

Introduction to Legal Aspects of Corporate Governance

lecture #3

Terms

- Corporation – акционерное общество
 - Partnership - товарищество
 - Legal entities - юр. лица
 - Physical entities - физ. лица
 - Securities - ценные бумаги
 - Shares – акции
 - Equity – акционерный капитал
 - IPO (Initial Public Offering) - первичное размещение акций
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Plan

1. Corporations vs. other organizations
 2. Governance of the corporation
 3. General Meeting of Shareholders
 4. Board of directors
 5. Executive body
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Home assignment

- KZ Statute on Corporations, dated May 13, 2003 / Закон Республики Казахстан от 13 мая 2003 года № 415-II «Об акционерных обществах»
 - KZ Statute on Securities Market, dated July 2, 2003 / Закон Республики Казахстан от 2 июля 2003 года № 461-II «О рынке ценных бумаг»
 - articles 12-33 (physical entities), KZ Civil Code, General part
 - art. 34-111 (legal entities), KZ Civil Code, General part
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I. Corporation

■ Legal entities

- **Corporations**
- Partnerships
- Industrial Cooperative
- State Enterprises
- No-profit organizations
- articles 34-111, KZ Civil Code

■ Physical entities

- KZ citizens
 - Foreign citizens
 - People without citizenship
 - art. 12-33, KZ Civil Code
-

I. Corporation

- Corporation is a legal entity which issues shares (equity) to raise funds for its operations.
 - art. 85, Civil Code
 - Art.3, Statute on Corporations
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2. Governance of the Corporation

1. General meeting of shareholders

- **supreme body**
- in a company whose 100% shares are owned by one shareholder, the said shareholder

