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Article

Tracing back to the source: Understanding the corporate governance of boards of directors in Chinese SOEs

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Tracing back to the source: Understanding the corporate governance of boards of directors in Chinese SOEs

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ABSTRACT

Based on the relevant theories of corporate governance and the special institutional background of Chinese state-owned enterprises (SOEs), this paper systematically reviews the literature on the independence and governance effect of SOE boards. We find that the governance effect of SOE boards is driven by the dual characteristics of SOEs: state involvement in ownership and market incentives. With the state involved in ownership, SOEs adhere to the leadership of the Communist Party of China (CPC), which results in an enhanced governance effect. Under market incentives, SOEs tend to have an optimal board structure that helps mitigate both the shareholder–management agency problem (Type I agency problem) and the controlling shareholder–minority shareholder agency problem (Type II agency problem). In terms of the governance effect of boards, directors appointed by non-controlling shareholders are effective in alleviating Type I and Type II agency problems, and this highlights the importance of mixed-ownership reforms in SOEs. Independent directors, especially those with a professional background, also play a role in improving corporate governance. However, independent directors in SOEs have relatively weak incentives to monitor, which limits their governance effect. This paper shows positive implications for promoting mixed-ownership reforms and improving board governance in SOEs.

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1. Introduction

According to the literature, business operations have two types of agency problems. Type I agency problems are caused by potential conflicts of interest between shareholders and management when the company's ownership and management rights are separated (Jensen and Meckling, 1976; Shleifer and Vishny, 1997). In the United States, the Type I agency problem is more common due to numerous institutional investors, a mature securities market, and dispersed equity shareholdings. When a company's shareholders are relatively concentrated and minority investor protection is weak, controlling shareholders may expropriate the interests of minority shareholders through "tunneling," resulting in a Type II agency problem (La Porta et al., 1999; Claessens et al., 2000). The Type II agency problem is more common in China and other transition economies (Jiang et al., 2010; Zhu et al., 2015).

Bebchuk and Weisbach (2010) point out that the most common way that shareholders protect their interests is by appointing company directors. Therefore, directors and boards have become core issues in corporate governance research (Fama and Jensen, 1983). From a legal perspective, a board is established to meet regulatory requirements, but from an economic perspective, a board's role is to solve the principal-agent problems between shareholders and management that are inherent in a company's development. Corporate governance principles issued by the Organization for Economic Cooperation and Development (OECD) emphasize the board's role in both strategic guidance and effective supervision. In recent years, boards have played an increasingly important role in corporate governance driven by shareholder activism.

In U.S. companies, a board usually consists of inside and outside directors. Inside directors are full-time employees of the company, whereas outside directors are not. Generally, outside directors are considered to be independent directors, but some, such as bankers or lawyers, also have business connections with the company; these are called "affiliated directors" or "gray directors" (Adams et al., 2010). Independent directors, nonexecutive directors with monitoring incentives to protect shareholders' interests, have become increasingly important (Gordon, 2006). Researchers use the proportion of independent directors on a board to measure board independence. The higher the proportion of independent directors, the stronger the independence of the board (see for example, Tan, 2003; Li and Xu, 2014).

Studies of the U.S. market provide evidence emphasizing the contribution of outside directors, especially independent directors, to board independence. For example, focusing on Forbes 500 companies from 1985 to 1995, Fich and Shivdasani (2006) find that on a typical board, 55% of directors were outside directors (outside directors are independent directors in their sample), 30% were inside directors, and 15% were gray directors. Linck et al. (2008a) find that the proportion of outside directors is relatively high in large-scale companies and is gradually increasing in all companies, based on the data of 6,931 listed companies in the U.S. from 1990 to 2004. Since the enactment of the Sarbanes-Oxley Act, the proportion of outside directors for listed companies in the U.S. has continued to increase (Linck et al., 2008b).

Chinese companies' corporate governance practices and academic research concerning them have developed in accordance with the reform of Chinese enterprises, especially SOE reforms (Li et al., 2019). The reform of SOEs is key to China's overall economic reforms, and improving SOEs' corporate governance is an important step in establishing a modern corporate system. Therefore, scholars have focused on corporate governance issues in SOEs, and there is a long stream of research (see, e.g., Wu, 1993; Qian, 1995; Li et al., 2001). Moreover, the establishment and development of China's stock market is closely related to the reform of SOEs. Transforming SOEs through listing has been the main driving force for the development of China's securities market (Lin, 1999, 2006; Zhu and Lu, 2012). To better protect the interests of minority investors, China's securities regulatory authorities proactively promote the reform of corporate governance in Chinese listed companies. On January 7, 2002, the China Securities Regulatory Commission (CSRC) issued guidelines for the governance of listed companies (ZJF [2002] No. 1), which standardize the basic principles of corporate governance, ways to protect investors, and the basic code of practice standards and professional ethics that must be followed by directors, supervisors, managers, and other senior executives of Chinese listed companies. To effectively supervise controlling shareholders and managers and to safeguard the interests of minority shareholders, the guidelines for establishing an independent director system in Chinese listed companies (ZJF [2001] No. 102) explicitly state that independent directors should constitute more than one-third of

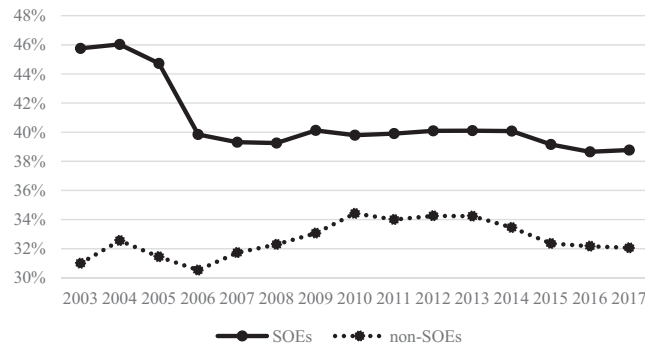


Fig. 1. The ratio of ownership by the largest shareholder in A-share listed companies.

the board of Chinese listed companies, which means that regulatory authorities are paying attention to board independence in Chinese listed companies.

