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Family-Based Businesses in Asia:
Which Road to Take?**

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Corporate Governance of Family-Based Businesses in Asia: Which Road to Take?

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Abstract

This paper addresses the problems of reforming corporate governance in Asia in the post-crisis period through a theoretical analysis of corporate governance and a case study of reforms in Hong Kong. Theoretically, the concept of a family-based corporate governance system (FBS) is contrasted with the bank-led system (BLS) and the equity market based system (EMS). Both BLS and EMS are closely associated with the dominant modes of corporate finance by banks and equity markets respectively. For FBS, the financing can come from three different sources. Initially, family business is financed largely by internal funds. As the enterprise grows over time, the role of banks and outside equity becomes important. However, under FBS, neither the banks nor the equity markets ultimately control the family business groups. This can give rise to serious agency problems necessitating reforms.

Hong Kong has a predominance of family-based system (FBS) of corporate governance which has undergone a series of reforms. There, it seems to have been recognized that as the share of external finances rises with the growth of the firm, agency costs increase due to problems of asymmetric information between management and external financiers. FBS can be a workable form of governance under such conditions only with proper monitoring capabilities of the financial system, managerial expertise and market competition. Particularly important for reforming the FBS is the need for recruiting and training competent professionals so that the financial institutions can gather and analyze the relevant information about the firms they finance. Furthermore, there must be formal and informal means to influence the decisions of a borrowing firm when it appears to be not performing well.

Several factors explain Hong Kong's success in continuing with gradual corporate governance reforms. First and foremost, is the relative strength of the financial sectors. Both the banks and the equity markets have proved to be much stronger than those in other regional economies during and after the crisis. Second, the presence of both competition and cooperation in the financial sector has made it possible to regulate effectively through the Banking Ordinances and Listing Rules and Takeover Codes. A third factor is that in Hong Kong the insolvency and bankruptcy procedures are relatively straightforward. This makes exit of insolvent firms economically less costly and after such exits the system regains its vigor. Fourthly, increasing the emphasis on accounting and auditing standards improvements will make monitoring, including some further self-monitoring by the family businesses themselves easier. Finally, although this may not be the most significant, the smallness of Hong Kong also makes it easier for informal agreements to be made and kept through reputational and other relational mechanisms.

In economies where some of the above characteristics that make reforming FBS in Hong Kong possible are present, some degree of reform of FBS may be possible, so that this system remains effective as an interim type of governance for some time to come. However, the role of banks even in this interim period must be strengthened a great deal more than it is today. Without a strong, independent banking system the agency costs arising from the monitoring problems in most Asian economies will still remain high. In order to improve corporate governance in Asia, the monitoring capabilities of the financial sector - in particular the banking system - must be given top priority.

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1. Introduction

It was the Asian financial crisis that brought to public attention the issues of corporate governance in Asia. With the recovery from the immediate crisis, there is a danger of such governance issues fading from public debate. However, as this paper will argue, that will be a lost opportunity for much needed serious institutional reform.¹ When we think about corporate governance as part of an entire economic system, the whole structure of corporate finance and, more generally, the banking and other financial institutions are also implicated. Therefore, it is in the interest of long-term sustainable growth, stability of the economic system and the welfare of the citizens that corporate governance reform should remain on the economic agenda in Asia. The purpose of this paper is to identify some of the most important factors related to corporate governance in Asia that may explain why the firms are in need of reforming their governance system in some Asian economies, and what may be the most institutionally relevant way of thinking about such reforms. This will be done both by means of theoretical analysis and by examining the reform experiences of one particular Asian economy, namely, Hong Kong which was able to survive the recent crisis better than others. Apart from macroeconomic and monetary factors, were there firm or industry-specific reasons for this outcome? In particular, are there features regarding Hong Kong's corporate governance system that can help explain the resilience of firms there during the crisis? If so, then can the other Asian economies in crisis draw some lessons from the experience of Hong Kong that will be helpful in reforming their own systems of corporate governance?

Corporate governance addresses the fundamental microeconomic issue as to how the managers of the enterprise are induced by banks, equity markets, or other institutional mechanisms to act in the best interests of its shareholders and hence to maximize the discounted present value of the firm. What are the key issues for corporate governance reforms in Asia?

At the outset it must be realized that developing Asia has a number of different types of enterprises ranging from state-owned enterprises to single proprietorships. However, outside of the transitional economies, the predominant form of medium and large scale enterprises in developing Asia are family-owned or controlled

¹ At least in Korea, the recent experience with the chaebols—in particular, the restructuring of Daewoo—suggests that there are serious policy debates and action still taking place in Asia.

firms. In this sense, family-based corporations may be taken as paradigmatic for the majority of Asian developing economies. This paper will focus exclusively on the problems of reforming the corporate governance of these family-based firms.

The following remark made by Lord Caldecote about the governance problems of British companies may well be true of many family-based Asian companies as well:

“The trouble with British companies is that the directors mark their own examination papers.”²

Although reforming corporate governance, as this paper will make clear, involves much more than getting the right board of directors, the agency problem involving the outside financiers and the inside controlling agents is at the heart of corporate governance everywhere, including Asia. How to align the interests of the outside principals such as banks and majority share holders with those of the inside controllers such as top management of a corporation still remains the core of corporate governance problem. In a broader sense governance must ultimately be concerned with the proper alignment of information, incentive, and capacity to act for the board as well as the managers.. In order for the corporation to act in a socially responsible manner the fundamental challenge is aligning the responsibilities and authorities of all of the various constituencies so that the best possible conditions for growth and renewal of the economy can be guaranteed. In the long run, this should lead to the maximization of the value of the enterprise, although there may indeed be some short run (transactions and other) costs arising from reforming the system.

During the Asian financial crisis many analysts pointed to weak corporate governance as the major factor behind the financial and economic collapse of the affected Asian economies.³ With the benefit of hindsight, many weaknesses of the Asian corporate governance systems have indeed been pointed out. However, two types of analytical difficulties have generally accompanied these attempts to characterize the problem of corporate governance.