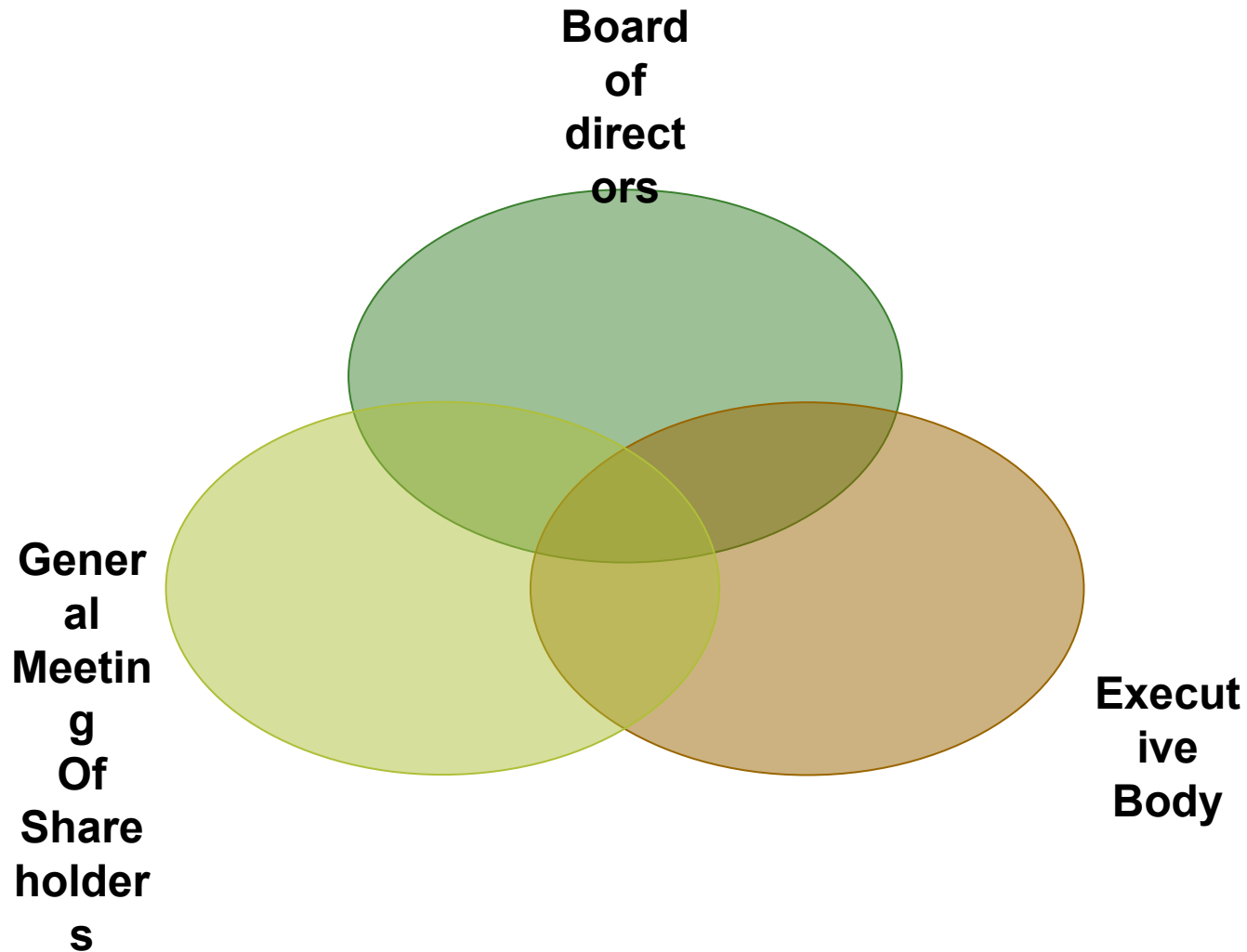
2. Board of directors

- **governance body**

3. Executive body

- **management body**
- collective body or a person solely carrying out functions of executive body
- name of the executive body shall be determined in the company charter

2. Governance of the Corporation



*Art. 33, Statute on Corporations

2. Governance of the Corporation

- What is the difference between:
 - managing director;
 - general director;
 - member of the management board;
 - director;
 - vice president;
 - president, etc?
-

2. Governance of the Corporation

- Let's take examples:

- (1) KTZh

- There are vice presidents, managing directors

- ☐ What are differences?

- ☐ Do titles matter?

- ☐ What position represents executive body?

- ☐ art. 9:

- ☐ http://www.railways.kz/index.php?option=com_content&task=view&id=163&Itemid=280

2. Governance of the Corporation

- Let's take examples:

- (2) Samruk Kazyna

- There are management board (правление), chairman of management board, managing directors?
 - What are differences?
 - Do titles matter?
 - What position represents executive body?
 - Art. 10
 - http://www.samruk-kazyna.kz/page.php?page_id=2552&lang=1

Western doctrine (US & UK)

- Directors – members of the board of directors
 - Executives – members of the executive board (члены исполнительного органа)
 - Officers (должностные лица), managers
 - CEO (Chief Executive Officer)
 - CFO (Chief Financial Officer)
 - http://www.kmgep.kz/rus/the_company/corporate_governance/company_management/
 - http://www.kmgep.kz/eng/the_company/corporate_governance/company_management/
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Kazakhstan doctrine

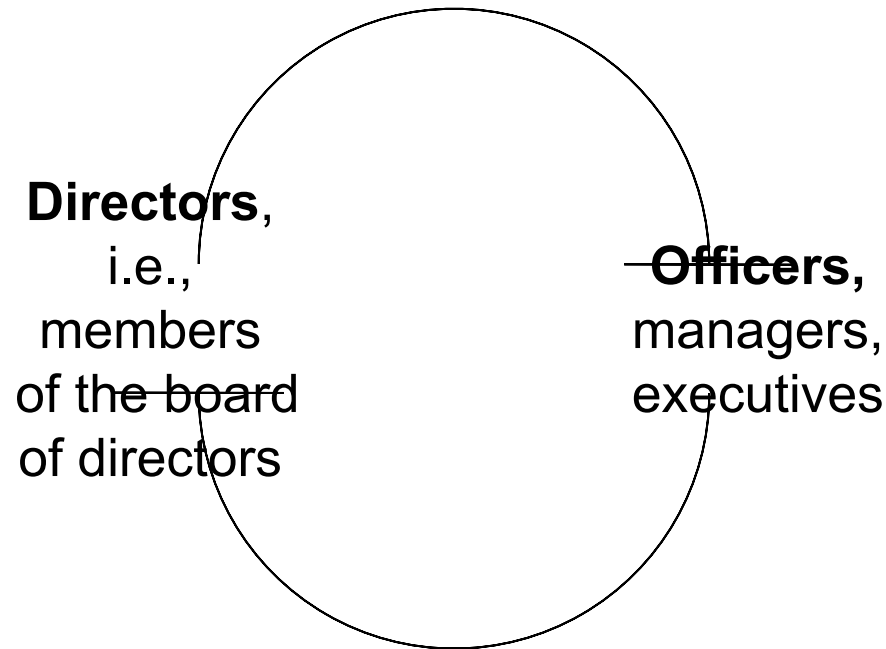
Officers
(должностные лица)

