

Research Article

Should Indonesia Adopt a Stewardship Code?

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ABSTRACT: Shareholder stewardship has rapidly become a popular concept among policymakers, companies, and investors around the world. On its first release in 2010, the inaugural United Kingdom stewardship code was primarily targeted to incentivize institutional investors to be actively engaged as “stewards” in the corporate governance of companies in which they are shareholders. In Southeast Asia, Singapore has adopted separate stewardship codes for institutional investors and family companies. This article aims to explore if Indonesia should adopt a Stewardship Code like the above codes in Singapore and, if yes, how these codes should be adopted in Indonesia.

KEYWORDS: Shareholder stewardship, Stewardship code, Corporate governance.

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Submitted: 3 Agustus 2024 | **Reviewed:** 26 Maret 2025 | **Revised:** 30 April 2025 | **Accepted:** 27 May 2025

I. INTRODUCTION

The 2008 Global Financial Crisis (GFC) exposed structural problems and contradictions long plaguing the global economy, including short-termism and excessive corporate risk-taking. In response, the United Kingdom introduced the world's first stewardship code, issued in 2010 by the Financial Reporting Council (2010 UK Stewardship Code).¹ The Code specifically addressed the lack of institutional investor oversight of major UK-listed companies, seen as a primary cause of the country's corporate governance failures leading to the GFC. As institutional investors own most shares in UK-listed companies, the Code adopted a soft law approach with the aim of incentivizing passive investors to become active shareholder stewards.² In the following decade, shareholder stewardship became an international corporate law phenomenon. The UK Stewardship Code served as a global model, spreading to over twenty major economies across six continents.³ Although the language and concepts in these codes reflected the UK model, Dan Puchniak's research revealed that the reasons for adoption and the functions performed varied significantly.⁴ Consequently, stewardship now plays diverse roles across different corporate governance systems.

As stewardship codes are often non-binding “soft law,” Gen Goto, Alan Koh, and Dan Puchniak noted they serve as a vehicle for governments and market players to pursue specific interests cheaply and flexibly.⁵ However, Puchniak warned that such codes risk masking governance problems when transplanted into jurisdictions with different corporate governance contexts.⁶ He questioned whether it might be more effective to adapt stewardship to the local context rather than copying a UK-style code.⁷ Surprisingly, research reveals that

¹ Dan W Puchniak, “The False Hope of Stewardship in the Context of Controlling Shareholders: Making Sense Out of the Global Transplant of a Legal Misfit” (2024) 72:1 *Am J Comp L* at 110-111.

² *Ibid* at 111.

³ *Ibid* at 113 & 126.

⁴ *Ibid* at 114.

⁵ Gen Goto, Alan K Koh & Dan W Puchniak, “Diversity of Shareholder Stewardship in Asia: Faux Convergence” (2020) 53 *Vand J Transnat'l L* at 836.

⁶ Dan W Puchniak, “The False Hope of Stewardship in the Context of Controlling Shareholders: Making Sense Out of the Global Transplant of a Legal Misfit” (2024) 72 *Am J Comp L* at 159.

⁷ *Ibid* at 123, 128 & 159.

Singapore is the only country to reframe the UK's investor-focused stewardship concept to fit its governance context by introducing the Stewardship Principles for Family Businesses in 2018.⁸ In Singapore, most listed companies are family-controlled, and the code incentivizes family controllers to use their power for the benefit of stakeholders and society.⁹

The reorientation of stewardship by Singapore to address governance issues in family firms could be applicable worldwide, especially in Asia, where family firms are prevalent. Many countries, including those in Asia, have an abundance of controlling shareholders, making stewardship focused on family controllers a better fit globally.¹⁰ This is evident, as the UK and the US are the only countries where institutional investors hold a majority of shares, highlighting the "misfit" of the UK-style stewardship code in non-Anglo-American contexts.¹¹ Countries like Hong Kong, India, Japan, Malaysia, South Korea, Taiwan, and Thailand have adopted UK-style codes, with Singapore introducing a separate code for family firms.¹²

In Indonesia, a prevalent issue in corporate governance stems from the dominance of controlling shareholders, especially in the Indonesian's Family Business and State-Owned Enterprises, whose decisions often prioritize their

⁸ *Ibid* at 128.

⁹ Dan Puchniak & Samantha Tang, "Singapore's Puzzling Embrace of Shareholder Stewardship: A Successful Secret" (2020) 53:3 *Vanderbilt Journal of Transnational Law* at 992. See also, "State-Owned Enterprises in Singapore: Historical Insights Into a Potential Model for Reform" (2015) 28:2 *Columbia Journal of Asian Law* at 61; Dan W Puchniak & Luh Luh Lan, "Independent Directors in Singapore: Puzzling Compliance Requiring Explanation" (2017) 65:2 *The American Journal of Comparative Law* at 265.

¹⁰ Puchniak, "The False Hope of Stewardship in the Context of Controlling Shareholders", *supra* note 1 at 116–122; Puchniak & Tang, "Singapore's Puzzling Embrace of Shareholder Stewardship", *supra* note 9 at 898; See also, Dan W Puchniak & Samantha S Tang, "Singapore's Embrace of Shareholder Stewardship: A Puzzling Success" in Dan W Puchniak & Dionysia Katelouzou, eds, *Global Shareholder Stewardship* (Cambridge: Cambridge University Press, 2022) at 297.

¹¹ Puchniak, "The False Hope of Stewardship in the Context of Controlling Shareholders", *supra* note 1 at 116–122.

¹² *Ibid* at 123 & 130; Puchniak & Tang, "Singapore's Puzzling Embrace of Shareholder Stewardship", *supra* note 9 at 898; Puchniak & Tang, *supra* note 10 at 297; See also, Ernest Lim & Dan W Puchniak, "Can a Global Legal Misfit Be Fixed?: Shareholder Stewardship in a Controlling Shareholder and ESG World" in Dan W Puchniak & Dionysia Katelouzou, eds, *Global Shareholder Stewardship* (Cambridge: Cambridge University Press, 2022) at 599.

own interests over those of non-controlling shareholders, potentially to the detriment of the company. Moreover, there is a concern that many board members, despite having fiduciary duties to act in the company's best interest, tend to align with the interests of controlling shareholders rather than other shareholders or the company itself. Given Indonesia's corporate landscape, which is characterized by dominant controlling shareholders and family-run firms similarly to Singapore, adopting stewardship codes akin to the Singapore Family Code and the Singapore Stewardship Code for institutional investors would be more suitable than just the institutional investor-focused UK-style code. Unlike the United Kingdom, Indonesia lacks a significant presence of institutional investors, rendering them powerless against large state or family-controlled shareholders. Therefore, it would be logical for Indonesia to implement a stewardship code that leverages the influence of controlling shareholders, particularly family and state controllers.

