to combine the roles but never did) as control firms. Similarly, to examine switches away from CLO duality, our sample includes firms that separated the CS and CLO roles from firms that reported CLO duality throughout the sample period and never separated (these are firms that had the option to separate) as control firms.

[30] This is similar to Dey et al. (2011) in their examination of firms' decisions to combine or separate the CEO and Board chairman roles. They also exclude firms with multiple switches during their sample period.

Using these samples, we conduct difference-in-difference analyses to examine the three years following the change.[31] The results indicate that the relation between CLO duality and lower future legal issues is driven by firms that combine the roles as shown in Table 7. Such firms have a lower likelihood of regulatory enforcement violations and lower penalties associated with violations three years following the change. In contrast, we find no statistically significant effect on legal issues for firms that separate the CS and CLO roles. In short, we find no evidence that firms that separate the CS and CLO roles experience legal issues at a different rate following the change. Overall, these results indicate that the negative relation between firms with CLO duality and future legal issues is driven by changes to rather than away from CLO duality. This undercuts the explanation that the relation between CLO duality and legal outcomes is driven by the endogenous separation of the CLO and CS roles as firms age and become more complex.

Second, to ensure that our treatment and control samples are as similar as possible along observable dimensions, we created a matched sample using coarsened exact matching (CEM) techniques (Blackwell et al., 2009; Gallo et al., 2023). CEM is considered superior to propensity score matching for causal inference (King & Nielsen, 2019). To do so, we match firm-year observations with CLO duality to firm-year observations without CLO duality along with firm characteristics that are statistically significant determinants of the treatment status ($Highly\ paid\ CLO$, $Assets$, $Returns$, $Board\ independence$, $CEO - Chairman$ and $Firm\ Age$). Using this sample in untabulated tests, we re-estimate our main analyses and find that the results are directionally consistent with the OLS model.

4.4 The mediating effect of board characteristics on the relation between firms with CLO duality and legal outcomes

[31] We also examine one and five years after the switch and find similar results.

Prior tests demonstrate that firms with CLO duality experience a lower likelihood of legal issues. This relation may be more pronounced for firms with a high level of board independence. This is because the independence of the board could remediate the impairment of the CS and because legal expertise in the board room complements board independence (Defond et al., 2005).[32] Therefore, in Table 8, we split the sample by the level of board independence and re-estimate equation 1.[33] We find that the benefit of a lower likelihood of legal actions for firms with CLO duality is primarily contained among firms with high board independence. Specifically, CLO duality firms with high board independence have a statistically significantly lower likelihood of shareholder lawsuits, and lower regulatory penalties associated with regulatory enforcement violations.

In addition to board independence, research indicates that female board composition can affect the likelihood of litigation (Joo et al. 2021) because women are stronger monitors (Adams and Ferreira 2009). In untabulated tests, we conduct tests similar to those documented in Table 8 by partitioning the sample on the number of females on the board and re-estimate equation 1. We find that CLO duality is related to lower legal issues only among the sample of firms with at least two women on the board.[34] We find no statistically significant results for the sample of firms with fewer than two women. Collectively, these results indicate that CLO duality reduces litigation costs when board monitoring is high.

4.5 The effect of CS/CFO duality on the likelihood of a restatement

Up to this point, our analyses focused on firms with a Corporate Secretary also serving as the Chief Legal Officer because the CLO is the most frequent title paired with the Corporate

[32] This is similar to Defond et al., (2005) who find that financial accounting expertise complements board independence.
[33] High board independence is computed using the sample industry medians for fiscal year *t-1*. We obtain similar results using industry means.
[34] Following critical mass theory, we split the sample according to whether there are two or more females on the board (Adhikari et al. 2019).

Secretary (it occurs in 82% of our sample). We examine legal outcomes because these issues fall within the purview of the CLO. However, we note that the second most frequent title paired with CS is Chief Financial Officer (CFO) (which occurs in 5% of our sample). To determine whether the expert hypothesis generalizes to combined CS and CFO roles ($CFO\ Duality$), we examine the relation between $CFO\ Duality$ and the likelihood of financial restatements since CFOs have oversight of the financial reporting process.