However, in China, the history of board policies is relatively short, and the concept of supervision is still being explored. Moreover, compared with ownership in the United States and other developed countries, ownership is more concentrated in Chinese listed companies, especially state-owned listed companies, which leads to more severe Type II agency problems. According to Azar et al. (2018), in U.S. listed companies, the largest shareholder usually owns less than 10% of the firm. However, in Chinese A-share listed companies, the largest shareholder owns more than 30% of the firm, on average. Moreover, the proportion of shares held by the largest shareholder is significantly higher in state-owned listed companies than in non-state-owned listed companies (Fig. 1).

Given China's current corporate governance structure, can independent directors effectively monitor controlling shareholders and management to enhance firm value, and has the goal of improving board independence been achieved? Previous studies have not reached consistent conclusions on these questions for several reasons. On the one hand, independent directors can gain recognition from investors due to the independent director's aim of representing the interests of all investors and providing more objective opinions and suggestions from a third-party perspective (Rosenstein and Wyatt, 1990). On the other hand, compared with other types of directors who are more closely connected with listed companies, independent directors may have some weaknesses, such as insufficient information (Duchin et al., 2010), lack of knowledge in related fields, weak motivation to perform their duties (Zhu et al., 2015), and vulnerability to controlling shareholders and management (Hwang and Kim, 2009; Coles et al., 2014), which weaken the supervisory role of independent directors (Mehran, 1995; Ferris et al., 2003; Wang, 2007). However, with the continuous improvement of China's independent director system, more studies have found that board independence can alleviate Type II agency problems (Ye et al., 2007) and improve companies' financial performance (Wang et al., 2006; Zhao et al., 2008) and earnings quality (Wang et al., 2008; Zhao et al., 2008).

Compared to the focus on the role of outside (independent) directors on the boards of U.S. companies, Chinese researchers have gradually begun to direct their attention to directors appointed to the boards of Chinese listed companies by non-controlling shareholders. Xin et al. (2013) find that Chinese CEO turnover–performance sensitivity is higher when the proportion of directors appointed by non-controlling shareholders increases. Hu and Lu (2015) find that both directors appointed by controlling shareholders and those appointed by non-controlling shareholders can reduce a firm's overinvestment. However, the effect of directors appointed by a controlling shareholder on reducing overinvestment is limited in the presence of duality and separation of ownership. Zhu et al. (2015) find that in situations with concentrated ownership and weak investor protection, directors appointed by non-controlling shareholders better supervise controlling shareholders and management. Cheng et al. (2017) point out that directors appointed by non-controlling shareholders can bring information advantages to noncontrolling shareholders, curbing controlling shareholders' earnings management and stock price manipulation. These studies raise several questions. How efficient is the governance of directors appointed by non-controlling shareholders? Can directors appointed by non-

controlling shareholders make up for the lack of board independence in Chinese listed companies, especially in SOEs?¹

In this context, this paper systematically reviews the academic literature on board structure and independence as well as the institutional background and regulatory practices of boards of directors in China. Theoretical guidance is required to understand the governance mechanism of boards and how they function, which is the foundation of the research on board structure and board independence. As there are significant differences in board structure and board member roles between domestic and foreign companies, we start with the special institutional background and ownership characteristics of Chinese SOEs and then analyze the corporate governance roles played by different types of directors as we explore board governance in Chinese SOEs. In this way, we can provide a theoretical reference and practical enlightenment regarding current SOE reform, especially mixed-ownership reform.

2. Peculiarities of board governance in Chinese SOEs

With its reform of SOEs, the Chinese government has promoted SOEs' corporate governance, especially board governance. In 1993, the third plenary session of the 14th CPC Central Committee proposed that SOEs should establish a modern corporate system. In the same year, the Company Law of the People's Republic of China was promulgated, providing legal norms and guidelines for corporate governance reform and rules for SOE board construction. In 1999, the fourth plenary session of the 15th CPC Central Committee decided several major issues concerning the reform and development of SOEs. It was proposed that because corporate governance structure is at the core of the corporate system, shareholders, boards of directors and supervisors, and management must divide their responsibilities, coordinate operations, and effectively provide checks and balances. In 2003, the State-Owned Assets Supervision and Administration Commission of the State Council (SASAC) was established and authorized by the State Council to perform its responsibilities as investors in accordance with the Company Law of the People's Republic of China and other laws and administrative regulations. In the same year, the SASAC launched a pilot project for boards of directors in central government controlled SOEs (hereinafter referred to as "central SOEs"). At present, SOEs have established a relatively complete framework for boards of directors, and the role of board governance is becoming increasingly prominent. In central SOEs, boards include both inside and outside directors. In 2009, the SASAC also started to recruit full-time outside directors in central SOEs. In 2014, the SASAC launched a pilot program concerning board authority and granted strategic decision-making, selection, and appraisal authority to the boards of the pilot enterprises, such as the China Energy Conservation and Environmental Protection Group, the China National Building Materials Group, the Sinopharm Group, and the Xinxing Cathay International Group. In 2016, the SASAC further authorized the boards of some pilot enterprises to determine their gross payroll and its distribution.

In sum, the boards of Chinese SOEs have significant dual characteristics: state involvement in ownership and market incentives. Next, we summarize and explore the dual characteristics of board governance based on the "Guidance on Deepening the Reform of SOEs" (ZF [2015] No. 22; hereinafter referred to as "Guidance (2015)") issued by the CPC Central Committee and the State Council on August 24, 2015, and the "Guidance on Further Improving the Corporate Governance Structure of SOEs" issued by the General Office of the State Council on April 24, 2017 (GBF [2017] No. 36; hereinafter referred to as "Guidance (2017)").

