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Explaining Delaware's Dominance: Firm Heterogeneity and Demand for Legal Flexibility

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Abstract

This paper investigates why Delaware has become the dominant corporate law jurisdiction in the United States. We argue that Delaware's preeminence lies in its flexible, judge-made standards, which adapt to changing economic conditions and balance managerial discretion with investor protection. Delaware's market share surged from 1980 to 2010, a period marked by merger waves and rising institutional ownership. Using a structural model that incorporates this heterogeneity, we show that demand for legal flexibility, rather than doctrinal clarity, explains Delaware's dominance. Our analysis highlights the value of common-law adaptability and contributes to debates on legal origins and investor protection.

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Explaining Delaware's Dominance: Firm Heterogeneity and Demand for Legal Flexibility*

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March 20, 2026

Abstract

This paper investigates why Delaware has become the dominant jurisdiction for U.S. public firms. We argue that Delaware's preeminence lies in its flexible, judge-made standards, which adapt to changing economic conditions and balance managerial discretion with investor protection. Delaware's market share surged from 1980 to 2010, a period marked by merger waves and rising institutional ownership. Using an empirical framework that incorporates firm heterogeneity, we show that demand for legal flexibility, rather than doctrinal clarity, explains Delaware's dominance. Our analysis contributes to debates on the linkage between legal institutions and financial development by highlighting the role of common-law flexibility.

JEL Classification: G34, K22

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1 Introduction

Influential research across economics and finance shows that legal regimes shape economic outcomes. At the global level, the law and finance literature links legal origin to financial development and firm value, often operationalizing investor protection through indices that summarize the presence of particular statutory provisions across jurisdictions (La Porta et al., 1997, 1998). Common-law systems are typically characterized in this literature as providing stronger protection to shareholders based on higher values of such indices.

While this approach has generated important insights, it does not focus on the central feature of common-law systems, namely their reliance on flexible, judge-made standards that evolve through adjudication (Gennaioli and Shleifer, 2007; La Porta, Lopez-de Silanes and Shleifer, 2008). In the United States, the clearest manifestation of this institutional design is Delaware corporate law, where most public corporations are incorporated (Romano, 1985). Delaware defines the fiduciary duties of managers to shareholders through open-ended standards crafted and refined by a specialized judiciary.

A distinctive feature of Delaware law is that corporations choose to subject themselves to it, which is consistent with the documented association between Delaware incorporation and higher shareholder value (Daines, 2001). U.S. firms may incorporate in any state, and many competing states offer regimes built around bright-line rules that sharply limit judicial review of managerial discretion (Eldar and Magnolfi, 2020). These alternatives provide managers greater certainty that their decisions will not be second-guessed in court. The recent reincorporations of several high-profile companies, including Tesla and TripAdvisor, to states such as Nevada and Texas illustrate this dynamic (Bainbridge, 2024; Fisch and Davidoff Solomon, 2025). Such moves, typically driven by founder- or CEO-controlled firms facing potential legal challenges, reflect a preference for predictable statutory regimes that minimize judicial intervention.

This trend invites a reassessment of Delaware's dominance as the cornerstone of the common-law system of investor protection. Why have corporations predominantly chosen to be governed by flexible fiduciary duties and to subject themselves to greater judicial scrutiny?

Why have they not instead opted for jurisdictions offering more predictable, litigation-averse rules?

These questions are especially puzzling in historical context. Delaware's surge to dominance from 1980 to 2010 was marked by a large increase in share of public firm incorporations–from about 35% to almost 60%.[1] Yet this ascent coincided with a period when its fiduciary duty doctrines were anything but predictable. Courts oscillated between restricting and expanding fiduciary duties and managerial defenses, leaving boards and deal planners in considerable uncertainty (Kahan and Kamar, 2002). At the same time, many other states adopted statutory regimes that promised greater predictability by limiting judicial scrutiny (Eldar and Magnolfi, 2020). Yet corporations continued to flock to Delaware. Explaining why firms embraced flexible standards over bright-line rules lies at the heart of understanding Delaware's enduring dominance and remains central to debates over its preeminence today.

We argue that, counterintuitively, Delaware's preeminence lies in its flexible rules—standards that judges continually refine through decisions and dicta (Fisch, 2000). A hallmark of the common law is this capacity to adapt to changing economic circumstances (Hayek, 1960; Levine, 2005; Gennaioli and Shleifer, 2007). Delaware judges adapt doctrines quickly, providing a more flexible decision-making process than traditional courts (Goshen and Stein, 2025). In applying flexible standards, Delaware courts balance managerial discretion with investor protection, calibrating fiduciary duties to changing business conditions. The resulting indeterminacy imposes uncertainty costs, but it also creates option value: firms can expect tailored standards for novel issues and adaptive responses as doctrine evolves.

This institutional design helps explain why Delaware stands at the core of the common-law advantage in investor protection, even though it relies on standards and litigation rather than bright-line rules. Delaware's courts have functioned this way since the early 20th century, when the Court of Chancery established itself as the leading forum for business law (Parsons Jr. and Slights III, 2008).

Why, then, did demand for Delaware incorporation rise so sharply from the 1980s through

[1]Our sample is based on data compiled by Roberta Romano and Sarath Sanga (Sanga, 2020), merged with CRSP-Compustat data on public corporations listed on major U.S. stock exchanges.

the 2000s? Two contemporaneous shocks magnified the value of legal flexibility: merger waves and the rise of institutional investors.

Merger and hostile-takeover activity reached historic highs in the 1980s, with volume around 10 percent of GDP and nearly half of large firms receiving bids (Holmstrom and Kaplan, 2001). The optimal balance of power between managers and shareholders became increasingly context dependent, generating pervasive uncertainty about fiduciary duties and permissible defenses. Delaware's standards-based scrutiny allowed managerial innovation while requiring boards to justify antitakeover measures under flexible judicial review. The resulting outcomes were highly fact-specific: *Moran* (1985) upheld poison pills, the most potent antitakeover device, but Delaware later invalidated them in *Interco* and *Pillsbury* (1988), only to adopt a more permissive stance in *Unitrin* (1989).[2] Corporations continued to choose Delaware, even as the courts actively recalibrated the balance of authority between managers and shareholders.

Institutional ownership also rose sharply, so that by the 2000s these investors held most shares of public corporations (Backus, Conlon and Sinkinson, 2021; Ederer and Pellegrino, 2025). As their influence grew, institutional investors increasingly emphasized shareholder primacy and managerial accountability (Gompers and Metrick, 2001). Although some have questioned their incentives to monitor actively, there is ample evidence that they pressured corporations to adopt stricter governance norms (Gillan and Starks, 2000; Appel, Gormley and Keim, 2016). Consistent with this, Eldar and Magnolfi (2020) find that firms with greater institutional shareholding tend to prefer corporate laws less deferential to managers and to oppose anti-takeover statutes. Unlike many jurisdictions that automatically validate poison pill defenses, Delaware litigates such measures under flexible standards.

As illustrated in Figure 1, these patterns closely track incorporation decisions.[3] The share of newly public firms incorporating in Delaware rose from under 30 percent in the early

[2]Likewise, *Revlon* (1986), which implied a duty to sell to the highest bidder, required extensive elaboration to define its triggers and scope (Allen, Kraakman and Khanna, 2021).

[3]Because incorporation decisions are subject to inertia (Eldar and Magnolfi, 2020), we focus on incorporations at the IPO stage and on reincorporations into Delaware, as they reflect active choices rather than instances of inertia.

