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The Nordic Model in an International Perspective: The Role of Ownership

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PER LEKVALL (ED.)

THE NORDIC CORPORATE GOVERNANCE MODEL

WITH COMMENT BY
RONALD J. GILSON

SNS FÖRLAG

»This is an important and influential book for three reasons. First, Nordic countries are important and currently upheld as a model for good corporate governance around the world. Second, the book is an exceptionally careful and thorough analysis of their governance arrangements. It combines an overview of the common features of Nordic countries' governance with individual country details of their differences. Third, it provides real insights into the determinants of successful corporate governance. It points to three key components: diversity of ownership patterns including controlling shareholdings, independent boards, and strong protection of minority investor interests. The book deserves to be widely read and carefully studied by anyone interested in the design of corporate governance systems.«

Colin Mayer, Peter Moores Professor of Management Studies, Said Business School, University of Oxford

CHAPTER IV

THE NORDIC MODEL IN AN INTERNATIONAL PERSPECTIVE

The Role of Ownership

A comment by Ronald J. Gilson*

It is commonplace to credit the invention of the public corporation as an important engine of economic growth. The creation of a long-lived vehicle that gave investors both tradable shares and limited liability allowed talented managers to raise capital to fund enterprise. Writing in 1926, the Economist magazine heralded this role:

> The economic historian of the future may assign to the nameless inventor of the principle of limited liability, as applied to trading corporations, a place of honor with Watt and Stephenson, and other pioneers of the Industrial Revolution. The genius of these men produced the means by which man's command of natural resources has multiplied many times over; the limited liabil-

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Electronic copy available at: http://ssrn.com/abstract=2533670

> ity company the means by which huge aggregations of capital required to give effect to their discoveries were collected, organized and efficiently administered.[1]

During both the industrial revolution of the 19th century and the digital revolution of the 21st, innovation had to be organized to succeed. The innovation represented by the corporate form was the vehicle for the industrial and technological innovations that define these periods. Nonetheless, this gem of an organizational form had two deep flaws that were apparent from the outset, one of which goes to the misaligned incentives between management and shareholders, and the other goes to the difficulty of aligning them. Adam Smith, in *The Wealth of Nations*, identified the first flaw in the late 18th century – what we now call the agency problem:

> The directors of such [joint-stock] companies, however, being the managers rather of other people's money than of their own, it cannot well be expected that they should watch over it with the same anxious vigilance with which the partners in a private copartnery frequently watch over their own ... Negligence and profusion, therefore, must always prevail, more or less, in the management of the affairs of such a company.[2]

So someone has to watch management to make sure that managers work diligently for the shareholders. But this is hard to do. Two hundred years later, Dr. Seuss – the pen name of Theodor Geisel, who is the most beloved American children's author – captured the second flaw as well as any economist and in a much more amusing manner:

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1. Economist, Dec. 18, 1926.
2. Adam Smith, *The Wealth of Nations: An Inquiry into Nature and Causes of the Wealth of Nations* (1776).

> Oh, the jobs people work at! Out west near Hawtch-Hawtch there's a Hawtch-Hawtcher bee watcher, his job is to watch. Is to keep both his eyes on the lazy town bee, a bee that is watched will work harder you see. So he watched and he watched, but in spite of his watch that bee didn't work any harder not mawtch. So then somebody said »Our old bee-watching man just isn't bee watching as hard as he can, he ought to be watched by another Hawtch-Hawtcher! The thing that we need is a bee-watcher-watcher!«. Well, the bee-watcher-watcher watched the bee-watcher. He didn't watch well so another Hawtch-Hawtcher had to come in as a watch-watcher-watcher! And now all the Hawtchers who live in Hawtch-Hawtch are watching on watch watcher watchering watch, watch watching the watcher who's watching that bee. You're not a Hawtch-Watcher you're lucky you see![3]

To date, much of corporate governance scholarship and practice has been, in effect, a search for organizational cold fusion. Can we design a cost-effective monitoring technique, whether internal to the corporation like independent directors or external to the corporation though markets like the market for corporate control, that will cause management to work only in the shareholders' interests and so reduce the divergence between interests to levels low enough that it will not operate as a drag on performance? The difficulty is that incentive-compatible governance techniques are both difficult to design and expensive. For example, paying directors enough to get their full attention may be inconsistent with their independence, a problem that gets worse the more complex the business becomes. Takeovers, in turn, are blunt instruments, and the large premiums associated with them imply a significant level of poor per-

