



Corporate Governance and Capital Market Developments: emerging issues

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Since the Asian crisis there have been major improvements to the corporate governance framework and expansion of markets

- Widespread introduction of codes based on OECD, often comply or explain
- Regulators strengthened
- Major improvements in audit and accounting (IFRS, consolidation)
- Duties of boards more closely defined
- Greater use of independent directors
- Clearer for companies that investors pay for good corporate governance – dev of indices and score cards

However, the corporate landscape remains much the same

- Company groups and pyramids remain dominant and increasing with the listing of China SOE
- Dominant owners
- In some countries, rising cross shareholdings
- So pathologies are much the same”: related party transactions, conflicts of interest, ownership leverage high so potential for abuse
- Enforcement remains a problem – regulators and courts
- Some regulations might also be inefficient – RIA

But capital markets are moving on in the world raising other potential issues: is Asia prepared?

- Rising number of activist or engagement investors including activist hedge funds
- Development of large private pools of capital – private equity
- Rising role of state owned companies in the world economy
- Projections for a major expansion of sovereign wealth funds
- Potential swing of the cycle away from de-equitisation and more debt work outs

What are the issues: activism

- What shareholder rights are we really prepared to allow in practice?
- Are the rules of the game clear and enforced
- Potential for market abuse
- Does the voting and proxy system work
- Long term versus short term: is it really an issue
- What should be known about the activist and when: intention and size of shareholding declarations
- What are the rules covering cooperation: when is it acting in concert

Issues with private equity, esp public to private

- Are takeover arrangements efficient, especially when there are insiders
- Insider trading laws need to be effective as information often leaks
- What are the arrangements for recapitalisations
- Does the tax system produce perverse incentives especially with regard to short term/long term decisions.
- Are creditor protection systems adequate

Issues with SOE: similar to private equity

- Is their identity known together with their corporate governance arrangements?
- Are review procedures appropriate (national interest issues)
- Is their source of funding an issue – level playing field
- Intentions – are they economic or strategic in the national sense

Issues with SWF

- Do regulators have powers vis-à-vis sovereign entities
- What are the procedures for notifying large holdings – are they too high or too low.
- Do procedures cover notice of intentions
- Should they be treated as any other investor if above apply.

Thank you