The first and most immediate difficulty is the problem of explaining why in spite of such weak corporate governance the Asian crisis economies were able to

² R. I. Tricker (1984), *Corporate Governance*, Aldershot: Gower, p.1

³ See World Bank (1998), *East Asia: The Road to Recovery* and Claessens, Djankov, Fan and Lang (1998, 1999a,b), Claessens, Djankov and Lang (1998, 1999) and Pomerleano (1998). There was also a debate as to whether the crisis was a conventional or a new type of crisis. Yoshitomi and Ohno (1999)

grow rapidly for so long. The second difficulty, related to the first, is the casual empiricist approach to finding faults with Asian corporate governance.⁴ According to this line of criticism, since the crisis so obviously exposed its weaknesses, the corporate governance system in these economies must have been corrupt and inefficient. As such it must also be unworkable in the future and must be replaced by a better type (the usual recommendation is the Anglo-American model) of corporate governance.

However, further reflection would show that this is simply restating the observed phenomena (i.e., that corporations in the crisis-affected economies were/are in trouble), and can at best be a circular argument, and not a genuine explanation. Genuine efforts to explain the weakness of corporate governance have usually focused on the deviation of the corporate governance systems from the arms length, equity market-based Anglo-American model of corporate governance. Implicit in this exercise is the assumption that the Anglo-American model is an ideal that is of universal applicability and deviations from this model are therefore indicators of failure of corporate governance to various degrees. However, this claim of universal applicability of the Anglo-American model is not accepted universally. At the same time, it must be admitted that the alternative forms of corporate governance in pre-crisis Asia have not been conceptualized adequately. Therefore, one cannot accuse the advocates of the Anglo-American model of ignoring a compelling alternative theoretical account of Asian corporate governance systems. Clearly, then, a conceptual, theoretical account of Asian corporate governance system(s) is called for.

Khan (1999) is an attempt to offer an alternative conceptualization of the most dominant type of Asian corporate governance. This is called the family-based corporate governance system (FBS) and can be contrasted with both the Anglo-American equity market-based (EMS) and the Japanese main bank or German universal bank-led system (BLS). According to this analysis, in order to explain what went right during the period of high growth and what went wrong with corporate governance that resulted in the crisis, the strengths and weaknesses of FBS must be understood clearly. Not only does this approach unravel the above puzzle of explaining both rapid growth and subsequent crisis, it also raises some new questions.

argue persuasively for characterizing the crisis as a new, capital account type of crisis that requires new type of remedies rather than the old IMF-medicine.

For example, the initial rationale for FBS appears to be that at a low level of development, when institutional and legal foundations are weak and markets underdeveloped FBS with its high degree of family control, economizes on transaction costs.⁵ But as per capita income continues to grow and markets and other institutions develop, the importance of the initial rationale should gradually diminish. What then can explain the persistence of the FBS type of governance for some Asian economies with high per capita income such as Hong Kong? Furthermore, why does the FBS still seem to work in Hong Kong as opposed to South Korea where it seems to be obviously in trouble? Finally, and most importantly, what will the future form of corporate governance have to be in order for the family-based enterprises in Asia to perform well?

In order to answer these questions, this paper begins by briefly recapitulating the most important features of the family-based corporate governance system.⁶ The discussion in this section highlights some of the problems of monitoring and controlling the family groups under FBS. This raises the question if reform of FBS is at all possible. In order to answer this question pure theory is not sufficient. We need to consider at least one concrete case where reforms have been tried and examine the reasons for the success or failure of these reforms in a concrete context. The situation in Hong Kong is close to the typical family group dominated corporate sector found in most Asian countries and it is an economy which has carried out a series of corporate governance reforms. Therefore, in the next section reforms of corporate governance system in Hong Kong are examined carefully in order to ascertain the effectiveness of gradually reforming the family-based system there during the 1990s. Somewhat surprisingly, however, this concrete study leads to the finding that the salience and the strength of the financial sectors - in particular the role and location of banks and security markets - matters greatly in making corporate governance reforms effective. Whether or not corporate governance reforms can lead to improved monitoring and performance of the firms in question depends crucially on strengthening the financial sectors, including the improvement of corporate governance in these sectors.

⁴ Important exceptions are the papers by Stijn Claessens at the World Bank and his co-authors. However, the results derived so far are not conclusive, and rely on a cross-section of Asian economies.

⁵ This partly explains the successful performance of FBS during the Asian Miracle when specific government policies encouraged rapid industrialization.

⁶ For an extended discussion please see Khan(1999)

2. Basic Issues in Corporate Governance: Family-based and other systems of Corporate Governance in Asia⁷

As mentioned before, recent studies have all emphasized the predominance of family ownership and control of Asian corporations.⁸ How are these firms governed? Table 2.1 describes the key aspects of the family-based system of corporate governance. The FBS can be contrasted with the bank-led system (BLS) and equity market-based system, as shown in table 2.2.

In this context, the key issue in governance is the problem of monitoring the family businesses. We can distinguish between two phases of growth of the family business here. In phase one the family businesses are financed internally. Since the owners are also the managers in most cases and there is no outside financier, there is no agency problem and self-monitoring is effective. However, later the family businesses usually borrow from banks and raise capital by issuing stocks. At the same time, even with large doses of external finance, under the prevailing FBS type of governance the family groups still control the governance aspects (including the decision to hire and fire management and in many cases the selection of members of board of directors). Clearly, under such circumstances there is an asymmetry of information between the outside financiers and the inside owner-managers. This will usually lead to both an adverse selection and a moral hazard problem.⁹ With the emergence of these problems, agency costs will rise as the share of outside financing rises under the FBS type of governance.

Under these circumstances the FBS type of governance, unless improved through appropriate reforms, will lead to inefficiencies in production and mismanagement of assets. There could be managerial slack, inappropriate diversification of businesses and other types of unproductive managerial behavior

⁷ This part draws heavily from Khan (1999), section II and III, which can be read for greater detail.

⁸ Some earlier studies of specific countries have also emphasized this fact. See for example Koike (1993), Khan (1999), Sato (1993), Suehiro (1993; 1997) and Taniura (1989; 1993)

⁹ The adverse selection problem arises from the selection of relatively more risky borrowers in the financial markets unless external financiers carefully perform ex-ante monitoring of potential borrowers (even then the problem is minimized—not completely eliminated). The moral hazard problem also arises from the asymmetry of information between the lenders and borrowers. If the lender does not have precise inside information about the investment projects undertaken by the borrower there is a chance that funds will be misused by the borrower. The misuse of borrowed funds can occur through the selection of more risky projects unless external financiers perform interim monitoring function.

leading to inefficient performance. If the governance structure were of the BLS type, the banks themselves would take the initiative to rectify the situation by various means, including the replacement of existing management. Alternatively, under the EMS type of governance, the hostile takeover market is supposed to ensure better governance. Under both the BLS and EMS, in the extreme case, insolvent firms will be liquidated. However, when the governance structure is of the FBS type and the firm is not performing well, there does not seem to be an obvious mechanism for improving its performance. This is the reason why understanding the relative immunity of some economies (e.g. Hong Kong) with large family businesses from the problems of FBS at the later stage is so important to study.