3. Dr. Seuss (T. Geisel), *Did I Ever Tell You How Lucky You Are?* (1973).

formance before they are triggered.[4] Indeed, there is evidence that those banks whose corporate governance most closely aligned the interests of shareholders and managers fared worst in the recent financial crisis.[5]

But there is another approach to the agency problem that has received less attention in the corporate governance debate – an active *owner,* in contrast to passive shareholders, has the right incentives to either run the corporation well herself, or to monitor carefully the performance of the managers she hires. This brings us to the subject of this volume: Nordic corporate governance, or what I will call an ownership model of corporate governance.

An ownership model of corporate governance

An ownership model of corporate governance takes as its premise the simple intuition that an active owner will be a more effective and less costly monitor of management than the techniques associated with the governance of public corporations having widely dispersed shareholdings.[6] But the analysis gets more complicated when the owner needs to raise equity capital. Once you add public shareholders to the mix, a different

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4. R. J. Gilson, *Controlling Shareholders and Corporate Governance: Complicating the Comparative Taxonomy*, 119 Harvard Law Review 1641 (2006).

5. A. Beltratti and R. M. Stulz, *The Credit Crisis Around the Globe: Why did some Banks Perform Better?*, 105 Journal of Financial Economics. 1 (2012).

6. R. J. Gilson and A. Schwartz, *Constraints on Private Benefits of Control: Ex Ante Control Mechanisms versus Ex Post Transaction Review*, 169 Journal of Institutional and Theoretical Economics 160 (2013).

form of agency cost arises: the owner's incentive to secure private benefits of control. An owner that holds less than all of the company's equity has an incentive to divert profits to herself, for example through related-party transactions, rather than sharing them with public shareholders either by keeping the profits in the corporation or paying them out in dividends. The potential for diversion of private benefits of control also has allocative and not just distributional consequences. Different kinds of businesses are differentially susceptible to divergence of private benefits; for example, vertical integration creates the potential for large numbers of related transactions that can disproportionately favor the controlling shareholder. Therefore, the optimal form of organization from the perspective of the controlling shareholder may no longer be the most efficient but, instead, the form that maximizes the combination of efficient production and the capacity to divert private benefits.

At this point, the agency problem posed by owners gets complicated. First, if the company must sell equity to finance its growth (because the owner lacks the resources herself), the control that gives the owner the ability to act as an effective, low-cost monitor is diluted, and the combination of success and growth opportunities becomes self-defeating. The obvious solution, common to the Nordic countries as shown in the country reports in this volume, is for the owner to retain control by having the company sell to the public shares with lower voting rights than the stocks held by the owner – the controlling shareholder levers control through dual-class common stock.[7] But the use of leveraged control to solve the first owner-agency problem presented by the addition of public shareholders exacerbates the second. The larger the difference between

7. The Nordic countries differ somewhat along this dimension. The Norway Report states that although Norwegian law does allow two classes of common stock with different voting rights, it is rarely used.

the owner's share of the vote and her share of the equity, the stronger her incentive to extract private benefits of control.[8] And so one confronts a vicious circle: the more successful the business and the greater its growth opportunities, the more capital that must be raised through a dual stock structure, the bigger the divergence between the controlling shareholder's voting rights and her equity stake, and so the greater her incentive to divert private benefits of control. This leads to the third and potentially most significant owner-agency problem. Since public shareholders will expect that an owner will divert private benefits of control unless the owner can credibly commit not to do so (or can set a credible cap on the amount of diversion), the cost of equity capital will be driven up, with negative consequences for the company's success in its business and its capacity to grow.[9]

How the Nordic ownership model of corporate governance responds to the agency problems of ownership

The overview study and the country studies of Denmark, Finland, Norway, and Sweden in this volume tell a single, coherent story. First, active owners dominate publicly held Nordic companies. As shown in Figure 11.1 on page 50, 62 % of companies in the region have at least one shareholder that holds more than 20 % of the votes and 21 % have a shareholder that

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8. See, for example, S. Classens, S. Djankov and L.H.P. Lang, *The Separation of Ownership and Control in East Asian Corporations*, 58 Journal of Financial Economics 81 (2000).

