

Study of the Relationship between the Audit Committee and the Supervisory Board in the New Companies Act

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Abstract

Proposed Amendments to the Company Law was considered and passed on December 29, 2023, marking an important update to the foundational law of China's modern enterprise system. The revision has made in-depth adjustments to issues that are not compatible and harmonized with the development, and seeks to provide a solid legal guarantee for the sustainable development of the market economy through the innovation of the corporate governance system. One of the highlights of this revision is the internal supervision and check and balance mechanism of the company, which introduces a brand-new internal supervision organization in Privately Owned Limited Liability Companies and Publicly Listed Joint-Stock Corporations, Including Wholly State-Owned Enterprises and the Audit Committee under corporate board is responsible for the internal supervision of the company. This major revision, the legislator breaks the traditional supervision two-tier system model, the introduction of a single-tier system supervision model, not only is the legislator of the traditional supervisory board and supervisors exercise of the company's internal supervision rights can not be fully and effectively perform their duties of the disappointment, but also released by the shareholders of the centralism to the director-centered signal.

Keywords: supervisory checks and balances system, supervisory board, audit committee

1. Formulation of the Problem

This revision of the company's internal oversight checks and balances on the construction of the system to take a more radical innovation, the Updated Draft Legislation on Limited Liability and Joint Stock Corporate Structures, the establishment of audit committees can be set up after the establishment of the supervisors, state-owned enterprises that comply with their articles of incorporation may forgo the establishment of a supervisory board or individual supervisors. , which undoubtedly to the company as the market entity to give up the traditional supervisory board as an internal oversight body of the signal. Signal, the modernization of corporate governance requirements to give the company more autonomy, reduce unnecessary administrative intervention in the company's organizational setup to encourage the company to choose the organizational structure in line with their own development, in legal compliance to encourage the company to create the organizational structure, but the revision of the supervisory board and corporate governance autonomy to the contrary. Has the supervisory board completely lost its role as a watchdog preventing corporate decision makers from abusing their decision-making power? Is the audit committee a better alternative to the supervisory board? The above questions require us to analyze the reasons for the failure of the supervisory board to play its proper role, as well as the relationship between the supervisory board and the audit committee, the legislator's positioning of the audit committee, the powers given to the audit committee and the substance of the audit committee, in order to argue whether the audit committee is a better alternative to modernize the governance of the company.

2. Analysis of the Reasons for the Failure of Traditional Monitoring Systems and Their Functions

Supervisory board and audit committee are both imported products, but in the process of introduction in China, especially in the borrowing of the supervisory board system represented by Germany, China has made corresponding localization adjustments to adapt to the unique economic, legal and cultural environment of China. German supervisory board overrides corporate board, certainly, here's a revised and clearer expression of the given sentence: Initially, the members of the supervisory board are elected by the shareholders' meeting. Following this, the supervisory board then proceeds to elect the members of corporate board. This arrangement signifies that in German corporate governance, the supervisory board holds the authority and responsibility for both appointing