Specifically, to test whether restatements are more (less) likely when the CS and CFO roles are combined, we estimate the following regression:

$$\begin{aligned} Prob(Restatement_{it} &= 1) = \beta_0 + \beta_1 CFO\ Duality_{it-1} + \beta_2 WeakIC_{it} + \beta_3 Size_{it-1} \\ &+\beta_4 BigNauditor_{it} + \beta_5 ExternalFinancing_{it+1} \\ &+\beta_6 EPSGrowth_{it-1} + \beta_7 Leverage_{it-1} + \upsilon_{it} \end{aligned} \quad (2)$$

$Restatement$ is an indicator variable with a value of one if the company restated its financial statements for the observed fiscal year and zero otherwise. We further classify restatements as due to (1) fraud, irregularities, investigations, (2) Little r revisions, and (3) Big R restatements. $Restatements\ (Fraud, irregularities, investigations)$ is an indicator variable equal to one if the firm's financial statements for year *t* are restated due to fraud, irregularities, misrepresentations, or SEC involvement and zero otherwise. $Restatements\ (Little\ r)$ is an indicator variable equal to one if the firms' financial statements for year t are restated due to a "Little r" revision (does not require an 8-K filing) and zero otherwise. $Restatements\ (Big\ R)$ is an indicator variable equal to one if the firms' financial statements for year t are restated due to a "Big R" restatement that requires an SEC 8-K filing and zero otherwise. Restatement data is obtained from the Audit Analytics Non-Reliance Restatements database.

In equation 2, $CFO\ Duality$ is the independent variable of interest and is an indicator variable equal to one if the Corporate Secretary and CFO roles are filled by the same person for the firm-year and zero otherwise. The set of control variables is guided by prior research and theories. Material weaknesses in internal controls ($WeakIC$) have a greater likelihood of errors in financial statements, leading to restatements (Bens et al., 2012; Blankley et al., 2012; Kinney & McDaniel, 1989). Restatements tend to vary among companies of different sizes ($Size$). Firms audited by larger audit firms ($Big5\ auditor$) are less likely to issue restatements (Kinney & McDaniel, 1989). Firms that are more likely to access capital markets ($ExternalFinancing$) and firms with declining EPS ($EPSGrowth$) are more likely to have their earnings restated (Richardson et al., 2003). Finally, $Leverage$ is often associated with restatements (Aier et al., 2005; Dechow et al., 1996; Defond & Jiambalvo, 1991). We estimate equation 2 and find that firms that combine the CS and CFO roles issue 1.5% fewer restatements. When we categorize restatements, we find that this result is driven by "Little r" revisions. This suggests that firms with a CS informed about financial reporting matters who lacks independence from management have a lower likelihood of minor misreporting events.[35]

V. CONCLUSION

In this study, we examine the qualm of an expert but conflicted Corporate Secretary serving the board of directors. In univariate, multivariate, matched-sample, and short-window difference-in-differences tests, we find that firms with CLO duality face fewer future legal issues. Cross-sectional tests reveal that the negative relation between firms with CLO duality and legal issues is driven by firms with high board independence, suggesting a complementarity between CLO

[35] In untabulated tests, we find no statistical relation between CFO duality and the presence of either SEC Accounting and Auditing Enforcement Releases or internal control weaknesses. This could be attributable to the small sample of firms with CFO duality affecting the power of these tests, CFO duality affecting more minor outcomes (such restatements due to revisions), or CFO duality not affecting SEC enforcement decisions.

duality and board independence. Examining changes in CLO duality, we find that the relation between CLO duality firms and future legal issues is driven by firms that combine the roles and not by firms that naturally separate the roles as firms age and the roles become more complex. Finally, broadening our tests to include financial reporting risks and CS and CFO duties, we find that the financial statements of firms with CFO duality are less likely to be restated.

Although our ability to draw causal conclusions is limited, our results should give pause to commentators who recommend separating the CLO and CS roles. Clearly, our study cannot provide definitive evidence on the appropriate policy for every company, as no single study can. Instead, our study sheds light on the role of the crucial, yet underexplored, Corporate Secretary.

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Appendix: Variable Descriptions

