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FACULTY OF LAW, THE UNIVERSITY OF HONG KONG

Public and Private Enforcement of Corporate and Securities Laws: An Empirical Comparison of Hong Kong and Singapore

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Room 723, 7/F Cheng Yu Tung Tower, The University of Hong Kong

Current scholarship emphasises the correlation between enforcement of corporate and securities laws and strong capital markets. Yet, the issue of how private and public enforcement may achieve the objectives of compensation and optimal deterrence remains controversial. While enforcement strategies have been studied extensively in the US and the UK, comparatively less attention is placed on Asia where concentrated shareholdings are the norm. This study fills the gap by focusing on Hong Kong and Singapore, two leading international financial centres in Asia. Post-Asian financial crisis of 1997, Hong Kong and Singapore have changed their laws to strengthen the private enforcement framework. Public enforcement activities have also been significant. The question is whether these reforms and enforcement activities succeed in reaching the afore-mentioned objectives. Based on our study of breaches of directorial duties and corporate disclosure violations involving listed companies from 2000 to 2015, we find that (1) public enforcement dominates over private enforcement; and (2) there exist important, but limited, substitutes to private enforcement: securities regulators use public enforcement to obtain compensation for investors and shareholders file requisitions to remove the errant directors. We argue that: (a) there is a significant gap in enforcement strategies for directorial wrongdoing in Singapore; (b) for public enforcement of corporate disclosure violations, the beneficiaries of the compensation should be the investors (rather than the company) and the defendants should only be the errant directors (and not the company). Our study is relevant to those jurisdictions considering the powers of regulators and improving their enforcement framework. The paper is a joint work with Christopher Chen (Singapore Management University) and Say Goo (HKU).

Wai Yee Wan is an Associate Professor in the School of Law at the Singapore Management University (“SMU”). She has previously served as the Associate Dean for Teaching and Curriculum, the Academic Director, Faculty Affairs with the Office of Provost at SMU and the Deputy Director, Centre for Cross-Border Commercial Law in Asia. Immediately prior to joining academia in December 2005, she was a partner at Allen & Gledhill, Financial Services Department, where she practised in the areas of mergers and acquisitions as well as equity capital markets. Her main areas of research are in corporate law, mergers and acquisitions and securities regulation. She has published in international peer-reviewed legal journals, including *Journal of Corporate Law Studies*, *Journal of Business Law*, *Company and Securities Law Journal* and *Lloyds’ Maritime and Commercial Law Quarterly*. She has received research awards and fellowships for her publication record, including the Lee Kuan Yew Fellowship for Research Excellence (2015-2016), the Lee Kong Chian Fellowship (2015-2018), Hauser Global Research Fellowship by NYU (2008), and the Lee Foundation Fellowship for Research Excellence (2007).

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