1980s to over 70 percent by the early 2000s, paralleling the dramatic increase in institutional ownership. Distinct waves of reincorporations into Delaware also align with spikes in M&A activity and the prevalence of takeover bids, particularly in the late 1980s and late 1990s. These trends strongly suggest that Delaware's increasing market share reflected rising firm demand for its distinctive institutional attributes in response to merger waves and changing investor preferences. In short, the combination of mergers as a dominant force in U.S. corporate governance and the rise of institutional investing offers a compelling explanation for Delaware's historical ascendancy.

This paper makes several contributions. First, it develops a simple theoretical framework for firms' incorporation decisions, emphasizing Delaware's unique attributes. Delaware offers a flexible legal regime that adapts to economic shocks, such as merger waves, unlike many other states that rely on bright-line rules. While other jurisdictions, such as California, may also be flexible, Delaware is distinctive because it pairs flexibility with an expert judiciary crafting standards that align managerial discretion with shareholder interests. Judicial expertise still carries risk of error, so a responsive legislature is essential to correct mistakes ex post. Demand for such a regime rises during periods of elevated deal activity and when the shareholder base is sophisticated. The model therefore predicts greater demand for Delaware during takeover waves and when institutional ownership is higher.

Second, we estimate an empirical specification of incorporation decisions grounded in our theoretical framework, distinguishing between Delaware incorporation when the firm becomes public, reincorporation into Delaware, and reincorporation outside Delaware. Our findings confirm the model's predictions: firms are more likely to incorporate in Delaware when they go public if they expect high institutional ownership, and reincorporations into Delaware are driven by takeover activity.[4] Strikingly, counterfactual analysis shows that institutional ownership and acquisitions account for virtually all of Delaware's rise in market share from 1980 to 2010. Accordingly, our analysis demonstrates that shifts in firm heterogeneity underlie Delaware's dominance.

[4]Our model estimates predict Delaware's market share over time both in-sample and out-of-sample, and are robust to using index inclusion as an instrument for institutional shareholding

Our results therefore explain how Delaware became the cornerstone of the U.S. system of investor protection. Shifts in U.S. capital markets increased demand for legal flexibility supported by an expert judiciary and a responsive legislature. Firms with significant institutional ownership and firms undertaking complex transactions prefer expert judicial review that balances managerial discretion with shareholder rights, rather than bright-line legal systems. The analysis is consistent with evidence that Delaware incorporation is a quality marker for venture-backed firms (Guzman and Stern, 2020) and is associated with higher shareholder value (Daines, 2001). These findings also speak to empirical finance designs that exploit cross-state corporate law changes (see Karpoff and Wittry (2018)), by highlighting that incorporation—and hence exposure to state law—is endogenously related to ownership structure and takeover vulnerability.

Relatedly, our account, which explains shifts in demand for Delaware law as a function of firm heterogeneity, is also useful for interpreting recent, albeit limited, reincorporations of prominent firms out of Delaware. These reincorporations are concentrated among founder-controlled firms and companies led by superstar CEOs who wield disproportionate influence over major corporate decisions (Aggarwal et al., 2022). Investors in these firms are often willing to trade monitoring rights and takeover discipline for founder leadership. For such firms, flexible fiduciary standards may add relatively little value, while predictable, bright-line rules that shield controllers can be more attractive.

Finally, our analysis has broader implications for the law and finance literature. While common-law legal origins have long been associated with stronger investor protection and deeper financial markets (La Porta, Lopez-de Silanes and Shleifer, 2008), much of this literature has operationalized investor protection through indices based on specific legal rules, such cumulative voting and preemptive rights. These measures capture formal statutory provisions, but may not fully reflect the extent to which legal systems provide investors with meaningful protection in practice.

Focusing on the primary system of investor protection in the United States—Delaware corporate law—our results help reconcile these findings by shifting attention away from the

level of investor protection encoded in formal rules and toward the institutional features of common-law systems. By allowing standards-based adjudication to recalibrate the balance between managerial discretion and shareholder rights as governance needs evolve, common-law systems can deliver context-dependent investor protection that rigid, rule-based regimes cannot.

2 A Theoretical Framework for Incorporation Decisions

We develop a model of firms' incorporation choices that highlights how Delaware's flexible legal system creates value by allowing courts to adopt legal standards that respond to changing economic conditions. The framework generates testable predictions about the circumstances under which firms choose Delaware over alternative jurisdictions.

Setup. Consider a continuum of firms indexed by i that must choose where to incorporate. This choice affects a central governance problem: the optimal allocation of control between managers and shareholders. Firm value is denoted by $V(C, \theta)$, where C represents the allocation of control and θ the economic environment.

Each state j offers one of two types of corporate law:

- **Strict law (S)**: Statutes fix the allocation of control between managers and shareholders at C_S. Courts cannot invalidate transactions, and managers are shielded from liability.
- **Flexible law (F)**: Courts apply fiduciary standards flexibly to determine the allocation of control based on economic conditions, aiming to implement the optimal allocation $C^*(\theta)$.

In practice, there is a spectrum between strict and flexible regimes, but for simplicity, we adopt a clear dichotomy. States that choose strict laws are generally those that have adopted anti-takeover statutes—such as provisions validating poison pills, limiting shareholder ability to challenge managerial discretion, or exempting managers from the duty of loyalty (Eldar and Magnolfi, 2020). In these states, the allocation of control remains fixed at C_S regardless

of the economic environment, and litigation is rare. This category includes the majority of U.S. states.

The primary state that has adopted a flexible legal regime is Delaware. Its specialized business courts adapt the allocation of control to changing economic conditions, such as the merger waves of the 1980s. This adaptability is reflected in the evolving landscape of Delaware case law. Other states, such as California, also exhibit flexible characteristics in that they lack statutes validating managerial decisions. However, unlike Delaware, they lack a judiciary with expertise in corporate law matters.

Court adjudication under F. Under a flexible regime, transactions may be adjudicated by the courts. Judicial expertise is represented by the probability p that the court correctly sets the optimal allocation of control:

$$C = \begin{cases} C^*(\theta), & \text{with probability } p, \\ C_{\text{err}}, & \text{with probability } 1-p. \end{cases}$$

When the court errs, an efficient transaction may be invalidated, producing a loss of $V^*(\theta) - V_e(\theta)$, where $V^*(\theta) = V(C^*(\theta), \theta)$ is the value under the optimal allocation of control and $V_e(\theta) = V(C_{\text{err}}, \theta)$ is the value under judicial error.

Thus, under a flexible regime, judicial expertise, captured by p, is essential. Delaware made an early and sustained commitment to nonpartisan judicial expertise in corporate law to attract incorporations, and by 1980 it was widely recognized for its expert judiciary (Romano, 1985; Eldar and Rauterberg, 2023). By contrast, California, despite offering flexible statutes and home to numerous corporations, did not attract a meaningful share of incorporations, in large part because it lacks a specialized business court and the depth of corporate-law expertise found in Delaware's judiciary.[5]

[5]Unlike other states, Delaware has strong incentives to strengthen its institutional quality to attract incorporations, as it relies heavily on franchise-tax revenue, whereas California's large and diversified revenue base gives it weaker fiscal incentives to compete for out-of-state incorporations and franchise fees (Eldar and Rauterberg, 2023).

Legislative correction. After a court ruling, the legislature may override judicial errors with probability λ, resetting control to $C^*(\theta)$. Even in Delaware, judicial errors may occur despite its judicial expertise. A responsive legislature (high λ) is therefore essential for legislative correction.

Delaware exemplifies this institutional design: its Court of Chancery provides judicial expertise (high p), while its legislature responds quickly to judicial missteps (high λ). A classic example is the adoption of DGCL §102(b)(7), which permits corporations to exculpate directors from breaches of the duty of care. The statute was enacted following *Smith v. Van Gorkom*, which held directors liable for approving a merger without adequate information, even though there was no showing of bad faith (Goshen and Stein, 2025).