II. METHODOLOGY

This article uses a comparative legal method combined with a contextual analysis of corporate governance. It conducts doctrinal and functional comparisons of stewardship codes from the United Kingdom, Singapore, and other Asian jurisdictions, focusing on both their formal structures and practical functions. Drawing on legal transplantation theory, the article critically evaluates the risks of adopting misaligned models in Indonesia's concentrated ownership context.¹³ Finally, it proposes a normative framework tailored to Indonesia's legal and corporate realities, advocating a “comply or explain” mechanism and outcome-focused stewardship to enhance genuine shareholder engagement and sustainable governance. This article will illuminate the trends of stewardship globally and in Asia, analyze the existing corporate governance system in Indonesia, and assess if and how Indonesia should adopt the stewardship codes in line with Singapore's approach. This article explores whether Indonesia should adopt a Stewardship Code, focusing on controlling shareholders. It argues that a controlling

¹³ Puchniak, “The False Hope of Stewardship in the Context of Controlling Shareholders”, *supra* note 1 at 109; See also, Goto, Koh & Puchniak, “Diversity of Shareholder Stewardship in Asia”, *supra* note 5 at 847.

shareholder-oriented stewardship code could improve corporate governance in Indonesia but cautions against simply copying the UK model, as this may have unintended negative effects.

III. TRENDS OF STEWARDSHIP CODES GLOBALLY AND IN ASIA

In the wake of the 2008 Global Financial Crisis (GFC), the United Kingdom issued the first stewardship code to encourage institutional investors to become responsible, engaged shareholders.¹⁴ The Code responded to what was perceived as the primary cause of the UK's corporate governance failure: shareholders' lack of active engagement in monitoring management of listed companies.¹⁵ Most institutional investors lacked the incentive to exercise their shareholder power, leaving management unchecked.¹⁶ This absence of oversight contributed to excessive risk-taking and short-termism, significant factors in the 2008 GFC.¹⁷ Thus, the stewardship code was intended as "soft law" to incentivize institutional investors to act as good stewards by collectively exercising voting power to mitigate managerial risk-taking and short-termism.¹⁸ The UK model is specifically designed to leverage institutional shareholder power in listed companies and is not conventionally considered effective for other types of companies.¹⁹

¹⁴ Brian R Cheffins, "The Stewardship Code's Achilles' Heel" (2010) 73:6 *The Modern Law Review* at 1012–1017.

¹⁵ Dionysia Katelouzou & Dan W Puchniak, "Global Shareholder Stewardship: Complexities, Challenges and Possibilities" in Dan W Puchniak & Dionysia Katelouzou, eds, *Global Shareholder Stewardship* (Cambridge: Cambridge University Press, 2022) at 10; See also, Dan W Puchniak, *An Asian Solution for a Global Problem? Corporate Governance and the Environment in a Non-Anglo-American World* (NYU Law USALI East–West Studies, 2022) at 1.

¹⁶ Lucian A Bebchuk, Alma Cohen & Scott Hirst, "The Agency Problems of Institutional Investors" (2017) 31:3 *Journal of Economic Perspectives* at 90.

¹⁷ Puchniak, "The False Hope of Stewardship in the Context of Controlling Shareholders", *supra* note 1 at 111; Katelouzou & Puchniak, *supra* note 15 at 20.

¹⁸ Goto, Koh & Puchniak, "Diversity of Shareholder Stewardship in Asia", *supra* note 5 at 832.

¹⁹ Puchniak, "The False Hope of Stewardship in the Context of Controlling Shareholders", *supra* note 1 at 116–122; *Stewardship 2.0: Awareness, Effectiveness, and Progression of Stewardship Codes in Asia Pacific*, by Mary Leung & Eugene Hsiao (Charlottesville, VA: CFA Institute, 2020) at 13. For an overview of shareholder power in Asia see, Dan W Puchniak, "Multiple Faces of Shareholder Power in Asia: Complexity Revealed" in Randall Thomas & Jennifer Hill, eds, *The Research Handbook on Shareholder Power* (Cheltenham: Edward Elgar, 2015) at 513.

After analyzing shareholder stewardship in theory and practice around the world, Katelouzou and Puchniak created a taxonomy which identified at least five conceptions of what the term shareholder stewardship means.²⁰ The first conception, which was the basis for the original United Kingdom stewardship code in 2010, is that institutional investors are the main stewards of companies and that they should actively engage as stewards in the corporate governance of companies in which they are shareholders.²¹

The second conception of stewardship reorients the goal of institutional investor focused stewardship to focus on solving the agency problems with controlling shareholders rather than solving the agency problems between management and shareholders.²² The primary goal of this conception of stewardship is to use the shareholder power of institutional investors to reduce tunneling and abuse by controlling shareholders—rather than minimizing the agency problems between corporate managers and shareholders.²³

The third conception of stewardship, according to Katelouzou and Puchniak, “identifies the corporate governance actor who has actual control over the company and creates a code to try to encourage that actor to steward the company in a way that maximizes the benefits for all stakeholders.”²⁴ Thus, “soft law” is used to incentivize those who are actually in control of the company to benefit all corporate stakeholders and society. This approach acknowledges the fact that outside of the United States and United Kingdom, institutional investors do not collectively have voting control in most listed companies and that controlling block shareholders often have the voting power to steward listed companies.²⁵

The fourth conception of stewardship is institutional investor-driven stewardship “with the aim of advancing the Environmental, Social and Governance (ESG) movement.”²⁶ The expressed aim of the ESG movement is to incentivize

²⁰ Katelouzou & Puchniak, *supra* note 15 at 5.

²¹ *Ibid* at 26.

²² *Ibid* at 8.

²³ *Ibid* at 6.

²⁴ *Ibid* at 7.

²⁵ Puchniak, “The False Hope of Stewardship in the Context of Controlling Shareholders”, *supra* note 1 at 116–122.

²⁶ Katelouzou & Puchniak, *supra* note 15 at 3 & 8.

companies to bring positive change to solve societal problems, aside from preventing companies from producing negative externalities. The primary target of this stewardship conception is to “incentivize the companies in which institutional investors invest to adopt” an ESG agenda. Further, it aims to provide the ultimate beneficiaries of institutional investors with the information and means to channel their funds towards ESG investments.²⁷

Lastly, the fifth conception of stewardship is focused on the investment management side of stewardship, that is the relationship between the institutional investor as an investment intermediary and their ultimate beneficiaries or clients.²⁸ The primary goal of this conception of stewardship is to “reconcile a constructive stewardship role with the investors’ own internal business models.”²⁹

Stewardship codes typically set out best practice principles, accompanied by descriptions of compliance.³⁰ Common principles across most codes include establishing and disclosing a stewardship policy, managing conflicts of interest, monitoring and engaging with investee companies, disclosing voting policies and actions, and reporting to clients and beneficiaries. Some markets also include principles such as participating in collective engagement, escalating engagement when necessary, integrating environmental and social risks and opportunities, addressing market and financial system risks, and reviewing internal governance procedures. ESG-related principles are often incorporated into local definitions of stewardship or engagement practices.³¹

Following the proliferation of stewardship codes around the world, it has been recognized that stewardship codes can emanate from different issuing bodies which influence the effectiveness of the code. According to Jennifer Hill, there are at least three distinct categories of stewardship codes.³² The first category comprises codes that have been issued by regulators or quasi-regulators on behalf

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid* at 3 & 32.

³¹ Leung & Hsiao, *supra* note 19 at 11.

