Corporate governance, capital theory, and corporate finance theory: an approach from property theory

David Ellerman

An analysis of the corporate governance debate is developed using a descriptive theory about the system of private property and contract in a market economy. There are strong implications for capital theory and corporate finance theory. The structure of the main results is that what often appears as being an owned property right is upon analysis seen to be only a contractual position—and contractual positions only extend a few years into the future. An enterprise could be described concretely as specific people working with specific machines producing a certain product or it could be described more abstractly using the economists’ notion of a production function. But either way, it is not determined who is legally undertaking the enterprise until the contracts between the factor suppliers are given. Thus the determination of who undertakes an enterprise is contractually determined; it is not an owned property right. In this sense, there is no such thing as the “ownership of the firm” since the party undertaking an enterprise, the residual claimant, is determined by the direction of the hiring contracts. There is the ownership of a conventional joint stock corporation, but a corporation does not “own” the enterprise that it is currently undertaking by virtue of its contractual position.

Корпоративное управление, теории капитала и корпоративных финансов: взгляд с позиции теории собственности

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В статье рассматриваются основные проблемы корпоративного управления, используя основы теорий капитала и корпоративных финансов. Сделан вывод, что право собственности не является исключительным, и главное, достаточным для принятия эффективных решений в области корпоративного управления. Более того, акционеры являются собственниками акций предприятия, а не предприятия как такового. Последнее заключение основывается на "социальном" определении предприятия - совокупно-
On the linkage between the fundamental problem in corporate law and standard contracts law

Eli Bukspan

The claim argued in this paper is that common law, as presently applied to public corporations (i.e., Corporate Law and Securities Law), is characterized by a broad consumer outlook that subsumes standard contracts law. The "consumerist" attributes of shareholders in public corporations rely on the widely accepted theoretical analysis of corporate law that focuses on the separation of ownership and control (the "agency problem"), which was developed in the wake of the growing might of mega-corporations. Respectively, standard contracts law serves as an additional, justified and consistent legal tool for contending with the agency problem, whence the opening for its application to public corporations.

Cross-listing and corporate governance: bonding or avoiding?

Amir N. Licht

In their seminal survey of corporate governance, Shleifer and Vishny distill the issue into a blunt question: "How do [the suppliers of finance] make sure that managers do not steal the capital they supply or invest it in bad projects?" The Enron/Arthur Andersen debacle and the ensuing waves of scandal vividly proved that American investors may face this question in the most acute form. To the extent that corporate governance issues play a role in the cross-listing decision, it is a negative role. Generally speaking, the foreign issuer regime "cuts corners" exactly on the issues of corporate governance relating to corporate insiders. The notion that issuers may want to improve their corporate governance by subjecting themselves to a better regulatory regime through cross-listing--say, on an American market--is appealingly elegant. If an American firm could use an NYSE listing to bond its insiders to better governance standards, why couldn't foreign firms do the same?

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Intertemporal endogeneity in board composition and financial performance 49

Wallace N. Davidson III, Wei Rowe

In this paper the authors develop a theory of intertemporal endogeneity of board composition and financial performance. Authors find only minimal evidence of intertemporal endogeneity. The evidence that board composition influences financial performance is not very strong and depends on the definitions of financial performance and board composition as well as the type of statistical model employed. Authors do find somewhat stronger evidence that prior financial performance impacts board composition, but the relation depends on how we define board composition.

Corporate governance in a transition economy: a case study of Russia 61

Galina G. Preobragenskaya, Robert W. McGee

Corporate governance has become a popular topic in recent years. Although much attention has been given to corporate governance in the United States and other Western countries as a result of recent scandals, and in Japan and other East Asian countries because of the financial crisis that occurred there a few years ago, much has also been going on in Russia and other transition economies in the area of corporate governance. This paper discusses recent developments in corporate governance in Russia and includes information gathered during interviews conducted in Russia during the summer of 2003.

Корпоративное управление в переходной экономике: опыт России 61

Галина Преображенская, директор консультационно-аудиторской компании "Лоция" (Россия)

В статье изучается состояние корпоративного управления в России. Методология исследования осно- вывается на проведении интервью с участниками рынка корпоративного контроля и фондового рынка России в течение лета 2003 г. Сделан вывод, что несмотря на все еще низкий уровень финансовой от- четности и слабую прозрачность корпораций в России, намечаются позитивные тенденции. Усиливает- ся внимание со стороны корпораций к таким атрибутам эффективного корпоративного управления как независимые директора, доступность и систематичность предоставления финансовой отчетности и т.д.