and dismissing directors, and decide the remuneration of the directors, at the same time, the German supervisory board also has the right to exercise the right of reservation on specific major business matters, the German academic community believes that the qualified supervision should not be limited to the mere review, but also requires the ability to exert influence on the subject of the review. These constitute the core of the supervisors on the director checks and balances, it can be said that the German supervisory board system has the function of prevention, control and accountability. Although our country since the introduction of the supervisory board system, constantly strengthen the supervisory board's authority, in the new revision of the draft company law added the supervisory board can require directors and senior management to submit the report on the implementation of their duties, to a certain extent, strengthen the supervisors on the senior administrators of the constraints, but the revision of the supervisory board's authority to strengthen the role of the role of the supervisory board is negligible. First of all, after the introduction of the supervisory board system in China, the mechanism is parallel to corporate board, and the supervisory model in China has Chinese characteristics: annual general meeting of shareholders is the authority; the management board and the supervisory committee stand side by side with the separation of powers and checks and balances, and both are directly responsible to the shareholders' meeting; corporate board has the responsibility of supervising the general manager as well. This is because China's companies began to adopt shareholder-centrism, that the establishment of the company is for the benefit of all shareholders, the shareholders' meeting is the company's authority, corporate board is only subordinate, corporate board is only a negative executive body, corporate board and the supervisory board is a parallel body, there is no subordination, but the theoretical conception of the company is often contrary to the actual situation, especially in the smaller limited liability companies, limited liability companies, major shareholders often act as executive directors to control corporate board and the supervisory board. The major shareholders often as the executive director of the company's executive power, financial power, personnel appointment and dismissal, while the supervisory board (supervisors) often can only play the role of the vase, only in the directors, executives of the performance of their duties is recognized as a clear violation of the articles of association, damage to the interests of the company, can be carried out to review the activities. Secondly, the Company Law on the supervisors of the authority set, although the supervisors have the authority to check the company's finances, but the supervisors are not involved in the actual operation of the company, the company's financial officer is also directly by the directors to determine their salaries and appointments and dismissals, which means that the supervisors on the inspection of the company's finances and its grasp of the company's business information is directly related to the supervisory board of the company's financial situation is often corporate board want to supervisors to grasp information, according to the current legal provisions, the supervisors of the financial situation is often corporate board to grasp information. According to the current law, supervisors can only obtain supervisory information by attending meetings or conducting investigations, listening to directors' and senior management's reports on their duties, etc. The supervisory committee of the two-tier system does not have the authority to execute and make decisions on the company's business, and is mainly based on ex post facto supervision, and its ability to obtain information is in a weaker position compared with that of directors.

Members of corporate board may tend to provide no or less business management information for their own interests or convenience. This leads to asymmetry in the possession of information by the supervisory board, which makes it impossible to effectively supervise corporate board' operation and management behavior. The information acquisition of the supervisory board is restricted by the law and the articles of association of the company. The current company law is not clear and specific on the information acquisition of the supervisory board, stipulating that the supervisory board can investigate the abnormal operation of the company when it finds out the abnormal operation of the company, but it does not provide an enumeration of the abnormal operation of the company, and the possibility of inspection also means that it can not be inspected, and the provisions of the supervisory board's exercise of the right to investigate are unclear, and it seems to be an elastic law to give companies more The lack of clear provisions on the exercise of investigative power by the supervisory board may seem to be an elastic law giving the company more options for autonomy, but in reality, it encourages negative supervision.

Although the current law provides for the right of supervisors to make recommendations on the dismissal of directors and senior executives, and the draft amendment to the Company Law also adds the right of directors and senior executives to submit reports on the execution of their duties to the supervisors, the checks and balances on the directors are still lackluster, and the supervisory board of Germany has the right to elect and dismiss directors, and the natural legal status is higher than corporate board, which determines the supervision of the directors from the source, but in our country, since the However, in China, since the supervisory board and corporate board implement a parallel two-tier system of checks and balances, the supervisory board and corporate board are given a formally equal status by the law, and both are elected by the shareholders' meeting and are accountable to the shareholders' meeting. Supervisory board can not have a supreme status over corporate board, but this does not

mean that our checks and balances model is not as good as the German supervisory board model, on the contrary, China's construction of the supervisory board and corporate board of the mutual checks and balances model in the theory of more in line with the requirements of the development of China's market, very national characteristics, if the supervisory board with the supreme status, learn from Germany to give the supervisory board to intervene in corporate board of the management of the power of corporate board to give the supervisory board of directors to the particular Business matters of the consent of the supervisory board to reserve the right, or on the direct appointment and removal of directors, there is no guarantee that the supervisory board will not be excessive interference in corporate board, because the law can not be all specific business matters all listed, which will lead to the implementation of the company's executive body of the implementation of the company's planning program can not be efficiently carried out, since it is the power of the checks and balances each other, that conveys the inevitable status of equality, if the status of the status of the unequal is not the checks and balances of the rights, but rather the Direct control of subordinates by superiors.