9. R. J. Gilson and A. Schwartz, *Contracting Over Private Benefits of Control*, available at www.ssrn.com/abstract=2182781 (July, 2013).

holds more than 50 % of the votes. Characterizing Nordic corporate governance as an ownership model is plainly correct: public companies are dominated by active owners.[10] Thus, the first governance problem that confronts an ownership model – how the active owner maintains a controlling position while the company grows – seems to have been solved in the Nordic region.

Second, these companies are successful. As shown in Table I.1 on page 28 the number of Nordic companies among the Forbes 2000 largest global companies exceeds that of Germany, despite the fact that Germany's GDP is twice that of the Nordic region. Thus, the second and third problems that confront an ownership model of corporate governance also seem to have been solved – the divergence of private benefits of control has not risen to levels that affect Nordic companies' cost of equity capital or success – as can be inferred by the fact that large-cap listed companies represent some 88 % of the market value of shares listed on the Nordic exchanges (Table II.3, p. 46).

This section reviews the legal structure that supports the Nordic ownership model. The next section then considers the Nordic ownership model from a comparative perspective, with particular attention to an issue that has figured prominently in the corporate governance literature: whether different national and regional corporate governance systems are converging.

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10. For present purposes, I will ignore a different corporate governance model found in the Nordic region: the »no owner« governance model represented by the Danish industrial foundations. In the foundations, no individual or for-profit company bears the residual risk of the company's performance; voting control is lodged in a non-profit foundation. Here the puzzle is that, despite a governance model that has neither an active owner nor dispersed shareholders, these businesses are on average as profitable as public corporations with more familiar governance models. See H. Hansmann and S. Thomsen, *Firms without Owners: The Governance of Industrial Foundations*, working paper, Feb. 2014.

Legal rules

The legal rules that support the Nordic ownership model of corporate governance in each of the countries are straightforward. Consider first the initial problem that must be solved in an ownership model: companies must be able to raise additional equity capital without so diluting the controlling shareholders' ownership of voting stock that they lose control. This is accomplished in Denmark, Finland and Sweden by the use of dual-class common stock, where the controlling shareholder owns shares with multiple voting rights (typically 10 votes per share) and the public shareholders own shares with only a single vote. Thus, companies can raise substantial amounts of equity without the controlling shareholder losing control.[11]

While the use of dual-class control to maintain control despite equity sales is straightforward, it is not the only way to accomplish that goal. For example, complex webs of circular ownership and related but non-transparent ownership can also allow a controlling shareholder to leverage her voting control. A recent comparison of the ownership structure of the Korean Samsung group and that of the Wallenberg group in Sweden, which is anchored through the family's dual class-based con-

11. Interestingly, Norway differs in this important respect. As described in the country report for Norway, company law allows the use of different classes of common stock with different voting rights, but only three listed companies have other than a single class of stock: ownership and voting rights coincide rather than diverge. This is something of a puzzle in that the percentage of Norwegian companies with a 20% and 50% shareholder is higher than the average for the Nordic region. No explanation for this different pattern is offered; however, one may speculate that it may be related to the fact that the Norwegian government is the largest investor in listed Norwegian companies, holding approximately 35% of the outstanding stock (spread across only 8 large companies). In that circumstance, the government may be the ultimate arbiter of control.

trol of Investor AB, highlights the differences between circular ownership and dual-class common stock as a means to leverage control.[12] As discussed above, the risk posed by leveraged control is the controlling shareholder's increased incentive to divert private benefits of control. While the Wallenberg group's control relationship based on dual class common stock is transparent, Professor Kim argues that the complex circular ownership linking the units of the Korean Samsung chaebol is opaque and therefore facilitates diversion of private benefits of control. If the solution to the problem of allowing an active owner to maintain control of a growing company is leveraged control, then ownership relationships must be transparent so that related transactions that may serve as vehicles for diverting private benefits of control can be tracked. Professor Kim notes that Korean corporate law prohibits dual-class common stock but allows complex circular ownership, and argues that monitoring private benefits would be improved were the legal status of the two techniques reversed.