<u>CLO Duality models</u>

Variable	Description
Assets	The natural logarithm of one plus the firm's total assets as of the end of fiscal year *t-1*. *[Source: Compustat]*
CEO Age	CEO age calculated as the difference between fiscal year *t-1* and the CEO's date of birth. *[Source: BoardEx]*
CEO-Chairman	An indicator variable equal to one if the CEO is also the Chairman of the Board and is zero otherwise. *[Source: BoardEx]*
CLO/CS_Firm	An indicator variable equal to one if the firm combines Corporate Secretary and Chief Legal Officer roles in the current year and is zero otherwise. *[Source: BoardEx]*
CLO Duality	An indicator variable equal to one if the Corporate Secretary and Chief Legal Officer roles are filled by the same person as of the end of fiscal year *t-1* and is zero otherwise. *[Source: BoardEx]*
Firm Age	Number of years since the firm was first listed on Compustat. *[Source: Compustat]*
High Board Independence	An indicator variable equal to one if the proportion of independent directors on the board exceeds the sample industry median for fiscal year *t-1* and is zero otherwise. *[Source: BoardEx]*
High Risk Industry	An indicator variable that equals one if the firm operates in a high-litigation industry, and zero otherwise. High litigation industries are biotechnology (SIC codes 2833–2836 and 8731–8734), computers (SIC codes 3570–3577 and 7370–7374), electronics (SIC codes 3600–3674), and retail (SIC codes 5200–5961). *[Source: Compustat]*
Highly paid CLO	Indicator variable that takes a value of 1 if the Chief Legal Officer is reported as one of the top five compensated officers of the firm and 0 otherwise. *[Source: ExecuComp]*
Lawsuits	An indicator variable equal to one if the firm was named in a SEC shareholder class action lawsuit for a class period that includes the current firm year and is zero otherwise. *[Source: ISS]*
Number of Business Segments	The natural logarithm of one plus the number of business segments as of the end of the fiscal year *t-1*. *[Source: Compustat]*

Appendix: Variable Descriptions (continued)

Variable	Description
Past Cumulative Violation Penalty	The natural logarithm of one plus the cumulative penalties assessed with regulatory enforcement actions for all previous years with available regulatory violations data and is zero otherwise. *[Source: Violations Tracker]*
Past Lawsuit	An indicator variable equal to one if the firm was named in a SEC shareholder class action lawsuit for a class period that includes any of the previous years with available lawsuit data and is zero otherwise. *[Source: ISS]*
Past Regulatory Violations	An indicator variable that equals 1 if the firm faced a regulatory enforcement action for any of the previous years with available regulatory violations data and is zero otherwise. *[Source: Violations Tracker]*
Post_change	An indicator variable equal to 1 starting in the year the firm switches to or from the CLO Duality structure and zero otherwise. *[Source: BoardEx]*
Regulatory Violations	An indicator variable that equals 1 if the firm faced a regulatory enforcement action for fiscal year t and is zero otherwise. *[Source: Violations Tracker]*
Return Skewness	Skewness of the firm's 12-month return for fiscal year *t-1*. *[Source: CRSP]*
Return Standard Deviation	Standard deviation of the firm's 12-month returns for year *t -1*. *[Source: CRSP]*
Returns	Market-adjusted 12-month stock return for fiscal year *t-1*. *[Source: CRSP]*
Sales Growth	Year *t-1* sales less year *t-2* sales scaled by beginning of year *t-1* total assets. *[Source: Compustat]*
Turnover	Trading volume accumulated over the firm's 12-month period for fiscal year t -1. *[Source: CRSP]*
Violation Penalty	The natural logarithm of one plus the penalties assessed due to regulatory enforcement actions as of the end of the fiscal year *t* for firm years with regulatory violations. *[Source: Violations Tracker]*

Appendix: Variable Descriptions (continued)

CFO Duality models

Big5_auditor	An indicator variable that equals one if the firm is audited by Arthur Andersen, Deloitte & Touche, Ernst & Young, KPMG, or PricewaterhouseCoopers, and zero otherwise. *[Source: AuditAnalytics]*
CFO Duality	An indicator variable equal to one if the Corporate Secretary and Chief Financial Officer roles are filled by the same person as of the end of fiscal year *t-1* and is zero otherwise. *[Source: BoardEx]*
External Financing	An indicator variable that equals one if the firm issues equity or debt in the subsequent year, and zero otherwise. *[Compustat]*
EPS Growth	A dummy variable that has a value of 1 if a firm has 4 consecutive quarters of growth during the previous fiscal year. *[Compustat]*
ICW	An indicator variable equal to one if the firm's internal controls are considered weak for year t, or zero otherwise. *[Source: AuditAnalytics]*
Leverage	The ratio of total liabilities to total assets at the beginning of the current fiscal year. *[Compustat]*
Restatements	An indicator variable equal to one if the firm's financial statements for year t are restated, or zero otherwise. *[Source: AuditAnalytics]*
Restatements (Frauds, irregularities, investigations)	An indicator variable equal to one if the firm's financial statements for year t are restated due to fraud, irregularities, misrepresentations, or SEC involvement, or zero otherwise. *[Source: AuditAnalytics]*
Restatements (Little r)	An indicator variable equal to one if the firms' financial statements for year t are restated due to a "Little r" restatement (does not require an 8-K filing), or zero otherwise. *[Source: AuditAnalytics]*
Restatements (Big R)	An indicator variable equal to one if the firms' financial statements for year t are restated due to a "Big R" restatement that require an SEC 8-K filing, or zero otherwise. *[Source: AuditAnalytics]*
Size	The natural logarithm of the firm's total assets as of the end of the fiscal year *t-1*. *[Compustat]*