Directors, i.e.,
members
of the board of
directors

Executives, i.e.,
members of
executive board

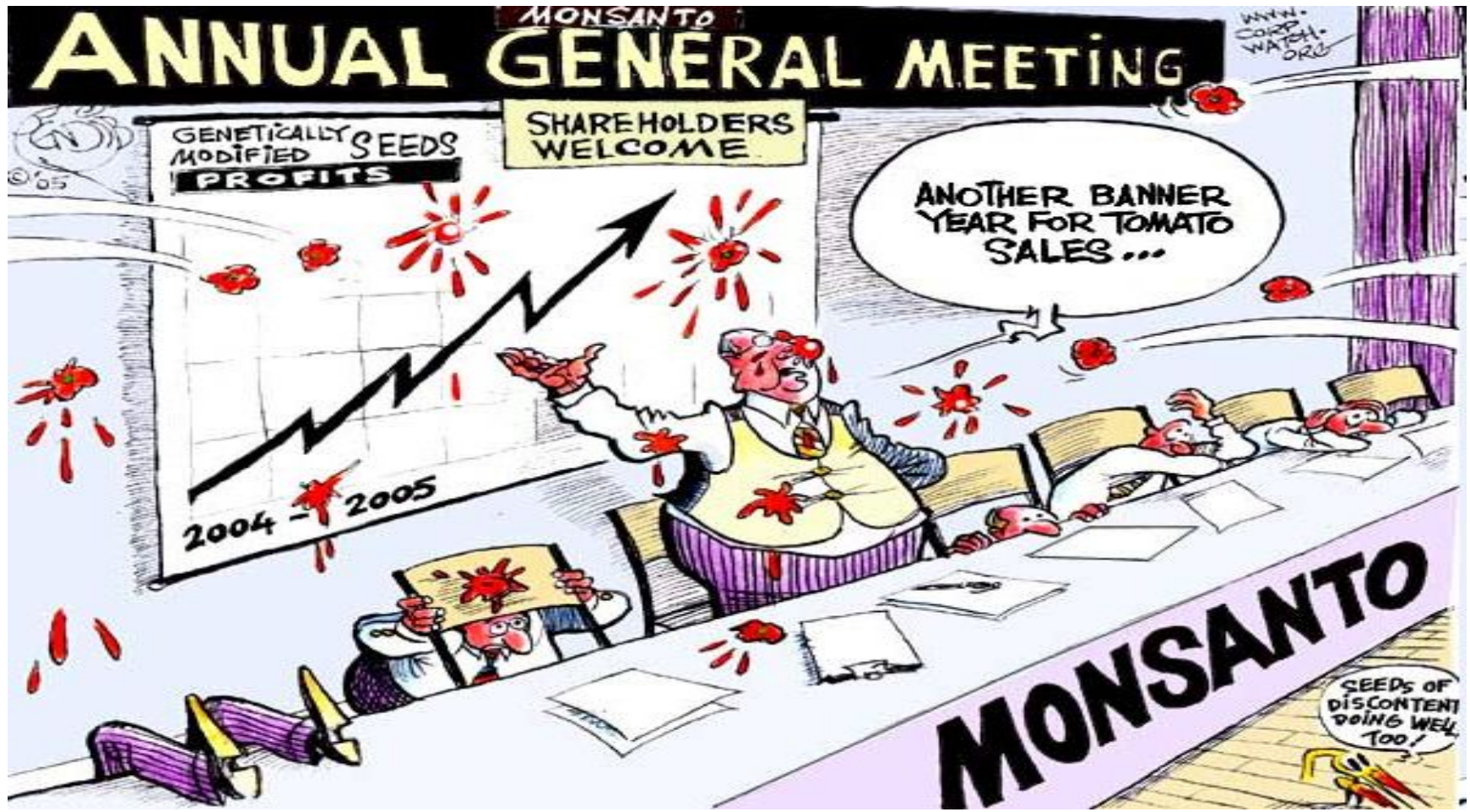
*Officers include directors. Art. 1, par. 16, Statute on Corporations

Western doctrine (US & UK)



*Officers do not include directors.

