

Corporate Governance in an Era of Geoeconomics

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Economic warfare is becoming the norm.

World Economic Forum



Companies in the private sector are on the front lines of the geopolitical and national security challenges that mark today's global environment.

Marshall Miller, Associate Deputy
Attorney General U.S. Dept of Justice



How is the legal/policy environment for corporate governance changing?

How are U.S. companies adapting to the new environment?

The End of History: Intellectual Foundations

- **Issuer Choice:** “To the extent that an issuer disliked the regulations of a particular regime, they could simply choose another country’s regime.” (Choi & Guzman 1996)
- **Law & Finance:** “The quality of legal protection of shareholders helps determine ownership concentration.” (La Porta, et al., 1998)
- **Convergence:** there is “no longer any serious competitor to the shareholder-centered ideology of corporate law” (Hansmann & Kraakman, 2001)

From Globalization to Weaponized Interdependence

“Ever since Norman Angell reflected upon the peace-promoting nature of economic interdependence [in his 1910 book, *The Great Illusion*], policy makers and entrepreneurs have developed a much more pronounced interest in the benefits rather than the dark sides of economic cooperation. The risks associated with economic dependence that comes with interdependence has always existed but has been grossly overlooked.”

Mikael Wigell et al. (2022)

Geoeconomic Chain Reaction

- 2010s: Rising skepticism of China's embrace of international order
- 2012-present: Xi Jinping's *securitization* of economic growth
- 2018-present: US *counter-securitization* of the "China Risk"
 - Expansion of CFIUS, adoption of "reverse CFIUS"
 - Holding Foreign Companies Accountable Act
 - Entity List
 - Uyghur Forced Labor Prevention Act
 - Tech transfer restrictions
- 2020-present: China's tit-for-tat response
 - Counter-sanctions Law
 - Unreliable Entity List
 - Rare earth restrictions

Rising Geopolitical Risks for US Corporations

- Risk factors in securities filings
- Survey/other evidence
 - 59% of 100 C-suite execs: we should spend more time on geopolitical risks (Deloitte 2024)
 - 81% of finance execs: geopolitical risk is top risk for financial services industry (DTCC 2024)
 - BlackRock Geopolitical Risk Dashboard (2025): High Likelihood of Trade War, U.S.-China Conflict, Middle East Regional War, Tech Decoupling, Cyber Attacks, Terrorist Attacks

Figure 1-1: Geopolitical Risk

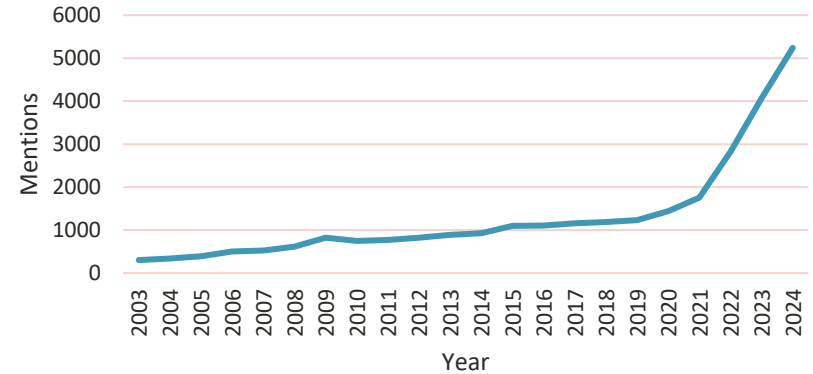
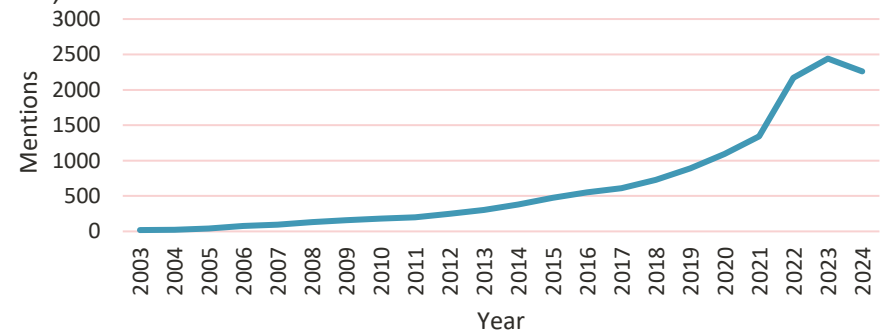
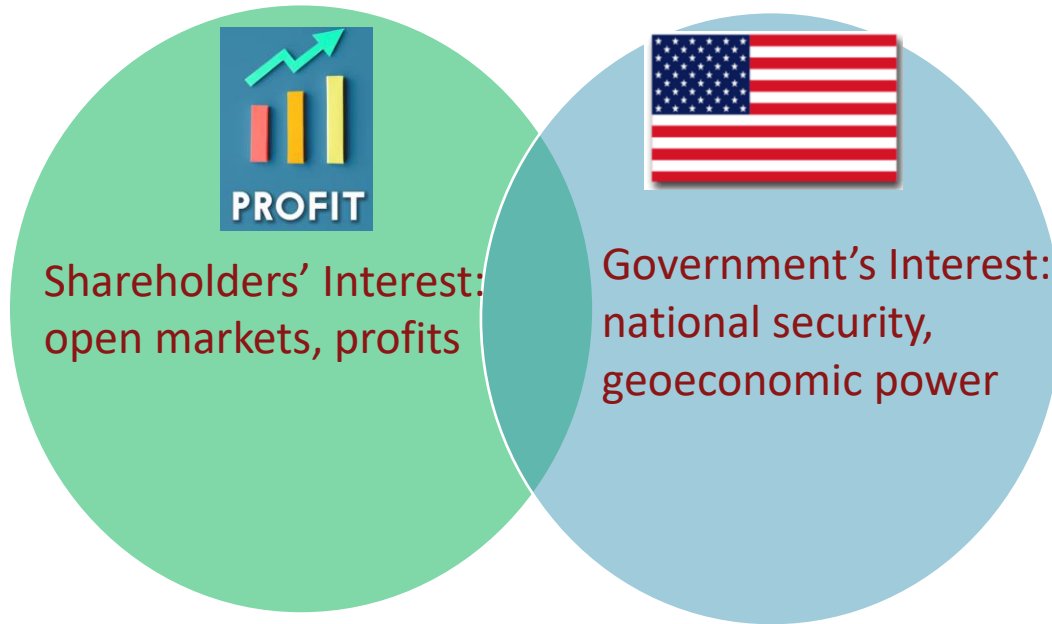