2.1. Adhering to CPC's leadership over SOEs

Guidance (2015) points out that "adhering to the CPC's leadership over SOEs is the political direction and principle when deepening the reform of SOEs. It is necessary to implement the principle about overall strict governance of the Party, to give full play to the political core role of the Party organization in companies, to strengthen the construction of the leading group in companies, to innovate the work of the Party building at the primary level, to deepen the construction of a clean and honest Party, to wholeheartedly rely on the work-

¹ We mainly consider state-owned listed companies in our analysis.

ing class, to safeguard the legitimate rights and interests of employees, and to provide a strong political and organizational guarantee and human resource support for the reform and development in SOEs.” Guidance (2017) states that “it is the unique advantage of SOEs to insist on the CPC’s leadership and to strengthen the Party building. It is necessary to clarify the legal status of the Party organization in the corporate governance structure of SOEs, to incorporate the general requirements of the Party building in the regulations of SOEs, and to clarify the rights, responsibilities and working methods of the Party organization in the decision-making, implementation and supervision processes, so as to make the Party organization an integral part of the corporate governance structure. In addition, it is essential to give a full play to the leading and political core role of the Party, to lead the ideological and political work of the companies, to support board of directors, board of supervisors and management to perform their duties in accordance with the law, and to ensure the implementation of the Party’s and national policies. . . . To give a full play to the supervisory role of inspection, supervision and audit. Besides, the Party members among directors, supervisors, and management team of SOEs shall regularly report to the Party group (Party committee) about the performance of their duties, integrity and self-discipline every year. . . . The leader of the Discipline Inspection Team (secretary of the Discipline Inspection Commission) may attend the meetings of the board of directors and the special committee of the board as nonvoting delegates.” Guidance (2017) also states that SOEs should “actively explore the ways and methods of the organic combination between the principle of the Party’s managing cadres and board’s selection and appointment of management personnel. By insist on and improving the leadership system of two-way entry and cross appointment, qualified members of the Party group (Party committee) in SOEs can be a member of the board of directors, board of supervisors and management through legal procedures. Qualified members of board of directors, board of supervisors and management are able to enter the Party group (Party committee) according to relevant regulations and procedures; the position of secretary of the Party group (Party committee) and chairman of board of directors should be taken by the same person generally and promote the project about appointing the Deputy Secretary of the Party group (Party committee) as a member of board of directors in centrally-administered SOEs.”

Studies find that strengthening the CPC’s leadership in SOEs can improve the efficiency of corporate governance. For example, using the data of A-share state-owned listed companies from 2008 to 2010, [Ma et al. \(2012\)](#) study the effect on corporate governance of “two-way entry and cross appointment” between the Party committee and boards of directors, boards of supervisors, and senior management and find that this leadership system is positively related to board efficiency. [Ma et al. \(2013\)](#) find that executives can be discouraged from seizing excessive remuneration when the Party committee participates in SOEs’ corporate governance (especially when members of the Party committee are directors, supervisors, and senior executives at listed companies). [Chen and Lu \(2014\)](#) find that SOEs that incorporate Party organizations in corporate governance obtain higher merger and acquisition (M&A) premiums when selling assets or equity.

2.2. Optimizing the board structure of SOEs

The appointment of directors by government regulators and state-owned controlling shareholders is an important way to strengthen boards of directors and implement their functions, which perfectly embody market incentives in SOEs’ board construction. Guidance (2015) points out that the key to improve the corporate governance structure of a company is to promote the construction of boards of directors to establish and improve decision-making, implementation, and supervision mechanisms with equal rights and responsibilities, coordinated operations, and effective checks and balances. In addition, it is essential to standardize the conduct of the chairman and CEO, and to give full play to the decision-making role of the board of directors, the supervisory role of the board of supervisors, the managerial role of management, and the core political role of the Party. To strengthen the internal checks and balances of a board, for a wholly state-owned enterprise or a company with the state being the sole investor, its board of directors and board of supervisors shall include employee representatives. Outside directors shall make up a majority of the board, a one person–one vote system shall be implemented, and directors shall be responsible for the decisions of the board. SOEs shall make further improvement by building an outside director team and welcome outside directors with various backgrounds. Guidance (2017) points out that the directors of a wholly state-owned company are responsible to investors and receive instructions from the administrative institution of state-owned properties (a wholly

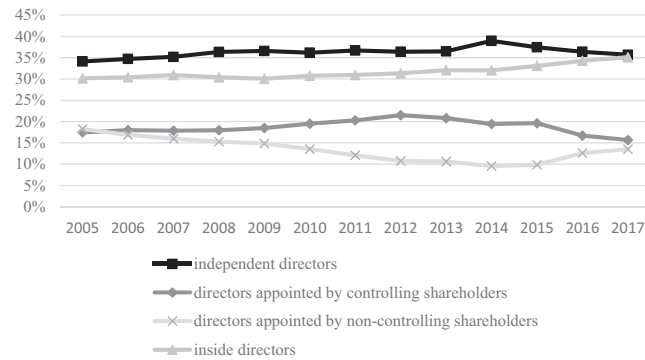


Fig. 2. Changes in the proportion of all types of directors in SOEs.

state-owned company does not have a shareholder meeting, and the administrative institution of state-owned properties performs the duties of a shareholder meeting in accordance with the law). Candidates for outside directors shall be nominated by the administrative institution of state-owned properties and other relevant government agencies, and appointed in accordance with legal procedures. The directors of wholly state-owned or state-controlled companies are nominated by the relevant shareholders based on ownership percentage and elected or replaced by a general meeting of shareholders, and the directors appointed by the state-owned shareholders should actively safeguard the rights and interests of state-owned capital. Outside directors of wholly state-owned companies are supposed to be nominated by the controlling and other shareholders and elected or replaced by a general meeting of shareholders. Furthermore, state-owned holding companies should have a certain proportion of outside directors that are elected or replaced by a shareholder meeting.²

The peculiarities of board governance in Chinese SOEs conform to the SOE reform trend and China's institutional environment. The research summarized in this paper regarding SOEs' board characteristics of state involvement in ownership provides great theoretical significance for meeting the goals of fully adhering to the CPC's leadership and strengthening the construction of the Party in SOEs' boards of directors and for promoting the theory of corporate governance. In fact, there are SOEs in many developed countries (such as *Électricité De France* and *Temasek* in Singapore), and the board construction of SOEs in each country has its own characteristics. Therefore, this paper also provides guidance from the Chinese experience that other countries can use to strengthen the construction of boards of directors in their SOEs.