By contrast, legislative correction plays a minor role in strict-law jurisdictions. The response to θ in these jurisdictions is simply to adopt C_S, upholding all transactions—whether efficient ($C^*(\theta) = C_S$) or inefficient ($C^*(\theta) \neq C_S$). The most conspicuous example is Nevada, which has adopted several anti-takeover statutes, a statute that explicitly grants judicial deference to managerial decisions, and laws that permit managers to be exempted from the duty of loyalty (Eldar and Magnolfi, 2020). Such laws generate limited litigation by validating transactions with minimal scrutiny.

Firm Incorporation Decisions. The expected value to firm i under each legal regime is:

$$E[V_S] = E_\theta[V(C_S, \theta)], \quad E[V_F] = E_\theta\left[pV^*(\theta) + (1-p)\left(\lambda V^*(\theta) + (1-\lambda)V_e(\theta)\right)\right].$$

Define the flexibility premium as:

$$\Pi(\theta) = E[V_F] - E[V_S].$$

Firm i chooses flexible law (Delaware) when:

$$\tau_i + \Pi(\theta) > c_i$$

where τ_i captures the firm's baseline value from investor protection (higher for firms with greater institutional ownership), and c_i represents incorporation costs, such as legal fees.

Institutional Ownership. Firms with higher institutional ownership have larger τ_i because institutional investors value corporate governance mechanisms that safeguard shareholder rights (Gillan and Starks, 2000). Since the decision rule is:

$$\text{Choose Delaware if: } \tau_i + \Pi(\theta) > c_i,$$

it follows immediately that firms with more institutional investors are more likely to choose Delaware. In contrast, firms with controlling shareholders, whose investors defer to the controller's vision, place less weight on it (low τ_i).

Uncertainty and Takeover Activity To analyze how uncertainty affects the flexibility premium, let $\sigma_C^2 = \text{Var}[C^*(\theta)]$ measure the volatility of optimal governance arrangements. Differentiating Π with respect to uncertainty gives:

$$\frac{\partial \Pi}{\partial \sigma_C^2} = (p + (1-p)\lambda)\frac{\partial E[V^*(\theta)]}{\partial \sigma_C^2} + (1-p)(1-\lambda)\frac{\partial E[V_e(\theta)]}{\partial \sigma_C^2} - \frac{\partial E[V(C_S, \theta)]}{\partial \sigma_C^2}$$

For flexible law to become more valuable as uncertainty rises, we need $\frac{\partial \Pi}{\partial \sigma_C^2} > 0$. This condition holds when:

- $\frac{\partial E[V^*(\theta)]}{\partial \sigma_C^2} > \frac{\partial E[V(C_S,\theta)]}{\partial \sigma_C^2}$: The optimal adaptive rule responds better to volatility than the fixed rule.
- p and λ are sufficiently high: courts accurately identify optimal arrangements, and legislatures correct mistakes.

Rearranging the condition for $\frac{\partial \Pi}{\partial \sigma_C^2} > 0$, we obtain:

$$p > \underbrace{\frac{\frac{\partial E[V(C_S,\theta)]}{\partial \sigma_C^2} - \lambda \frac{\partial E[V^*(\theta)]}{\partial \sigma_C^2}}{(1-\lambda)\left(\frac{\partial E[V^*(\theta)]}{\partial \sigma_C^2} - \frac{\partial E[V_e(\theta)]}{\partial \sigma_C^2}\right)}}_{\text{threshold that decreases in } \lambda} - \frac{\frac{\partial E[V_e(\theta)]}{\partial \sigma_C^2}}{\frac{\partial E[V^*(\theta)]}{\partial \sigma_C^2} - \frac{\partial E[V_e(\theta)]}{\partial \sigma_C^2}}$$

This threshold decreases in λ, showing that judicial expertise and legislative responsiveness are complements. Only Delaware combines both features at sufficiently high levels.

When firms are more likely to be acquired, such as during merger waves, σ_C^2 rises sharply as the optimal balance between managers and shareholders becomes highly context-dependent. When σ_C^2 is high and Delaware has both high p and λ, we have:

$$\frac{\partial \Pi}{\partial \sigma_C^2} > 0 \Rightarrow \frac{\partial \Pr(\text{Delaware})}{\partial \sigma_C^2} > 0$$

Summary of Predictions. The model yields two testable predictions:

1. **Institutional Ownership**: The probability of choosing Delaware increases with institutional ownership, since $\frac{\partial \Pr(\text{Delaware})}{\partial \tau_i} > 0$. Firms with greater institutional ownership place more weight on investor protection, making them systematically more likely to value Delaware's flexible regime.

2. **Takeover Activity**: During periods of high uncertainty, primarily when firms face a heightened likelihood of acquisition, demand for Delaware rises because $\frac{\partial \Pi}{\partial \sigma_C^2} > 0$ when both judicial expertise and legislative responsiveness exceed critical thresholds, conditions uniquely satisfied by Delaware.

These predictions guide our empirical analysis of incorporation patterns from 1980 to 2010.

3 An Empirical Analysis of Delaware Incorporations

3.1 Empirical Model and Data

The theoretical framework predicts that demand for Delaware increases when firms face greater uncertainty about governance needs and when shareholders place more weight on governance quality. To test these predictions, we analyze incorporation behavior using a comprehensive panel of approximately 120,000 firm-year observations for U.S. public firms from 1980 to

2010. We combine incorporation data from Sanga (2020),[6] with CRSP-Compustat financials, institutional ownership from 13F filings, and M&A activity from SDC Platinum.

Our core variables are: Institutional Ownership, measured as the fraction of shares held by institutional investors each year, which proxies for shareholder governance preferences; and three takeover-related measures that capture exposure to uncertainty: (i) M&A Target$_{t\to t+2}$, an indicator for whether a firm became the target of a completed merger in year t, $t+1$, or $t+2$; (ii) Industry M&A, the fraction of firms in the same 2-digit SIC-year that were M&A targets; and (iii) Annual M&A, the fraction of public firms involved in a completed merger or acquisition in a given year.

Our empirical model builds on Eldar and Magnolfi (2020), who show that incorporation decisions are subject to inertia after firms go public, with reincorporations being rare. Accordingly, we jointly examine three types of decisions.

First, we analyze the *initial choice of incorporation state* when the firm becomes public, a deliberate assessment of legal infrastructure shaped by the preferences of the anticipated shareholder base. Institutional investors, who emphasize shareholder value and accountability, are more likely to favor Delaware's standards-based judicial scrutiny over rigid, bright-line protections that shield managers from judicial review.

Second, we analyze *reincorporation into Delaware* by firms initially incorporated elsewhere. Such moves typically occur alongside major transactions, especially mergers and acquisitions, or in anticipation of takeover activity (Romano, 1985). Consistent with the theory, firms are more likely to choose Delaware when facing governance uncertainty and litigation risk, as its adaptive legal standards and expert judiciary provide more efficient allocation of authority between managers and shareholders during periods of transactional risk.

Third, we examine *reincorporation out of Delaware*. We expect few Delaware firms to reincorporate elsewhere when they are not undergoing or anticipating major transactions, suggesting that the value of flexible rules is limited in the absence of such events–particularly given Delaware's high incorporation fees.

To test these hypotheses, we implement a joint maximum likelihood framework that

[6]We thank Roberta Romano and Sarath Sanga for constructing this dataset.

estimates three logit specifications corresponding to the three transitions described above. Let y_{it} denote the incorporation choice for firm i in year t. The explanatory variables x_{it} include Institutional Ownership, M&A Target$_{t\to t+2}$, Industry M&A, and Annual M&A, as well as standard financials: Market Value, ROA, R&D/Assets, PPE/Assets, Cash/Assets, and Leverage (see Table A1 for variable definitions). In additional specifications, we also include state-headquarters fixed effects.