Table 2.1: Description of Family-Based System of Corporate Governance

	Type of Corporate Governance System
	Family-Based System (FBS)
Share of control-oriented finance	High initially, but may vary as family groups get bank and equity financing from outside
Equity markets	Small, less liquid
Share of all firms listed on exchanges	Usually small
Ownership of debt and equity	Concentrated
Investor orientation	Control-oriented for family groups
Shareholder rights	Weak for outsiders
Creditor rights	Strong for close creditors Weak for arm's length creditors
Dominant agency conflict	Controlling vs minority investors
Role of board of directors	Limited
Role of hostile takeovers	Almost absent
Role of insolvency	Potentially important
Monitoring of non-financial enterprises (NFE)	Information asymmetry and agency costs rise with the growth of firms, making monitoring more costly.
Self-monitoring	Initially, self-monitoring is effective because of non-separation of owner and management. Later stages present monitoring problems as agency costs rise due to separation of owner-managers and outside financiers.

Source: Haider A. Khan (1999), Corporate Governance of Family Businesses in Asia: What's Right and What's Wrong?, ADBI Working Paper no.3

Table 2.2: Comparing Equity Market-Based and Bank-Led System of Corporate Governance

	Type of Corporate Governance System	
	Equity Market-Based System (EMS)	Bank-Led System (BLS)
Share of control-oriented finance	Low	High
Equity markets	Large, highly liquid	Not necessarily small but less liquid than EMS
Share of all firms listed on exchanges	Large	Not necessarily small
Ownership of debt and equity	Dispersed	Concentrated
Investor orientation	Portfolio-oriented	Control-oriented
Shareholder rights	Strong	Weak
Creditor rights	Strong	Strong for close creditors but applied according to a “contingent governance structure” (Aoki)
Dominant agency conflict	Shareholders vs management	Banks vs. management Workers may be important stakeholders as in Aoki’s model of the Japanese firm
Role of board of directors	Important	Limited, but less so than in the case of FBS
Role of hostile takeovers	Potentially important	Quite limited
Role of insolvency and bankruptcy*	Potentially important	Potentially important; but possible systemic crisis may postpone bankruptcies

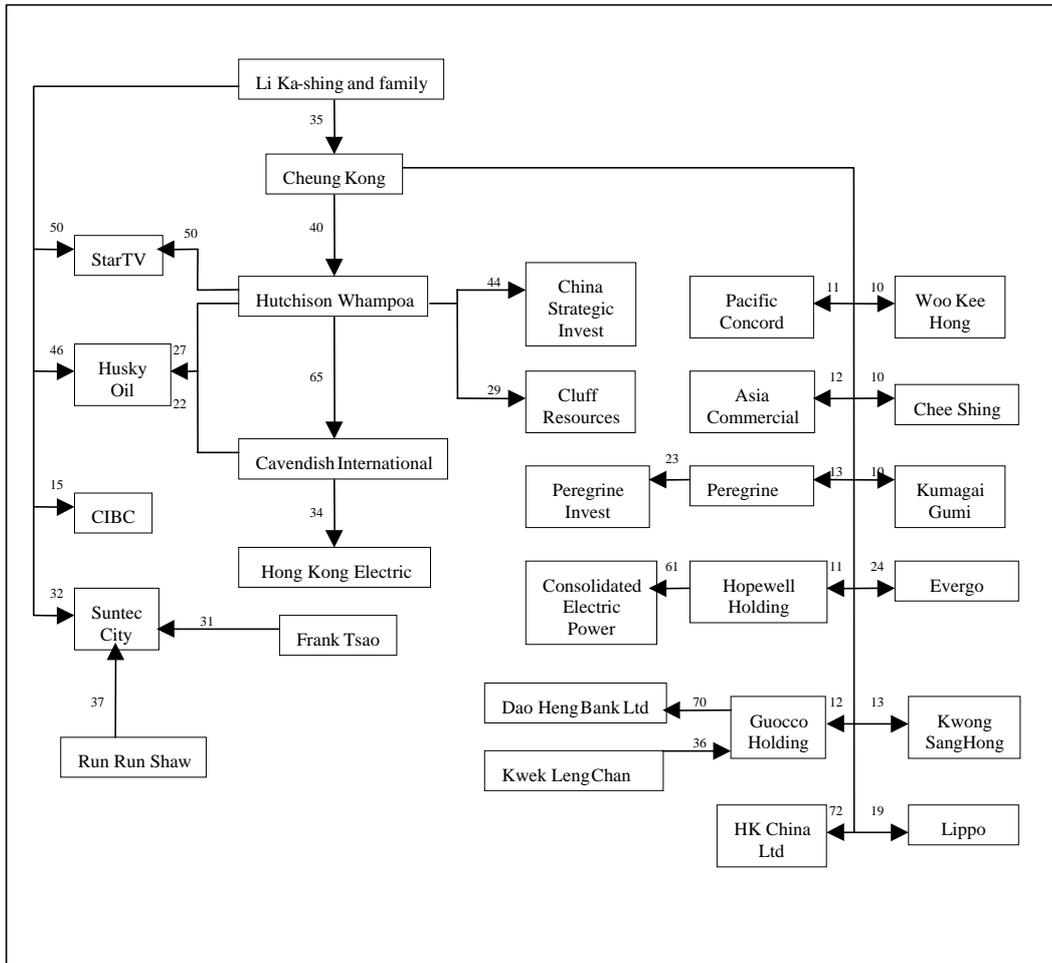
*Note: Berglöf uses the term insolvency but the problem of exit of insolvent firms is directly related to bankruptcy laws and procedures.