³² Jennifer Hill, “Good Activist/Bad Activist: The Rise of International Stewardship Codes” (2018) 41:2 Seattle University Law Review at 502.

of the government.³³ Jurisdictions with stewardship codes of this type include Denmark, Hong Kong, Kenya, Japan, Malaysia, Taiwan, and Thailand. The second category are stewardship codes that have been initiated by various industry participants, such as private organizations.³⁴ Countries to adopt codes promulgated by industry players of this kind include South Korea, South Africa, and Singapore. Lastly, the third type encompasses stewardship codes initiated by investors themselves.³⁵ These investor-led codes exist in Australia, Brazil, Canada, Italy, Netherlands, and Switzerland.³⁶ These governing bodies or sponsors would also engage with stakeholders, encourage adoption and adherence, and review the code periodically to ensure its relevance. The nature, attitude, and approach of the governing body or sponsors of stewardship code have an important impact on the degree of adoption as well as the level of compliance.³⁷

As identified by Hill, there are broadly four degrees of compliance with regards to stewardship codes, namely mandatory, “apply or explain”, “comply or explain”, and voluntary.³⁸ Mandatory compliance requirements for stewardship codes are rare because it is often difficult in practice to set a mandatory compliance standard given the wide range of business models of the entities for whom the codes are intended.³⁹ Therefore, comply or explain became the most common approach taken by stewardship codes. It is a form of soft law and allows a flexible mandate for each firm to apply the principles in a way that is most appropriate to its circumstances.⁴⁰ Compared to a voluntary standard, a comply or explain code sets a higher bar for compliance, as it requires an explanation for non-compliance. According to Katelouzou and Puchniak, the 2020 United Kingdom Code has used the apply and explain form to promote an elevated level of compliance as compared to the earlier comply or explain format.⁴¹ Companies that follow the 2020 United Kingdom Code will now be asked to describe “how

³³ *Ibid* at 503.

³⁴ *Ibid* at 504.

³⁵ *Ibid* at 505.

³⁶ *Ibid* at 506.

³⁷ *Ibid*.

³⁸ *Ibid* at 508.

³⁹ Leung & Hsiao, *supra* note 19 at 11.

⁴⁰ *Ibid*.

⁴¹ Katelouzou & Puchniak, *supra* note 15 at 3 & 24.

the practices they have implemented achieved the intent of the principles and what outcomes were achieved.”⁴² By focusing on explanations and results, “the apply and explain standard aims to raise the effectiveness of stewardship codes.”⁴³ Lastly, voluntary adoption means there are no specified enforcement of compliance.⁴⁴ One reason a voluntary application may be set out is to avoid confusing the stewardship code with statutory law, which has specific regulatory consequences.⁴⁵

Since the United Kingdom issued the world’s first stewardship code in 2010, stewardship codes have been adopted by countries across Asia. Japan, Hong Kong, Singapore, South Korea, Taiwan, Malaysia, and Thailand have all adopted stewardship codes.⁴⁶ Stewardship principles were also implemented in China, which inserted provisions into its revised corporate governance code to promote shareholder stewardship among institutional investors.⁴⁷ However, beyond the label of stewardship and textual analysis, there lies significant differences in the function of stewardship between the United Kingdom and most Asian jurisdictions.⁴⁸ In some Asian jurisdictions, stewardship functions very differently than the United Kingdom model, which results in a very different intended and actual impact on their respective corporate governance. As an example, the Japanese government adopted a stewardship code to reform its traditional lifetime employment as well as its risk-averse and stakeholder-oriented governance system towards a more shareholder-oriented, profit-maximizing, and less risk-averse corporate governance system. In Singapore, on the other hand, the stewardship code was designed to entrench its successful state and family-controlled system of corporate governance.⁴⁹

This may be because Asia does not lack “shareholder stewards.” From an agency-costs perspective, the primary corporate governance problem in most Asian

⁴² Leung & Hsiao, *supra* note 19 at 12.

⁴³ *Ibid.*

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ Katelouzou & Puchniak, *supra* note 15 at 3 & 24.

⁴⁷ Dan W Puchniak & Lin Lin, “Institutional Investors in China: An Autochthonous Mechanism Unrelated to UK-cum-Global Stewardship” in Dan W Puchniak & Dionysia Katelouzou, eds, *Global Shareholder Stewardship* (Cambridge: Cambridge University Press, 2022) at 383.

⁴⁸ Goto, Koh & Puchniak, “Diversity of Shareholder Stewardship in Asia”, *supra* note 5 at 834.

⁴⁹ *Ibid.*

jurisdictions is not insufficient engagement or managerial monitoring by shareholder float controllers, as in the United Kingdom.⁵⁰ Rather, controlling shareholders in Asia actively monitor management for their own interests, not necessarily as “good stewards” for minority shareholders, the environment, or society. Entrenched management supported by controlling or affiliated shareholders is the norm. One reason for the popularity of stewardship codes in Asia is that they provide local governments and market players with a convenient, inexpensive, non-binding, and malleable vehicle to pursue their interests. Adopting globally recognized “good governance” mechanisms at a superficial level, while adapting their function to serve local purposes, appears to be a rising trend in Asian corporate governance.⁵¹

IV. POSSIBILITY OF STEWARDSHIP CODE APPLICATION ON INDONESIAN COMPANIES

In contrast to the problem faced by companies in the United Kingdom or United States, most listed companies in Asia are under the de facto control of block shareholders, namely family, states, or other corporations. Institutional shareholders control only a minority of the total voting power of listed companies, even if their shareholdings have generally increased with time. Instead of an absent steward, the principal corporate governance problem in Asia is an entrenched controlling shareholder who may use their power not to discharge the function of a steward but rather to extract private benefits of control at minority shareholders’ expense.⁵² Thus, they are not necessarily a “good steward” for the benefit of minority shareholders, environment, or society. In fact, entrenched management backed by controlling or affiliated shareholders is the norm in Asia.⁵³

Like other Asian jurisdictions, public companies in Indonesia generally have a controlling shareholder in the form of a family, corporate group, or the

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Puchniak, *supra* note 19 at 513.

⁵³ Goto, Koh & Puchniak, “Diversity of Shareholder Stewardship in Asia”, *supra* note 5 at 835.

government.⁵⁴ Many companies in Indonesia start out as a small company owned either by a single controlling shareholder, a family patriarch, or a small group of shareholders. Although many have expanded significantly or conducted public offerings, the controlling shareholders often have not changed.⁵⁵ Such an insider dominated or concentrated ownership structure continues to pose distinct challenges in the corporate governance of Indonesian companies.

Over the last two decades, Indonesia has implemented several initiatives to strengthen its corporate governance regime. This includes the establishment of corporate governance institutions and the adoption of new laws and amendments that support the implementation of good corporate governance. The National Committee on Corporate Governance (“NCCG”) was established in 1999 under the supervision of the Coordinating Minister of Economy, Finance, and Industry and in 2004 was turned into National Committee for Governance (“NCG”) under the Coordinating Minister for Economic Affairs. Further, the Capital Markets and Financial Institutions Supervisory Agency (Badan Pengawas Pasar Modal dan Lembaga Keuangan or “Bapepam-LK”), which is now merged into the Financial Services Authority (Otoritas Jasa Keuangan or “OJK”), also continued to advance and enforce its regulatory framework on corporate governance.