Table A2 reports summary statistics for the full sample and separately for firms incorporated in Delaware and non-Delaware jurisdictions. Delaware firms have substantially higher institutional ownership and are more likely to be exposed to takeover activity. They are also more innovative, as reflected in higher R&D intensity, and exhibit lower profitability on average, consistent with innovative firms that prioritize growth over current earnings. In addition, Delaware firms hold significantly more cash and operate with lower leverage. Together, these differences underscore the importance of accounting for endogenous selection into Delaware.

The estimation distinguishes three cases based on the firm's incorporation history:

1. **First-time incorporation**: The firm chooses whether to incorporate in Delaware upon becoming public ($t = 1$). The probability is given by:

$$\Pr(y_{it} = 1) = \Lambda(x'_{it}\beta_1),$$

   where Λ is the logistic cumulative distribution function.

2. **Switching into Delaware**: The firm was incorporated outside Delaware in year $t-1$, where $t > 1$ and chooses whether to switch to Delaware. The probability is:

$$\Pr(y_{it} = 1 \mid y_{it-1} = 0) = \Lambda(x'_{it}\beta_2).$$

3. **Switching out of Delaware**: The firm was incorporated in Delaware in year $t-1$, where

$t > 1$, and chooses whether to exit. The probability is:

$$\Pr(y_{it} = 0 \mid y_{it-1} = 1) = \Lambda(x'_{it}\beta_3).$$

Each of the three equations is estimated simultaneously using maximum likelihood, with the likelihood contribution ℓ_{it} determined by the firm's prior incorporation status:

$$\ell_{it} = \begin{cases} \log(\Lambda(x'_{it}\beta_1)) & \text{if } t = 1,\ y_{it} = 1, \\ \log(1 - \Lambda(x'_{it}\beta_1)) & \text{if } t = 1,\ y_{it} = 0, \\ \log(\Lambda(x'_{it}\beta_2)) & \text{if } t > 1,\ y_{i,t-1} = 0,\ y_{it} = 1, \\ \log(1 - \Lambda(x'_{it}\beta_2)) & \text{if } t > 1,\ y_{i,t-1} = 0,\ y_{it} = 0, \\ \log(\Lambda(x'_{it}\beta_3)) & \text{if } t > 1,\ y_{i,t-1} = 1,\ y_{it} = 0, \\ \log(1 - \Lambda(x'_{it}\beta_3)) & \text{if } t > 1,\ y_{i,t-1} = 1,\ y_{it} = 1. \end{cases}$$

The total log-likelihood is:

$$\mathcal{L}(\beta_1, \beta_2, \beta_3) = \sum_{i,t} \ell_{it}.$$

3.2 Results and Counterfactual Analysis

Main Results. The results in Table 1 show that institutional ownership is the strongest and most significant predictor of Delaware incorporation when going public. A one standard deviation increase in institutional ownership raises the likelihood of choosing Delaware by roughly 20 percentage points, which corresponds to almost 40 percent of the baseline incorporation rate. Institutional ownership is also significantly positively associated with reincorporation into Delaware once state fixed effects are included. Furthermore, firms with higher institutional shareholding are significantly less likely to reincorporate out of Delaware. These results are consistent with the predictions of the theoretical framework and suggest that the rise in institutional ownership accounts for much of the increase in Delaware's market share over time.

With respect to takeover risk, being an M&A Target$_{t\to t+2}$ has little effect on the initial decision when going public, reflecting the fact that newly listed firms rarely position themselves as acquisition targets. For reincorporating firms, however, M&A target status is a powerful driver: An increase in one standard deviation raises the probability of switching to Delaware by about 35% relative to the base rate without fixed effects and by 28% with state fixed effects. At the same time, it sharply reduces the probability of switching out of Delaware by more than 90% of the baseline exit rate. These results are consistent with the theoretical prediction that takeover exposure heightens governance uncertainty and strengthens demand.

Industry M&A, measured as the share of industry peers subject to acquisitions, primarily affects reincorporations into Delaware. A one–standard deviation increase raises the probability of reincorporating into Delaware by roughly 10% of the baseline rate. This suggests that reincorporating firms, often those anticipating transactions or seeking buyers, respond to industry takeover waves when considering Delaware.

Annual M&A, which reflects overall market merger activity, has a statistically significant but modest effect on Delaware entry at the IPO stage: a one–standard deviation increase raises the probability of incorporating in Delaware by about 3% of the baseline rate. The effect is much stronger for switches into Delaware, where it corresponds to nearly a 30% increase over the baseline rate. Taken together with the firm- and industry-level measures, this evidence supports the prediction that broader takeover waves elevate demand for Delaware, especially among reincorporating firms.

Turning to financials, firms with higher market value are more likely to choose Delaware when going public, consistent with larger firms seeking Delaware's reputational and governance advantages. More innovative and high-growth firms—those with higher R&D/Assets and lower ROA—are also more likely to incorporate in Delaware, supporting the view that firms facing complex tradeoffs between short- and long-term value benefit from flexible governance arrangements. Finally, firms with greater cash holdings and lower leverage are more likely to enter Delaware, which is intuitive given both the direct and indirect costs of incorporation fees and the higher likelihood of litigation.

Validation. Figure A1 shows that the predicted Delaware market share aligns well with the actual market share in both in-sample and out-of-sample periods. For the out-of-sample prediction, the model is estimated using data from 1980–1999, and then used to predict market shares from 2000–2010. The close fit in both settings demonstrates the credibility of the empirical model for counterfactual analysis and forecasting Delaware's market share.

Counterfactual Analysis. To assess the impact of institutional shareholding and takeovers on Delaware's market share, we set Institutional Ownership, M&A Target$_{t\to t+2}$, Industry M&A, and Annual M&A to zero, approximating conditions prior to 1980. We then simulate Delaware's market share and compare it to the actual market share and the in-sample predicted values.

As shown in Figure 2, the simulated market share remains largely flat over time and even declines in later years, indicating that rising institutional ownership and takeover activity account for much—and perhaps all—of Delaware's growing market dominance. By 2010, Delaware's market share would have been only 25 percent absent these forces, compared to an actual share of 57.6 percent and a predicted share of 64.7 percent. This gap of more than 30 percentage points underscores the central role of institutional investors and M&A markets in sustaining Delaware's incorporation advantage.

In Figure A2, we further decompose the simulation into initial incorporation choices and reincorporations. Absent institutional ownership and takeover activity, firms are significantly less likely to choose Delaware at the time of IPO: by 2010, the fraction incorporating in Delaware would be about 40%, compared to nearly 70% in the observed prediction.[7] Even more strikingly, the simulated number of reincorporations into Delaware remains very small, far below the levels observed during periods of high takeover activity.

[7]The mild changes in Delaware's simulated market share likely reflect other trends in firm characteristics, particularly the growth in firm size during the 2000s (see Figure A3).

4 Mitigating Endogeneity

As a robustness check, we address the concern that our results reflect omitted variables correlated with both institutional ownership and the choice of incorporation state. For example, firms with more sophisticated management may simultaneously attract institutional investors and be more proactive in evaluating the laws of different states. To address this concern, we use inclusion in stock indices as an instrument for institutional ownership (Aghion, Van Reenen and Zingales, 2013). Specifically, we exploit the Russell 2000, based on the logic that assignment to this index—relative to the bottom of the Russell 1000—creates a discontinuous increase in institutional ownership. Index funds allocate far larger weights to stocks at the top of the Russell 2000 than to stocks at the bottom of the Russell 1000, even though the firms are otherwise similar in size (Appel, Gormley and Keim, 2016).