3. General Meeting of Shareholders



3. General Meeting of Shareholders

■ Minority Shareholders

- a shareholder holding less than 10 percent of voting shares in the corporation

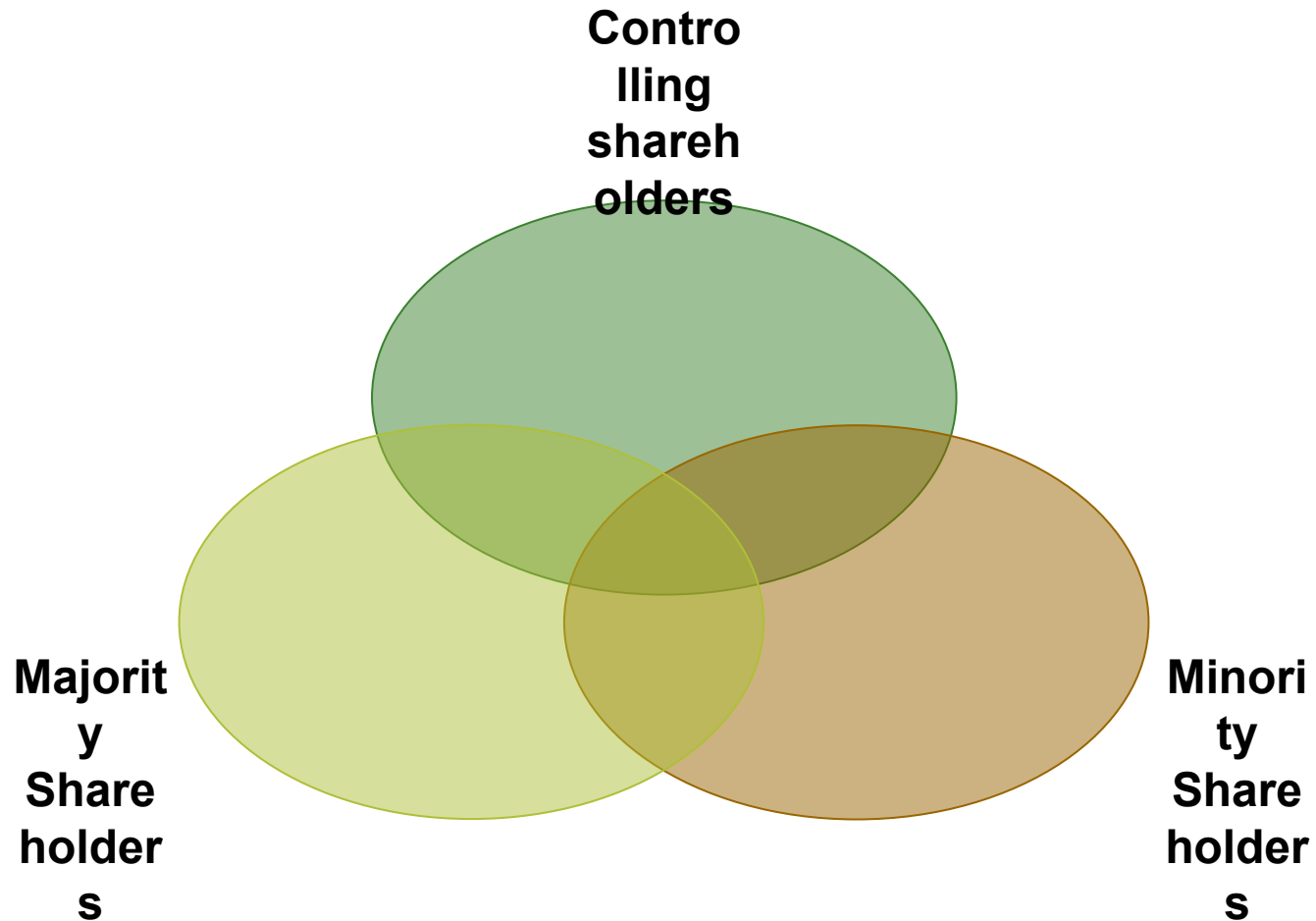
■ Majority Shareholders

- a shareholder (or shareholders acting on the basis of an agreement made between them) who owns (or who own in aggregate) 10 per cent or more of the voting shares in the corporation