Table 1: Description of CLO Duality Firms

Panel A: CLO Duality firms by year

Year	**CLO Duality**	**% of total**
2003	1,022	79%
2004	1,122	79%
2005	1,208	80%
2006	1,243	80%
2007	1,239	81%
2008	1,203	79%
2009	1,186	80%
2010	1,176	80%
2011	1,175	80%
2012	1,205	81%
2013	1,249	82%
2014	1,296	82%
2015	1,289	82%
2016	1,266	81%
2017	1,254	81%
2018	1,297	82%
2019	1,315	83%
Total	**20,745**	**81%**

Panel B: CLO Duality firms by industry

Industry Title	**CLO Duality**	**% of total**
Construction	309	76%
Manufacturing	9,452	82%
Mining	1,123	74%
Public Administration	41	93%
Retail Trade	1,760	83%
Services	4,667	83%
Transport/Comm.	1,092	75%
Wholesale Trade	821	87%
Total	**19,265**	**81%**

Table 1: Description of CLO Duality Firms (continued)

Panel C: Summary of Corporate Secretary roles

Roles	**# observations**	**% of total**
Chief Legal Officer/General Counsel/Vice President - Legal	20,745	80.84%
CFO	1,275	4.97%
Treasurer/Chief Accounting Officer/Corporate Controller	826	3.22%
Temporary/Subordinate General counsel	983	3.83%
Corporate Secretary only	849	3.31%
CEO/President	190	0.74%
Chairman/Chairwoman	112	0.44%
Chief Administrative(ion) Officer/Chief Business Officer	118	0.46%
Chief Governance Officer	70	0.27%
Chief Compliance Officer	65	0.25%
Independent Director	40	0.16%
Chief Human Resources Officer	38	0.15%
Chief Ethics Officer	16	0.06%
Investor Relations Officer	3	0.01%
Other titles	331	1.29%
Total	**25,661**	**100.00%**

Panel D: Sample Selection

Description	**# observations**
Firms in Boardex and compustat with Corporate Secretary and Chief Legal Officer identified	25,661
Drop observations missing CLO compensation data (Highly Paid CLO) from Execucomp	(11,348)
Drop observations missing values for firm characteristics - Assets, High Risk Industry, Sales Growth, Returns, Return Skewness, Return Standard Deviation, Turnover, Firm Age	(2,134)
Final sample for main regressions	**12,179**

Table 2: Descriptive statistics for sample firms

Variables	N	Mean	Standard Deviation	25th percentile	Median	75th percentile
CLO Duality	12,179	0.82	0.39	1.00	1.00	1.00
Lawsuits	12,179	0.10	0.30	0.00	0.00	0.00
Regulatory Violations	12,179	0.27	0.44	0.00	0.00	1.00
Violation Penalty (logged)	12,179	3.12	5.31	0.00	0.00	8.75
Highly Paid CLO	12,179	0.50	0.50	0.00	1.00	1.00
$Assets_{t-1}$ (logged)	12,179	7.36	1.41	6.38	7.30	8.27
Sales $Growth_{t-1}$	12,179	0.09	0.22	-0.01	0.06	0.16
High Risk Industry	12,179	0.34	0.48	0.00	0.00	1.00
$Returns_{t-1}$	12,179	0.07	0.43	-0.19	0.01	0.23
Return $Skewness_{t-1}$	12,179	0.12	0.75	-0.37	0.10	0.58
Return Standard $Deviation_{t-1}$	12,179	0.11	0.06	0.07	0.09	0.13
$Turnover_{t-1}$	12,179	2.69	1.88	1.42	2.16	3.36
Firm Age_{t-1}	12,179	26.26	17.37	12.00	21.00	40.00
Board Independence %	12,167	0.75	0.44	0.00	1.00	1.00
$CEO\text{-}Chairman_{t-1}$	11,915	0.48	0.50	0.00	0.00	1.00
CEO Age_{t-1}	11,891	55.68	7.15	51.00	56.00	60.00

This table provides descriptive statistics for the main sample and key determinants used in this study. All continuous variables used in the regressions are winsorized at the top and bottom one percent. Refer to the Appendix for variable definitions.