3. Relationship between the Audit Committee System and the Supervisory Board

3.1 Introducing an Audit Committee System Instead of a Supervisory Board

Supervisory system reform has been the focus of the revision of the company law of various countries, how to modify the system to effectively play the supervisory supervisors on the directors, senior management supervision checks and balances, to achieve the perfect state of the company's right to configure the operation of the problem plagued the company law legislators of various countries, the company as a main body of the market economy and the participants, in order to achieve long-term development, sustained operation of the profitability of a set of sound supervisory mechanism is necessary. The core purpose of the supervisory system is to ensure that the company's decision-making process is transparent and fair, and to prevent directors and senior management from abusing their powers and jeopardizing the interests of the company and shareholders. However, from the introduction of the supervisory board system in China to the present day, from the 1993 Company Law to the present revision of the 2023 Company Law, the authority of supervisors has been continuously strengthened, but the effect of the actual operation has indeed fallen short of the legislative expectations. On December 29, 2023, the proposed amendment to the Corporate Law was considered and passed, and the draft stipulates that in limited companies and publicly traded companies, the establishment of audit committees can be established without the establishment of supervisors, and in wholly state-owned companies, no supervisory board or supervisors in accordance with the provisions of the articles of association, and adds the audit committee system to limited companies and publicly traded companies. And this is not the same as the audit committee system in listed companies, listed companies, the audit committee as an internal body of corporate board, a mandatory body, its main role is to supervise and evaluate the audit work, as well as the company's financial reports review and comment on the new "Company Law" draft amendments in the limited liability company, limited liability company, the introduction of the audit committee is to play a role in replacing the supervisory board of supervisors, is to follow the example of the United States of America single-tier system model, is based on the supervisory board or supervisors. The U.S. single-tier model is a model where the audit committee, an internal body of corporate board, is the only supervisory body.

3.2 Analysis of the Advantages of an Audit Committee System over a Surveillance System

Also as an imported audit committee system, the system was created because in the United Kingdom and the United States and other corporate governance single-tier system of countries in the emergence of professional managers, so that the director will gradually devolve its management authority to the senior management composed of professional managers, the director is not in the day-to-day management of the company to do everything himself, but will be given to the senior managers of the management of these affairs, the director only needs to make strategic arrangements for the company's major issues, the specific work is more professional managers are responsible for. Directors only need to make strategic arrangements for the company's major issues, the specific work is more professional managers are responsible for, it can be seen that corporate board in the process of its development, the business function gradually degraded, the supervision function is gradually strengthened. Based on the requirement of directors to supervise senior managers, the audit committee, an internal organization of corporate board, came into being. China will be the system as a supervisory body to join the limited liability company, limited liability company, hope that through a new system to activate the supervision of the company's power and checks and balances mechanism, the audit committee as corporate board of the internal institutions, indeed in some ways can change the supervisory board can not play a function of the predicament. First of all, the members of the audit committee are elected from corporate board, and as a member of the directors, they directly participate in the meetings of corporate board. This arrangement enables the audit committee to participate more comprehensively and directly in the process of formulating major decisions of the company, and