That brings us to the second problem that must be addressed in an ownership model of corporate governance: a controlling shareholder's incentive to take private benefits of control increases as her equity stake decreases. An ownership model's success thus depends on limiting private benefits of control. While the details differ somewhat across the four countries, the basic structures of the four Nordic countries' corporate law regimes set out in this volume reveal a common strategy to constrain private benefits of control. Put most simply, the annual general meeting is given plenary power, approval by qualified majorities based on equity ownership rather than voting rights is required for sensitive actions like directed issuances of

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12. Hwa-Jin Kim, *Concentrated Ownership and Corporate Control: Wallenberg Sphere and Samsung Group*, available at htto://ssrn.com/abstract=2463272 (2014).

shares, and the board or AGM is prohibited from taking actions that advantage a controlling shareholder at the expense of the minority.

While these protections are clear enough, their effectiveness depends importantly on the extent to which they can be effectively enforced: do the courts and the four corporate-law regimes give minority shareholders an economically and substantively feasible means to challenge actions they deem unduly favorable to the controlling shareholder? Professors Guido Ferrarini and Paolo Guidici highlight this point with respect to the Italian Parmalat scandal, which involved the diversion of large amounts of private benefits of control through related-party transactions:

> [I]talian substantive rules cannot be blamed for what happened. Indeed, we argue ... that the existing Italian substantive rules that were in place during Parmalat's last decade were sufficient and, somewhat surprisingly, were even more severe than those in the US. If Italian gatekeepers were undeterred, do not blame Italian substantive rules, blame enforcement.[13]

Here the concern is not just with substantive legal rules that identify what actions will be found to unduly favor a controlling shareholder, but as well with the civil procedure rules that identify who can challenge those actions and the economics of that process, especially with respect to the ability to share the costs of the litigation across all minority shareholders.

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13. G. Ferrarini and P. Guidici, *Financial Scandals and the Role of Private Enforcement: The Parmalat Case*, in After Enron 159 (J. Armour and J. McCahery, eds. 2006).

Non-legal constraints on private benefits of control

It is obvious that non-legal arrangements are important constraints on the consumption of private benefits of control. Controlling shareholders are commonplace in developing countries where courts cannot be expected to operate effectively to constrain private benefits of control; publicly held minority shares nonetheless sell at a positive if still discounted price.[14] Thus, controlling shareholders must adopt observable strategies that operate to credibly cap the extent of private benefits. These strategies can be grouped in two general categories: reputation-based commitment and structural commitment.[15]

The first category builds on the premise that if a controlling shareholder can be expected to return to the capital market, the company's anticipated cost of capital will reflect the observed level of private benefits. Thus, controlling shareholders with a penchant for self-dealing will face a higher cost of capital and so will bear the cost of self-dealing. Family-controlled conglomerates and broad, state-controlling ownership, both common in countries without effective legal systems, operate to expand the effectiveness of reputation-based enforcement through repeated transactions by extending the number of companies that may come back to the capital market to raise equity.

The second category is comprised of techniques where the structure of the controlled company's business itself impedes a controlling shareholder's diversion of private benefits. For example, a familiar means of private-benefit transactions is through related-party transactions between companies in a

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14. R. J. Gilson, *Controlling Family Shareholders in Developing Countries: Anchoring Relational Exchange*, Stanford Law Review 60, 633 634–35 (2007).

15. Gilson and Schwartz, *supra* note 9.

vertically integrated controlled pyramid. If the controlling shareholder has a larger equity stake in the upstream input supplier, transfer prices favorable to the supplier will transfer private benefits of control. The absence of vertical supply arrangements in a controlled conglomerate may then serve as a credible commitment – through industrial organization rather than reputation or the legal system – that private benefits will be limited.