Table 3: Mean differences across CLO Duality and non-CLO Duality firm years

	CLO Duality		Non-CLO Duality			
Variables	**N**	**Mean**	**N**	**Mean**	**Mean difference**	**T-statistic**
Lawsuits	9,982	0.09	2,197	0.13	-0.04***	(-4.70)
Regulatory Violations	9,982	0.25	2,197	0.36	-0.10***	(-9.35)
Violation Penalty (logged)	9,982	2.86	2,197	4.32	-1.46***	(-10.48)
Highly Paid CLO	9,982	0.53	2197	0.39	0.14***	(12.17)
$Assets_{t-1}$ (logged)	9,982	7.26	2,197	7.82	-0.55***	(-14.79)
Sales $Growth_{t-1}$	9,982	0.09	2197	0.09	0.00	(0.61)
High Risk Industry	9,982	0.36	2197	0.27	0.09***	(8.49)
$Returns_{t-1}$	9,982	0.07	2,197	0.08	-0.01	(-0.99)
Return $Skewness_{t-1}$	9,982	0.12	2,197	0.09	0.03	(1.93)
Return Standard $Deviation_{t-1}$	9,982	0.11	2197	0.10	0.01***	(5.34)
$Turnover_{t-1}$	9,982	2.72	2197	2.52	0.20***	(4.92)
Firm Age_{t-1}	9,982	25.46	2,197	29.89	-4.43***	(-10.10)
Board Independence %	9,978	0.75	2,189	0.71	0.04***	(4.117)
$CEO\text{-}Chairman_{t-1}$	9,759	0.47	2,156	0.56	-0.09***	(-7.446)
CEO Age_{t-1}	9,750	55.40	2,141	56.98	-1.59***	(-9.42)

Table 3 presents the mean differences between firms with combined Corporate Secretary and Chief Legal Officer roles (CLO Duality firm years) and firms with separated Corporate Secretary and Chief Legal Officer roles (Non-CLO Duality firm-years) for the variables used in our main sample and key determinants used in the study. The symbols ***, **, and * denote significance at the 0.01, 0.05, and 0.10 levels, respectively. Refer to the Appendix for variable definitions.

Table 4: Correlations

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1. CLO Duality	1.00	0.11***	-0.08***	-0.09***	-0.05***	-0.12***	-0.00	0.07***	-0.02*	0.01	0.06***	0.04***	-0.09***
2. Highly Paid CLO	0.11***	1.00	-0.01	-0.01	0.01	-0.02	-0.08***	-0.10***	-0.03***	-0.00	0.03***	-0.02*	0.03**
3. Regulatory Viol.	-0.08***	-0.01	1.00	0.98***	-0.02*	0.39***	0.01	-0.19***	0.01	-0.04***	-0.19***	-0.04***	0.25***
4. Violation Penalty	-0.10***	-0.01	0.97***	1.00	-0.02	0.41***	0.01	-0.17***	0.01	-0.04***	-0.19***	-0.03***	0.25***
5. Lawsuits	-0.05***	0.01	-0.02*	-0.01	1.00	0.04***	0.04***	0.03***	0.01	0.00	0.04***	0.10***	-0.04***
6. Assets	-0.16***	-0.03**	0.23***	0.29***	0.06***	1.00	-0.09***	-0.16***	-0.01	-0.08***	-0.38***	0.13***	0.35***
7. High Risk Ind.	-0.00	-0.07***	0.01	0.01	0.05***	-0.03***	1.00	0.03**	0.20***	-0.02	-0.05***	0.03***	-0.16***
8. Sales Growth	0.07***	-0.10***	-0.19***	-0.17***	0.03***	-0.04***	0.01	1.00	-0.01	0.03***	0.11***	0.16***	-0.19***
9. Returns	-0.01	-0.03**	-0.02	-0.02	0.02	-0.02*	0.16***	0.01	1.00	0.14***	-0.05***	-0.08***	-0.02
10. Return Skew.	0.02	0.000	-0.04***	-0.04***	0.00	-0.03**	-0.02	0.03***	0.18***	1.00	0.15***	0.00	-0.02*
11. Return Std.	0.05**	0.03***	-0.16***	-0.16***	0.01***	-0.14***	-0.07***	0.09***	0.14***	0.23***	1.00	0.37***	-0.26***
12. Turnover	0.04***	-0.02	-0.04***	-0.04***	0.10***	-0.05***	0.04***	0.15***	0.00	0.03**	0.36***	1.00	-0.15***
13. Firm Age	-0.10***	0.03***	0.28***	0.28***	-0.04***	0.22***	-0.14***	-0.21***	-0.06***	-0.03**	-0.22***	-0.15***	1.00

Table 4 reports correlations for the main sample. Pearson correlations are above the diagonal and Spearman correlations are below the diagonal. All variables are defined in the appendix.