Source: Berglöf (1997), “Reforming Corporate Governance”, *Economic Policy* 24

3. The Family-Based System in Hong Kong

Hong Kong SAR probably illustrates the reform of FBS type of governance in Asian economies the best. In spite of gradual reforms, the predominance of family-control even in large corporations leaves no room for doubt that the governance structure is still heavily dominated by families. In a survey by the Hong Kong Society of Accountants (1997) it was found that fifty three percent of all listed companies have one shareholder or one family group of shareholders owning fifty percent or more of the entire issued capital. Seventy seven percent of all listed companies show one shareholder or one family group of shareholders owning thirty five percent or more of the entire issued capital. Finally, if one looks at the 25% or more level, the extent of control by one shareholder or one group of family shareholders rises to 88 percent. Although the board of directors does not always have a majority of family-connected directors, the influence of large shareholders from families is still considerable. Figure 4.1 shows the control structure of one of the largest family-based conglomerates - the Li Ka-shing family holdings.

Figure 4.1: The Li Ka-shing Group



Source: Stijn Claessens, Simeon Djankov and Larry Lang (1999), "Who Controls East Asian Corporations?", The World Bank, Working Paper

The above observations are also corroborated by the information available on the background of executive directors. In about 84% of the cases studied by HKSA where families hold 35% or more of the company's issued capital, more than half of the executive directors are related as family members. Thus, the available evidence shows that controlling shareholders do tend to invite family members to govern the corporation as executive directors.

The data from the survey conducted by HKSA are tabulated in tables 4.1 through 4.4. It is surprising how small the percentage of companies with audit committees is (only 2%). There were only 12 companies among the 553 listed companies with audit committees' disclosure in the annual report. Even the number of companies that volunteered the disclosure of the chief financial officers was only 33

percent of the total. Out of a total of 553 companies the majority (67% or 373 companies) did not disclose this information in the annual report.

Table 4.1: Audit Committee Disclosures

Disclosure of company with an audit committee in the annual report	Number	%
Companies with an audit committee	12	2
Companies with no disclosure	541	98
	553	100

Source: Hong Kong Society of Accountants (1997), "Second Report of the Corporate Governance Working Group"

Hong Kong Listed Companies - Family Presence

Table 4.2: Shareholding Control

Shareholding (by single or family shareholder)	Companies	
	Number	%
0 - <10%	20	4
10 - <25%	46	8
25 - <35%	60	11
35 - <50%	134	24
> 50%	293	53
	553	100

Source: Hong Kong Society of Accountants (1997), "Second Report of the Corporate Governance Working Group"

Table 4.3: Board of Directors

Shareholding (by single or family shareholder)	Family presence of board of directors			
	50% or more		Less than 50%	
	Number	%	Number	%
0 - <10%	0	0	20	4
10 - <25%	1	2	45	9
25 - <35%	1	2	59	12
35 - <50%	12	23	122	24
> 50%	38	73	255	51
	52	100	501	100

Source: Hong Kong Society of Accountants (1997), "Second Report of the Corporate Governance Working Group"

Table 4.4: Executive Directors

Shareholding (by single or family shareholder)	Family presence of executive directors			
	50% or more		Less than 50%	
	Number	%	Number	%
0 - <10%	7	4	13	3
10 - <25%	9	6	37	9
25 - <35%	10	6	50	13
35 - <50%	35	21	99	26
> 50%	104	63	189	49
	165	100	388	100

Source: Hong Kong Society of Accountants (1997), "Second Report of the Corporate Governance Working Group"

Given the above features of the corporate governance system in Hong Kong the relatively strong performance of various corporations in Hong Kong - with the exception of Peregrine - in both financial and non-financial sectors poses a riddle. If the FBS type of governance is responsible for the collapse of the chaebols in South Korea as some have argued, then the even more deeply-entrenched FBS type of governance in Hong Kong should have led to an equal if not a bigger catastrophe. In reality, Hong Kong survived the crisis relatively unscathed. Are the appearances deceptive or are there some special reasons why the flawed FBS type of governance still works in Hong Kong?

The answer is, in short, that in spite of some problems of FBS type of governance, gradual reforms, competition in the relevant markets, and relatively greater managerial and financial expertise within the firms may have saved Hong Kong from a fate similar to that of South Korea. In particular, the capacity to monitor both financial and non-financial firms has been significantly better in Hong Kong than in Korea or Thailand, for example. It was also fortunate that the HKMA had the financial resources to defeat the speculators when the Hong Kong dollar came under attack in October 1997. Finally, the strength of the financial sectors, in particular the relative strength of the banking sector played a very significant role as well.

Fundamentally, Hong Kong has a strict monetary authority and reasonably strong financial system. While exceptions such as Peregrine can be pointed out, the fact that during the period of highest contagion the banking system did not collapse and systemic financial crisis was avoided, supports the general claim.

In addition to good macroeconomic management with a relatively strong banking sector Hong Kong has one of the deepest equities markets in the region. Although this fact has not given rise to an EMS type of governance yet, the discipline imposed by both HKSE and the market for shares probably prevented the financial instruments from being misused by the family businesses by too wide a margin.

In assessing the performance of Hong Kong corporate groups relative to those in South Korea, two additional features of the corporations and markets in Hong Kong have to be emphasized. First, although the majority of the listed corporations are family-controlled, Hong Kong is ahead of Korea in professionalizing its management cadre. This is particularly true of the banking and financial sector. In addition to the presence of a large number of professional expatriates, the professionalization of the managers in Hong Kong is evidenced by the high quality of professional associations in management, accounting and auditing, finance and related fields. Although many problems remain, the Hong Kong corporate governance group has been actively engaged in improving the functioning of the FBS type of governance from within by stressing professional competence. As the group stated in December 1995 on the methodology of appropriate reforms in Hong Kong in relation to the Cadbury Report:

“The Cadbury Report provided an in-depth study of financial aspects of corporate governance. While agreeing with most of the Cadbury Report's recommendations as steps in the right direction for good corporate governance measures, the Working Group is also wary of practical difficulties in applying some of the principles, particularly in the corporate environment in Hong Kong, at least in the short term. The Working Group, however, does not see a need to re-invent the wheel in considering corporate government requirements for Hong Kong. Instead, it has directed its attention to addressing the relevance of the recommendations of the Cadbury Report to Hong Kong, and identifying areas which can be and should be adopted immediately, in the medium term, and in the long term.” (Hong Kong Society of Accountants (1995), “Report of the Working Group on Corporate Governance”, p.3)

Thus, a realistic pace of governance reform per se, combined with professionalization within the firm may indeed be the right strategy for Hong Kong. Clearly, without competent professionals within the firm no amount of governance reform will enable the firm to perform better. The best that can be expected from

corporate governance under such circumstances is a speedy exit of the incompetent firms.¹⁰

This consideration of exits also raises the issue of entry by new firms. The entry and exit problems are best discussed in a framework of market competition. This is the second area of difference between Hong Kong and some other regional economies that needs emphasis. How to generate appropriate type of competition so that markets are contestable is a priority area for competition policy in Hong Kong. It is readily recognized that openness and presence of foreign rivals create an environment of both price and quality competition. Existing evidence (expressed in terms of Herfindahl index) shows that scope for competition varies from sector to sector. Table 4.5 and 4.6 illustrate this by presenting the Herfindahl indexes for two sectors in the financial services area.