The first Code of Good Corporate Governance in Indonesia was developed in 1999 by NCCG and was subsequently revised in 2001 and 2006.⁵⁶ The Code of Good Corporate Governance does not have binding legal force and thus cannot be enforced both at corporate and regulator levels. However, regulators use the Code of Good Corporate Governance as an important reference in developing regulations relevant to corporate governance. In addition, corporations use the Code of Corporate Governance as a reference in preparing governance systems, structures, and guidelines for themselves and the internal regulations of other companies.⁵⁷

⁵⁴ *Reports on the Observance of Standards and Codes: Corporate Governance Country Assessment on Indonesia*, by The World Bank (Washington, DC: World Bank, 2010) at 8.

⁵⁵ International Finance Corporation, *Indonesia Corporate Governance Manual*, 2nd ed (International Finance Corporation, 2021) at 45.

⁵⁶ *Ibid* at 35.

⁵⁷ *Roadmap Tata Kelola Perusahaan Indonesia*, by Otoritas Jasa Keuangan (Otoritas Jasa Keuangan, 2015) at 14.

Upon its issuance in 2007, the Company Law became a major legal product for limited liability companies (*perseroan terbatas*), including issuers or public companies in the capital market. The current Company Law has accommodated the concepts and principles of good corporate governance as compared to its previous version issued in 1995 and the Code of Commercial Law. It also gives greater attention in terms of the application of corporate governance in Indonesia. As of its enactment, the Board of Commissioners and Board of Directors are required to be more accountable in carrying out fiduciary duties. The current law also obliges limited liability companies to implement good corporate governance practices and corporate social responsibility.⁵⁸

Until now, the Code of Good Corporate Governance issued by NCG has not been widely applied in business practices in Indonesia. This is because the application of the Code of Good Corporate Governance is voluntary and does not form part of the statutory provisions which bind companies.⁵⁹ In order to encourage companies to practice good corporate governance, matters relating to corporate governance practices are governed by laws and regulations. For example, the implementation of good corporate governance practices by issuers and public companies is based on regulations issued by the OJK. Implementation of good corporate governance principles by issuers and public companies is based on regulatory compliance, ultimately encouraging them to internalize good governance practices.⁶⁰

Not all aspects of good corporate governance can be made mandatory. Regulations may impose significant burdens on companies, as their ability to implement them depends on sector, industry, and size.⁶¹ In 2015, OJK issued Regulation Number 21/POJK.04/2015 and Circular Letter Number 32/SEOJK.04/2015 on Corporate Governance Guidelines for Public Companies, the country's first guideline using a "comply or explain" approach. This regulation aims to raise governance standards while allowing flexibility for companies to adapt practices to their specific needs. Additionally, OJK has issued

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

numerous regulations to govern key elements of good governance for public companies.⁶²

Aside from limited liability companies, state-owned enterprises were first required to implement corporate governance through Regulation Number PER-2/MBU/03/2023 on Governance and Significant Corporate Activities. Law Number 19 of 2003 on State-Owned Enterprises also provides a comprehensive governance and management framework, dividing SOEs into Limited Liability Enterprises (“Persero”) and Public Enterprises (“Perum”). To promote higher governance standards, the Ministry of State-Owned Enterprises incorporated OECD principles in Regulation Number PER-2/MBU/03/2023.⁶³ State-owned enterprises publicly listed on the stock exchange must also comply with OJK’s corporate governance regulations. However, these regulations for public and state-owned enterprises have not addressed the shareholders’ obligation to mitigate excessive risk-taking and short-termism by corporate management.

As mentioned above, the primary problem in Indonesian corporate governance lies in the management being overshadowed by the controlling shareholders’ interests. In this case, the problem is the tendency for controlling shareholders to make decisions that favor their interests, which may be detrimental to the interests of non-controlling shareholders.⁶⁴ This also gives rise to the concern that too many board members act in the interest of controlling shareholders rather than other shareholders or the company, despite having fiduciary duties to act in the interest of the company with good faith and prudence.⁶⁵

In Indonesia, state-owned enterprises (SOEs) are majority-owned by the state, which retains at least 51% ownership, even after some SOEs have been equitized or privatized through public offerings or strategic alliances since the early 1990s. The minister represents the state as the sole shareholder when the state owns all shares, or as the controlling shareholder when the state has partial ownership. This structure ensures state control through the minister. It remains challenging for SOEs to maintain operational autonomy without state interference in daily

⁶² *Ibid* at 301.

⁶³ *Ibid* at 394.

⁶⁴ Dan W Puchniak, *Multiple Faces of Shareholder Power in Asia* (Cheltenham: Edward Elgar Publishing, 2015) at 30.

⁶⁵ Goto, Koh & Puchniak, “Diversity of Shareholder Stewardship in Asia”, *supra* note 5 at 8.

management. The primary concern is the minister's ability to exercise control in a balanced manner, providing effective oversight while granting full autonomy to the management board.⁶⁶

The issue of corporate control has once again emerged as a focal point of discussion following the enactment of Law No. 1 of 2025 concerning the Third Amendment to Law No. 19 of 2003 on State-Owned Enterprises ("The New SOEs Law"). This legislative development introduces several significant changes concerning SOEs in Indonesia, including the following:

- a. Under the New SOEs Law, an entity qualifies as a State-Owned Enterprise (SOEs) if it satisfies at least one of two conditions: (1) the entity's capital is wholly or predominantly state-owned through direct equity participation; or (2) the state retains special privileges over the entity.⁶⁷
- b. The New SOEs Law establishes a new entity, the Investment Management Body for National Strategic Enterprises (*Badan Pengelola Investasi Daya Anagata Nusantara* or BPI Danantara), which serves as the executive body responsible for overseeing and managing SOEs on behalf of the government.⁶⁸
- c. The New SOEs Law introduces an Investment Holding Company (*Perusahaan Induk Investasi*), a state-owned enterprise wholly owned by the government alongside BPI Danantara. This entity is tasked with managing dividends and/or optimizing SOE assets, in addition to carrying out other functions as determined by the Minister and/or BPI Danantara.⁶⁹
- d. The New SOEs Law establishes an Operational Holding Company (*Perusahaan Induk Operasional*), a state-owned enterprise wholly owned by the government and BPI Danantara. This entity is mandated to oversee the operational activities of SOEs and other business endeavors.⁷⁰

⁶⁶ *Ibid.*

⁶⁷ Indonesia, *Law No 1 of 2025 on the Third Amendment of Law No 19 of 2003 concerning State-Owned Enterprises*, LN No 25, TLN No 7097 2025, s 1(1)(b).

⁶⁸ *Ibid*, s 1(23).

⁶⁹ *Ibid*, s 1(24).

⁷⁰ *Ibid*, s 1(25).

The reforms introduced under the New SOEs Law have significant implications for the control of state-owned enterprises, notably reinforcing the state's role in directing SOE business activities.