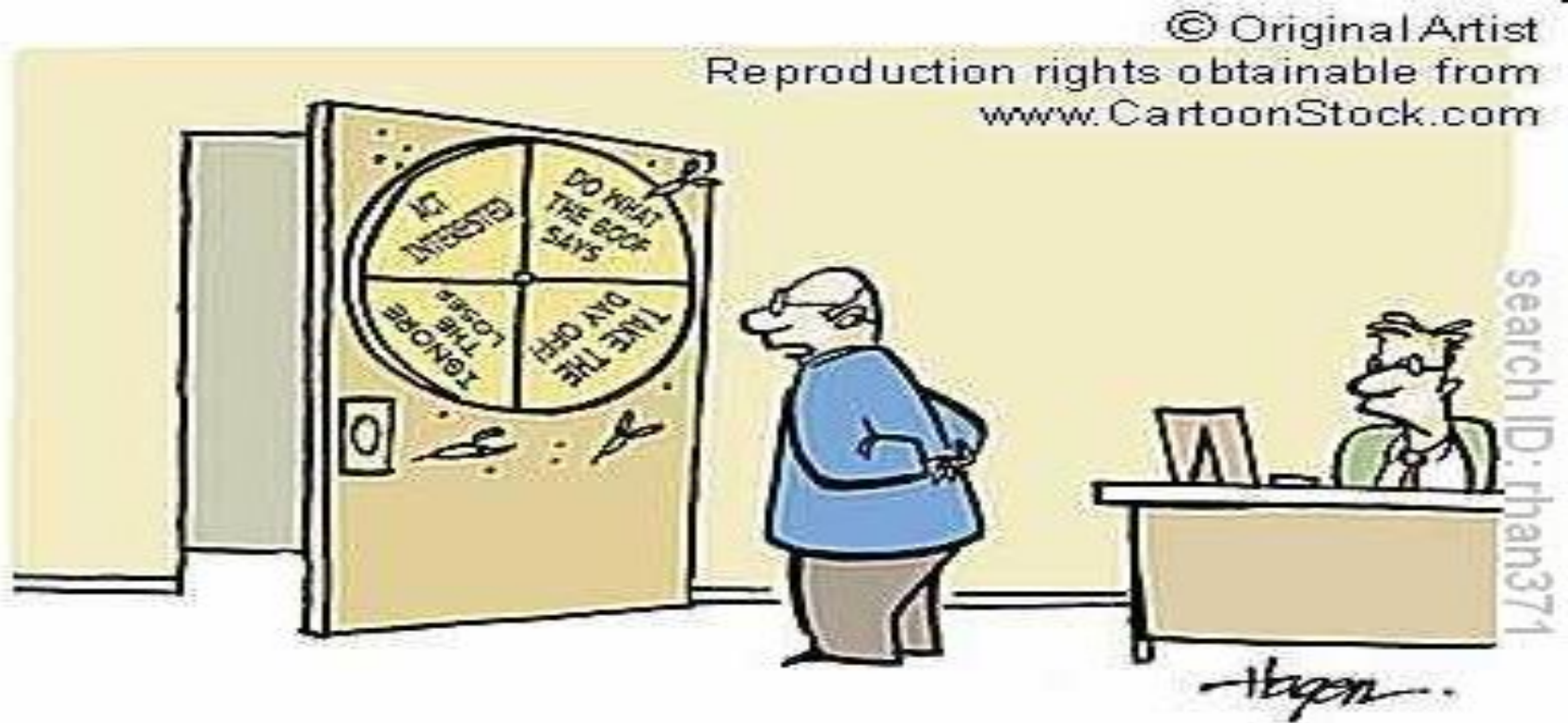
■ Controlling shareholder

- a shareholder who has the right to determine decisions made by the corporation

3. General Meeting of Shareholders



4. Executive Body



SO, WHAT DO WE HAVE HERE?