Table 4.5: Herfindahl Indices of Hong Kong's Deposit-Taking Market by Licensed Banks

	1988	1989	1990	1991	1992
Number of Licensed Banks	155	165	166	160	161
Demand Deposit - Hong Kong dollars	0.11	0.11	0.12	0.12	0.10
Demand Deposit - Foreign currency	0.06	0.07	0.07	0.10	0.11
Savings Deposit - Hong Kong dollars	0.16	0.17	0.16	0.16	0.16
Savings Deposit - Foreign currency	0.08	0.09	0.09	0.10	0.10
Time Deposit - Hong Kong dollars	0.07	0.07	0.07	0.08	0.07
Time Deposit - Foreign currency	0.03	0.04	0.04	0.04	0.03
Total Deposit - Hong Kong dollars (market share by LBs, %)	0.11 (90.5)	0.11 (92.4)	0.10 (93.2)	0.12 (95.8)	0.11 (96.4)
Total Deposit - Foreign currency (market share by LBs, %)	0.03 (93.2)	0.04 (93.5)	0.04 (94.2)	0.04 (95.1)	0.04 (96.5)

Source: Cheng and Wu (eds) (1998), *Competition Policy and the Regulation of Business*, p. 24

¹⁰ Even for this to be true, there must be adequate capacity to monitor these firms. This in turn requires the technical capability to gather and analyze relevant information regarding the distressed firms. Furthermore, there must be mechanisms for liquidating the insolvent firms even in the face of enhanced management as opposed to such moves.

Table 4.6: Market Structure of Hong Kong's Insurance Industry

	Number of Firms	Market Share (%)*	Herfindahl Index
Composite Insurers (companies that offer both life and general insurance)	20	35.2	0.203
General Insurers (including composite insurers)	181	45.9	0.022
Pure General Insurers	161	35.5	(n.a)
Life Insurers (including composite insurers)	62	54.1	0.118
Pure Life Insurers	42	29.3	(n.a)
All Insurers (including composite insurers)	223	100	0.041

Note*: Composite insurers' market share is made up of 24.8% for life insurance and 10.4% for general insurance. In other words, the market share of pure life insurers is 29.3%, and the market share of the pure general insurers is 35.5%

Source: Cheng and Wu (eds) (1998), *Competition Policy and the Regulation of Business*, p. 52

Before comparing the two tables it may be useful to offer an interpretation of the Herfindahl index which is technically the sum of the square of each firm's market share. In the calculations presented above the shares of all firms in a certain sector are required to sum up to unity. Thus, if there are 10 firms in the market and their market shares are equal, then the Herfindahl index is equal to 1/10. Therefore, the inverse of the estimated Herfindahl index is often interpreted as the market's "equivalent number of firms that are of equal shares".

For example, in table 4.5 in 1992 the index for Demand Deposit - Hong Kong Dollars is given as 0.10. This information can be interpreted as indicating that this market segment in banking is as concentrated as one that is shared equally by 10 firms.

Using this type of interpretation it is clear that in table 4.5 the Hong Kong dollars deposit market is more concentrated than the foreign currency deposit market. Comparing the Herfindahl indexes given in table 4.5 with those for the insurance companies it can be seen that while the market for all insurers is less concentrated than that of life insurers, the composite insurance market is much more concentrated than either one of these with a Herfindahl index of 0.203.

4. Reforming the FBS type of Corporate Governance in Hong Kong

It should be emphasized that competition by itself is a necessary but not sufficient condition for successful corporate performance. The modern corporation is a complex organization that is much more than a simple production function. Since there are transaction costs within the firm as well as in the market, a good governance structure appropriate to the type of firm and its particular relation to the economy as a whole is essential. This is why the FBS type of governance can be a serious candidate for reform, even when the per capita income in the economy is high with corresponding low transaction costs for dealings outside of the firm.

From the conceptual structure presented at the outset, as long as such reforms will lower transaction costs in some relevant dimensions (for example, inside the firm), and at least not increase the agency costs further, efficiency of the firm should increase. Alternatively, lowering the agency costs without increasing the transaction costs will also enhance efficiency.¹¹ It is also clear that in theory, there are three logical possibilities. First, is the reform of FBS which we discuss here in the context of Hong Kong. The other two possibilities are a transition from the FBS to either a BLS or EMS type of structure. While this paper will present a strong case for reforming the FBS type of governance in Hong Kong, it will also point out the strongly supportive roles played by both the banking system and the equity markets in Hong Kong.¹²

It is clear from the evidence presented in the previous section with regards to family ownership and control in Hong Kong that the high incidence of companies controlled by family groups raises concerns about whether the management would really carry out the present value maximization imperative. Of course, it could be argued that management by a controlling family may provide a long-term perspective that can counterbalance the focus on short-term performance by the stock markets. Nevertheless, as pointed out in section two, problems of adverse selection and moral hazard exist once there is a separation between outside financiers and inside owner-

¹¹ Formally, if T_B = transactions costs before reform and T_A = transactions costs after reform, A_B = Agency costs before reform and A_R = Agency costs after reform, then corporate governance reforms will improve efficiency if and only if $T_R + A_R < T_B + A_B$. Furthermore, if there is a cost to reform, internalized by each firm as C_R then the above condition can be rewritten as $T_R + A_R + C_R < T_B + A_B$

¹² In the course of the actual evolution of an economy, FBS could be replaced by either BLS or EMS, but whether or how this will happen can not be deduced from theory alone, For this, a study of the historical evolution indicating the available paths at any point in time is necessary.

managers. Is Hong Kong trying to deal with these problems in a way so that long-term growth prospects of the firms can also be assured? The answer to this question is that the reforms are gradual, but gradually legal and regulatory infrastructures are being created in order to ensure that firms will perform well in the face of outside competition. Most importantly, the capabilities of the financial sectors to monitor the firms they finance is being improved continuously. Clearly, this also involves improving the corporate governance structure of the financial institutions themselves.