3. General characteristics of board structure in Chinese SOEs

Zhu et al. (2015) classify board directors in Chinese listed companies as inside directors, independent directors, directors appointed by controlling shareholders, and directors appointed by non-controlling shareholders. Inside directors are those who hold a position only in the listed company, independent directors do not hold any other positions in the listed company or its shareholder companies, directors appointed by controlling shareholders are those who hold positions in controlling shareholder companies and the listed company, and directors appointed by non-controlling shareholders hold positions in non-controlling shareholder companies and the listed company. To better appreciate the characteristics of board structure in SOEs, we provide the statistics on the composition of various types of directors in A-share state-owned listed companies from 2005 to 2017. Fig. 2 shows that independent directors made up the largest proportion of boards, and that proportion remained above 35% from 2005 to 2017, which shows that SOEs are adequately complying with the requirement in *Guidance on Establishing Independent Director System in Listed Companies* (ZJF [2001] No. 102): "more than one-third of the board members in listed companies should be independent directors." From 2005 to 2017, the proportion of inside directors on boards also exceeded 30%, reaching 35% in 2017. Senior

² As there are no other shareholders in a wholly state-owned company, only the Type I agency problem exists. Outside directors with strong independence can fully express their supervision of the company, effectively supervise management, and play an advisory role.

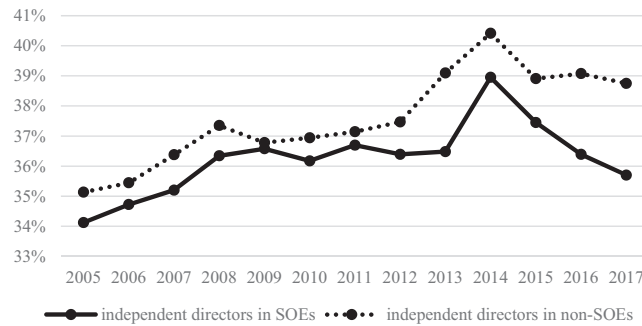


Fig. 3. Changes in the proportion of independent directors in SOEs and non-SOEs.

managers and staff directors inside a company are the main inside directors. From 2005 to 2017, the proportion of directors appointed by controlling shareholders was between 15% and 22%, while that of directors appointed by non-controlling shareholders was between 9% and 18%. At present, the average number of directors in A-share listed companies is about nine. According to the proportions mentioned above, on a typical board, there should be three independent directors, three inside directors, two directors appointed by the controlling shareholder, and one director appointed by non-controlling shareholders. This design is intended to guarantee the independence of the board.

To further compare and analyze the structural differences of boards between SOEs and non-SOEs, we provide a comparison of each type of director in SOEs and non-SOEs.

3.1. Comparative analysis of the proportion of independent directors in SOEs and Non-SOEs

Fig. 3 shows that the proportion of independent directors on the boards of SOEs has reached more than one-third, which is still lower than that of non-SOEs. After 2014, the proportion of independent directors in both SOEs and non-SOEs declined to some extent. However, the decline is more obvious in SOEs, mainly because many officers who were independent directors resigned after the release of the guiding opinion on regulating the Party and government's leading cadres' concurrent posting (post-holding) in companies (see ZZF [2013] No. 18, hereinafter referred to as "Reg. 18"). Analyzing 1,760 resignations by independent directors from 2012 to the first quarter of 2015, Ye et al. (2016) find that 1,017 were resignations of official independent directors after the issuance of Reg. 18. The resignations peaked in 2014 and the first quarter of 2015.

3.2. Comparative analysis of the proportion of inside directors in SOEs and Non-SOEs

Fig. 4 compares the trends of the proportion of inside directors in SOEs and Non-SOEs. Generally, the proportion of inside directors on a board has gradually increased in both SOEs and Non-SOEs. Compared with non-SOEs, inside directors account for a lower proportion of SOEs' boards. The Guiding Opinions on Deepening the Reform of SOEs issued by the CPC Central Committee and the State Council on August 24, 2015 clearly states that "outside directors on the board should be [the] majority," which will affect the structure and independence of SOEs' boards.

3.3. Comparative analysis of the proportion of directors appointed by controlling shareholders in SOEs and Non-SOEs

The appointment of directors (outside directors) to listed companies by state-owned controlling shareholders is an important way to strengthen board construction and improve the governance efficiency of SOEs' boards. Fig. 5 shows the changes in the proportion of directors appointed by controlling shareholders in SOEs and non-SOEs. After 2012, the proportion of directors appointed by controlling shareholders in both SOEs and non-SOEs declined, but the proportion of directors appointed by controlling shareholders was higher

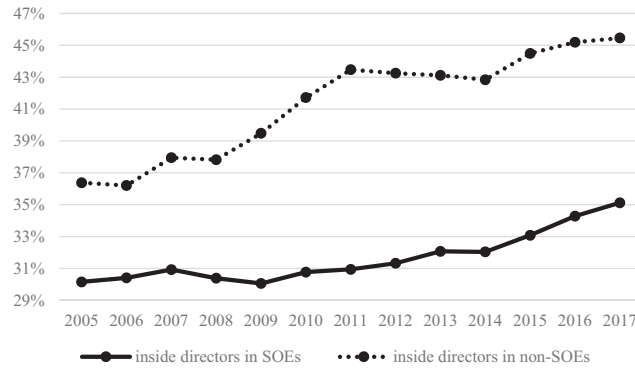


Fig. 4. Changes in the proportion of inside directors in SOEs and non-SOEs.