On investment performance, value creation, management and corporate governance: the French case 72

Mondher Bellalah

This paper studies corporate governance, investment, value creation and their effects on corporate performance in some European countries and in particular in France. It accounts for specific aspects of investment perform-
The effects of ESOPs on performance and risk: evidence from France

Stéphane Trébuch

Approximately 220 of the 700 firms whose stock was traded on the main French markets had an employee stock ownership plan at the end of the year 2000. Average ownership was 3.7%. Employee ownership can be implemented for many reasons, and the relationship between ESOPs and performance still remains unclear. The purpose of this research is thus to determine how employee ownership can affect corporate performance and risk in France. The results of previous empirical studies, while mixed, tend to suggest that, in some cases, ESOPs have a positive effect on certain measures of financial and market performance. Cross-sectional regressions show some positive links between the presence of ESOPs and some financial performance measures, such as the return on equity and the return on investments. Links between ESOPs and risk variables are more complicated. The presence of ESOPs reduces the return on equity variability, but the more employee ownership there is the more the beta coefficient increases. This result seems to show that investors tend to consider firms with ESOPs to be more risky, even if their profitability is more stable. Within the limitations of these results, we propose a general model introducing the concept of social capital. This model tries to explain how ESOPs can have positive and negative organisational consequences.

Влияние программ опциононых на акции на показатели эффективности и риска бизнеса: обзор корпораций Франции

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Работа посвящена исследованию влияния программ опционов на акции, используемых в корпорациях Франции, на показатели эффективности и бизнес-риска. Результаты предыдущих исследований в целом свидетельствуют о существовании положительного влияния на такие финансовые показатели как окупаемость акционерного капитала и инвестиций. При этом, использование программ опционов на акции снижает волатильность окупаемости акционерного капитала. Однако при значительных объемах программ, возрастает показатель бета, характеризующий риск от участия в программах опционов на акции. Более того, инвесторы склонны рассматривать корпорации, активно использующие программы опционов на акции, как более рискованные объекты для инвестирования. В работе предлагается новая модель социального капитала, призванная внести ясность в вопрос влияния программ опционов на акции на эффективность корпораций.
SECTION 2. CORPORATE GOVERNANCE IN BANKING
РАЗДЕЛ 2. КОРПОРАТИВНОЕ УПРАВЛЕНИЕ В БАНКАХ

Corporate control and governance in banking

M. Kabir Hassan, David R. Wolfe, Neal C. Maroney

Banking firms face an industry specific set of agency problems. The heavily regulated nature of the industry alters the shareholder/manager relationship. The scope of market discipline in the industry is severely limited due to regulatory oversight. This article surveys the state of the corporate governance literature with special emphasis on reviewing the agency problems unique to the banking industry.

Regulation, corporate control and bank risk taking

Seok Weon Lee

In this study, we examine the relation between ownership structure and risk-taking behavior of banks by analyzing data for three different regulatory and economic regimes of the Korean banking industry. We find that stockholder-controlled banks exhibit higher but unprofitable risk-taking than managerially-controlled banks during the period of deregulation 1994-1995, and that this relation is more transparent during the period of deregulation and decline of the industry 1996-1997. However, higher risk-taking incentives of stockholder-controlled banks become weaker during the period of tightened regulation and structural reform 1999-2000. Furthermore, the profitability of stockholder-controlled banks given a unit increase in the bank’s risk appears to be improved in this period relative to the periods of deregulation.

Corporate social disclosure by banks and finance companies:
Malaysian evidence

Fathilatul Zakimi Abdul Hamid

This paper provides empirical evidences on the corporate social disclosure practice in the highly regulated industries namely banking and finance. In response to prior literature, research in specific industry will allow the researcher to see some specific pattern in disclosure theme for those industries because all social disclosure
items were treated equally. Result from the study on disclosure theme shows that product related disclosure was highest. It may indicate some important issues taking place in the period under study. Furthermore, the result of the hypothesis testing shows that size, listing status and age of business appear to significantly influence the disclosure practice and may conforms to legitimacy theory postulate. While the profitability variable show insignificant relationship possibly due to prior literature notion that decision to disclose social information is related to public pressure variable rather than profitability variable.

**SECTION 3. PRACTITIONER’S CORNER**

**Valuation of voting scheme changes: the cases of Electrolux AB and SKF AB**

*Yinghong Chen*

This paper studies the effects of the change of voting scheme on the market prices of Electrolux and SKF AB using standard event study methodology and a clinical approach. The economic effect of the voting scheme change is assessed using the market model. We investigate the loss of control due to the reduced power discount and corporate governance improvement. The magnitude of the response on the event day depends also on the information structure of the period leading to the announcement. A bigger effect on the value of the firm is to be expected if the voting powers of the major owner(s) shifts away from absolute control to moderate control which indicating a significant change in governance pattern.

**SECTION 4. CORPORATE WORLD NEWS**

**Reported by Alex Kostyuk**

Новости подготовил Алекс Костюк