An ownership-based governance model in a comparative perspective

Comparative corporate governance for some time had a teleological perspective: Anglo-American, widely dispersed shareholdings and the related market-based governance model allowed for specialization of management and of risk-bearing, and so was seen as the most efficient corporate structure; other systems, including those characterized by controlling shareholders, were just less advanced on the development path. The expectation was that, in the end, we would observe convergence on the market-based model. This analysis suffered from serious shortcomings. First, it ignored significant overlaps among the systems. The United States, for example, has a significant number of both public companies with controlling shareholders[16] and companies whose controlling sharehold-

16. In the United States, approximately 15 % of the S&P 500 companies are family-controlled. R.C. Anderson and D.M. Reeb, *Founding Family Ownership and Firm Performance: Evidence from the S&P 500*, 58 Journal of Finance. 1301 (2003),

ers leverage their control through dual-class common stock.[17] At the same time, countries that are characterized as having controlling shareholders systems also had significant numbers of public corporations without a controlling shareholder. As Figure II.1 in the overview chapter shows, on average almost 40 % of the companies listed on the primary Nordic stock markets do not have a 20 % shareholder.

Second, the convergence analysis ignored the fact that in some countries characterized by dispersed shareholders and those characterized by controlling shareholders, minority shares traded at quite small discounts; there seemed to be little difference among governance systems so long as controlling shareholders had the capacity to credibly commit to limit private benefits of control. One is left with the conclusion that in countries where there can be a credible commitment to limiting private benefits of control, we will observe both dispersed and concentrated ownership. If there is no convergence within a single system, why should we expect it across systems?

The convergence question thus needs to be reformulated. Properly framed, the issue is not whether we will see a convergence of governance systems, but rather whether we will see a convergence of shareholder distribution. Here we observe some indication of a kind of regression to the mean. On the one hand, concentrated shareholdings are becoming more common in the United States, especially in the technology sector. For example, from the beginning of 2010 through the end of March 2011, 20 companies went public with dual-class common stock and other structural features that allowed controlling shareholders to retain control with a less-than-equivalent

17. As of the early 2000's, approximately 6 % (by number, not value) of US publicly traded corporations had dual-class common stock. P. A. Gompers, J. Ishii and A. Metrick, *Extreme Governance: An Analysis of Dual-Class Firms in the United States*, Review of Financial Studies 23 1051 (2010).

equity stake.[18] Facebook and Google are obvious examples.

Moreover, there is good reason to expect the pattern of some controlling shareholders going public but keeping control through leveraged structures – an ownership-based governance system – to persist. From the perspective of a controlling shareholder going public in a country with a low discount for expected private benefits of control, retaining control through dual-class stock can usefully be thought of as an option. The controlling shareholder buys the right to retain control indefinitely, paying an option price equal to the discount (assumed to be small in a low-discount country) on the stock the controlling shareholder sells plus her pro rata share (based on her equity stake) of stock sold by the company. If the discount grows in the future, the controlling shareholder can exercise her option by causing the unification of the two classes of common stock.

At the same time, one might also expect the number of older controlling share companies in countries with an ownership governance model to decrease over time. Some companies will be the subject of a takeover; in Sweden, for example, Rolf Skog reports that Swedish companies with dual-class common stock are no less likely to be a target of a takeover than companies with dispersed shareholders.[19] Others will be subject to what I have called the »gravity of generations,« which can lead to breaking up large family-controlled businesses as the number of family members, and the divergence of their interests, grow over time and a correspondingly smaller number have direct involvement in the business.[20]

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18. IRRC Institute, *Controlled Companies in the Standard & Poor´s 1500: A Ten Year Performance and Risk Review* (2012).

19. R. Skog, *The Takeover Directive, the »Breakthrough« Rule and the Swedish System of Dual Class Common Stock*, European Business Law Review, 15, 6 (2004).

20. Gilson, supra note 4, at 1668. The percentage of companies dual class shares listed in the Stockholm Stock Exchange declined from 87 % (202 com-

The overall result is unpredictable – the initial distribution of controlling shareholders among countries that can support both concentrated and dispersed shareholder distributions appears to be based on historical conditions with the future likely to be based on the business dynamic in the country. As such, is there any prediction about the distribution of shareholdings that can be made with some confidence?