We implement this approach using a control function specification: in the first stage, institutional ownership is regressed on Russell 2000 assignment and controls, and the fitted value and residual are then included in the maximum likelihood estimation of incorporation choices. As shown in Table A3, the results remain robust under this specification. Institutional ownership continues to be a strong predictor of Delaware incorporation at the IPO stage, with economically large effects even after accounting for potential endogeneity. It is also associated with a significantly higher likelihood of firms reincorporating into Delaware. All other results, particularly those related to the takeover variables, remain qualitatively unchanged.

5 Discussion and Implications

Common Law and Investor Protection. The "legal origins" literature identifies systematic differences between common law and civil law jurisdictions (La Porta, Lopez-de Silanes and Shleifer, 2008). Common law systems, originating in English law, tend to be associated with stronger investor protection and deeper financial markets, relative to civil law systems, which rely more heavily on codified, bright-line rules. Early contributions to this literature sought to explain this association by coding differences in formal investor-protection rules across

jurisdictions, often through indices that count the presence of particular statutory provisions (La Porta et al., 1997). Subsequent work has claimed that such index-based measures are noisy, calling into question whether common-law systems in fact provide stronger investor protection in any static or mechanical sense (Spamann, 2010).

Our analysis suggests that this focus on statutory content misses the central institutional distinction. The advantage of common-law systems does not lie in the level of investor protection embedded in formal rules, but in the nature of the legal process itself—specifically, reliance on flexible, judge-made standards administered through adjudication. Civil law, by contrast, emphasizes ex ante regulation and comprehensive codes, which reduce discretion but can result in rigidity and misfit when firms face heterogeneous or evolving governance needs.

Our theoretical analysis shows that flexible law can serve as an effective governance system when supplemented by two institutional features: an expert judiciary that minimizes errors in applying open-ended standards, and a responsive legislature that can correct or refine doctrine when judicial mistakes occur. Studying incorporation choices within the United States provides a particularly sharp setting for isolating this institutional logic, because firms can choose among jurisdictions that differ starkly in their reliance on flexible fiduciary standards versus bright-line statutory rules.

Delaware is distinctive in this competitive landscape. It combines a standards-based corporate law with a specialized judiciary and an active legislature that routinely updates corporate statutes to preserve doctrinal coherence. Most other U.S. states, by contrast, rely more heavily on rigid statutory rules that limit judicial discretion and require less institutional investment in adjudication. By linking firms' jurisdictional choices to these institutional differences, our analysis connects a central insight of the law and finance literature—the value of adaptable legal institutions—to competition among U.S. corporate law regimes.

Our empirical results provide firm-level evidence consistent with this account. The demand for Delaware's standards-based corporate law rises when investors place greater weight on governance quality, as proxied by institutional ownership, and when governance needs become more context dependent, as in periods of heightened takeover activity. In this sense, the

growth of institutional ownership and the rise of takeovers together help explain why a common-law system centered on flexible adjudication became increasingly valuable, and why Delaware's market share expanded so sharply between 1980 and 2010.

The Current "Dexit" Trend. Our analysis sheds light on the recent reincorporations of large public companies such as Tesla and TripAdvisor from Delaware to Texas and Nevada. While Delaware previously faced some competition from Nevada, that competition involved relatively small, thinly traded firms and did not pose a serious challenge to Delaware's dominance (Eldar, 2018). By contrast, the recent reincorporations is concentrated among firms controlled by founders or high-profile CEOs, including Tesla, Roblox, and Affirm (Bainbridge, 2024; Aggarwal and Eldar, 2026), a group that has grown substantially in recent years and now represents a significant segment of the economy (Aggarwal et al., 2022). Many of these innovative and profitable firms have expressed dissatisfaction with recent Delaware decisions that expand judicial review of transactions involving controlling shareholders, a shift that they view as interfering with founder-controlled firms' ability to pursue their vision and strategy for their companies (Goshen, Hamdani and Lund, 2025; Bainbridge, 2025; Fisch and Davidoff Solomon, 2025).

Consistent with our model, even expert judges can create uncertainty by making errors, and the legislature can then correct or recalibrate the law. Delaware responded with a legislative reform, SB21, which provides greater certainty in the definition of controllers and creates broad safe harbors for controller transactions. By shielding controlling shareholders and influential CEOs from extensive judicial review, SB21 shifts Delaware's approach from standards-based adjudication of fiduciary duties toward more predictable bright-line rules. These changes may be seen, on one reading, as a departure from the institutional features–flexible law administered by an expert judiciary and revised by a responsive legislature–that have historically underpinned Delaware's dominance.

Another reading, consistent with our framework, is that SB21 exemplifies the correction mechanism that sustains Delaware's adaptability, with the legislature stepping in to address perceived judicial overreach in response to the rise of founder- or CEO-controlled companies.

The governance structures of these firms differ systematically from the broader population. Investors in such companies often accept weaker monitoring in exchange for visionary leadership (low τ_i). Moreover, these firms are effectively insulated from takeovers, which reduces the importance of legal adaptability. Their governance is deliberately structured to empower entrepreneurial autonomy (Goshen and Hamdani, 2016), making flexible judicial standards less valuable ($C^*(\theta) = C_S$). For these firms, predictable bright-line rules that shield controller transactions from litigation may be more efficient. In this context, SB21 may help reduce reincorporation out of Delaware, even though the advantages that Delaware traditionally offers are less relevant for this subset of firms.

More broadly, this development illustrates that the tradeoff between flexible standards and bright-line rules—central to the legal origins debate—depends on firm heterogeneity: while most firms value adaptability, founder-controlled firms may instead prefer predictable rules that secure managerial autonomy.

Other Explanations for Delaware's Dominance. Two related explanations are often offered for Delaware's dominance. The first posits a discrete improvement in Delaware law around 1985–1986, notably the adoption of DGCL §102(b)(7), which allowed corporations to exculpate directors from monetary liability for duty-of-care breaches, and seminal Court of Chancery decisions, such as *Moran*, that redefined the balance between managers and shareholders in the takeover context (Sanga, 2020). This account cannot explain Delaware's rise. The trend toward Delaware among firms that go public began before 1985, suggesting that other forces were at work (see Figure 1). Moreover, from an institutional perspective, Delaware was not unique, since most other states quickly adopted director exculpation statutes in the 1980s (Eldar and Magnolfi, 2020). Finally, as discussed above, mid-1980s Delaware case law did not yield stable or predictable standards (Kahan and Kamar, 2002).

The second explanation emphasizes "network effects" (Sanga, 2020). The idea is that firms benefit from using the same corporate law as their peers. Incorporating in Delaware provides access to a legal infrastructure that grows more valuable as more firms adopt it: directors, lawyers, and financial intermediaries become more familiar with Delaware law, reducing costs

and uncertainty. Sanga (2020) estimates that most of the increase in Delaware's market share was due to network effects. The empirical intuition is that because Delaware's growth was gradual, it may reflect firms following peers. Network externalities may well contribute to the level of Delaware's market share, but they were already present in the early 1980s and therefore do not explain why that share rose so sharply in the following decade. As Figure 1 shows, incorporation decisions closely track dramatic changes in capital markets over time, and our empirical analysis shows that these changes explain much of Delaware's rise.

Moreover, Delaware's fundamental institutional quality did not change dramatically between 1980 and 2010. Its judiciary was already recognized as highly expert in business law by the early 1980s (Romano, 1985). The takeover cases of the 1980s exemplified the kind of adaptive adjudication that Delaware courts are known for, and subsequent landmark decisions, such as *Paramount v. Time* (1995), *Airgas* (2011), and *Corwin* (2015), further refined standards of judicial review. Throughout, the legislature acted to correct judicial missteps, not only through §102(b)(7), but also through earlier and later amendments such as §144 (1967) on conflicted transactions (Goshen and Stein, 2025) and §122(17) (2000) permitting corporate opportunity waivers (Eldar and Grennan, 2024). The main change over the sample period was therefore in capital markets, which shifted firms' demand for Delaware's distinctive institutional attributes rather than a sudden improvement in Delaware law itself.