First, the special privileges referenced in point (a) encompass a broad range of state powers, including the authority to approve general meetings of shareholders (*Rapat Umum Pemegang Saham* or RUPS), propose meeting agendas, request and access corporate documents, establish strategic guidelines and policies within the company, appoint and dismiss members of the Board of Directors and Board of Commissioners, and exercise other rights as stipulated in the company's articles of association.⁷¹ This expanded scope of control shows a shift toward heightened state intervention in corporate governance, potentially altering the balance of managerial autonomy within SOEs.

Second, with respect to points (c) and (d), the investment holding company and the operational holding company emerge as two central structures within the business operations of SOEs. Both entities are wholly state-owned through a dual ownership scheme: the state, through the relevant ministry, retains a 1% stake in the form of Series A *Dwiwarna* shares, which confer special privileges, while the remaining 99% of Series B shares are held by BPI Danantara—an entity that effectively operates as an extension of the government itself.⁷² This ownership framework consolidates state control over SOEs, ensuring that strategic decision-making remains firmly within government oversight. The allocation of *Dwiwarna* shares further reinforces the state's authority, granting it critical governance rights while maintaining operational flexibility through BPI Danantara. Consequently, this model signifies a departure from conventional corporate structures by embedding state influence at multiple levels of SOE management.

To address these concerns, the New SOEs Law seeks to establish a framework that mandates BPI Danantara and other entities involved in the governance and oversight of SOEs to adhere to principles of good corporate governance. This obligation extends to key aspects of SOE administration, including the management and operation of SOEs, the formulation of corporate policies, the oversight of state-owned assets and capital, and the internal governance of BPI

⁷¹ *Ibid*, s 4C.

⁷² *Ibid.*, ss 3AB, 3AM.

Danantara itself.⁷³ However, under the New SOEs Law, the definition of "good corporate governance" remains narrowly framed. It is limited to a requirement that the structures and processes implemented by corporate organs to achieve corporate objectives and optimize enterprise value must be conducted in an accountable manner, in accordance with statutory regulations and ethical principles.⁷⁴ In its implementing regulation, Government Regulation No. 10 of 2025 on the Organization and Governance of the Badan Pengelola Daya Anagata Nusantara (BPI Danantara), the principles of good corporate governance are stated to be further regulated under a regulation issued by the Head of the Executive Agency.⁷⁵ However, as of the time of this research, such a regulation has yet to be issued.

Deferring corporate governance provisions to future executive regulations raises concerns about the clarity and enforceability of governance standards within SOEs. Without a concrete framework, there is uncertainty about how governance principles will be implemented, potentially allowing for discretionary interpretation and inconsistent application. Given the state's substantial control over SOEs, it is crucial to further examine the checks and balances within this control framework. The new SOEs regulatory framework does not, by itself, address concerns about the effectiveness of shareholder stewardship. Simply including governance principles does not ensure the state, as the dominant shareholder, will exercise oversight to prioritize long-term value creation and corporate integrity. A more structured set of guidelines is necessary to ensure that shareholder stewardship is not just formalistic but meaningfully implemented. Such a framework should provide clear mechanisms to balance state influence, protect corporate autonomy, and promote governance practices aligned with international best standards.

Yetty Komalasari Dewi suggested that stewardship code can be adopted as a form of a soft law to strengthen governance under an Indonesian company.⁷⁶ If a stewardship code were to be adopted in Indonesia for the purpose of managing

⁷³ *Ibid*, ss 1A, 3C, 3J(3), 3AA, 4(2), 62A.

⁷⁴ *Ibid*, Elucidation of s 1A(f).

⁷⁵ Indonesia, *Government Regulation No 10 of 2025 on Organization and Governance of Badan Pengelola Investasi Daya Anagata Nusantara*, LN No 26, TLN No 7098, s 25.

⁷⁶ Yetty Komalasari Dewi, *Transforming Law in Economic Activities: Corporate Sustainability in Trade and Investment* (2023) at 12.

the Indonesia Family Business and Operational Holding Company, the Singapore Family Code would arguably be the best model as it “fits” the corporate context in Indonesia better than the institutional investor-focused UK-style code. Indonesia, like Singapore, is dominated by controlling shareholders and family firms.⁷⁷ Conversely, Indonesia, unlike the United Kingdom, is not dominated by institutional investors. Therefore, institutional investors lack any real power in the face of dominant state or family controlling shareholders.⁷⁸ In this context, it would only make sense for Indonesia to have a stewardship code that utilizes the power of controlling shareholders—particularly family controllers and state controllers.

The Singapore Stewardship Code model may serve as an example for governing future investments through the Investment Holding Company. Stewardship should aim to build sustainable businesses that provide long-term benefits for all stakeholders and contribute to the community and economy. It should go beyond short-term considerations to include the sustainability of long-term performance.

From this perspective, congruent with the taxonomy of stewardship proposed by Katelouzou and Puchniak, the Indonesian stewardship code should be designed to identify the corporate governance actor who has actual control over the company and aim to encourage that actor to steward the company in a way that maximizes the benefits for all stakeholders. This is different from Singapore’s approach, which does not prescribe a singular model of stewardship but rather allows investors to interpret and apply stewardship principles according to their own understanding.⁷⁹ Both of Singapore’s stewardship codes are characterized as “flexible principles rather than strict codes,” and there is no centralized mechanism to ascertain which institutions have opted to adhere to these principles.⁸⁰ Consequently, a true “comply or explain” approach, as commonly seen elsewhere, has not been implemented in Singapore due to the absence of a

⁷⁷ Puchniak, “The False Hope of Stewardship in the Context of Controlling Shareholders”, *supra* note 1 at 109.

⁷⁸ Goto, Koh & Puchniak, “Diversity of Shareholder Stewardship in Asia”, *supra* note 5 at 866; Luh Luh Lan & Umakanth Varotttil, “Shareholder empowerment in controlled companies: the case of Singapore” in *Research Handbook on Shareholder Power* (Cheltenham: Edward Elgar Publishing, 2015) at 575.

⁷⁹ Puchniak & Tang, “Singapore’s Puzzling Embrace of Shareholder Stewardship”, *supra* note 9 at 1020.

⁸⁰ *Ibid* at 1006.

central repository of information.⁸¹ As such, we suggest that the implementation of a stewardship code in Indonesia should adopt the general model of the Singapore Family Code for the Operational Holding Company and the Singapore Stewardship Code for the Investment Holding Company. However, Indonesia should follow the “comply or explain” approach of the UK stewardship code. Referring to the experience of several countries, the “comply or explain” approach has become a powerful trigger for the improvement of corporate governance implementation in a flexible manner as “soft law” and for developing self-discipline voluntarily.⁸²

V. PROPOSED MODEL FOR ADOPTION OF A STEWARDSHIP CODE IN INDONESIA

Before designing a stewardship framework tailored for Indonesian stakeholders, it is instructive to consider empirical outcomes from jurisdictions that have already adopted such codes. In the United Kingdom, the Financial Reporting Council’s 2020 revision of the Stewardship Code shifted expectations from procedural compliance to outcome-based reporting.⁸³ With over 300 institutional investors signing on, stewardship reports are now reviewed for substance rather than formality.⁸⁴ Nearly half of initial submissions were rejected for failing to meet the “apply and explain” threshold, reflecting a rising bar for genuine investor responsibility.⁸⁵ This regime has spurred higher-quality disclosures, deeper board engagement, and stronger ESG oversight among UK-listed companies.