In fact, there is one quite clear prediction that applies both to the United States and to the Nordic region: the increasing importance of institutional shareholders. Take the United States first. In 1950, the shares of publicly traded corporations were largely held by households; institutional investors, including pension funds, held only some 6.1 % of US equities. By 1980, however, shareholdings had begun to shift from households to institutions. At that time, institutions held 28.4 % of US equities. By 2009, institutional investors held 50.6 % of all US public equities and 73 % of the equity of the 1,000 largest US corporations.[21] Table IV.1 sets out the institutional ownership of different size cohorts of US public corporations in 2009.

Moreover, the institutional holdings were quite concentrated. Table IV.2 sets out the percentage of the outstanding stock held in 2009 by the 25 largest institutions in the 10 largest US corporations in which there was not a controlling owner. One could presumably put around a large boardroom table representatives of institutions that together control some of the largest companies in the United States.

Thus, US shareholdings are hardly widely distributed. At

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panies in 1992) to 49 % (255 companies in 2010). This also suggests that the bulk of new listings did not have dual class shares. M. Henrekson and U. Jakobsson, The Swedish Corporate Control Model: Convergence, Persistance or Decline? IFN working paper # 857, Research Institute of Industrial Economics (2011).

21. The Conference Board, *2010 Institutional Investment Report: Trends in Asset Allocation and Portfolio Composition*, Table 10 (2011).

TABLE IV.1 Institutional ownership of largest US corporations in 2009.

Corporation Rank by Size	*Institutional Ownership (%)*
Top 50	63.7
Top 100	66.9
Top 250	69.3
Top 500	72.8
Top 750	73.9
Top 1,000	73.0

SOURCE: The Conference Board, *2010 Institutional Investment Report: Trends in Asset Allocation and Portfolio Composition*, Table 13 (2011).

TABLE IV.2 Percentage of outstanding stock in 10 largest US corporations without a controlling shareholder held by 25 largest institutions in 2009.

Corporation (in order of size)	*Percentage of Stock Held by 25 Largest Institutions (%)*
Exxon-Mobil	25.0
Microsoft	31.9
Apple	37.0
GE	24.8
Procter & Gamble	29.1
Bank of America	28.9
JP Morgan Chase	35.8
Johnson & Johnson	29.6
IBM	30.6
Wells Fargo	44.3

SOURCE: The Conference Board, *2010 Institutional Investment Report: Trends in Asset Allocation and Portfolio Composition*, Table 13 (2011).

the level of the record owner institution, as opposed to the institution's beneficiaries, US shareholdings have dramatically reconcentrated. The result is a governance structure that Jeffrey Gordon and I have called »agency capitalism«,[22] with its own distinctive form of agency costs. Here, the institutions' business model comes between the record (institutional) and beneficial owners. The evidence is that with only occasional exceptions, institutional investors exhibit a peculiar form of passivity: not »apathy« but »reticence«. They are unlikely to be proactive in taking advantage of the governance rights associated with their shareholdings, but will vote thoughtfully if the issue is clearly framed for them.

The same shift in shareholdings, from individual to institutional ownership, is also evident in the Nordic region. As described in the chapter on Sweden in this volume, in the early 1950's, individuals held nearly 75 % of the market capitalization (but not necessarily the vote) of the Stockholm Stock Exchange. Family-controlled foundations, closed-end investment companies and holding companies owned the remainder. As Skog and Sjöman put it: »Institutional investors were practically non-existent at the time.«

As in the United States, institutional investor holdings then grew dramatically. By the mid-1980's, individuals owned only 25 % of the market capitalization, and by 2014, individual equity ownership had dropped to 15 %, with institutional investors holding 85 %.

We have thus observed the same shift in ownership pattern in both the United States – widely treated as the quintessential dispersed-shareholder market – and in Sweden, widely viewed as the quintessential controlling-shareholder system.

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22. R. J. Gilson and J. N. Gordon, *The Agency Costs of Agency Capitalism: Activist Investors and the Revaluation of Governance Rights*, 113 Columbia Law Review. 883 (2013).

What has been the result of this common shift in shareholder distribution in the two different systems?