6 Conclusion

This paper revisits a central question in the law and finance literature: how an indeterminate system of fiduciary standards can protect investors. That literature has also struggled to explain the predominance of Delaware despite its unpredictability. We argue that Delaware's flexibility is not a flaw but a feature that allows the balance between managerial autonomy and shareholder rights to evolve with changing economic conditions and firm-specific needs. Flexible standards interpreted by expert judges and refined by a responsive legislature provide an institutional mechanism for adjusting this balance as ownership structures and takeover

activity shift.

Our framework formalizes this mechanism. Firms with high institutional ownership or exposure to mergers value an adaptive legal system that can recalibrate fiduciary duties as circumstances change, even at the cost of legal uncertainty. This systematic sorting explains Delaware's rise during the era of institutional investing and mergers, and why more recently founder-controlled firms may prefer jurisdictions offering greater predictability. By quantifying how changes in capital markets accounted for Delaware's major rise during the era of institutional investing and mergers, the paper clarifies both the enduring appeal and the emerging limits of Delaware's flexible corporate law.

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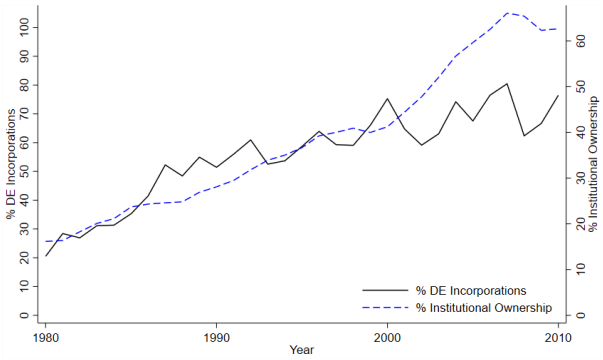
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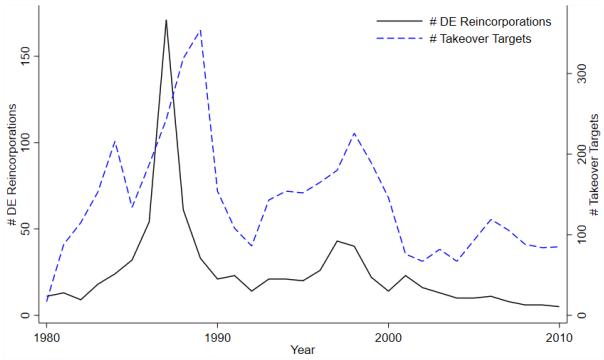
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(a) Going Public and Delaware Incorporations



(b) Reincorporations into Delaware

Figure 1: **Trends in Delaware Incorporations and Reincorporations.** Panel (a) shows the percentage of firms going public that incorporate in Delaware (left axis) and the average institutional ownership of public firms (right axis) from 1980 to 2010. Panel (b) displays the number of annual reincorporations into Delaware (left axis) and the number of takeover targets (right axis). Data on firm incorporations were constructed and made publicly available by Roberta Romano and Sarath Sanga (Sanga, 2020).

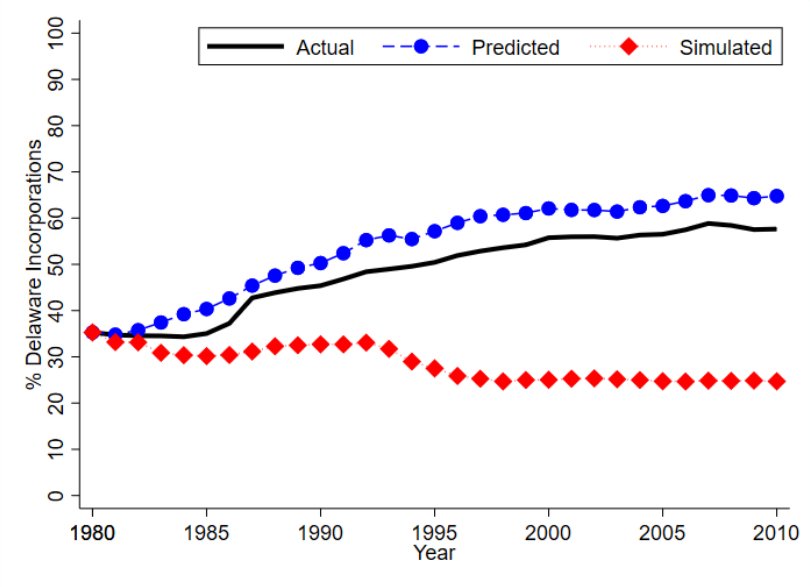


Figure 2: **Simulated Delaware Market Share.** The solid black line plots the actual share of firms incorporated in Delaware over time. The dashed blue line with circles shows the *predicted* Delaware market share implied by the model estimated in Column (1)–(3) of Table 1, aggregating firm-level fitted probabilities of entry, switch-in, and switch-out. The red line with diamonds shows the *simulated* Delaware market share from a counterfactual experiment in which the coefficients on institutional ownership, firm-level M&A exposure ($M\&A\ Target_{t\to t+2}$), industry-level M&A intensity (*Industry M&A*), and annual M&A activity (*Annual M&A*) are set to zero. This simulation removes the influence of institutional ownership and takeover activity from the dynamic transition process and iterates the model forward year-by-year beginning in 1980.

Table 1: Delaware Incorporation Decisions: Main Specification

	No Fixed Effects			State Fixed Effects		
	(1) Entry	(2) Switch In	(3) Switch Out	(4) Entry	(5) Switch In	(6) Switch Out
Institutional Ownership	3.05***	0.16	−0.51**	3.15***	0.31**	−0.53**
	(0.145)	(0.150)	(0.252)	(0.148)	(0.150)	(0.266)
M&A Target$_{t\to t+2}$	0.10	0.36***	−1.05**	0.09	0.30***	−0.97**
	(0.093)	(0.113)	(0.420)	(0.097)	(0.115)	(0.423)
Industry M&A	0.08	3.70**	1.40	0.39	4.01***	1.52
	(0.916)	(1.519)	(3.234)	(0.953)	(1.546)	(3.235)
Annual M&A	5.27***	18.99***	−3.11	4.13**	18.10***	−4.20
	(1.791)	(2.299)	(5.842)	(1.872)	(2.356)	(5.923)
Market Value	0.00019***	−0.00000	−0.00004	0.00016***	−0.00000	−0.00004
	(0.00007)	(0.00001)	(0.00003)	(0.00006)	(0.00001)	(0.00003)
ROA	−0.40***	−0.20	−0.12	−0.40***	−0.19	−0.52
	(0.117)	(0.255)	(0.510)	(0.124)	(0.243)	(0.511)
R&D / Assets	0.88***	3.29***	−3.40*	1.16***	2.34***	−3.23*
	(0.297)	(0.497)	(1.860)	(0.315)	(0.509)	(1.910)
PPE / Assets	0.10	−0.24	0.43	0.23**	−0.24	0.43
	(0.106)	(0.168)	(0.333)	(0.114)	(0.169)	(0.380)
Cash Ratio	0.04***	−0.00	−0.14	0.05***	−0.01	−0.10
	(0.010)	(0.024)	(0.105)	(0.011)	(0.025)	(0.089)
Leverage	−0.14	−0.76***	0.43	−0.21*	−0.60***	0.35
	(0.106)	(0.187)	(0.333)	(0.112)	(0.187)	(0.333)
Fixed Effects	No	No	No	State	State	State
Observations	120,597	120,597	120,597	119,666	119,666	119,666