thus to grasp the company's financial status and operational information in real time. Compared with the traditional supervisory board's attendance, the audit committee members are able to understand the company's operating conditions in a more in-depth manner, so as to carry out supervision more effectively, and ideally change the traditional supervisory board's asymmetric and untimely information, which is not able to carry out the supervision of the predicament. Secondly, the audit committee members as members of corporate board, also has the right to directly appoint or remove senior management of the company, which means that the supervision of senior management, the audit committee compared to the supervisory board has a natural advantage, the supervisory board can only directors, senior management of the termination of the appointment of the proposal, can not make a decision directly, which means that the supervisors play a supervisory function to carry out in the form of recommendations, can not be a major shareholder or operating management to implement strict supervision, to maintain the supervision work. This means that the supervisory function of the supervisors is carried out in the form of recommendations, and they cannot strictly supervise the major shareholders or the management, and they are unable to safeguard the interests of small and medium-sized shareholders and the overall interests of the company. This kind of supervision is not as strong as that of the audit committee, which makes decisions on the appointment and removal of senior management directly in corporate board. The audit committee can also change the predicament that the supervisory committee can only initiate review activities when the performance of directors and senior management is recognized as a clear violation of the company's articles of association and detrimental to the company's interests. corporate board operates on a one-person-one-vote system, whereby each director has equal voting rights in the decision-making process. This system enables the audit committee to obtain the support of corporate board more quickly when proposing the appointment or dismissal of senior management, thus completing the decision-making process in an efficient manner. In contrast, a traditional supervisory committee's recommendation for the appointment or dismissal of a senior executive needs to be voted on by the shareholders' meeting in proportion to their shareholdings, a process that is often time-consuming and susceptible to control by major shareholders. The audit committee system can effectively avoid this situation, to ensure the timeliness and effectiveness of supervision. At the same time can also to a certain extent to prevent because of the major shareholders control shareholders will be proposed to the appointment and dismissal of the person's shelter or collusion of interests and make the supervision of the senior management personnel in form. Finally, in the organizational form, the traditional supervisory committee system, supervisory members usually need to be elected in addition to the directors and senior management, which increases the complexity of the corporate governance structure. The audit committee is directly elected among the members of corporate board, which not only simplifies the election procedure, but also makes the corporate governance structure clearer and more efficient. This simplification makes the communication and coordination within the company smoother and reduces the friction and conflict arising from overlapping organizations and cross-functions. The audit committee system provides, to a certain extent, an effective alternative to a supervisory body for companies that are smaller in size and number, and under the special circumstances stipulated in Article 83 of the Company Law, i.e., when there are no supervisors by unanimous consent of all shareholders, thus compensating for the lack of a supervisory body in the company, and it provides these companies with an effective internal supervisory mechanism that ensures the company's financial transparency and operational compliance, thereby safeguarding the rights and interests of shareholders and stakeholders.

3.3 Can the Audit Committee Replace the Supervisory Board?

The introduction of the audit committee into the limited liability company, limited liability company seems to be a new, more advantageous new monitoring mechanism, but the new "Company Law" on the audit committee can not be constructed to conclude that the audit committee must be better than the supervisory board of this conclusion, from the audit committee of the origins of the background of the differences between the comparison can be seen, the origin of the audit committee and the development of the key in the British and American countries in the emergence of professional managers In the United States, corporate board will move the management right down to the management, corporate board need the audit committee as an internal organization to supervise the management, corporate board is not in the daily operation and management of the company, and in our country, especially in the smaller companies, corporate board of the management right to the exercise of the senior management, the chairman of corporate board or the executive director of the set of decision-making, appointment and dismissal, the right to operate all the circumstances of the situation, on the contrary, supervisors become a weak party, and become a formal existence of the puppet. Become a formal existence of the puppet. From the supervision object and purpose point of view of the British and American companies in the audit committee supervision object for the senior management, and our country need to supervise the organization is for the director and corporate board, senior management supervision and checks and balances, the audit committee as corporate board of the internal institutions, if you want to corporate board to carry out effective supervision need to carry