Singapore, while not adopting a binding code, took a more localized and flexible approach. The Singapore Stewardship Principles for Responsible Investors (2016) and the Stewardship Principles for Family Businesses (2018) encourage

⁸¹ *Ibid* at 1020.

⁸² Otoritas Jasa Keuangan, *supra* note 57 at 14–17.

⁸³ *UK Stewardship Code Rewritten*, by Lane Clark & Peacock (December 2019) online: <<https://www.lcp.com/media/1150095/stewardship-code-briefing-note-dec-2019.pdf>>.

⁸⁴ *Review of Early Reporting: UK Stewardship Code 2020*, by Financial Reporting Council (London: Financial Reporting Council, 2021) at 3–5 online: <<https://www.frc.org.uk/getattachment/b13b6616-901e-47c5-bad1-7c13a9a2f8fc/Stewardship-Code-2020-Early-Reporting-Review.pdf>>.

⁸⁵ *Ibid*.

responsible ownership among both institutional and controlling shareholders.⁸⁶ Although voluntary, these principles have nudged family-controlled firms toward clearer succession planning, articulated mission values, and more professionalized governance. Institutional investors in Singapore increasingly disclose voting policies and ESG strategies, reflecting the gradual normalization of stewardship dialogue in investment and ownership decisions.⁸⁷

These empirical outcomes offer valuable guidance. The UK model demonstrates the regulatory potential of outcome-based stewardship with strong oversight, while Singapore's experience shows that voluntary, culturally attuned soft law can still influence behavior and expectations among family and state-linked enterprises. Drawing on these lessons, Indonesia can structure its own stewardship codes to reflect the dominance of controlling shareholders while still upholding principles of long-term responsibility, transparency, and stakeholder value.

A. Stewardship Code for Operational Holding Companies Including Indonesian State-Owned Enterprises (SOEs) and Indonesian Family Businesses

We aim to explore how the principles of the Singapore Family Code can be implemented in Indonesia to strengthen the existing corporate governance framework, particularly in the context of Indonesian family businesses (FBs) and state-owned enterprises (SOEs), to strengthen existing corporate governance framework.

1. Principle 1 – Driven by a Sense of Purpose, Anchored on Values

The first principle of the Singapore Family Code emphasizes the importance of a clear sense of purpose and values in a successful FB. It highlights the need to articulate and communicate the FB's purpose, focused on responsible wealth creation, through channels like family constitutions and mission statements.

⁸⁶ *Singapore Stewardship Principles for Responsible Investors 2.0*, by Stewardship Asia Centre (Singapore: Stewardship Asia Centre, 2022) at 2; See also, *Stewardship Principles for Family Businesses: Fostering Success, Significance and Sustainability*, by Stewardship Asia Centre (Singapore: Stewardship Asia Centre, 2018) at 1–2.

⁸⁷ Nanyang Technological University, “Singapore firms step up as corporate investors take ESG more seriously”, online: <<https://www.ntu.edu.sg/business/news-events/news/story-detail/singapore-firms-step-up-as-corporate-investors-take-esg-more-seriously>>.

Consistently living these values and ensuring alignment among stakeholders preserves the founder's mentality as the company evolves. Offering opportunities for collective input on the company's mission and values both educates individuals on these principles and strengthens their integration into daily operations and decision-making.

In Indonesia's FBs, purposes and values would depend on the leadership of the family generation that manages the company. There's a saying that the first generation starts, the second builds, and the third destroys. For FBs, it is crucial for the current generation to set the company's purpose and values, ensuring they are continued by the next generation or by professionals, with adjustments based on the company's growth and business.

Given the structure of Indonesian SOEs, the SOEs would usually have some sort of purpose and objective and values that are included in the company's mid- and long-term plan. At times, these values are set by the Ministry of SOEs and change depending on the managing minister, the agenda of the government and President), and the managing board of directors and board of commissioners appointed or discharged by the Ministry of SOEs. With the addition of the role of BPI Danantara, the dynamic of control and interest has become more complex. Therefore, consistency of purpose and values is needed in SOEs, regardless of any change of board of directors, board of commissioners, or minister.

Indonesian SOEs differ from Temasek and Singaporean SOEs due to the continuity in governance in Singapore, as opposed to Indonesia where government leadership changes every five years. Continuity is essential for SOEs to grow and prosper, as they cannot thrive with constant changes in leadership.

2. Principle 2 – Cultivate an Ownership Mentality

The second principle of the Singapore Family Code emphasizes the cultivation of an ownership mentality within family businesses (FBs), where owners and employees alike take responsibility and pride in the organization. This involves fostering a culture of accountability, valuing diverse perspectives, and linking ownership with stewardship rather than entitlement. FBs should adopt ownership structures that balance capital infusion with family control, ensuring

autonomy in business decisions. The goal is to create long-term social and economic value for all stakeholders, promoting a sense of ownership among those contributing to the business's success.

In Indonesia's FBs, it is important to distinguish between the collective ownership of the business, which includes minority public shareholders and professionals, with the personal or family entitlements. While certain Indonesians FBs have set an unwritten code of conduct separating ownership from professional management, some others are still in the process of developing such a separation.

In Indonesian SOEs, frequent personnel changes hinder the development of a long-term ownership mentality, as individuals focus on short- or mid-term goals and personal interests rather than the SOE's welfare. Additionally, political pressures from the government, parliament, political sponsors, and parties often push SOEs to serve their self-interests. Therefore, cultivating a long-term, sustainable ownership mentality is crucial for SOEs.

3. Principle 3 – Integrate short-term and long-term perspectives

The third principle of the Singapore Family Code underscores the importance for family businesses to prioritize long-term considerations despite pressures for short-term results. FBs should align short-term decisions with long-term goals, ensuring coherence and intergenerational equity. They are encouraged to consider long-term consequences, investing strategically and exercising sound governance to build stakeholder confidence. By leveraging historical knowledge and competitive advantages, FBs can focus on sustainable growth and values like kinship and loyalty, ensuring lasting success and legacy, rather than prioritizing short-term profits.

In Indonesian FBs, mechanisms are needed to ensure short-term decisions benefit the long term and maintain a competitive advantage. Some FBs still focus on extractive industries like mining and plantations. As sustainability becomes a priority, it is crucial to pivot toward environmentally friendly businesses, such as green energy, to unlock future opportunities.

In Indonesian SOEs, similar concerns arise, especially for those in oil, gas, and electricity. While short-term priorities involve delivering affordable products, including inefficient fuels and coal-generated electricity, there is increasing pressure to invest in sustainable alternatives, such as sustainable aviation fuel and carbon-neutral power plants like wind energy, despite the significant investments required.

4. Principle 4 – Expect Changes, Nurture Agility, and Strengthen Resilience

The fourth principle of the Singapore Family Code underscores the importance for family businesses to expect and adapt to changes in the business landscape, fostering agility and resilience. FBs should conduct horizon scanning, revise ineffective decisions, and foster a growth mindset to explore new market niches. They should build resilience through innovative solutions, invest in research and development, and promote lifelong learning through training, peer coaching, and mentorship, ensuring they are prepared to address challenges and seize opportunities.