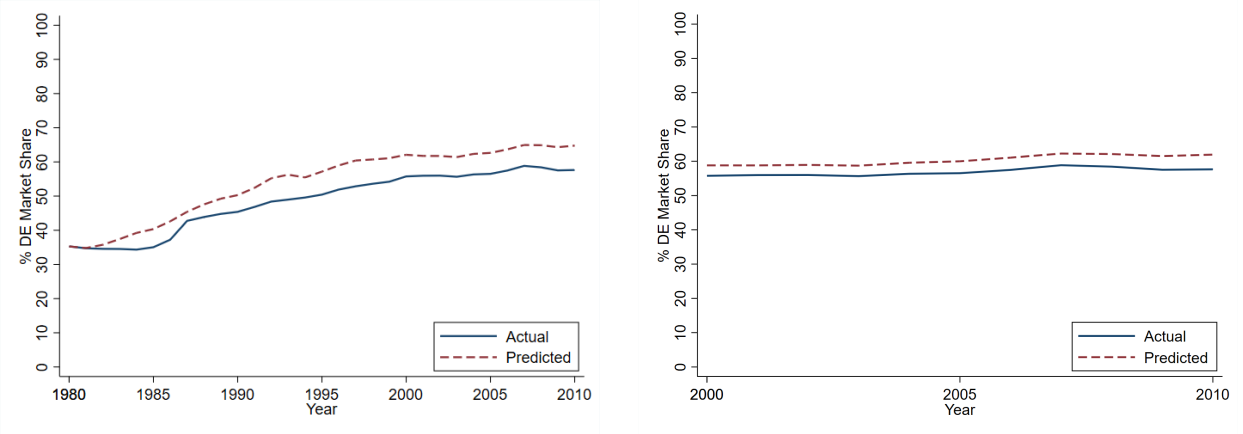
Notes: This table presents estimates from a joint maximum likelihood model of Delaware incorporation decisions across three transition types: initial incorporation in Delaware (Entry), reincorporation into Delaware (Switch In), and reincorporation out of Delaware (Switch Out). All variables are defined in Table A1. Specifications in Columns (4)–(6) include state-headquarter fixed effects. All financial variables, Institutional Ownership, and Industry M&A are winsorized at the 1st and 99th percentiles. Standard errors are clustered at the firm level. $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$.

Online Appendix to
Explaining Delaware's Dominance:
Firm Heterogeneity and the Demand for Legal Flexibility

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UC Berkeley, IWH Halle, and ECGI

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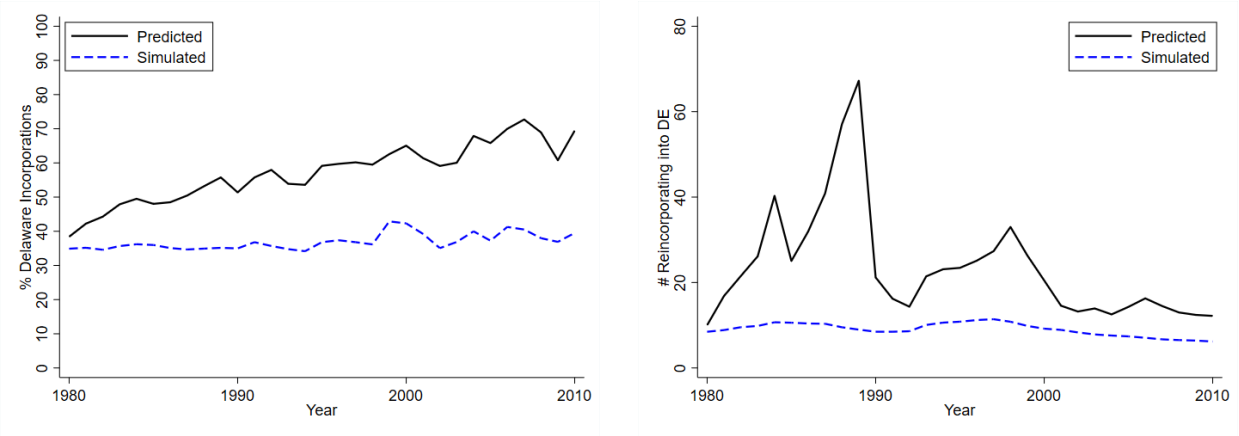
1. Figure A1: Predicted and Actual Delaware Market Share of Public Firms.
2. Figure A2: Predicted and Simulated Outcomes for Delaware Choice.
3. Figure A3: Firm Characteristics Over Time.
4. Table A1: Variable Definitions.
5. Table A2: Summary Statistics: Delaware vs. Non-Delaware Firms.
6. Table A3: Delaware Incorporation Decisions: Control Function Specification.



(a) In-Sample Prediction

(b) Out-of-Sample Prediction

Figure A1: **Predicted and Actual Delaware Market Share of Public Firms.** Panel (a) shows in-sample predictions, comparing the model-predicted market share to the actual Delaware market share for each year. Panel (b) displays out-of-sample predictions: the model is estimated using data from 1980 to 1994 and used to predict Delaware market shares from 1995 to 2010, which are then compared to the actual market shares over the same period. The predicted market shares are based on coefficients estimated using the model described in Section 3.1 and reported in Columns (1)–(3) of Table 1. Model predictions are largely unchanged when using the coefficient estimates in Columns (4)–(6), which include state-headquarter fixed effects.



(a) Going Public and Delaware Incorporations

(b) Reincorporations into Delaware

Figure A2: **Predicted and Simulated Delaware Choices.** Panel (a) shows the predicted percentage of firms choosing Delaware upon going public. Panel (b) shows the predicted number of reincorporations into Delaware. The solid line in each panel displays model-based predictions using coefficients estimated from the model described in Section 3.1 and reported in Columns (1)–(3) of Table 1. The dashed line shows simulated outcomes when institutional ownership, firm-level M&A exposure ($M\&A\ Target_{t\to t+2}$), industry-level M&A intensity (*Industry M&A*), and annual M&A activity (*Annual M&A*) are set to zero. Model predictions and simulations are largely unchanged when using the coefficient estimates in Columns (4)–(6), which include state-headquarter fixed effects.