out a sophisticated system design, but the new "company law" on the audit committee of system design Not specific enough, first of all, the audit committee as a company supervisory body, but also corporate board of the internal organization, about the committee personnel election and composition, the law is not clear, usually, as an internal organization, that naturally elected by corporate board, but the audit committee supervisor's identity requirements must be supervised by corporate board has its own independence, if the members of corporate board to grasp the election and appointment and removal of the members of corporate board, corporate board in the overall function will become the management of corporate board. corporate board in the overall function will become a management and supervision function of the integration of the organization, the audit committee will still be reduced to the puppet of those in power. Furthermore, from the new "company law" on the audit committee authority to build, the audit committee's authority only Article 121 of the exercise of the supervisory board's authority, the way of deliberating and voting procedures in addition to the provisions of this law other than the articles of association of the company, it can be seen that the audit committee's functions compared to the supervisory board and did not increase or substantive changes, the authority granted to the audit committee is still an ex post facto The power granted to the audit committee is still an ex post facto power of review. Although in theory compared to the supervisory board, the audit committee as a member of corporate board, it can directly participate in corporate board, can obtain more comprehensive information on the company's operations, financial reports, but the audit committee as the company's supervisory body should be involved in corporate board of the company's business decision-making law is not clear, if the audit committee can participate in the business decision-making means that the trial committee both referee and If the audit committee can participate in business decision making that means the trial committee is both the referee and the athlete, then it should be considered whether the audit committee will override the executive body board of directors and become the actual dictator of the company, and if the audit committee participates in business decision making to the detriment of the interests of the company's shareholders, it will lead to the hollowing out of the pre-procedure of the shareholders' representative litigation, and if it is not possible to give the audit committee the power to exert sufficient influence on corporate board' decision-making, then it still can't change the fact that the audit committee is only the supervisory board. If the audit committee is not empowered to exert sufficient influence on the decisions made by corporate board, then it will still be impossible to change the fact that the audit committee is only a transfer of functions from the supervisory board without any substantive change, and it will be impossible to conclude that the audit committee can replace the supervisory board.

4. Suggestions for Improving China's Corporate Oversight System

4.1 Company Autonomy in Choosing Which Model of Supervisory Body Is to Be Set up

Regardless of whether it is a single-tier audit committee model or a two-tier supervisory board model, it is difficult to compare which model is more superior, and the general trend of the reform of the corporate supervision model in various countries nowadays is to integrate the two models. Germany has added the audit committee to the supervisory board, and the members of the audit committee will carry out the work on the effectiveness of the internal auditing, the financial accounting procedures, and the internal control system, which compensates for the lack of professionalism of the members of the traditional supervisory board and the inability to efficiently carry out the auditing work. At the same time, in the United States, senior management actually dominates the company's business, resulting in corporate board and shareholders' meeting can not play a predetermined effect, senior management has become the company's executive body, replacing the functions of the original board of directors, and corporate board into a supervisory body, it can be said that the United States of America's role of the senior management is similar to that of the German board of directors, and its board of directors and It can be said that the role of senior management in the U.S. is similar to that of the German board of directors, while its board of directors has become the supervisory board of Germany. Moreover, the U.S. Acts have continuously strengthened the supervisory authority of corporate board, which require the company to disclose more information on corporate governance, internal control and risk management, and to improve the transparency and effectiveness of the board. At the same time, the Acts also stipulate the board's responsibility for reviewing and confirming the company's financial reports, as well as supervising and evaluating the company's internal controls, so as to ensure that corporate board can better fulfill its supervisory duties and protect the interests of shareholders. However, regardless of the choice of supervision model or the adoption of a hybrid supervision model, the choice should be left to the company's autonomy.

While promoting the improvement of corporate governance structure, this revision of the Company Law on supervisory bodies ignores the core concept of corporate autonomy. In particular, the provision that compels wholly state-owned companies to set up audit committees may indirectly send a signal that encourages other types of companies to also tend to opt for audit committees and completely abandon supervisory boards. This tendency

greatly restricts the room for independent innovation in corporate oversight models. Excessive regulation and constraints on corporate governance will inhibit the company's mobility and creativity, make the company's operation inflexible and dynamic, and make it difficult to maintain and enhance the company's strength in participating in market competition. As the basic law of corporate governance, the objective of the Company Law should be to provide a flexible and elastic framework for the construction of a supervisory mechanism for companies, rather than mandating a uniform supervisory model for all companies. The supervisory model of a company should be chosen flexibly according to the company's own characteristics, business needs and governance structure. Supervisory boards and audit committees can play a unique value and function in corporate governance. The supervisory board, as a permanent supervisory body of the company, is responsible for supervising the day-to-day business management behavior of the company's directors and executives to ensure the compliance and effectiveness of the company's operations. The audit committee, on the other hand, can focus more on the professional supervision of financial auditing and internal control, and can provide more in-depth and professional review for the company. Therefore, the two are not necessarily substitutes, but complementary relationships that can co-exist. Even in limited liability and joint stock companies, the supervisory board and audit committee can be allowed to co-exist, which can give full play to their respective supervisory advantages. The supervisory board can focus on the supervision of day-to-day management behavior, while the audit committee can conduct more professional and in-depth financial and internal control audits. This coexisting supervision model not only helps to improve the efficiency and effectiveness of corporate governance, but also effectively compensates for the lack of professional competence of the supervisory board members.