In Indonesian FBs, while uncommon, there is a mindset focused on maintaining existing businesses, such as tobacco, rather than expanding into new, potentially healthier verticals. Similarly, some Indonesian SOEs play it safe to avoid state losses and personal liability, sticking to state monopolies, which incur higher costs compared to privatized businesses.

5. Principle 5 – Embrace Inclusiveness and Build Strong Stakeholder Relationship

Principle 5 of the Stewardship Principles for Family Businesses emphasizes the importance of inclusiveness and building strong stakeholder relationships for the success and longevity of family businesses. It emphasizes the importance of stable relationships with stakeholders and leveraging family harmony to promote business unity. This includes cultivating open communication, imparting values like financial discipline and harmony to the next generation, building lasting relationships, ensuring professional governance, and conducting stakeholder analysis for value alignment and problem resolution.

In Indonesian FBs, it is crucial to balance family and non-family employees, resolve conflicts, and ensure promotions are merit-based, not entitlement. It also

involves aligning priorities between family and non-family executives, particularly as younger generations take on more prominent roles alongside senior professionals who worked with previous generations.

In Indonesia's SOEs, conflicts of interest may occur if the government as the controlling shareholder assigns SOEs a specific mandate to manage certain issues, such as building public infrastructure, even it might not benefit the relevant SOE in a short or mid-term given the delayed viability of such infrastructure. If the SOE resists the mandate, there is a risk that the government will replace the relevant personal with others willing to execute the mandate, despite that the project would not benefit the SOE in the short or mid-term.

6. Principle 6 – Do Well, Do Good, Do Right; Contributing to Community

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7. Principle 7 – Be Mindful of Succession

Principle 7 of the Stewardship Principles for Family Businesses stresses the importance of succession planning for long-term success. It advocates for timely leadership transitions, minimizing disruptions, and fostering stakeholder acceptance. Succession should be viewed as an ongoing process, with early mentoring, assessing potential successors, adopting a holistic approach, and seeking external expertise when needed.

Many Indonesian FBs are still controlled by the older generation, with younger or outside professionals in management. It would be beneficial for family-controlled companies to disclose succession plans in corporate transactions or annual reports and clarify how non-family management will remain involved.

In Indonesian SOEs, there is no consistent hiring pattern, with management often consisting of lifelong employees, outside professionals, and politically appointed individuals. A merit-based hiring system is necessary to ensure professionalism and alignment with the best interests of the SOE.

B. Stewardship Code for Investment Holding Companies and Investment Managers

We aim to explore how a stewardship code can be implemented in Indonesia, drawing on the principles from Singapore's Stewardship Code for institutional investors and UK's Stewardship Code. This approach can be applied to Investment Holding Companies and Indonesian Investment Managers to strengthen the corporate governance framework

1. Principle 1 – Develop and Articulate Stewardship Responsibilities and Governance Structures

The Singapore Code emphasizes developing and articulating stewardship responsibilities and governance structures for responsible investors. It outlines specific guidelines for demonstrating how internal policies protect and enhance client and beneficiary interests. Both the Singapore and UK code stress transparency, accountability, and continuous improvement in stewardship, reporting, and decision-making, tailored to their respective regulatory environments.

The UK's Principle 1 emphasizes prioritizing stewardship that generates long-term value for clients and beneficiaries, while fostering broader economic, environmental, and societal benefits. This is grounded in a clear understanding of purpose, culture, values, business model, and strategy, which shape the investment approach. Investment beliefs are articulated, outlining key factors for achieving outcomes and explaining the rationale. Deliberate actions align investment beliefs, strategy, and culture for effective stewardship. Transparent reporting discloses how beliefs inform practices, strategy, and decision-making, assessing effectiveness to ensure accountability and continuous improvement in long-term value creation.

At the present time in Indonesia, investment managers such as mutual funds are only required to disclose the risk, profile, and performance of the investments (such as for public listed stocks, money market, and government bonds) as stipulated in Financial Services Authority Regulation No. 24/POJK.04/2014 on Guidelines for the Implementation of Investment Manager Functions. With the implementation of this stewardship principle, the investment manager would need to further disclose the applicable sectors that they invest in as well as the positive impact of the sectors on the basis of their sustainability reports. The implementation of the stewardship code should also offer investors the chance to invest in mutual funds in sectors that are greener, carbon neutral, or ESG friendly, and provide them with the applicable disclosure.

2. Principle 2 – Monitor Investments Regularly

This principle in the Singapore Code emphasizes the identification of issues and risks that may affect a company's long-term value creation. Investors should adopt a proactive approach to monitoring portfolios through regular due diligence, addressing concerns related to investment portfolios and Good Corporate Governance deviations. They must demonstrate responsible stewardship by assessing, analyzing, and implementing measures to protect clients' and beneficiaries' interests. Investors may also collaborate with third parties to ensure effective oversight and adherence to best governance practices.

Under principle 8 of the UK Code, signatories bear the responsibility of ensuring that oversight of service providers is effectively conducted. This oversight aims

to guarantee that services rendered by the company's stakeholders align with the expectations set by the signatories. Alternatively, in instances where these expectations are not met, signatories must be capable of taking appropriate measures to ensure that such expectations are ultimately fulfilled. Principle 9 of the UK Code addresses the importance of having an oversight mechanism that establishes a conducive environment by ensuring that stakeholder engagement methods are effectively implemented. Methods include engaging with the chair or board members, holding meetings with management, and other relevant interactions. Principle 9 emphasizes that the outcome of these engagements is the signatories' ability to articulate the impact of their engagement efforts on the company's governance, strategy, or ESG performance within a specific timeframe from initiation.

The regulatory framework governing investments with service providers is set in Financial Services Authority Regulation No. 24/POJK.04/2014. Investment managers must establish a legally binding written agreement with service providers, detailing respective responsibilities and oversight mechanisms. However, oversight is not only the responsibility of investment managers and service providers but also investors as asset owners. This broader approach enhances transparency and strengthens governance.

3. Principle 3 – Stay Active Through Constructive and Purposeful Engagement

This principle in the Singapore code underscores the need for active and purposeful engagement by responsible investors. This means that potential investors should align their engagement approach with their investment strategies and stewardship policies to foster meaningful communication with investee companies, aiming for long-term value creation and sustainability. This involves discussing various topics such as strategy, performance, risk, sustainability, and governance. If concerns persist, investors should escalate their stewardship efforts before considering divestment. They should also be open to becoming insiders in exceptional cases. Moreover, investors must document engagement outcomes and periodically review their effectiveness. In Indonesia, this type of investor stewardship is seldom mentioned.

Principle 7 of the UK code emphasizes integrating stewardship and investment, including material ESG issues and climate change considerations. Signatories must disclose prioritized ESG issues for investment assessments, explaining how integration differs across funds, asset classes, and geographies. They should ensure tenders and mandates align with client and beneficiary investment horizons or provide processes for integrating stewardship and investment, with clear criteria for service providers. Signatories must also demonstrate how stewardship informs acquisition, monitoring, and exit decisions to serve clients' best interests.

