

Problems and Solutions of Independent Director System in China

Li Kun

School of Law, Tianjin University of Commerce, Tianjin 300134, China

ABSTRACT. *This Paper from the Basic Theory of Independent Director System of Analysis of the Independent Director System in China and the United States, Britain, Japan's System, That the Independent Director System in China, the Problems Existing in the Independence of Directors and Independent Directors Scale, Personnel Quality, Independent Directors Compensation and Responsibility Distribution is Not Uniform, and in View of the Above the Problem Put Forward the Improvement Suggestions.*

KEYWORDS: *Problems; Solutions; Independent director system*

1. Introduction

First, the lack of independence of independent directors. Independence should be reflected in the independence of independent director and company management, the independence of independent director and company, and the independence of independent director's property and company's property.[1] Specifically, the independence of independent director's personality, business, property and management should be independent from the company in essence and not controlled by the company's internal individuals and groups. It can be seen that this is not caused by the lack of the system, but by the factors under the individual implementation. Even if some independent directors want to play their due role, they are influenced by the constraints of major shareholders in all aspects, no real power and other objective reasons.

Second, the number of independent directors in the board of directors is relatively low. In China's listed companies, the board of directors usually controls the operation of the company. Most of the members of the board of directors in China hold important positions in the company, which forms the phenomenon of self supervision. It is because the number of independent directors in the current company is relatively low, its supervision and management function is not enough to restrict the major shareholders, and the function of independent directors is severely restricted. On the other hand, there is no significant relationship between the position of internal senior managers and the performance of the company. The external directors have more difficulties in improving the performance of the company, which is different from the system of replacing managers when the performance of foreign companies declines. The current situation of the "iron rice bowl" in China also causes the external directors to be difficult to act.

2. Suggestions on the Independent Director System in China

First of all, improve the independent director's voting system. The nominating right holders who have the right to nominate independent directors have clear provisions in the Guiding Opinions: the board of directors, the board of supervisors, shareholders who individually or jointly hold more than 1% of the issued shares of the listed company. However, it is inevitable to include major shareholders or senior managers who have significant interests in the company. Therefore, a nomination mechanism composed of nominees should be established temporarily for the nomination of independent directors, which can jointly nominate independent directors and exercise the right of nomination on behalf of them. So as to strengthen the objectivity of nominees and ensure the full exercise of their rights. In the process of nomination, experts and scholars or professional managers who combine professional quality with theoretical knowledge shall be nominated, and the working hours of nominees in the guidance shall be strictly implemented and elected by the general meeting of shareholders. Members of the general meeting of shareholders who have an interest in the candidates shall claim their withdrawal. The election shall be conducted by secret ballot and all members of the general meeting of shareholders shall publicly supervise the voting. After the voting is completed, the results of the votes shall be published immediately and publicized in the company's bulletin. This series of voting system objectively excludes the selection and appointment of independent directors by major shareholders or senior managers, which can achieve the objective

and fair purpose to a certain extent and meet the original intention of the establishment of independent directors.

Secondly, clarify the division of labor between independent directors and the board of supervisors and strengthen the independence of independent directors. There is a certain overlap between the functions of independent directors and the board of supervisors in China, which results in a certain gap in the unclear division of labor between them. Therefore, it is another key factor to clarify the functional scope of both sides and optimize the supervision and management relationship between them. In terms of supervision, both parties should give different emphasis to the company. The independent director is a decision-making position in the company, a quality talent with professional theoretical knowledge and practical experience, who can provide professional opinions on the company's operation and strategic decision-making. The independent director's supervision should focus on the company's internal operation strategy and executive behavior of senior managers. The board of supervisors, as the permanent organ of the company, has a significant relationship with the company's profit and loss. Because it belongs to the board of directors, it is not suitable to supervise the daily work of the board of directors and management personnel. Therefore, the supervision focus of the board of supervisors should be on the daily financial management of the company. In the western countries, the independent director must undertake the loyalty obligation and accept the trustee's suggestion. China can also adopt this approach to separate the company's rights and restrict each other to avoid the independent director's independence. The second is to strengthen the independence of independent directors. The most important embodiment of independence is the independence of independent directors' property and salary. Specifically, the salary of independent directors should be independent of the company and the management. Individuals think that their salary can be paid by a third-party organization.

Finally, the information synchronization of independent directors is guaranteed. Nowadays, with the rapid development of information, the internal management of the company cannot leave the information technology, such as storing electronic files, establishing databases, opening official websites, etc. To ensure the real-time control of information by the independent directors of the company, so as to prevent negative impact on the company due to information lag. First of all, the company should effectively use information technology, strengthen the construction of information management system, and provide hardware guarantee for the information synchronization of independent directors. Secondly, the right to know the information of independent directors in the company should be fully guaranteed. On the one hand, independent directors can be assigned to take charge of audit, finance, decision-making and other positions to increase their participation in the company and quickly integrate into the daily management activities of the company. On the other hand, the decisions passed by the board of directors shall be reported to the independent directors for review. The independent directors have the final decision-making power for the decision-making. The independent directors shall make material files after the review and the time of storage in the company shall not be less than three years.[2] In case of any wrong decision or major damage to the company in the future, the independent director shall be liable for recovery and shall be jointly and severally liable with the proposer of the decision. Therefore, the independent director's sense of responsibility for the company's affairs is increased, and every decision is carefully considered to reduce the risk of unnecessary loss of the company's rights and interests.

3. Conclusion

As a newly introduced corporate governance system, independent directors still need to be improved in many aspects. In practice, the establishment of "registered directors" in some listed companies makes the advanced system meaningless, which is reflected in the unclear division of labor, weak independence and the lack of guarantee of synchronous information of the company.[3] Therefore, national laws should introduce relevant mandatory provisions And strengthen the supervision of the compulsory provisions to ensure the rational use of the independent director system.

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