4.2 Suggestions for Improving the Company's Supervisory Mechanism

After the new Company Law introduces the audit committee into limited liability and joint-stock companies, if the audit committee is not refined in terms of its generation, authority, operation mode and procedure, but only roughly exercises the authority of the supervisory committee as stipulated in the new Company Law, this will lead to the situation of bottling old wine in new bottles, and at the same time, if the supervisory committee is unable to make big changes, it still can't bring its supervisory checking and balancing effect into full play. Therefore, no matter what kind of supervisory mode the company chooses in the internal supervision, it is required to build a perfect internal supervision system at the legal level, so that the company can choose the supervision mode that meets the interests of the company and shareholders in combination with its own development situation and future development plan.

Although it is difficult to conclude that the audit committee is a better supervisory body than the supervisory board, since the legislation has chosen to introduce this supervisory model, we cannot stop at the level of criticism, but should also move to the level of analyzing the recommendations for the implementation of the system.

According to the new Company Law, the audit committee of a limited liability company or a joint-stock company is not equivalent to the audit committee of a listed company. The audit committee of a listed company cannot replace the supervisory board in its entirety, and it only undertakes the functions of internal auditing, liaison, review of external auditing, review of financial reports, information disclosure, etc., whereas the audit committee set up in a limited liability company or a joint-stock company can replace the supervisory board in its entirety. The existence of the audit committee. Then, first of all, we have to clarify the way the audit committee, and to whom it is responsible.

First of all, in the way of generation, the members of the audit committee should be elected by whom and how to be elected should be clarified by the regulations, otherwise, if it is left to the company's articles of association to stipulate, it is impossible to rule out the occurrence of the election by corporate board or the executive director to directly decide on the candidates, and the supervised person directly elects the supervisor, which means that the supervisor is controlled by the supervised person from the source, making the audit committee become a mere formality. Since the audit committee is to play the function of supervisors, the audit committee members should be elected by the shareholders' meeting, responsible to all shareholders, and its composition must have a considerable proportion of the committee members elected on behalf of the interests of small and medium-sized shareholders, shareholders of small and medium-sized enterprises, especially small limited company shareholders, who are not like the small and medium-sized shareholders of listed companies, to buy the company's shares is to pursue economic efficiency only to look at profitability. In order to pursue economic benefits only focus on profit dividends and do not care about the actual operation of the company, and smaller limited liability companies, limited liability companies, small and medium-sized shareholders or a considerable portion of the concern about the actual operation of the company, and want to participate in it, so in the composition of the Audit Committee to elect the vote, if completely in accordance with the Shareholders' Meeting shares to decide on the way will continue to be the controlling shareholders, the company's actual controller to manipulate the results of the election,

while Make its supervision and control become empty talk, so it is necessary to have a considerable proportion of members representing the interests of small and medium-sized shareholders in the composition of the audit committee personnel election, in the composition of the supervisory body to change the traditional shareholders' meeting share decision. In the composition of personnel, the audit committee members can not be the company's executive director, independence is a special requirement of the members, the audit committee as a member of corporate board whether to participate in corporate board business decision-making or business execution? First, the audit committee members should participate in corporate board resolution, which is the audit committee compared to the supervisory board can be comprehensive, timely access to the company's business management of the important advantage of participation in corporate board, can be more direct supervision of the supervisee, second, the audit committee members should not be involved in the implementation of the business, the supervisors and the supervisee is mixed together. Furthermore, audit committee members must be professionals. The audit committee is considered to be the last line of defense for enterprises to provide high-quality financial reports, and assumes the important functions of strengthening the review and evaluation of the company's internal audit (including internal control), communicating with the external auditor, and enhancing independence. The audit committee should be composed of members specialized in accounting and law. Finally, if there is an employee representative on corporate board of the company, the audit committee should include the employee representative as a member of the committee. Granting the employee representative the status of a supervisee can not only better safeguard the legitimate rights and interests of the employees, but also can refer the decisions on corporate board and senior management regarding professional interests to the supervision of this member, which can further subdivided the division of labor among the members of the audit committee.

