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Shareholder Agreements as a Control-Enhancing Device

BY

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Chairperson: Assistant Professor Umakanth Varottil

5 March 2015, Thursday, 12.30pm – 2.00pm

Lee Sheridan Conference Room, Level 1, Eu Tong Sen Building, Faculty of Law, NUS (Bukit Timah Campus)

ABSTRACT

The topic of shareholder agreements is largely debated in systems of corporate governance where concentrated companies are prevalent. In the scholars' debate, shareholder agreements are often qualified as a control-enhancing device, adopted to establish coalitions of controlling shareholders or to strengthen their power. This way, agreements among shareholders in concentrated corporation raise concerns about the possible extraction of private benefit of control and are expected to exacerbate the tension between majority and minority shareholders. However, empirical studies show, on the one hand, that in many cases shareholders may exert, by the means of agreements, very pervasive powers on the corporation and may significantly affect corporate governance; on the other hand, they reveal that shareholder agreements are frequently adopted by minority shareholders as a defensive mechanism of coordination against majority shareholders. This evidence should lead to reconsider the diffused idea that shareholder agreements are evidence of "bad" corporate governance.

In diffused ownership systems, shareholder agreements are poorly adopted in listed companies, while are common in closely-held corporations. The main reason for this divergence is often found in the different degree of ownership concentration, which would not create, in listed companies, the conditions for shareholders' coordination or in the presence of rules particularly protective of minority shareholders and, therefore, lowering the potential benefits that blockholders may obtain by the means of shareholder agreements. This argument, however, does not explain why other control-enhancing devices, such as dual-class shares are adopted. Also, in diffused corporations coalition of shareholders may have a positive impact on the agency problem raising among the shareholders, taken as a class, and the management.

ABOUT THE SPEAKER

Marilena Filippelli is Assistant Professor of Business Law at the Free University of Bozen (IT), where she teaches Corporate Law and Bankruptcy Law. She graduated with laude at the University of Rome La Sapienza and holds a Ph.D. in Economics from IMT-Institute for Advanced Studies, Lucca Italy. Marilena's research interests include corporate law and governance, competition law and the economic analysis of law. Her current research is mainly focused on the role and effect of controlling shareholders in corporate governance. Marilena has published extensively on competition law and corporate governance.

REGISTRATION

There is no registration fee for this seminar but seats are limited.

A light sandwich lunch will be provided.

Closing Date: 27 February 2015, Friday

For enquiries, please contact Ms Meryl Kong at clb@nus.edu.sg

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