

# CHALLENGES IN INTERNAL GOVERNANCE: STEWARDS AND (INFORMAL) POWER STRUCTURES

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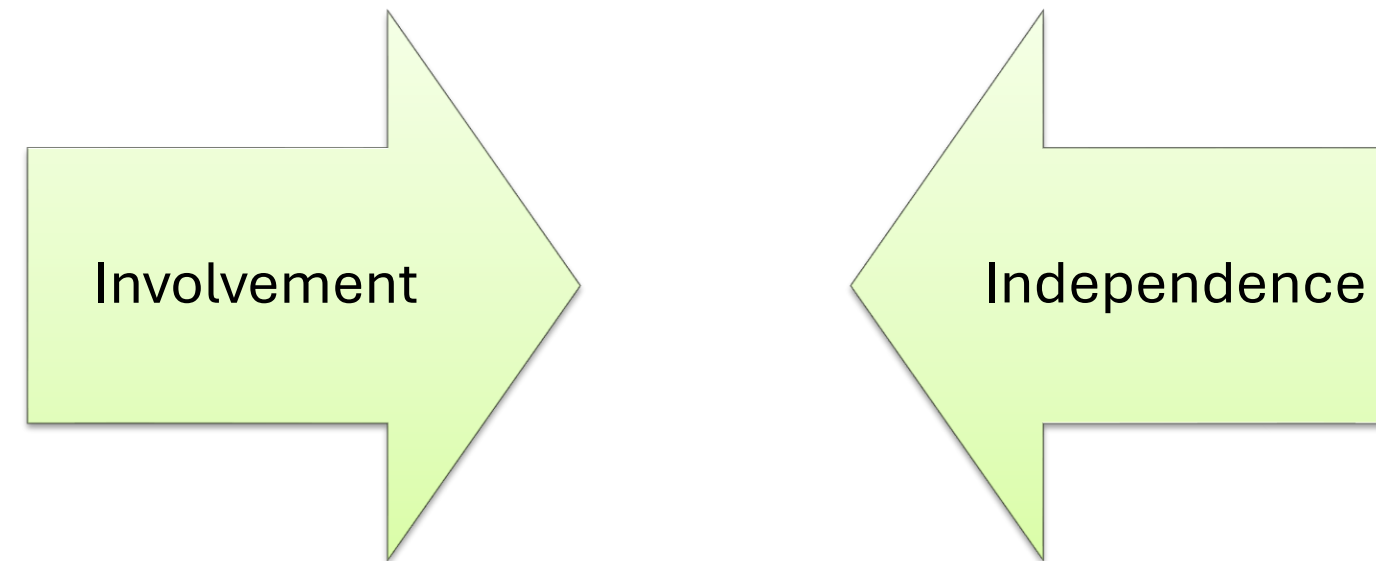
# PROGRAMME

1. Introduction: internal governance challenges in steward-ownership
2. What can the law do to create 'good' stewards?
3. What to do about other persons with power?
4. Conclusion: main takeaways

# INTERNAL GOVERNANCE CHALLENGES

- Self-governance: how to ensure that the board prioritizes the interest of the company and the mission?
  - Financial continuity
  - (Social) value creation

# STEWARDS AND THE LAW: A TENSION



- **Involvement:**

- Understanding the mission
- Feeling the mission
- Personal incentives

- **Independence:**

- How to ensure that stewards do not prioritize other interests?
- Choosing people and trusting them
- Legal checks and balances

# STEWARDS AND THE LAW

Legal checks and balances:

1. Legal duties for stewards
2. Restrictions on who can become steward
3. (Conditions for remaining steward)
4. (Decision-making rules)
5. (Supervision on stewards)

# STEWARDS AND THE LAW

## Legal duties

- Legal objective steward-foundation
- Duty of the 'steward council' in the proposal for the Dutch steward-owned company

2.

The Foundation is a commercial foundation and shall have the following objects:

1. to provide a stable basis for the commercial and research activities of Novo Nordisk A/S, which is engaged in research in, development, production and sale of pharmaceuticals and related products and services; of Novonesis A/S, which is engaged in carrying out research in, development of, production of and trade in biological solutions; and of any future public or private limited companies in which the Foundation's subsidiary, Novo Holdings A/S (cf. Article 4 (2) below) may hold a material equity interest or over which Novo Holdings A/S may have material influence, whether through proxy or otherwise;
2. to support physiological, endocrinological, metabolic and other medical research;
3. to support research hospital activities within diabetes in Denmark; and furthermore
4. to support other scientific as well as humanitarian and social purposes.

# STEWARDS AND THE LAW

## Restrictions on who can become steward

- To what extent may stewards have personal interests that can conflict with the mission?
- Stewards with (limited) financial gain interests?
  - Strict separation between financial gain and control: asset lock
  - To what extent should exceptions / 'grey areas' be possible?
- Stewards with other personal interests
  - Diversity of stewards as a solution to mitigate conflicting interests

# STEWARDS AND THE LAW

An illustration: the proposal for a steward-owned company in the Netherlands

- A steward council that holds all the control rights, with a duty to prioritize the interest of the company
- Conflict of interests regulation for the steward council
- Shareholders may have profit rights but no control rights
- Discussion: should it be possible for a minority of stewards to also hold shares (and receive profits?)