Figure 1-2: Compliance Risk - Bureau of Industry and Commerce: Export Controls or Entity List



The Policy Environment: ESG + G(eoeconomics)



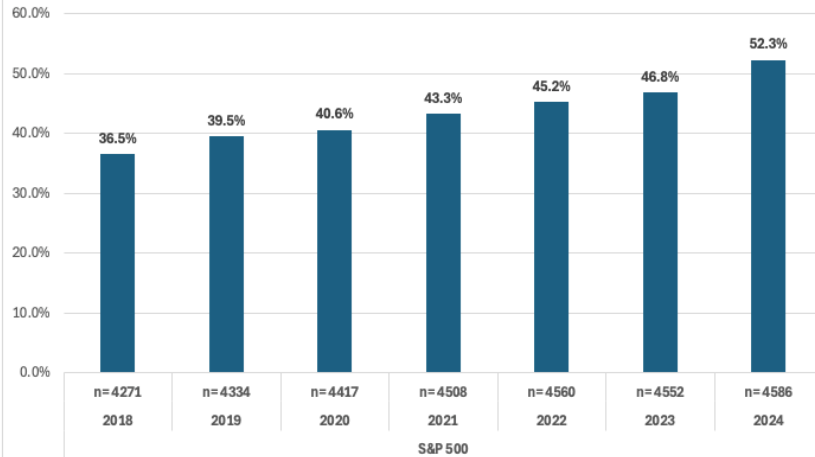
Commonalities: concern for externalities/stakeholders; some overlap between private and public interests

Differences: bipartisan support; government heavily dependent on private sector

How will U.S. Corporations Adapt?

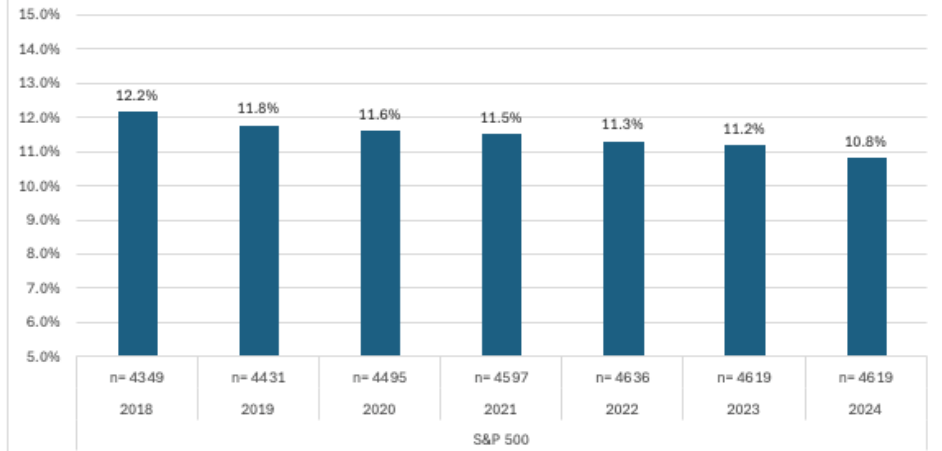
- Board adaptation: expertise

Figure 2-2: International Experience, Independent Directors, 2018-2024



Source: ESGAUGE Intangibles AI. Used with Permission.

Figure 3-2: Government/Military Experience, Independent Directors, 2018-2024



Source: ESGAUGE Intangibles AI. Used with Permission.

Oversight of Geopolitical Risk

Table 1 Oversight of Geopolitical Risk

Corporate Governance Organ Responsible	Number of Companies
Board of Directors	71
Board and its Committees	10
Board and a Specific Committee*	12
Board and Management	16
Audit Committee**	17
Risk Oversight/Management Committee	14
Compliance Committee	2
Other+	20

How will U.S. Corporations Adapt?

- Enterprise adaptation
 - Compliance
 - Supply chain management
 - Securities law disclosures
 - Government relations/lobbying

Return of History in Corporate Governance

Dimension	Globalization Era	Geoeconomic Era
Listing	Open Markets	National Security Screening Values-inflected (e.g., Shein)
Shareholding	Anonymous Investment Focus: Concentrated v. Dispersed	Identity-based Scrutiny Corp Identity as Contested Concept (e.g., TikTok)
Governance	Convergence Shareholder Primacy	Bloc Convergence? State-influenced (e.g., US Steel golden share)

Concluding Questions/Research Agenda

- Legal/policy environment:
 - Should corporate law evolve?
 - Concepts of corporate identity
 - Definition of corporate control
 - *Caremark* liability for geopolitical trauma?
 - Implications for raising capital; stock exchange competition
- Firm-level governance:
 - What's happening in the boardroom?
 - Role of technology

Thank you

- I welcome your thoughts; ideas for empirical follow-on work