Table 5: Determinants of the CLO Duality structure

Variables	(1)	(2)	(3)
Highly paid CLO_t	9.35***	9.42***	9.37***
	(6.53)	(6.55)	(6.51)
$Assets_{t-1}$	-3.15***	-3.25***	-3.05***
	(-3.90)	(-3.94)	(-3.77)
Sales $Growth_{t-1}$	-2.27	-2.44	-2.30
	(-0.92)	(-0.99)	(-0.93)
$Returns_{t-1}$	-1.36***	-1.37***	-1.35***
	(-3.15)	(-3.31)	(-3.14)
High Risk Industry	0.72	1.45	0.98
	(0.23)	(0.48)	(0.32)
Board Independence %	35.18***	35.42***	35.28***
	(2.84)	(2.87)	(2.85)
CEO-$Chairman_{t-1}$	-3.18**	-3.21**	-3.23**
	(-1.96)	(-1.98)	(-2.00)
CEO Age_{t-1}	-0.18	-0.19	-0.18
	(-1.48)	(-1.55)	(-1.51)
Number of Business $Segments_{t-1}$	-0.74	-0.81	-0.74
	(-0.45)	(-0.49)	(-0.44)
Firm Age_{t-1}	-0.13**	-0.13**	-0.12**
	(-2.04)	(-2.15)	(-2.00)
Past Lawsuit	1.22		
	(0.71)		
Past Regulatory Violations		1.77	
		(0.91)	
Past Cumulative Violation Penalty			-0.02
			(-0.12)
Observations	11,515	11,515	11,515
R-squared	0.1	0.1	0.10
Industry Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes

This table presents the results of a regression of the likelihood of adopting the CLO Duality structure on its potential determinants. Columns (1) to (3) incorporate different measures of the regulatory environment, using measures of past legal actions. The T-statistics are shown in parentheses. The symbols ***, **, and * denote significance at the 0.01, 0.05, and 0.10 levels, respectively. In each column, standard errors are clustered by firm and year. All continuous variables used in the regressions are winsorized at the top and bottom one percent. Refer to the appendix for variable definitions.

Table 6: Regression of CLO Duality and legal actions

	(1)	(2)	(3)
Variables	**Lawsuits**	**Regulatory Violations**	**Violation Penalty**
CLO Duality$_{t-1}$	-3.24**	-1.97	-0.38***
	(-2.45)	(-1.21)	(-2.63)
Highly paid CLO$_t$	1.34*	-1.51	0.13
	(1.65)	(-1.23)	(1.45)
Assets$_{t-1}$	1.67***	9.72***	0.66***
	(3.00)	(14.40)	(14.48)
High Risk Industry	6.12***	-17.10***	0.22
	(3.15)	(-5.87)	(0.71)
Sales Growth$_{t-1}$	7.55***	6.64***	0.28
	(4.02)	(3.46)	(1.12)
Returns$_{t-1}$	0.39	0.53	0.03
	(0.49)	(0.72)	(0.25)
Return Skewness$_{t-1}$	-0.26	-0.07	0.03
	(-0.73)	(-0.19)	(0.45)
Return Standard Deviation$_{t-1}$	15.62*	10.99	1.32
	(1.76)	(1.16)	(1.17)
Turnover$_{t-1}$	1.56***	-1.24***	0.00
	(5.00)	(-3.15)	(0.05)
Firm Age$_{t-1}$	-0.01	0.26***	0.00
	(-0.14)	(4.30)	(0.14)
Observations	12,179	12,179	3,283
R-squared	0.07	0.27	0.22
Industry Fixed Effects	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes

Table 6 reports the results of regressions estimating the relation between CLO Duality and legal actions over the period 2003–2019 using the full sample. The dependent variables are listed as column headings and include $Lawsuits$, $Regulatory\ Violations$ and $Violation\ Penalty$. Variables are defined in the appendix. The symbols ***, **, and * denote significance at the 0.01, 0.05, and 0.10 levels, respectively. In each column, standard errors are clustered by firm and year. All continuous variables used in the regressions are winsorized at the top and bottom one percent.