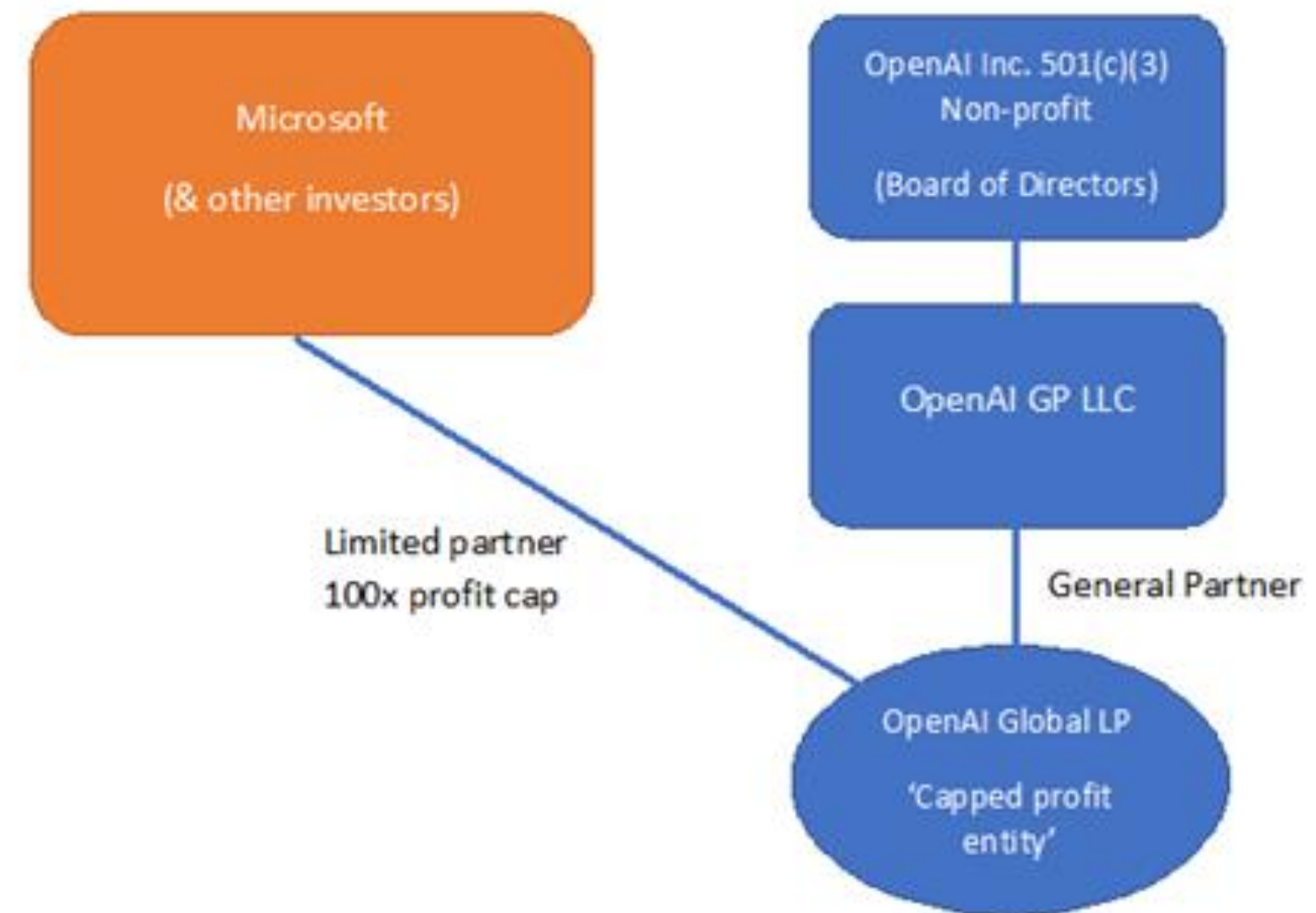


# OTHER PERSONS WITH (INFORMAL) POWER

- Minority shareholders can exercise informal power
- Other stakeholders can also exercise informal power ('superstakeholders', Harvard Law Review April 2025)

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# OTHER PERSONS WITH (INFORMAL) POWER: SOLUTIONS

- Extra supervision on such structures + independence stewards from stakeholders with power (Eldar 2025)
- Importance of limitations to profit distribution, thereby lowering the stake of shareholders
- In the Dutch proposal for a steward-owned company: the steward council has to decide on a distribution cap
- Lowering the stake of other (super)stakeholders: see Harvard Law Review 2025

# CONCLUSION: MAIN TAKEAWAYS

1. The importance of legal duties
2. The importance of addressing conflicting interests
3. The importance of informal power

# THANK YOU

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