

**The Internal Irregularity and Its Effect on the Validity of
Transactions: Concurrently Discussing the Authority of
Directors and Managers**

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Abstract

A company enters into transactions with third parties by its agent or representative. However, third parties are under the risk of whether that agent or representative has complied with internal company procedures (such as the resolution of the general meeting or of the board of directors) and whether that person has authority. If the company does not comply with internal procedures (i.e. there are internal irregularities), and this results in the resolution being voided, then the issues at hand are whether these transactions should be declared void and whether these actions are just, both of which have given rise to a flurry of academic writings in other jurisdictions. In Taiwan, however, it is not yet being paid sufficient attention by either academia or court judgments. The courts are inclined to declare that the transaction entered into on the basis of the void resolution is void too. This stance will inevitably compromise the safety of transactions and shift the risk to the innocent third parties.

From a comparative perspective, the indoor management rule, i.e. the rule of the *Turquand* case and its development by the British court, may be worth borrowing when Taiwan's Company Act is reformed. Under the *Turquand* rule, the third party is entitled to assume that an agent of a company has the authority and internal formalities have been complied with unless he knows or has reason to know the contrary. This rule strikes a balance between the protection of

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shareholders and the third parties, and it is more flexible and suitable than Taiwan's courts decisions in matters pertaining to commercial practices.

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