In discussing corporate governance reforms, it must be kept in mind that although Hong Kong's legal infrastructure in relation to corporate governance is similar to that of other common law countries, the regulations tend to emphasize more heavily such matters as related party transactions arising directly from the convergence of majority owners and the management. Consequently, the threat of civil liability on the part of directors is less of a factor in driving corporate governance than in the Anglo-American context.

It is also relevant to note that most listed companies in Hong Kong are listed offshore. This clearly has the effect of constraining the power of domestic legislation in regulating the 'internal affairs' of corporations including their governance. What then takes the place of regulatory statutes if these do not always apply? The answer is that, in practice, non-statutory rules such as the Listing Rules and the Takeovers Code have much more effect on corporate governance. It appears that the attitudes of SFC, the SEHK and the market can influence the management more than the general legal environment which is common law-oriented. It is also significant that SEHK and the SFC emphasize education rather than disciplinary action in order to ensure compliance of the companies with principles of corporate governance.¹³ In order to enable the SEHK and the SFC to perform this task well, close cooperation from the companies is also expected. There are certainly important ordinances and guidelines. These include the Companies Ordinance, Securities and Futures Commission Ordinance, Hong Kong Codes on Takeovers and Mergers, and the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Ltd.. According to the Memorandum of Understanding between the SFC and SEHK in 1991, the SEHK is recognized as the frontline regulator with regards to listing-related matters. This

¹³ Based on interviews with the representatives of various professional associations, academics and regulators in Hong Kong during July 11-16, 1999. I am grateful to Mr. Toshio Karigane and his

Memorandum of Understanding also gives SEHK the responsibility to supervise and regulate the listed companies, directors and shareholders. The SFC is brought in when exceptional circumstances require the exercise of powers of investigation. Thus, the Listing Rules in Hong Kong can be thought of as the most important source of authority for regulating the conduct of directors and the family groups controlling the listed companies.

Since 1991 Hong Kong's corporate governance reforms have included the following:

- (1) A clearer understanding of the directors' duties, especially their fiduciary responsibilities.
- (2) The requirement for the board of directors of a listed company to have at least two independent non-executive directors.
- (3) A Code of Best Practice was introduced in 1993.
- (4) Since December 31, 1995 all listed companies have been required to include in their reports a statement affirming compliance with this Code.
- (5) In May 1998, two additional guidelines were added to the Code of Best Practice. The first emphasized that the directors should keep abreast of their responsibilities. The second advised the listed companies regarding the establishment of audit committees. It was suggested that the audit committee's scope should be extended in order to include a report on company's wider obligations to community and business ethics.
- (6) The Listing Agreement in effect now also outlines clearly the responsibilities of companies for information disclosure. These responsibilities include the requirements for disclosing the public details of a wide variety of transactions including connected transactions which must be approved in a general shareholders' meeting. Interested parties must refrain from voting at these meetings.
- (7) The SEHK itself is supervised and monitored by the SFC. Under the existing institutional setting, the SFC can play a variety of roles from providing advice to directly suspending trading under Rule 9 of the Securities Rules. The SFC can also start an investigation or recommend to the Financial Secretary that an inspector be appointed.

associates at Daiwa Research Institute for facilitating some of these interviews and sharing their own perspectives on corporate governance in Hong Kong with me.

(8) Furthermore, the SFC has been given powers to handle and monitor all matters connected to merger and takeover transactions of listed companies. In effect, this makes the SFC responsible for seeing that the takeover codes are applied properly.

The above is a very quick summary of some of the most significant formal aspects of corporate governance. However, many other countries in Asia are adopting the same type of formal reforms. What makes the gradual set of reforms in Hong Kong effective? In order to understand the underlying structure of the operation of corporate governance in Hong Kong we need to focus on the financial markets - in particular the banking sector and the equity market. Accordingly the rest of this paper will deal with these two types of financial markets.

5. Banking Sector and Corporate Governance in Hong Kong

In Hong Kong, the debt-equity ratio of corporations is much lower than in South Korea or Thailand. The debt-equity ratios for Hang Seng index companies in 1997 was only 36 percent. While this may give the banks less of a direct role to play in corporate governance, there is still an indirect role to be played by the banks. Specifically, strong, professionally managed banks can reduce adverse selection and moral hazard problems by lending to borrowers who are willing and able to provide reliable and accurate information and show the capability for managing risk well. Such a technical, analytical approach on the part of the banks can reveal both the internal technical and managerial capabilities of the borrowing firm and the effectiveness of the borrowing firm's corporate governance system.¹⁴

Under the existing Banking Ordinance the aggregate holdings in shares by a locally incorporated bank is restricted to 25 percent of its capital base. Thus banks do not own a significant segment of the corporate sector. There is also no "main bank" system through which corporate control is exercised. Nevertheless, by maintaining a high standard of corporate governance in the banking sector itself and by lending prudently to firms about which they are informed relatively well, the banks indeed help create an environment where adverse selection and moral hazard problems are reduced. In Hong Kong, banks (in business groups) are also required to deal with their sister companies in the same group on an arms-length basis.

However, the Asian financial crisis also affected the asset quality of the banks in Hong Kong negatively. For example, in case of the local banks the percentage of total loans that were overdue and needed rescheduling increased from 1.8 percent at the end of 1997 to 3.81 percent by the end of September 1998 (Shiu, 1999). Although these figures are low compared to other Asian countries, the non-performing loans are expected to increase somewhat. Banks are therefore cautious in their lending. While this may retard the growth potential in some sectors - particularly real estate - the

¹⁴ These are important components that determine the performance of the firm. These are also important ingredients of what Khan (1999) has called The Governance Parity Hypothesis. This hypothesis attributes equal importance to both corporate governance and to factors that are related to the internal technological and managerial capabilities of the firm as well as market competition. Specifying the parity hypothesis as a null hypothesis and testing this against various alternatives statistically could throw more light on the relative importance of corporate governance in determining corporate performance in Asia. Of course, the formulation of the hypothesis should emphasize the role of governance - in particular, monitoring capabilities of the banks and other financial institutions - in determining the performance of the corporations.

banking system as a whole has been strengthened in the process. The banks remain highly capitalized and liquid with an average capital adequacy ratio of 18 percent. During the entire crisis period only one major listed financial company - Peregrine Investment Holdings - was liquidated. Although the incident received wide media coverage, Peregrine nevertheless represented less than 0.25 percent of the total market capitalization of SEHK.