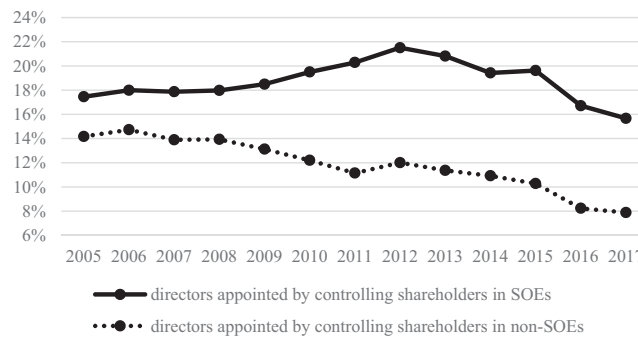


Fig. 5. Changes in the proportion of directors appointed by controlling shareholders in SOEs and non-SOEs.

in SOEs. Fig. 1 shows that on average, the largest shareholders of SOEs owned about 39% of the company in 2017, which is much higher than the percentage of ownership of the largest shareholders in non-SOEs (32%). Therefore, the proportion of directors appointed by controlling shareholders is higher in SOEs.

3.4. Comparative analysis of the proportion of directors appointed by Non-Controlling shareholders in SOEs and Non-SOEs

Fig. 6 shows that the proportion of directors appointed by non-controlling shareholders in both SOEs and non-SOEs decreased from 2005 to 2014, from about 18% to about 10% in SOEs and from about 14% to about 6% in non-SOEs. After 2015, the proportion of directors appointed by non-controlling shareholders in both

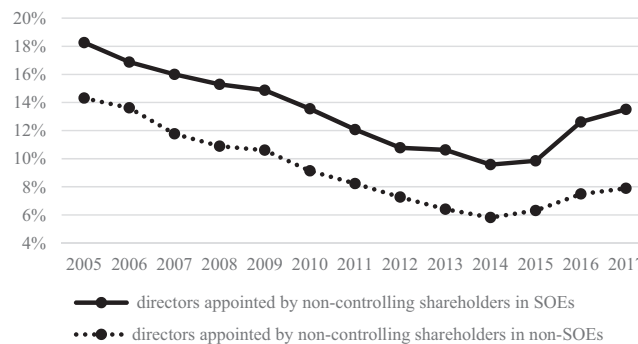


Fig. 6. Changes in the proportion of directors appointed by noncontrolling shareholders in SOEs and non-SOEs.

SOEs and non-SOEs increased. Generally, the proportion of directors appointed by non-controlling shareholders in SOEs is higher. [Zhu et al. \(2015\)](#) and [Cheng et al. \(2017\)](#) point out that due to serious Type II agency problems in SOEs, noncontrolling shareholders have a strong incentive to monitor controlling shareholders to prevent expropriation by controlling shareholders and to improve corporate governance. Appointing directors is an important tool for non-controlling shareholders to safeguard their interests.

4. Independence and the governance effect of boards of directors in Chinese SOEs from the perspective of the Type I agency problem

4.1. The governance effect of directors appointed by controlling and noncontrolling shareholders on the Type I agency problem

The academic research shows that SOEs are prone to problems such as the absence of owners, which reduces the effectiveness of monitoring by shareholders and leads to insider control ([Lv et al., 2008](#)). Therefore, it is essential to understand whether the board governance of SOEs in China can effectively solve the agency problem between shareholders and management (Type I agency problem).

4.1.1. The governance effect of directors appointed by controlling shareholders

To monitor and incentivize management, controlling shareholders appoint directors to boards ([Gillan and Starks, 2000](#); [Sun and Sun, 2018](#)). [Duan et al. \(2011\)](#) find that the proportion of directors appointed to a board by controlling shareholders increases with controlling shareholders' ownership, and this effect is more pronounced in SOEs. Research shows that directors appointed by controlling shareholders can improve corporate governance to a certain extent. For example, [Hu and Lu \(2015\)](#) find that directors appointed by controlling shareholders have a supervisory and inhibitory effect on overinvestment. [Sun and Sun, 2018](#) find that executive directors appointed by controlling shareholders can curb earnings management and increase companies' pay-performance sensitivity.³ However, [Wang et al. \(2015\)](#) find that SOE boards with more nonexecutive directors appointed by controlling shareholders have higher agency costs between shareholders and managers, lower pay-performance sensitivity, and less efficient board governance.⁴ [Wang et al. \(2015\)](#) argue that this occurs because controlling shareholders control the general meeting of shareholders and are highly involved in the operation of the board through director nominations, which damages the independence of the board, weakens the board's supervision of management, and adversely affects the governance efficiency of the board. [Hu and Lu \(2015\)](#) find that nonexecutive directors (including directors appointed by both controlling and non-controlling shareholders) in non-SOEs significantly inhibit earnings smoothing, but such inhibition is not significant in SOEs. Based on this analysis, we cannot reach a consistent conclusion on the corporate governance effect of directors appointed by controlling shareholders on the Type I agency problem.

4.1.2. The governance effect of directors appointed by Non-Controlling shareholders

What is the governance effect of directors appointed by non-controlling shareholders? [Zhu et al. \(2015\)](#) find that to protect the interests of the non-controlling shareholders they represent, directors appointed by non-controlling shareholders have strong incentives to monitor management and alleviate the Type I agency problem. [Xin et al. \(2013\)](#) find that the higher the proportion of directors appointed by non-controlling shareholders, the higher the CEO turnover-performance sensitivity. Proposal voting is an important way for directors to participate in a company's decision-making and effectively monitor management. [Zhu et al. \(2015\)](#) study the voting behavior of various types of directors and find that compared with other types of directors, directors appointed by non-controlling shareholders are more likely to dissent on board proposals, and such dissension can significantly improve a company's performance. [Cai et al. \(2018a\)](#) use a sample of SOEs from 2008 to 2015 and point out that the appointment of directors, supervisors, and executives from non-SOEs to SOEs is effective in improving pay-performance sensitivity and inhibiting excess executive compensation and

³ [Lu and Hu \(2015\)](#) and [Sun and Sun \(2018\)](#) include both SOEs and non-SOEs in their studies.