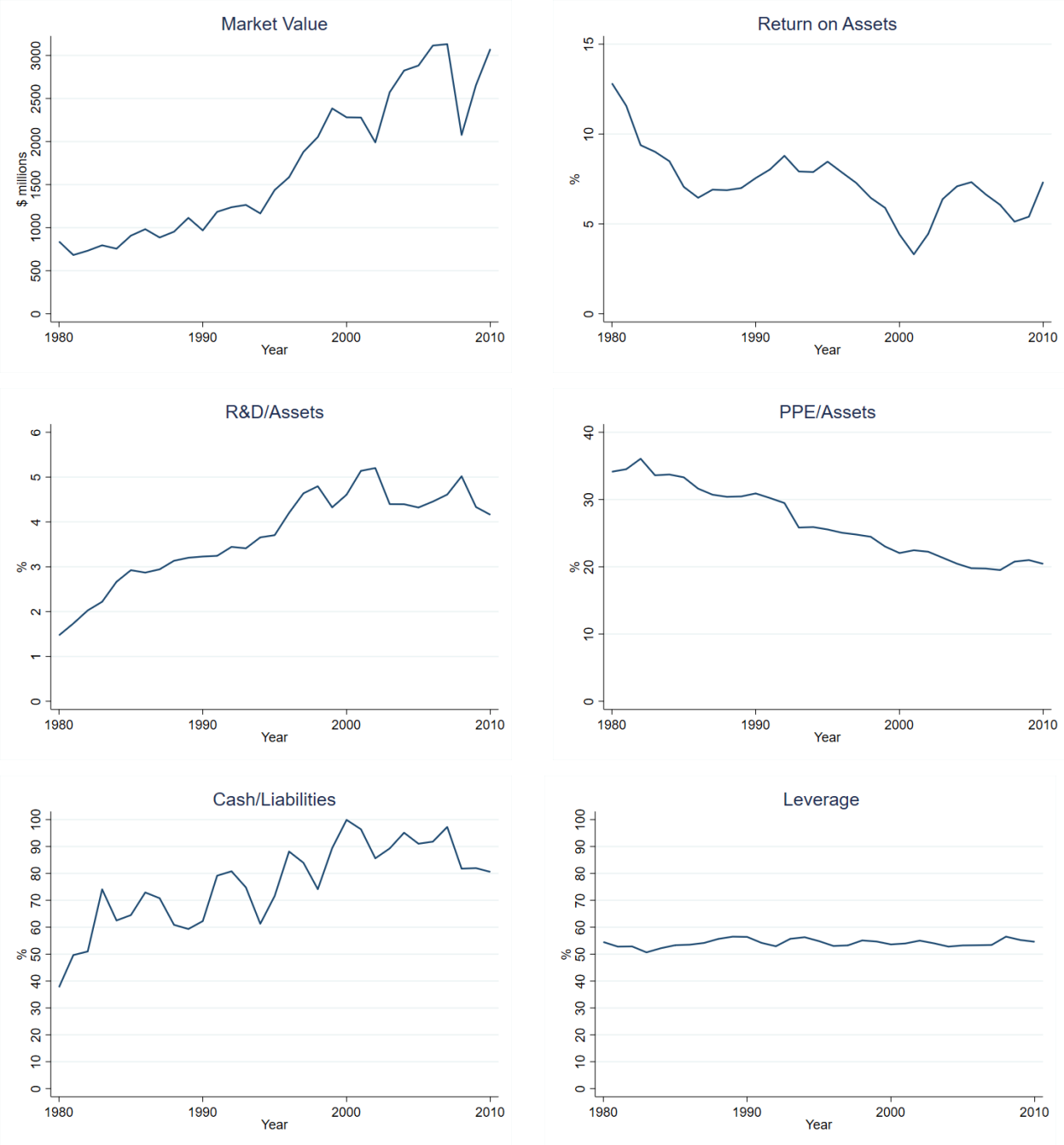


Figure A3: **Firm Characteristics Over Time.** Each panel plots annual means for the indicated variable. All variables are defined in Table A1.

Table A1: Variable Definitions

Variable	**Definition**	**Source**
Annual M&A	Fraction of public firms involved in a merger or acquisition in a given year.	SDC Platinum
Cash Ratio	Cash and short-term investments (`che`) divided by total liabilities.	Compustat
Industry M&A	Fraction of firms in the same 2-digit SIC code that were targets of mergers or acquisitions in the same year.	SDC Platinum
Institutional Ownership	Fraction of shares held by institutional investors, based on 13F filings.	WRDS 13F Filings
Leverage	Ratio of long-term debt (`lt`) to total assets.	Compustat
M&A Target$_{t \to t+2}$	Equals 1 if the firm was a target in a merger or acquisition during year t, $t+1$, or $t+2$.	SDC Platinum
Market Value	Market capitalization of the firm, calculated as share price times shares outstanding (Compustat items `prcc_f` and `csho`), measured in $millions and adjusted to the Consumer Price Index.	Compustat
PPE / Assets	Net property, plant, and equipment (`ppent`) divided by total assets.	Compustat
R&D / Assets	Research and development expenditures (`xrd`) divided by total assets, with missing values coded as zero.	Compustat

Table A2: Summary Statistics: Delaware vs. Non-Delaware Firms

	(1) **All Firms**	(2) **Delaware**	(3) **Non-Delaware**	(4) **Diff.**	(5) **t-stat**
Institutional Ownership	0.381	0.448	0.318	0.130	74.917
M&A Target (t to t+2)	0.092	0.095	0.088	0.007	4.443
Industry M&A	0.034	0.033	0.035	−0.003	−15.822
Annual M&A	0.034	0.034	0.035	−0.002	−18.725
Market Value ($ millions)	1690.120	2036.678	1358.178	678.500	23.905
ROA	0.072	0.064	0.080	−0.016	−14.836
R&D / Assets	0.037	0.048	0.028	0.020	42.502
PPE / Assets	0.264	0.253	0.275	−0.022	−15.765
Cash / Assets	0.767	0.918	0.619	0.299	29.078
Leverage	0.542	0.525	0.558	−0.033	−22.016

Notes: This table reports summary statistics for the full sample of U.S. public firms from 1980 to 2010 and separately for firms incorporated in Delaware and non-Delaware jurisdictions. The column "Diff." reports the difference in means between Delaware and non-Delaware firms. The reported t-statistics correspond to two-sided tests of equality of means. All variables are defined in Table A1.

Table A3: Delaware Incorporation Decisions: Control Function Specification

	No Fixed Effects			State Fixed Effects		
	(1) Entry	(2) Switch In	(3) Switch Out	(4) Entry	(5) Switch In	(6) Switch Out
Institutional Ownership	3.52***	1.54***	−0.21	3.62***	1.38**	−0.02
	(0.38)	(0.53)	(1.08)	(0.40)	(0.54)	(1.13)
M&A Target$_{t\to t+2}$	0.08	0.34***	−1.05**	0.07	0.28**	−0.97**
	(0.09)	(0.11)	(0.42)	(0.10)	(0.11)	(0.42)
Industry M&A	0.32	4.33***	1.55	0.61	4.48***	1.73
	(0.93)	(1.53)	(3.29)	(0.97)	(1.55)	(3.28)
Annual M&A	6.39***	22.33***	−2.39	5.25**	20.68***	−2.98
	(1.99)	(2.69)	(6.28)	(2.07)	(2.75)	(6.39)
Market Value	0.00018***	−0.00002**	−0.00004	0.00015**	−0.00002	−0.00004
	(0.00007)	(0.00001)	(0.00003)	(0.00006)	(0.00001)	(0.00003)
ROA	−0.62***	−0.84**	−0.26	−0.60***	−0.68*	−0.75
	(0.20)	(0.36)	(0.62)	(0.21)	(0.35)	(0.64)
R&D / Assets	0.64*	2.60***	−3.55*	0.94***	1.85***	−3.46*
	(0.35)	(0.57)	(1.93)	(0.36)	(0.57)	(1.97)
PPE / Assets	0.12	−0.16	0.45	0.25**	−0.18	0.46
	(0.11)	(0.17)	(0.34)	(0.12)	(0.17)	(0.38)
Cash Ratio	0.046***	0.001	−0.139	0.049***	−0.001	−0.097
	(0.011)	(0.025)	(0.106)	(0.011)	(0.025)	(0.090)
Leverage	−0.115	−0.692***	0.447	−0.180	−0.542**	0.370
	(0.108)	(0.188)	(0.335)	(0.114)	(0.188)	(0.335)
Fixed Effects	No	No	No	State	State	State
Observations	120,597	120,597	120,597	119,666	119,666	119,666

Notes: This table presents estimates from a joint maximum likelihood model of Delaware incorporation decisions across three transition types: initial incorporation in Delaware (Entry), reincorporation into Delaware (Switch In), and reincorporation out of Delaware (Switch Out). The specification implements a control-function approach using Russell 2000 inclusion as an instrument for institutional ownership. All variables are defined in Table A1. Specifications in Columns (4)–(6) include state-headquarter fixed effects. All financial variables, Institutional Ownership, and Industry M&A are winsorized at the 1st and 99th percentiles. Standard errors are clustered at the firm level. $^{*}p < 0.1$, $^{**}p < 0.05$, $^{***}p < 0.01$.

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