Piercing the Corporate Veil in Corporate Groups

Shiu-Feng Hung & Te-Fang Chu*

Abstract

To protect corporate creditors in corporate groups, Article 369-4 of Taiwan Company Law provides that when a controlling company has caused its subsidiary to conduct any business contrary to normal business practice and failed to pay an appropriate compensation, such controlling company shall be liable for the subsidiary’ s damage; creditor of the subsidiary may claim damages for the company. However, in practice such suits have been extremely rare. Instead, creditors of the subsidiary often argue the doctrine of piercing the corporate veil and demand the controlling company to pay for the debt of the subsidiary. Before the Company Law provides the piercing the corporate veil in its 2012 amendment, courts’ opinions were divided on this matter. Along with the recent amendment, new issues require attention. By analyzing relevant laws and cases in Germany and the United States, this paper aims to provide suggestions on how the new laws apply, especially in the context of corporate groups.

Keywords: affiliated enterprises, direct liability of shareholder, Existenzvernichtungshaftung, subrogation, piercing the corporate veil, the substantial consolidation, Lehman Brothers bankruptcy, enterprise liability, reverse piercing the corporate veil, disregarding corporate entity.

---

* Shiu-Feng Hung is Associate Professor at College of Law, Soochow University.
E-mail: sfhung@scu.edu.sg
* Te-Fang Chu is Associate Professor at College of Law, National Chengchi University, Taiwan. E-mail: tfchu@nccu.edu.tw