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Do Auction and Mandatory Bid Matter? Assessing Chinese Takeover Law from Value-maximizing Perspective

BY

Professor Charlie Xiao-chuan WENG

KoGuan Law School, Shanghai Jiao Tong University

Chairperson: Assistant Professor Umakanth Varottil

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LEE SHERIDAN CONFERENCE ROOM, LEVEL 1, EU TONG SEN BUILDING
FACULTY OF LAW, NUS (BUKIT TIMAH CAMPUS)

ABSTRACT

Takeover is a quintessential corporate law topic that has received intensive attention from both industry and academia. There is voluminous legal and economic literature focusing on finding an optimal takeover law model. The discussion on the best takeover institution was extremely heating-up when takeover market was booming. It has been two decades since the first national securities exchange was established in China. The landscape of the Chinese capital market has significantly changed. In the first decade, state owner was almost omnipresent in all listed companies. After state-owned share reduction reform and State-owned Enterprises (SOEs) reform, the stake of state-owned shares is starkly less than before. Despite the change, SOEs are still the major force in the two Exchanges, Shanghai Stock Exchange (SSE) and Shenzhen Stock Exchange (SZSE). Meanwhile, the change nevertheless complicates the market composition, which provides market force conducive to the marketization reform. Different ownership structures invite different agency problems. This feature necessitates the reevaluation of the takeover law, whose efficacy is largely affected by the agency problem in the market.

Among all the takeover law institutions, the auction promotion related institutions and mandatory bid rule are the most controversial ones in the takeover law legislation. In Chinese takeover law, the auction is promoted through the application of the 5% rule (a disclosure and waiting requirement for every 5% share acquisition). It provides a crucial delay that might increase the chance of participation of other bidders. Auction promotion is widely believed to be the institution that maximizes the value of the target when its shareholders are dispersed and hard to be coordinated. Mandatory bid rule requires the winning bidder to issue a unanimous offer to all the targets shareholders to ensure minority shareholders have a chance to share in the control premium. Auction and mandatory bid, even if they seem not closely related, are both from English tradition and for the protection of shareholders. The qualifier of their good efficacy nevertheless is the high similarity of the governance realties between China and legal translation sources. In the seminar, the application of both institutions in China will be discussed in light of the unique Chinese market ownership structure.

ABOUT THE SPEAKER

Charlie Xiao-chuan WENG is a Professor of KoGuan Law School at Shanghai Jiao Tong University. His work focuses on the intersection of business and law, including the role of capital markets supervisor and the functions of modern corporate law legislation. He has published widely in the fields of corporate law, securities law, and bankruptcy. His research projects were heavily supported by multiple organizations, including the World Bank and the Municipal government of Shanghai. He was visiting and working at the Center for the Study of Corporate Law in Yale Law School from 2011 to 2012. He also holds many visiting positions at leading law schools, such as University of Cambridge Faculty of Law and Stanford Law School. He holds Juridical Science Doctor (SJD) degree, LLM. degree and Wharton certificate from University of Pennsylvania. He also is alumnus of National University of Singapore (NUS) and East China University of Political Science and Law (ECUPL).

REGISTRATION

There is no registration fee for this seminar but seats are limited.
A light sandwich lunch will be provided on a first come first serve basis.

Closing Date: 22 June 2015, Monday
For enquiries, please contact Ms Finna Wong at clb@nus.edu.sg

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