⁴ [Wang et al. \(2015\)](#) define nonexecutive directors from controlling shareholders as directors appointed (or nominated) by controlling shareholders who hold working positions in the controlling shareholder and are not paid by the listed companies.

perks in SOEs. Based on a sample of SOEs from 2007 to 2015, Lu et al. (2019) find that non-controlling shareholders with voting rights on a board (through appointed directors) guarantee the efficiency of M&As for SOEs by reducing ineffective M&As (source control) and improving the ability to integrate (process control).

4.2. The governance effect of independent directors on the Type I agency problem

4.2.1. General governance effect of independent directors on the Type I agency problem

According to the Guidance on the Establishment of an Independent Director System in Listed Companies (ZJF[2001] No. 102), independent directors shall perform their duties independently and shall not be affected by large shareholders, controllers, or other units and individuals having an interest in the listed company, and the proportion of independent directors shall be more than one-third of the board. Current academic research and regulatory practice regard the proportion of independent directors as an important indicator of a board's independence. Research finds that improving board independence can reduce financial risks (Yu et al., 2008) and improve firm performance (Wang et al., 2006; Zhao et al., 2008), earnings quality (Wang et al., 2008), and accounting conservatism (Zhao et al., 2008). Using unique board voting data in China, Ye et al. (2011) find that independent directors are more likely to publicly vote against management's proposal when a company's performance is poor. Zhu et al. (2016) find that the higher the ranking of an independent director's position on a board, the more likely they are to dissent from management's decisions. Independent directors' dissension has a positive effect on corporate governance and performance (Ye et al., 2011; Tang et al., 2013; Zhu et al., 2015; Zhu et al., 2016).

Although research documents that the independent director system is effective in monitoring management and improving corporate governance, some studies show that the monitoring effectiveness of independent directors may be restricted by factors such as property rights. Chen and Xie (2011) find that the higher the network centrality of independent directors, the higher the investment efficiency of their companies; however, compared with non-SOEs, the network centrality of independent directors has a weaker influence on the governance effect of investment efficiency in SOEs. Chen and Xie (2012) examine the effect of independent directors' network centrality on pay-performance sensitivity and find that the higher the network centrality of independent directors, the higher the pay-performance sensitivity. However, compared with non-SOEs, the positive effect of independent directors' network centrality on pay-performance sensitivity in SOEs is relatively weak. Zhu et al. (2015) point out that due to the lower risk inherent in SOEs, independent directors have insufficient incentives to supervise, which shows that independent directors are more likely to dissent in non-SOEs. Cai et al. (2017) find that compared with non-SOEs, independent directors with accounting expertise are less likely to inhibit real earnings management behavior in SOEs. Luo et al. (2018) further examine the effect of the location of independent directors on pay-performance sensitivity and find that in SOEs, the proportion of local independent directors is negatively associated with pay-performance sensitivity. Based on this analysis, we find that the governance effect of independent directors on the Type I agency problem in SOEs is weakened due to the property rights issues of SOEs.

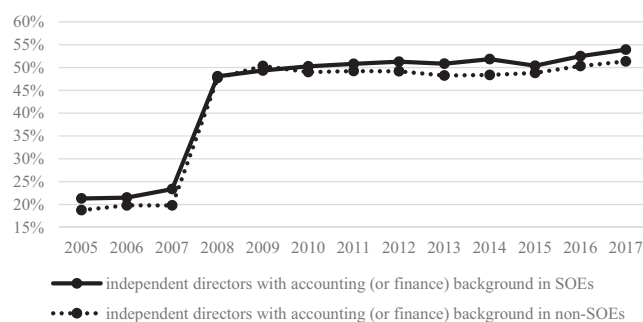


Fig. 7. Changes in the proportion of independent directors with an accounting or finance background in SOEs and non-SOEs.

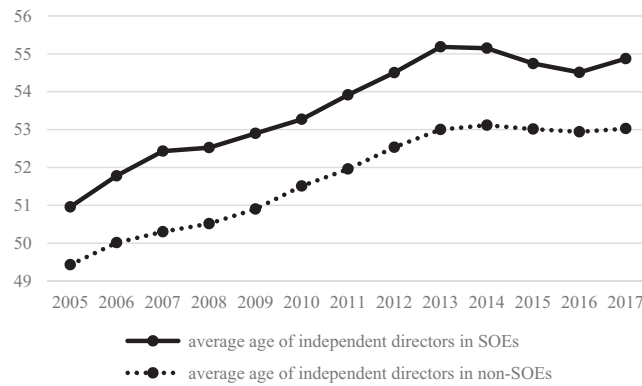


Fig. 8. Changes in the average age of independent directors in SOEs and non-SOEs.

4.2.2. Characteristics of independent directors and the governance effect of independent directors on the Type I agency problem

(1) Professional Background of Independent Directors

Recently, scholars have paid more attention to the influence of directors' personal heterogeneity on board independence and its governance effect. According to ZJF(2001) No.102, the independent directors of A-share listed companies must include at least one with accounting expertise (accounting expertise refers to a person with a senior professional title or certified public accountant qualification). Fig. 7 shows the proportion of independent directors with accounting or finance backgrounds for both SOEs and non-SOEs, and it illustrates that since the financial crisis in 2008, the proportion of independent directors with an accounting or finance background has increased significantly in SOEs and non-SOEs. Moreover, in 2017, independent directors with an accounting (finance) background in both SOEs and non-SOEs accounted for more than 50% of all independent directors, which is consistent with the regulatory provisions. Ye et al. (2011) use a sample of Chinese A-share listed companies and find that independent directors with an accounting (finance) background are more likely to dissent from management's proposals. Wu et al. (2015) find that when a company hires a person who worked in the company's current auditing firm as an independent director, the independence between the independent director and the auditor is stronger and the audit is stricter. Zhou et al. (2016) find that expertise can significantly improve the monitoring potential of independent directors.

(2) Independent Director Age

The age of an independent director usually represents his or her qualifications and status. Fig. 8 shows the average age of independent directors in SOEs and non-SOEs. In general, independent directors in SOEs are two years older than those in non-SOEs. Using the data of A-share listed companies from 2004 to 2012, Jiang et al. (2015) find that younger independent directors, who are more concerned about their career development, are more inclined to dissent and that independent directors who dissent are more likely to obtain board seats in the future.

