A Jurisdictional Competition Perspective on Changes of Minimum Capital Requirements: With a Look at Taiwan's Probable Reforms on Par Value Rules

Chang-Hsien Tsai*

Abstract

This paper explores how jurisdictional competition contributed to the reduction or abolishment of minimum capital requirements. Specifically, this paper analyzes how the ability to choose the jurisdiction of incorporation has posed a competitive threat to local legislators or regulators, by comparing the European Union ("EU") and Taiwan. It continues to explain how jurisdictional competition affected company law reforms, particularly the reduction or abolition of minimum capital requirements while arguing that the pressure of jurisdictional competition drove the EU and Taiwan toward the liberalization of minimum capital requirements. More importantly, the case of Taiwan demonstrates that the World Bank, through its annual "Doing Business" reports, have been promoting international jurisdictional competition. This paper asserts that this jurisdictional competition arguably compelled Taiwan to abolish the statutory minimum capital in 2009. In particular, the way the World Bank instills a sense of jurisdictional competition as countries engage in regulatory reforms is similar to how the European Court of Justice sparked European chater competition, which thereafter contributed to the liberalization of minimum capital requirements across EU members. Also, this paper, from a perspective of international jurisdictional competition, elaborates on probable reforms of par value rules in Taiwan.

* Associate Professor, Institute of Law for Science and Technology, National Tsing Hua University. LL.B., LL.M., National Taiwan University; LL.M. in Corporate Law, New York University; J.S.D., University of Illinois at Urbana-Champaign.
E-mail: chstsai@mx.nthu.edu.tw

Keywords: minimum capital requirements, World Bank, Doing Business reports, jurisdictional competition, law and development, law and finance, comparative corporate governance, par value rules, national competitiveness, legal transplant