Table 7: Difference-in-Difference Regression of changes in CLO Duality structures

	Changes *to* CLO Duality (N=105)			Changes *from* CLO Duality (N=57)		
	(1)	(2)	(3)	(4)	(5)	(6)
Variables	**Lawsuits**	**Regulatory Violations**	**Violation Penalty**	**Lawsuits**	**Regulatory Violations**	**Violation Penalty**
Indicator if firm changes to CLO duality	-0.54	4.22	0.57			
	(-0.20)	(1.27)	(1.31)			
Indicator if firm changes from CLO duality				-6.81***	11.79*	1.50*
				(-3.13)	(1.86)	(1.91)
Post_change	-2.46	9.87*	1.29**	2.66	-1.17	-0.23
	(-0.65)	(1.88)	(1.98)	(0.92)	(-0.29)	(-0.49)
CLO/CS_Firm*Post_change	5.71	-15.10**	-2.06**	1.44	-0.44	0.05
	(1.20)	(-2.10)	(-2.35)	(0.31)	(-0.06)	(0.05)
Highly paid CLO_t	1.02	-1.83	-0.23	1.04	-1.97	-0.24*
	(1.09)	(-1.47)	(-1.51)	(1.12)	(-1.59)	(-1.65)
$Assets_{t-1}$	2.37***	9.23***	1.25***	2.39***	9.19***	1.24***
	(3.64)	(12.92)	(12.92)	(3.68)	(12.89)	(12.89)
High Risk Industry	6.55***	-17.07***	-1.69***	6.39***	-16.83***	-1.66***
	(3.00)	(-5.90)	(-5.03)	(2.93)	(-5.71)	(-4.85)
Sales $Growth_{t-1}$	7.33***	6.68***	0.80***	7.30***	6.75***	0.81***
	(3.87)	(3.10)	(3.42)	(3.85)	(3.14)	(3.46)
$Returns_{t-1}$	0.88	0.97	0.11	0.90	0.95	0.10
	(0.96)	(1.37)	(1.16)	(1.00)	(1.33)	(1.13)
Return $Skewness_{t-1}$	-0.28	-0.46	-0.04	-0.28	-0.47	-0.04
	(-0.61)	(-0.98)	(-0.62)	(-0.61)	(-1.00)	(-0.64)
Return Standard $Deviation_{t-1}$	20.37**	5.71	1.50	19.90**	6.50	1.60
	(2.18)	(0.54)	(1.19)	(2.14)	(0.60)	(1.25)
$Turnover_{t-1}$	1.62***	-0.82*	-0.11**	1.64***	-0.85*	-0.12**
	(4.57)	(-1.90)	(-2.10)	(4.61)	(-1.96)	(-2.16)
Firm Age_{t-1}	-0.02	0.23***	0.03***	-0.02	0.22***	0.03***
	(-0.44)	(3.51)	(3.72)	(-0.41)	(3.50)	(3.70)
Observations	10,789	10,789	10,789	10,789	10,789	10,789
R-squared	0.07	0.26	0.27	0.07	0.26	0.28
Industry Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes

Table 7 reports the results of regressions estimating the relation between changes *to* CLO Duality (CLO/CS_Firm) and *from* CLO Duality and legal actions over the period 2003–2019. The dependent variables are listed as column headings and include *Lawsuits*, *Regulatory Violations* and *Violation Penalty*. Variables are defined in the appendix. The symbols ***, **, and * denote significance at the 0.01, 0.05, and 0.10 levels, respectively. Standard errors are clustered by firm. All continuous variables used in the regressions are winsorized at the top and bottom one percent.