(3) Relative Independence of Independent Directors

In addition to background and age, the independent director's governance effect is also affected by a director's relative independence. For example, Ye et al. (2011) find that independent directors who have held their position longer than the current chair are more likely to vote against management's proposals. Zhu et al. (2016) find that independent directors who are ranked higher on a board are more likely to vote against management.

5. Independence and the governance effect of boards of directors in Chinese SOEs from the perspective of the Type II agency problem

In China, the ownership of listed companies is relatively concentrated, and controlling shareholders may appropriate the interests of non-controlling shareholders through tunneling when minority investor protection is weak, which leads to the Type II agency problem (Jiang et al., 2010). The next question is whether directors appointed by non-controlling shareholders and independent directors on the boards of SOEs play a governance role in alleviating the Type II agency problem.

5.1. The governance effect of directors appointed by Non-Controlling shareholders on the Type II agency problem Based on the evidence of Mixed-Ownership reform

The integration of different ownership types is called mixed ownership (Shen and Yang, 2019). Since the reforms and opening up in China, a large number of mixed-ownership companies have arisen, and an IPO is an important way for SOEs to attract non-state-owned capital and realize mixed-ownership. After the 18th CPC National Congress in 2012, the mixed-ownership reform of SOEs entered an accelerated stage. The report to the 19th CPC National Congress in 2017 emphasized the intent to “deepen the reform of SOEs, develop the mixed-ownership economy, and cultivate world-class companies with global competitiveness.”

Non-state-owned capital (usually in the form of non-controlling shareholders) can play a governance role in SOEs to alleviate the Type II agency problem in two ways. First, non-controlling shareholders can be heard at the general meeting of shareholders. For example, the CSRC has issued various policies to protect minority shareholders and supervise and restrict controlling shareholders, including requiring equity offering proposals to obtain separate approval from voting minority shareholders (Chen et al., 2013) and providing online systems for minority shareholders to vote (Li et al., 2012; Li and Kong, 2013).

Second, non-controlling shareholders can have a voice by holding seats on the board, which can help non-state-owned shareholders improve the governance and operating efficiency of SOEs (Cai et al., 2018b). According to Article 103 of the Company Law of the People’s Republic of China, “shareholders who individually or jointly hold more than 3% of the company’s shares have the right to nominate candidates as directors.” Cai et al. (2018a) finds that from 2008 to 2015, 15.4% of SOEs had at least one director appointed by non-state-owned shareholders. Fig. 2 shows that from 2005 to 2017, the average proportion of directors appointed by non-controlling shareholders in SOEs was 13.4%. Although the proportion of directors appointed by non-controlling shareholders is relatively small, academic papers find that such directors have a positive governance effect on the Type II agency problem. Zhu et al. (2015) find that compared with other directors, directors appointed by non-controlling shareholders are more likely to dissent on board proposals. Moreover, previous studies suggest that agency problems are more severe in SOEs (Shleifer, 1998), which may exacerbate controlling shareholders’ tunneling (Gul et al., 2010), and that directors appointed by non-controlling shareholders are more likely to dissent in SOEs (Zhu et al., 2015). Cheng et al. (2017) find that when ownership is more concentrated, non-controlling shareholders can effectively supervise controlling shareholders and protect their own interests by nominating directors to the company. Zhang and Liu (2018) study the mixed-ownership reform of China Unicom and find that non-state-owned companies such as Baidu, Ali, Tencent, and Jingdong play a checks and balances role in the board’s decision-making by excessively appointing directors. Using centrally administered SOEs with mixed ownership as a research sample, Liu et al. (2018) study the economic consequences of the balance between state-owned and non-state-owned equity and find that moderately increasing the number of directors appointed by non-state shareholders can increase firm value.

Of course, the effect of mixed-ownership reform is also affected by the external environment. Cai et al. (2018b) find that greater government willingness to delegate power is associated with a higher level of ownership by non-state-owned shareholders in SOEs and a higher proportion of appointed directors, supervisors, and executives by such non-state-owned shareholders. This indicates the importance of the government’s willingness to delegate power during the mixed-ownership reform of SOEs.

5.2. The governance effect of independent directors on the Type II agency problem

ZJF(2001) No. 102 clearly states that significant related-party transactions (referring to related-party transactions engaged in by a listed company and a related party that amount to more than RMB3 million or 5% of the latest audited net asset value) must be approved by the independent directors and submitted to the board of directors for discussion. ZJF(2001) No. 102 also stipulates that independent directors must give independent opinions to the board of directors or the general meeting of shareholders related to “listed companies’ existing or newly incurred loans or other capital transactions with shareholders, actual controllers and their affiliated companies, exceeding the total amount 3 million RMB or 5% of the latest audited net asset value of listed companies, as well as give opinions about whether listed companies take effective measures to recover the arrears.” The literature provides supporting evidence that independent directors have a better governance effect on the Type II agency problem, such as controlling shareholders’ tunneling, significant related-party transactions, and so on. [Ye et al. \(2007\)](#) examine controlling shareholders’ use of listed companies’ funds and find that the introduction of independent directors can effectively inhibit controlling shareholders’ tunneling. Using SOEs as the sample, [Liu et al. \(2012\)](#) find that independent directors can reduce underinvestment caused by controlling shareholders’ tunneling. [Chen \(2012\)](#) examines the effect of independent directors on agency costs from the perspective of network centrality and finds that when overall network centrality of independent directors is high, the Type II agency problem (controlling shareholders’ fund occupation) between controlling shareholders and minority shareholders is effectively restrained. However, in SOEs, in which controlling shareholders are more powerful and the board has less power, the restraining effect of the network centrality of independent directors on the Type II agency problem is weaker.

We should note that although ZJF(2001) No. 102 requires independent directors to be independent, it also stipulates that “the board of directors, supervisors in the listed company, and shareholders individually or jointly holding more than 1% of the issued shares of a listed company may nominate candidates for independent directors, which shall be elected and decided by the general meeting of shareholders.” This means that controlling shareholders have an important effect on the nomination of independent directors, so the independence of independent directors may be negatively affected when reducing agency problems between controlling shareholders and minority shareholders ([Peng et al., 2018](#)).