In the United States, the reconcentration of ownership in institutional investors has given rise to activist investors whose strategy is symbiotic with that of the intermediary institutional investors. The activists identify companies whose performance they believe can be significantly improved, buy a toe-hold stake, and then seek to convince the institutional shareholders of the wisdom of the activist's strategic proposal. If intermediary institutional owners agree, they vote for the activist's position by voting for the activist's board nominees in a proxy contest; if institutions do not think the proposal is sound, it is likewise voted down. The institutions determine the outcome. The activist investor does not itself control sufficient stock to control the election; its pre-disclosure holdings seem to be around 8 %.[23] Thus, in the US agency capitalism world, the activist investor proposes, and the institutional investors dispose, a division of labor that takes advantage of each of the participants' competencies.[24]

But what is the impact in Sweden (and presumably the rest of the Nordic region) of the reconcentration of individual holdings into institutional holdings? For those companies that do not have at least a 20 % block, the potential is for the US pattern to appear, and perhaps even more powerfully because of shareholders' greater access to the annual general meeting and the greater power of the meeting than in the US. For companies with 20 % or more blockholders, a different issue arises: what is the impact of minority institutional blockholders in a corporation with a controlling shareholder? Here, the experi-

23. L. Bebchuk, A. Brav, R. Jackson and W. Jiang, *Pre-Disclosure Accumulation by Activist Investors: Evidence and Policy*, 39 Journal of Corporation Law (2013).

24. Gilson and Gordon, *supra* note 23.

ence of Chile may be relevant. On the one hand, Chilean public corporations typically have a controlling shareholder. On the other hand, the five Chilean private pension funds that arose out of the 1981 pension reform are major shareholders with, collectively, sufficient shares to elect a director in many corporations.[25] Here, the issue is one of strategy. Where exit is limited because of the limited market liquidity in the Chilean market and the size of the pension funds' holdings, can voice have an impact even in the face of a controlling shareholder? What is the impact in Sweden, for example, of the fact that foreign institutional investors hold 40 % of the market capitalization?

Conclusion

The Nordic ownership model of corporate governance is built on facilitating an active owner's retention of control as the company grows through the leverage of dual-class stock, and aggressively protecting minority shareholders from private benefits of control so that the company's cost of equity is not adversely affected by the characteristic control structure. So long as non-control shareholdings were largely held by individuals, a smaller equity stake could support control. The combination of an active owner and protected minority shareholders was a successful alternative to the intellectual hegemony of the Anglo-Saxon, market-based governance model.

Thus, it may be that the character of the shareholding distribution at the heart of the Nordic ownership model has

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25. OECD, *The Role of Institutional Investors in Promoting Good Corporate Governance* 90 (2011). The funds' ability to elect a director is facilitated by cumulative voting and statutory authority to cooperate in the election of directors.

two dimensions, not just one. In addition to the presence of an activist owner, the model may also depend to some extent on the absence of concentrated minority block holders. What happens when minority ownership reconcentrates in institutional investors? What role can institutional investors play? Corporate governance is shaped by the evolution of the capital market and the resulting ownership patterns. Ownership patterns have now changed dramatically. We are then left with the question of how the Nordic ownership model of corporate governance adapts.

PER LEKVALL (ED.)

The Nordic Corporate Governance Model

with comment by Ronald J. Gilson
and contributions by national experts:

Denmark: Jesper Lau Hansen and Carsten Lønfeldt
Finland: Manne Airaksinen, Tom Berglund and Tom von Weymarn
Norway: Gudmund Knudsen and Harald Norvik
Sweden: Rolf Skog and Erik Sjöman

»This book deserves to be widely read and carefully studied by anyone interested in the design of corporate governance systems.«

Colin Mayer, Peter Moores Professor of Management Studies, Said Business School, University of Oxford

IN A UNIQUE project, a group of leading corporate governance experts from Denmark, Finland, Norway and Sweden have come together to define and explain the Nordic model of corporate governance. This book is a result of this project.

The book provides a timely contribution to the European debate about corporate governance and its current quest for active and engaged shareholders. The essence of the Nordic governance model is to create incentives for shareholders to be engaged and take a long-term approach to the companies that they own.

An international perspective on the Nordic corporate governance model is provided by Stanford professor Ronald J. Gilson.

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