4. Executive Body

- Interests & goals vs. shareholder interests

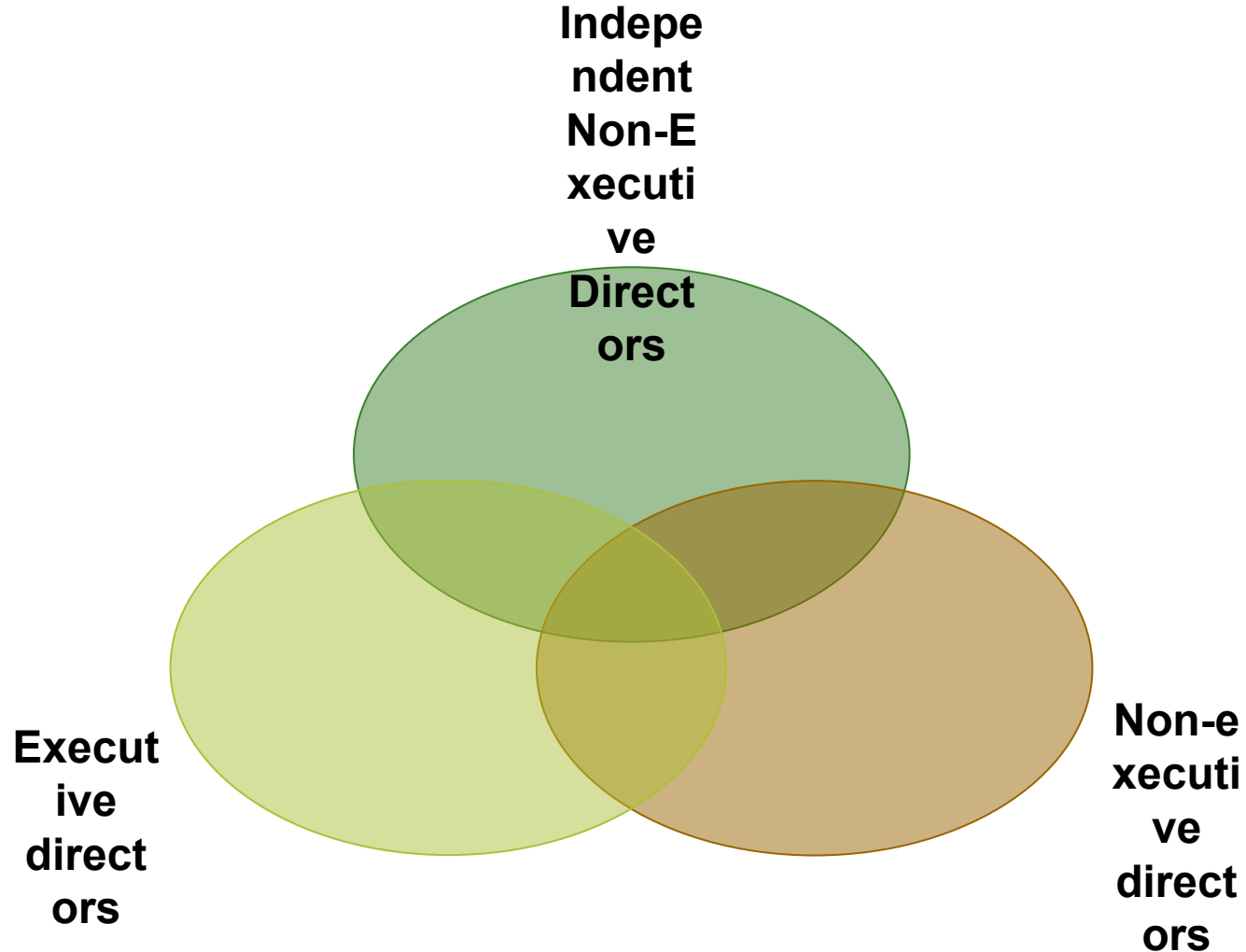
5. Board of directors



5. Board of directors

- Executive directors
- Non-executive directors
- Independent non-executive directors
 - All stakeholders should be represented there.

5. Board of Directors



5. Board of directors

- Interests & goals
 - vs. shareholder interests
 - vs. management
- Banking crisis in KZ, whose fault it was?
 - management
 - shareholders
 - board