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Análise da Eficiência de Normas Societárias: Emissão de Preferenciais, Tag Along e Composição do Conselho Fiscal

2007 | Gorga, Erica

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— Abstract

The paper aims to discuss the efficiency of legal rules introduced by the reforms to the Corporate Law (Law 10.303/01), especially those concerning the limit of issuance of non-voting shares, minority shareholders rights in a sale of control (tag along), and the composition of the audit committee. The paper has as its basis the analysis of the Brazilian institutional environment, especially characterized by agency conflicts between majority and minority shareholders and by high private benefits of control. Concerning the limit of issuance of non-voting shares, the paper argues that the reform ended up maintaining the status quo for existing public companies, and that it would be more efficient to adopt legal rules that would promote a reduction of issuance of non-voting shares, according to the one share-one vote pattern. Concerning minority rights in a sale of control, the reform has established that minority shareholders can share 80% of the price paid to the controlling shares, which can result in insufficient incentives concerning the particularities of the environment with high private benefits of control. The paper argues that the tag along rights should have been 100%. Concerning the composition of the audit committee, the paper argues that minority shareholders should represent the majority of members, criticizing the presidential veto on the proposed reform.

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