OJK regulations, specifically Regulation No. 51/POJK.03/2017, mandate sustainability reports. However, this can be expanded to require public exposure on these issues, with companies having dedicated committees chaired by independent commissioners. These issues should also be discussed at general meetings of shareholders. Asset managers, such as mutual funds, should also verify the performance of their investments not only by monetary growth but also by their positive impact on stakeholders.

4. Principle 4 – Uphold Transparency in Managing Conflicts of Interest

Principle 4 of the Singapore Stewardship Code and Principle 3 of the UK Stewardship Code both address conflicts of interest, prioritizing client and beneficiary interests, but differ in focus. Principle 3 of the UK code emphasizes disclosure to ensure transparency, requiring signatories to provide examples of how they've managed conflicts. In contrast, Principle 4 of the Singapore code focuses on clear policies for managing conflicts, with less emphasis on specific disclosure. The UK code offers a comprehensive framework, identifying factors like ownership structure and stewardship policy differences that may cause conflicts. The Singapore code is more general.

In Indonesia, conflicts of interest are common, especially with investments in public infrastructure that may not immediately benefit shareholders. Such investments should disclose in the annual report or transaction disclosures that while they may not provide short-term benefits, they will benefit the country long-term.

5. Principle 5 – Exercise Rights and Responsibilities on an Informed Basis

Under principle 5 of Singapore Code, responsible investors must ensure informed decision-making in ownership policies, prioritizing client and beneficiary interests. This includes clear proxy voting policies, responsible participation in resolutions, transparency in voting, and maintaining records of votes and deviations from policies. Third-party recommendations should align with clients' best interests.

Principle 12 of the UK Code expands on this by detailing rights and responsibilities across asset classes. Signatories must disclose voting policies, use of proxy advisors, and client involvement in decisions. For fixed-income assets, they must explain approaches to contract amendments, impairment rights, and access to information, along with examples of past votes to demonstrate balanced decision-making.

The Financial Services Authority Regulation No. 17/POJK.04/2022 on the Code of Conduct for Investment Managers mandates transparency in decision-making, requiring well-documented investment records. While it focuses more on internal governance than external accountability, it aligns with international frameworks, emphasizing the responsible exercise of rights impacting the company.

6. Principle 6 – Report Stewardship Activities Periodically

Principle 6 of the Singapore Code emphasizes proactive stewardship aligned with clients' and stakeholders' expectations, achieved through active communication, annual reporting, and record-keeping. This ensures accountability in exercising stewardship responsibilities. Similarly, Principle 6 of the UK Code stresses the importance of regular policy reviews by service providers to ensure their processes support clients' stewardship goals. Signatories must explain their policy reviews and disclose justifications for their approaches, ensuring stewardship reporting is clear and balanced.

In Indonesia, the regulatory framework for investment management reporting is defined by Financial Services Authority Regulation Number 10/POJK.04/2018, which mandates that investment managers monitor, review, and disclose voting policies and procedures. To align with international practices, stewardship must be codified by requiring detailed reports on decisions, ensuring alignment with stakeholder expectations.

7. Principle 7 – Take a Collaborative Approach to Exercising Stewardship Responsibilities where Appropriate

This principle encourages investors to collaborate with others, within regulations, to address issues affecting investment performance. It advocates for engaging stakeholders such as policymakers, regulators, and industry bodies and explains the rationale behind these dialogues.

Principle 10 of the UK Code also stresses the importance of collaboration, requiring investment managers to engage with company management on key issues. Signatories must disclose their participation in collaborative efforts, explaining the reasons and detailing both the actions or changes resulting from engagement and how these collaborations influenced investment decisions. The report should also highlight cases where objectives were unmet or pending. The Indonesian regulatory landscape currently lacks specific provisions for stakeholder collaboration and transparency. Governance of such collaborations is left to investor dynamics and self-regulation. However, disclosure of collaborative engagements and their outcomes remains crucial to ensure effective stewardship.

C. Recommendation Summary

The above examples show how stewardship codes can be integrated into Indonesia's governance framework. These codes should disrupt the status quo, setting clear stewardship models for controlling shareholders. Distinct expectations are crucial to pressure shareholders towards good stewardship standards.

The stewardship codes should focus on outcomes and address pressing local issues, with the OJK adding supplemental principles tailored to Indonesia's practices. A "comply and explain" mechanism can be adopted, where companies either comply with or explain deviations from stewardship principles in governance reports.

For Indonesian family businesses (FBs), the OJK could issue guidelines to encourage adherence to stewardship principles. These could cover company purpose, long-term perspectives, community contributions, and succession

planning. Similarly, for State-Owned Enterprises (SOEs), the OJK could issue regulations to ensure stewardship principles are followed, emphasizing ownership mentality, ESG integration, and succession transparency.

In addition to regulatory approaches, OJK can raise awareness through capacity-building initiatives, workshops, and seminars. Continuous oversight is needed to ensure compliance, avoiding a "tick-the-box" mentality, while providing opportunities for stakeholders to learn responsible shareholder practices.

OJK should continuously ensure such compliance on stewardship codes truly raises the bar of shareholder engagement rather than just incentivizing procedural formalities or superficial adherence. In this regard, OJK should ensure that signatories have relevant policies in place and that they have consistently followed up on their responsibilities. Sufficient monitoring from an oversight body is required to ensure compliance on stated policies and represent a high professional standard.

For BPI Danantara, these codes can be integrated into the operational structure of both the Operational Holding Company and Investment Holding Company, codified into an SOP or ministerial policy, ensuring stewardship principles are applied from the highest levels of the investment chain.

VI. CONCLUSION

Adopting stewardship codes is becoming increasingly critical to advance corporate governance in Indonesia, especially in light of the New SOEs Law. Unlike jurisdictions where corporate governance challenges arise from disengaged shareholders, Indonesia's main concern is that managerial actions are often shaped by the interests of controlling shareholders—an issue exacerbated by heightened state control in the new regulatory framework for SOEs. If adopted, a stewardship code should aim to foster sustainable practices that generate long-term value for all stakeholders while contributing to broader economic and social development. This is particularly relevant for family-owned businesses and SOEs, where ownership concentration and governance dynamics require tailored oversight. Given the New SOEs Law's consolidation of state control through BPI Danantara and investment and operational holding

companies, stewardship codes could serve as a counterbalance, reinforcing accountability, transparency, and responsible shareholder engagement. In practice, such codes must account for Indonesia's two-tier board structure and the unique characteristics of different business entities. Stewardship could take the form of "soft law" integrated into the existing governance framework, with a "comply or explain" disclosure mechanism overseen by the Financial Services Authority (OJK) or institutions like the Ministry of State-Owned Enterprises and BPI Danantara. This approach would provide flexibility while ensuring adherence to governance best practices.

ACKNOWLEDGMENTS

Thank you to Dan W. Puchniak, a Professor at Singapore Management University School of Law, for your comments and inputs on this draft article. We are grateful for the research support provided by Aliifah Nazeeya, Yohanes Vianney Widoputranto, and Mayta Ciara Salsabila. If there are any errors or omissions, they remain our own.

COMPETING INTEREST

None.

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