6. Conclusions and implications

6.1. Conclusions

Due to the ownership concentration in Chinese SOEs, agency problems between shareholders and management (Type I agency problem) and between controlling shareholders and minority shareholders (Type II agency problem) coexist. SOEs have established a governance structure for boards of directors with certain independence and dual characteristics. From the perspective of state involvement in ownership, it is important for SOEs to adhere to the CPC’s leadership to improve the efficiency of their corporate governance and performance. From the perspective of market incentives, the system and structure of SOEs’ boards of directors have been established and are under constant reform and improvement. The boards of directors in Chinese listed companies mainly consist of independent directors, directors appointed by controlling shareholders, directors appointed by non-controlling shareholders, and inside directors, and there are significant differences in the monitoring roles of each type of director for Type I and Type II agency problems. Directors appointed by non-controlling shareholders have the most pronounced governance effect in solving Type I and II agency problems. Independent directors, especially those with professional backgrounds, can effectively play a monitoring role in alleviating both types of agency problems. However, in SOEs, because controlling shareholders are strong and independent directors face less risk, independent directors may have weaker monitoring incentives. Due to the close relationship between controlling shareholders and the directors they appoint, there is not a consensus on the governance effect of directors appointed by controlling shareholders. Taken together, this paper shows that in SOEs, the leadership of the CPC provides the leading political and core role in board governance. In addition, China should actively promote mixed-ownership reforms, introduce non-controlling

shareholders to SOEs, make full use of the governance role of non-controlling shareholders, make up for the lack of independence of independent directors, and enhance board independence.

6.2. Implications

This paper's conclusions are important to understanding the structure and independence of boards of directors in Chinese SOEs, to improving the efficiency of board governance, to promoting the mixed-ownership reform in SOEs, and to enhancing the vitality of SOEs. Specifically, this paper has the following implications for enhancing boards of directors in China.

6.2.1. *Soes must adhere to the CPC's leadership and embrace the core political role of the Party in companies*

SOEs must fully embrace the CPC's leading role, which embodies state involvement in the ownership of SOEs and is also the inevitable result of the exploration of corporate governance practices in SOEs. The functions and responsibility boundaries of the Party committee and boards of directors should be clear under the law. The decision-making procedures and mechanisms of the Party committee and boards of directors should be standardized. It is necessary to adhere to and improve the company leadership system of two-way entry and cross appointment. A comprehensive, objective, and scientific evaluation system should be established for members of the CPC and a company's senior executives concerning two-way entry and cross appointment, which should reflect both the cadre evaluation of the Party committee and the economic evaluation of the board of directors (Wang and Ma, 2014).

In the future, academic research can focus on the role of Party organizations in corporate governance, especially the interaction between Party organizations and boards of directors, supervisors, and management under the two-way entry and cross appointment company leadership system. Research areas could include considering how the Party organization affects the structure and decision-making efficiency of boards of directors and how agency costs between shareholders and management can be reduced. By taking the positive roles of the Party organization in corporate governance and its economic consequences as the objects of case study and empirical research, we can better provide theoretical support and policy suggestions for strengthening the CPC's leadership over SOEs.

6.2.2. *Mixed-ownership reform should be accelerated and the governance effect of directors appointed by noncontrolling shareholders should be fully acknowledged*

China should accelerate reforms regarding mixed ownership and further realize the potential of SOEs. Mixed-ownership reforms can not only introduce capital from non-controlling shareholders but also give more rights to non-controlling shareholders, especially rights on boards of directors. To effectively reduce agency costs caused by Type I and II agency problems, China should fully recognize the governance role of directors appointed by non-controlling shareholders, gradually increase the proportion of such directors on boards, and enable these directors to exercise more active supervision over controlling shareholders and management.

Promoting mixed-ownership reforms will provide voluminous case study materials and empirical data that researchers can use to study corporate governance in Chinese SOEs. Future research can further focus on the governance modes of boards in mixed-ownership SOEs and reforms' economic consequences. The reforms regarding mixed ownership of SOEs introduce different types of shareholders with different effects onboard. With the increase in non-state-owned shareholders' ownership, directors appointed by non-controlling shareholders to represent the interests of non-controlling shareholders on boards are becoming more important. Studying the role of directors appointed by non-controlling shareholders in board governance can highlight the achievements of mixed-ownership reforms and the market incentives of SOEs with Chinese characteristics.

6.2.3. *The professional expertise of independent (Outside) directors should be improved and the independence of boards of directors should be enhanced*

China should further improve the professional expertise of independent directors and fully recognize the influence of independent directors from other professional fields to better supervise the decision-making of controlling shareholders and management. To enhance the independence of boards, it is necessary to further

increase the proportion of outside directors. The Guiding Opinions of the General Office of the State Council on Further Improving the Corporate Governance Structure in SOEs (GBF [2017] No. 36) points out that “China should expand the team of full-time outside directors, [and] select and employ a group of incumbent management of SOEs to transfer to full-time outside directors.” China should fully recognize the role of full-time outside directors in SOEs, make good use of their technical and managerial knowledge, and take advantage of their independence. China should further explore the selection and employment mechanisms and compensation incentives of full-time outside directors to ensure that they can actively participate in SOEs’ board governance and enhance their value.

The implementation of the outside director system in SOEs also raises a new possibility for academic research, especially for studying the incentive policies and economic consequences of outside directors. Based on foreign studies, domestic studies on corporate boards mainly focus on independent directors. However, in addition to the employment of independent directors, the proportion of outside directors can be further increased on the boards of Chinese SOEs, as outside directors from different sources have different incentives. The research on the selection and employment mechanisms of full-time outside directors and the effectiveness of compensation incentives will motivate full-time outside directors to monitor, and thus further improve the independence and governance effect of boards of directors in SOEs from the perspective of market incentives.

Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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