Comparison of fiduciary duties of company directors and trustees in the United States

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This paper attempts to clarify the fiduciary duties owed by company directors through comparison with trustees in the United States. In many cases from the first half of the 19th century to the early 20th century in which the liability of directors was pursued, it was often argued that the relationship between a director and a company (or shareholders as a whole) was similar to that of a trustee and beneficiary of a trust. It has been pointed out, however, that directors are not technically trustees, and that different laws have been applied to them than to trustees. How do the fiduciary duties owed by directors differ from those of trustees? This paper examines some leading cases and subsequent legal developments in Delaware corporate law to consider the fiduciary duties of directors, in particular the duty of loyalty, duty of care and duty of disclosure.

In conclusion, the scope and extent of the duties of loyalty and care, as well as the duty of disclosure, have been interpreted to be more relaxed and foreseeable for directors than for trustees. As a result, the law applicable to directors have higher risk tolerance than trustees, and coupled with the fact that company directors are required to disclose information fully and establish corporate governance system under the federal securities regulations, it seems that law has evolved to make company more appropriate as business entities in the United States.