Although the supervisory committee system continues to improve, but the implementation of the effect can not meet expectations, in the current system of construction of the audit committee system can not replace the supervisory board of the background, continue to improve the supervisory committee system is still very necessary, the supervisory committee system can not play a due supervision and control functions, the fundamental reason, is that today's ex post facto supervision based on the construction of the system, China's Supervisory Board does not have a German Supervisory Board of Supervisory Board of Supervisory Board of Supervisory Board of Supervisory Board of Supervisory Board of Supervisory Board of Supervisory Board of Supervisory Board, not With the direct appointment and removal of board members, but this does not mean that the supervisory board can not play a supervisory check and balance, on the contrary, give the supervisory board over the status of corporate board, and even supervisors will appear to control the situation of the directors. Therefore, even if the supervisory committee does not have the right to direct appointment and removal, but can give the supervisors to grant the right to corporate board salary assessment, the supervisory committee to formulate the assessment criteria, according to the director's position, the production of the annual assessment form to the shareholders' meeting, according to the assessment of the director's salary for the next year, and at the same time, the director of the director to the supervisors to submit the duty report is directly related to the remuneration of the director, in this way, to change the law stipulates that the supervisor In this way, change the legal provisions of the supervisors can require the directors to submit a report on the situation, and directly urge the directors to submit to the supervisors, not only can prevent the supervisors passive performance, but also allow the supervisors through the report on the implementation of the director's business decisions, the company's business management activities, to help break the supervisors of the asymmetry of the information situation. For the situation of inaction, the Company Law does not provide, and inaction (should be supervised but did not take measures) is precisely one of the core dilemmas faced by the company's internal supervisors, in order to change the supervisors can attend corporate board of the negative rights to increase the supervisors to actively fulfill the obligations, as well as negative performance of the duties should be borne by the legal responsibility, since the law continues to improve the rights of the supervisors, it should also be urged to exercise the rights of supervisors, if the supervisors negative performance of duties, the supervisors should not be able to perform their duties. Since the law continues to improve the rights of supervisors, the supervisors should also be urged to exercise their rights, if the supervisors are negatively performing their duties, resulting in losses to the company, they should be held jointly and severally liable with the directors and senior management who caused the losses, so as to force the supervisors to actively perform their duties, and at the same time, the supervisors should participate in corporate board more proactively to supervise the decision-making in the meeting, and to change the previous mode of supervision after the event.

5. Concluding Remarks

The introduction of the audit committee system in the new Company Law is undoubtedly a major innovation in the corporate governance system, but the lack of the basic construction of the system, the lack of the selection of members of the audit committee, the content of the specific powers of the members, the exercise of power, as well

as incentives and penalties and other constructions, will not be able to highlight the systemic advantages of the audit committee, and the audit committee system, if most of the references to the Supervisory Board construction, that is even more unable to replace the Supervisory Board as a better supervisory body. If the audit committee system is mostly constructed with reference to the supervisory board, it cannot replace the supervisory board as a better supervisory organization. In the economic globalization, emphasize the company "go out" today, the introduction of the common law system of monist governance model seems to be more in line with international standards, but corporate governance is the company's internal self-governance, the choice of supervision mode should be the establishment of the people and investors should be decided by the collective deliberation, and the legislature should be perfected in a variety of company supervision system construction. The legislature should improve the construction of various corporate supervision systems, so that the corporate supervisory body becomes a set of independence, professionalism as a whole, and can obtain relevant business information in a timely manner in the corporate governance, with the whole process of supervision of the organization. In short, both the Supervisory Board and the Audit Committee should continue to improve the system construction, rather than easily let one replace the other.

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