From the discussion so far, it is reasonable to draw the conclusion that in Hong Kong, overall, the location of the banks in the financial structure can be said to have strengthened corporate performance. Recently,¹⁵ the Hong Kong Association of Banks (HKAB) has also issued a guideline for dealing with corporate customers in financial distress. This is intended to address the corporate governance issues more directly than before. The underlying principles are as follows:

- (1) When it becomes public knowledge that a debtor company may be experiencing financial problems and the borrower has approached its banks, banks' initial attitude should be one of support. They should not withdraw facilities or hastily put the company into receivership, or issue Supreme Court writs demanding payment.
- (2) Further decisions should only be made where these are based on information that is reliable and shared fully with all creditor banks (after obtaining debtor's permission).
- (3) The decision to offer the distressed company financial assistance - or not - should be a collective one by creditor banks.
- (4) The objectives of any orderly workout-procedure should be to obtain for creditor banks the best deals that can be achieved under the constraint that it should be an orderly procedure.

¹⁵ April, 1998

6. Equities Market and Corporate Governance in Hong Kong

Appendix table A.1.1 summarizes the extent and reach of the capitalization of SEHK over the last six years. The total new equity raised from 1994 to 1997 amounted to US \$55.7 billion - much greater than capital raised by any other Asian market during the same period. Despite the slowdown during the last quarter of 1997 a total of US \$31.7 billion of new equity capital was raised on SEHK in 1997. Table 7.1 below gives the total market capitalization on 31 December, 1998 for the last five years.

Table 7.1: Market Capitalization (in HK\$ billion)

	1994	1995	1996	1997	1998
Total market capitalization	2.085	2.348	3.476	3.203	2.662
<i>Annual change</i>		12%	48%	-8%	-17%
Hang Seng index companies					
Market capitalization	1.434	1.750	2.436	2.103	2.106
percentage	69%	74%	70%	67%	79%

Source: Shiu, Barbara (1999), "Corporate Governance in Asia: A Comparative Perspective"

In spite of the relatively large and liquid equity market in Hong Kong the minority shareholders do not appear to play a very significant role in corporate governance.¹⁶ The role of pension funds and the government as holders of securities is also quite limited. However, in 10 to 15 years the Mandatory Provident Funds (MPF) may grow to be the dominant institutional investor and the situation of MPF and other pension funds with respect to corporate governance may change. At present, only the institutional fund management companies that are members of the Hong Kong Investment Funds Association play a role from time to time in corporate governance matters.

Given that the takeover market is not as active (especially hostile takeovers) as in the Anglo-American context, corporate restructuring involves a negotiated process so that the interests of the various parties can gradually converge. This does not mean

¹⁶ On those and related corporate governance issues in Hong Kong see Hong Kong Institute of Directors (1998), and Company Secretary (1999), HKSA (1995, 1997), HKSA's Corporate Governance Committee (1997, 1998), Miller (1998, 1999)

that the insolvent companies stay in business, however. The bankruptcy and liquidation procedure is fairly well defined. In 1998, there was a total of 723 new compulsory liquidations - an increase of 44 percent over 1997. Of course, one could raise the question whether some insolvent companies were really just illiquid during the crisis period in Asia. However, the above figure represents only about 0.15 percent of all companies. Compared to Thailand or Indonesia, the exit procedures in Hong Kong appear to be much more orderly.

The upshot of the above discussion is that well-performing Hong Kong companies have ready access to equity markets; but their corporate governance structures do not conform to the Anglo-American EMS type of governance. It may be closer to truth to characterize the corporate governance system in Hong Kong as a reformed FBS type that is evolving from one with complete family control to one where markets and regulatory environment can work together to provide incentives for improved monitoring of the firms. It is likely that in the long run when institutional investors are more active in corporate governance and hostile takeovers are more common, the governance system will approximate more closely the EMS type. However, the gradual reforms of FBS type of governance seem to have worked relatively well so far without bringing it very close to either the EMS or the BLS type of governance.

7. Conclusions: Reforming the Family-Based System of Corporate Governance in Asia

In this paper I have tried to analyze some basic issues related to reforming the corporate governance systems in post-crisis Asia. The three-fold division of corporate governance systems presented in this paper seems appropriate. In particular, the FBS structure has played an important role in the initial phase of capital accumulation in Asian countries. Indeed, its prevalence in Asian economies at all levels of development makes FBS almost a paradigmatic feature of corporate organization and governance in Asia. Complex questions, however, arise with regards to how appropriate this system is currently in both Northeast and Southeast Asia. At present, one proposal is that it should be replaced by BLS. For instance, the new bank-based governance could be modeled after either the Japanese or the German type of corporate governance. For this to happen, however, bank restructuring and recapitalization and an improvement of prudential regulation, accountability and transparency will be essential. A competing proposal is that the transition should be towards an EMS type of corporate governance. It should be recognized that the problems here can be even more formidable. The thinness of both bond and equity markets in many Asian developing economies is one problem. In addition, there are the usual problems of lack of adequate regulatory structures, transparency and accountability. The kind of shareholder activism that is necessary for appointing a competent board of directors genuinely capable of monitoring the firm and, if the situation calls for it, of taking decisive action including the replacement of the existing top managers, will take time to develop as an institution. At the moment, this can be wished for but not implemented. In the long run, however, both the BLS and the EMS should be serious candidates, especially as both efficient debt and equity markets develop. In suggesting the various roads to take with respect to corporate governance reforms in Asia a cautious case by case approach is also necessary. In each case the crucial questions are: what type of institutional changes (e.g., financial, general regulatory institutions etc.) will be necessary and how feasible these changes are within a given time horizon.

