

TRANSPARENCY AND DISCLOSURE IN NON LISTED COMPANIES (NLCs)

Leo Goldschmidt

Director

ECGI - European Corporate Governance
Institute

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Rationale

- Innovation : by entrepreneurs
- Start off with NLCs
- Need to attract financial resources
 - Capital
 - Loans
- Requires trust of providers
- Need for transparency /disclosure of NLCs very relevant (already well documented for LCs)

What info ?

– Financial info

- Standardisation IFRS

Consequence : No difference NLC / LC over the longer term

(cf New markets)

– Non Financial info (Mainly CG : rights, obligations, votes)

- Heterogeneous
- Corporate >< Partnership types

Consequence ?

Who to ?

- Stakeholders : hierarchy
 - Residual risk, company specific investments
- Managers, Board, Shareholders + sub groups
- Creditors, Staff, Others

Managers

- Main producer (but not sole, e.g. non financial)
- Full info to manage and render account

Boards

- To devise strategy
- To make executive decisions
- To monitor the business and management
- To render account

Shareholders

- To make informed decisions
 - Invest
 - Divest
 - Exercise rights
 - Elect and remove agents
 - Distribution of profit
 - M & A
 - Bylaws changes

Conventional wisdom

- The more shareholders are dispersed
- The larger the company
the more one needs disclosure :
hence past focus on LCs

How true ?

Question of quantity or quality ?

NLCs : shh locked in + large fraction of wealth

Basic question

- Should NLCs disclose less than LCs ?
 - Cost of disclosure outweighs benefits
 - Stifles entrepreneurship and NLCs are the backbone of jobs, growth and prosperity

So : think small first, tighten rules for large, dispersed Corps = LCs !

How true ?

- Should all parties receive same info ?
“Equal treatment” – yes, but by category

Family Owned companies (FOCs)

- Additional risk factors
 - emotion
 - irrationality
 - jealousy, envy of : those in power, those who get paid, those in the know,
 - frustration
 - conflict
 - **Special mechanisms ?**

Pros of disclosure

- Indispensable for managing and true accountability
- Where managers and boards have to explain, justify and convince : they think proposals through and assess risks better
- Info breeds improved strategy, decision making, operations, profitability
- Communications breed trust, reduce tensions
- Transparency breeds LT stability

Cons of disclosure

- Cost of producing, auditing, disseminating info
 - fact of life
 - distinguish between investment (set-up, skills) and running costs
 - (e- and web technology)
- Cost of leaks (in terms of competitiveness) : problem of sensitive information same in LCs, but perhaps less fragile than young & small. (cf reaction to disclosure of turnover)
- Cost in terms of loss of privacy.
True. More sensitive in FOCs

Conclusion

- Disclosure and transparency are important for NLCs
- Areas exist where cons must be taken into account
- Creative solutions can be brought to specific problems e.g. discretion/privacy : shh “trustees” (cf audit committees in some countries).
- Some questions should be researched further :
Assess truths & fallacies to determine part of “pretexts” in rejection (cf SOX); distinguish between investment (set-up, skills) and running costs