Table 8: The effect of board independence

Variables	High Board Independence			Low Board Independence		
	Lawsuits	Regulatory Violations	Violation Penalty	Lawsuits	Regulatory Violations	Violation Penalty
CLO Duality$_{t-1}$	-3.39**	-3.35	-0.39**	-2.60	-0.33	-0.41**
	(-2.05)	(-1.50)	(-2.18)	(-1.42)	(-0.15)	(-2.20)
Highly paid CLO$_t$	1.31	-2.82**	-0.02	0.87	1.36	0.37***
	(1.22)	(-1.99)	(-0.15)	(0.73)	(0.93)	(2.77)
Assets$_{t-1}$	1.90***	9.80***	0.70***	0.98	9.11***	0.55***
	(3.05)	(12.11)	(12.82)	(1.35)	(10.92)	(7.96)
High Risk Industry$_t$	8.59***	-18.80***	-0.16	1.24	-13.21***	1.13
	(3.62)	(-5.51)	(-0.63)	(0.43)	(-3.00)	(1.64)
Sales Growth$_{t-1}$	7.42***	7.82***	0.39	8.38***	5.53**	0.08
	(3.03)	(2.84)	(1.08)	(3.79)	(2.31)	(0.23)
Returns$_{t-1}$	0.20	0.16	0.02	0.71	1.04	0.03
	(0.24)	(0.15)	(0.24)	(0.59)	(1.28)	(0.17)
Return Skewness$_{t-1}$	-0.21	0.03	-0.04	-0.13	-0.23	0.15
	(-0.42)	(0.05)	(-0.50)	(-0.21)	(-0.35)	(1.33)
Return Standard Deviation$_{t-1}$	22.69**	9.38	3.33**	3.56	17.86	0.03
	(2.02)	(0.78)	(2.44)	(0.28)	(1.49)	(0.02)
Turnover$_{t-1}$	1.45***	-1.52***	-0.05	1.62***	-0.77	0.03
	(3.49)	(-3.25)	(-0.77)	(2.88)	(-1.62)	(0.49)
Firm Age$_{t-1}$	0.00	0.21***	0.00	-0.01	0.40***	-0.00
	(0.00)	(3.04)	(0.46)	(-0.15)	(4.74)	(-0.30)
Observations	7,677	7,677	2,269	4,502	4,502	1,014
R-squared	0.08	0.28	0.24	0.07	0.27	0.27
Industry Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes	Yes	Yes

This table reports regressions of whether the relation between $CLO\ Duality$ and legal actions differs across corporate governance environments. The sample is partitioned based on high versus low board independence ($High\ Board\ Independence$ = 1 or 0). The dependent variables are listed as column headings and include $Lawsuits$, $Regulatory\ Violations$ and $Violation\ Penalty$. Variables are defined in the appendix. The symbols ***, **, and * denote significance at the 0.01, 0.05, and 0.10 levels, respectively. In each column, standard errors are clustered by firm and year. All continuous variables used in the regressions are winsorized at the top and bottom one percent.

Table 9: Regression of CFO Duality and financial restatements

	(1)	(2)	(3)	(4)
Variables	**Restatements**	**Restatements (Fraud, irregularities, investigations)**	**Restatements (Little r)**	**Restatements (Big R)**
CFO Duality$_{t-1}$	-1.50**	0.26	-2.07***	0.47
	(-2.50)	(0.93)	(-4.16)	(0.91)
ICW$_t$	35.04***	5.31***	10.53***	29.25***
	(16.18)	(7.68)	(6.99)	(9.35)
Size$_{t-1}$	-0.10	0.11*	0.01	-0.07
	(-0.60)	(1.78)	(0.04)	(-0.82)
Big5_auditor$_t$	2.53***	-0.05	3.05***	-0.39
	(2.73)	(-0.22)	(3.64)	(-0.75)
External Financing$_{t+1}$	2.90***	0.23	2.08***	0.95***
	(6.63)	(1.50)	(6.07)	(2.94)
EPS Growth$_{t-1}$	-1.31***	-0.39*	-0.78*	-0.61*
	(-2.64)	(-1.91)	(-1.96)	(-1.91)
Leverage$_{t-1}$	3.17***	0.70*	1.98**	1.40*
	(2.98)	(1.74)	(2.35)	(1.86)
Observations	41,486	41,486	41,486	41,486
R-squared	0.09	0.02	0.04	0.14
Industry Fixed Effects	Yes	Yes	Yes	Yes
Year Fixed Effects	Yes	Yes	Yes	Yes

This table reports the results of regressions estimating the relation between CFO Duality (an indicator variable equal to one if the Corporate Secretary and Chief Financial Officer roles are filled by the same person) and the likelihood of financial restatements over the period 2003–2019. The dependent variables are listed as column headings. Column 1 captures all *Restatements* regardless of type. Column 2 captures restatements due to fraud, irregularities, misrepresentations, or SEC involvement. Column 3 captures "Little r" restatements that do not require an 8-K filing and Column 4 captures "Big R" restatements that require an SEC 8-K filing. The symbols ***, **, and * denote significance at the 0.01, 0.05, and 0.10 levels, respectively. In each column, standard errors are clustered by firm and year. All continuous variables used in the regressions are winsorized at the top and bottom one percent. Refer to the Appendix for variable definitions.

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