An important aspect of family businesses in Asia is their ability to adapt and reform. As Suehiro (1993, 1997) has pointed out, one reason for the success of family businesses in Asia has been their flexibility in terms of managerial decision making

process and efficiency in capital accumulation in the context of latecomer industrialization. This would seem to imply that the FBS has been effective at least for rapid capital accumulation during this early phase of the development process in Asia. The question that arises in the context of the recent crisis is whether for the Southeast Asian economies in particular, the process of catch-up growth is still continuing. If that is the case, the transition process from FBS to either BLS or EMS may need to be slower. In Northeast Asia, however, as some researchers have shown (Khan 1997, 1998, forthcoming) the period of catch up growth has largely ended and global competitiveness must be increasingly based on organizational and product and technical innovations. Here the transition from FBS may need to be effected more speedily. However, as emphasized earlier, much more empirical research using detailed micro data sets with country, sector and firm specific information will be necessary before reaching any definitive conclusions. In this context, the suggestion that the firm's managerial expertise as well as the role of competition and contestability of the market structure can be just as important as corporate governance should also be taken seriously. Clearly, competition is not enough but bad governance may also be encouraged by lack of competition and problems of exit by inefficient firms and of entry by new firms..

What is really of great importance for reforming corporate governance in Asia is the need for studying carefully the experience of economies such as Hong Kong with its gradual reform of the FBS type of governance. Let us recall that the key problem with the FBS type of governance is that at a later phase of the growth of family businesses when there is external financing of family businesses without external control, there can be severe problems of adverse selection and moral hazard arising from the asymmetry of information between the financiers and owner-managers. In economies such as South Korea, Thailand and Indonesia this seems to have been disastrous. Hong Kong's success in continuing with gradual reforms seems to stem from several factors. First and foremost, is the relative strength of the financial sectors. Both the banks and the equity markets have proved to be much stronger than those in other regional economies during and after the crisis. Particularly important for reforming the FBS is the need for recruiting and training competent professionals so that the financial institutions can gather and analyze the

relevant information about the firms they finance. Managers of the financial firms should have the technical capacity to monitor the firms they finance. Furthermore, there must be formal and informal means to influence the decisions of a borrowing firm when it appears to be not performing well. The continuing reform of the FBS type of governance in Hong Kong emphasizes all of these aspects. Second, the presence of both competition and cooperation in the financial sector has made it possible to regulate effectively through the Banking Ordinances and Listing Rules and Takeover Codes. A combination of fairly transparent rules and laws together with a knack for working out problems through mutual consultation seems to provide a way to combine strengths of formal institutions, rules and procedures with those of informal relationships and procedures. To the extent that the same kind of environment can be created in other economies the FBS system may prove amenable to reform after all. However, a third factor is clearly relevant here also. In Hong Kong the insolvency and bankruptcy procedures are relatively straightforward. This makes exit of insolvent firms economically less costly and after such exits the system regains its vigor. In attempts to reform the FBS elsewhere in Asia, creating legal and institutional structures that facilitate the exit of inefficient firms should, therefore, be emphasized. Fourthly, increasing the emphasis on accounting and auditing standards improvements will make monitoring, including some further self-monitoring by the family businesses themselves easier. Finally, although this may not be the most significant, the smallness of Hong Kong also makes it easier for informal agreements to be made. Such agreements can also be enforced relatively easily through reputational and other relational mechanisms.

Given the special features of Hong Kong it would be unwise to generalize the possibility of reforming the FBS everywhere in exactly the same way. Nevertheless, in economies where some of the above characteristics that make reforming FBS in Hong Kong possible are present, some degree of reform of FBS, so that this system remains effective as an interim type of governance for some time to come, may not be an unreasonable proposition. However, for many Asian economies, for example South Korea in particular, the role of banks even in this interim period must be strengthened a great deal more than it is today. Without a strong, independent banking system the agency costs arising from the monitoring problems in most Asian economies will still remain high. Thus in order to improve corporate governance in Asia, the strengthening of the financial sector - in particular the banking system - must be given

top priority. In these regards, improving the capabilities of banks for collecting and analyzing the technical, economic and financial information necessary for monitoring the borrowing firms must be seen as an urgent task.

Appendix (1)

Table A.1.1: Market Value of Equities on the SEHK (1993-1998 in HK\$ million)

Type	1993	1994	1995	1996	1997	1998 ¹
H shares						
IPOs	8,141.52	9,879.81	2,011.35	6,834.16	32,037.52	2,072.36
Rights	-	-	-	-	-	-
Placing	-	-	980.00	1,037.50	1,046.70	1,408.16
Others	-	-	-	-	-	-
Total	<u>8,141.52</u>	<u>9,879.81</u>	<u>2,991.35</u>	<u>7,871.66</u>	<u>33,084.23</u>	<u>3,552.52</u>
Red chips						
IPOs	950.52	1,541.37	1,569.75	3,427.30	39,394.82	142.38
IPOs	4,485.41	1,316.64	202.74	287.25	2,058.47	381.77
Rights	9,506.73	6,165.48	313.10	10,841.05	27,966.00	9,031.16
Placing	136.57	4,203.36	4,588.02	4,452.37	11,445.89	5,869.63
Others	-	-	-	-	-	-
Total	<u>15,079.23</u>	<u>13,226.85</u>	<u>6,673.61</u>	<u>19,007.96</u>	<u>80,865.18</u>	<u>15,424.95</u>
Other equities						
IPOs	20,089.02	5,939.16	4,529.36	20,954.32	10,221.27	3,739.11
Rights	4,780.66	4,326.48	1,087.00	4,365.76	14,453.04	5,003.36
Placing	21,092.54	5,521.08	10,217.03	34,233.38	49,161.11	3,939.44
Others	20,827.33	12,967.77	13,703.55	13,585.17	59,792.43	4,221.81
Total	<u>66,789.54</u>	<u>28,754.48</u>	<u>29,536.94</u>	<u>73,138.63</u>	<u>133,627.86</u>	<u>16,903.72</u>
All equities						
IPOs	29,181.05	17,360.34	8,110.46	31,215.77	81,653.62	5,953.85
Rights	9,266.07	5,643.12	1,289.73	4,653.02	16,511.52	5,385.13
Placing	30,599.27	11,686.55	11,510.13	46,111.93	78,173.82	14,450.77
Others ²	20,963.90	17,171.13	18,291.58	18,037.54	71,238.32	10,091.44
Total	<u>90,010.29</u>	<u>51,861.14</u>	<u>39,201.90</u>	<u>100,018.25</u>	<u>247,577.27</u>	<u>35,881.18</u>

¹including warrants exercised, consideration issue and share option scheme

²provisional figure up to the end of December 1998

Source: Shiu, Barbara (1999), "Corporate Governance in Asia: A Comparative Perspective", annex IV

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