

The Direction for Reforming the Corporate Governance of Financial Institutions: Focusing on Independent Directors and Nominating Committees

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Abstract

The ownership structure of financial institutions in Taiwan is mostly concentrated, which is likely to involve the conflict of interest under which controlling shareholders tunnel the fund of financial institutions to serve their own interest. This has become an issue of concern to the Financial Supervisory Commission of Taiwan. Although corporate governance reform can rely on independent directors to monitor the tunneling of controlling shareholders, the independence of independent directors is often questionable in Taiwan. This is because controlling shareholders, based on its dominant ownership, often appoint friendly faces to serve independent directors, which affects the independence of the board of directors. To alleviate this concern, comparative laws have developed the “nominating committee” model, which requires companies to establish a nominating committee composed of independent directors to take the charge of recommending director and independent director candidates. In recent years, some countries further developed the “special appointment right of minority shareholders” model, which accords minority shareholders special right to elect, veto, or boycott directorate candidates to hold directors accountable to minority shareholders. After analyzing the pros and cons of these two models, I propose a revised nominating committee in this paper, which suggests: First, financial institutions in Taiwan shall establish nominating committees to take the charge of director nomination so as to avoid the conflict

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of interest arisen from the board's self-nomination. Second, a sufficient number of seats on nominating committees shall be reserved to the "minority shareholder representatives" elected by the "one shareholder, holding a thousand shares or more, one vote" rule so as to prevent controlling shareholders or blockholders from capturing the election process and to enhance the independence of nominating committees. I further propose a number of supplementary measures in this article, such as requiring nominating committees to disclose the recommenders of each directorate candidates and to explain their reasons to directorate candidates who are excluded from the recommendation list, etc. It is anticipated that this article provides practical suggestions for the corporate governance reform of financial institutions in Taiwan.

Keyword: financial institutions, corporate governance, independent directors, concentrated ownership, controlling shareholder, interested transactions, nominating committees, special appointment right of minority shareholders