

EVENT REPORT

3 -4 May 2018

2018 ECGI Annual Members' Meeting



ESMT Berlin, Germany

The European Corporate Governance Institute (ECGI) held its Annual Members' Meeting in Berlin on 3 - 4 May 2018, bringing together international academics and practitioners in the field of corporate governance for a programme that included a panel, a debate, a dinner, a general assembly, a lecture and a prize-giving, hosted by ESMT Berlin.

The focus panel on **“Common Ownership: Antitrust Meets Corporate Governance”**, moderated by Prof. Marco Becht (ULB), composed of Prof. Xavier Vives (IESE), Barbara Novick (BlackRock), and Greg Medcraft (OECD), discussed the challenges faced by asset managers holding significant stakes in multiple companies in the same industry. The discussion brought out very clearly the tension between increased stewardship and governance involvement on the one hand, and concerns about potential collusion between competing firms having the same shareholders. The discussion highlighted the desirability of increased stewardship engagement that does not impair product market competition and thus entails no antitrust liability risk for asset managers.

In the Oxford Union-style debate that followed, Levin Holle (German Federal Ministry of Finance) and Peter Montagnon (Institute of Business Ethics) proposed the the motion: **“This House believes that Brussels should have the power to block foreign takeovers”**. They were opposed by Professors John C. Coffee (Columbia Law) and Ernst-Ludwig von Thadden (University of Mannheim). The debate was chaired by Lisa Rabbe (ECGI). After a lively debate including interventions from the floor, the House voted by a narrow margin against the motion.

The ECGI Members’ dinner took place on Thursday evening, with **Dr. Eckhard Cordes** (EMERAM, Cevian Capital, Bilfinger, Volvo), providing the after-dinner speech to an audience of ECGI members and invited guests. Dr. Cordes shared his personal experience, having been a member on thirteen boards in Germany, Sweden, the United Kingdom and the United States.

On Friday, the annual lecture was delivered by Professor Antoinette Schoar (MIT and currently visiting Imperial College, London). Professor Schoar’s lecture, entitled **“Is Big Data a Challenge for Boards?”**, presented new research on the use of personal data in the United States by financial intermediaries in marketing pre-approved credit cards. The study shows that companies utilise the information to selectively sell more expensive products to less educated customers by shrouding the actual terms within the marketing material. The practice is not illegal but poses a moral dilemma for boards.

Following the lecture, ECGI awarded two research prizes for the best papers in the Finance and Law Working Paper Series’ from the previous year.

The Finance Series prize of €5,000, which is sponsored by Aberdeen Standard Investments, the global fund manager, was awarded to Professors Mike Burkart (London School of Economics), Salvatore Miglietta (Norwegian Business School) and Charlotte Ostergaard (Norwegian Business School), for their paper on “Why Do Boards Exist? Governance Design in the Absence of Corporate Law” (ECGI Finance Working Paper 504/2017).

The paper begs the question of when boards would emerge endogenously, which is intriguing yet almost impossible to answer because all countries mandate boards. It therefore takes some ingenuity to go back in time to a period when boards were not mandated to address this question. Such work on historical data is time-consuming and requires more manual labor compared to readily accessible electronic databases. Other researchers should feel encouraged to spread their nets a little wider and consider times when our institutions emerged and before data became widely accessible, also as a means of out-of-sample testing.

The Law Series prize of €5,000, sponsored by Allen & Overy LLP, the international law firm, was awarded to Professor John C. Coffee (Columbia Law School) for his paper “The Agency Costs of Activism: Information Leakage, Thwarted Majorities, and the Public Morality” (ECGI Law Working Paper 373/2017). The editorial committee that selected the prize-winning paper is chaired by Prof. Luca Enriques (University of Oxford).

This paper focuses on one of the most hotly debated corporate governance phenomena, hedge fund activism. Professor Coffee posits that “any new structure of governance will have its own unique agency costs”. Based mostly on quantitative evidence, while using case studies, and empirical findings, he then identifies four such sources of agency costs that are specific to hedge fund activism: private benefits, in the form of expense reimbursement for successful campaigns; information leakage when hedge funds succeed to appoint their board nominees (a major focus of the paper); the fact that activists, holding often no more than 10 percent of the shares, can obtain the changes they push for in private settlements with managers, without letting other shareholders, who may have a different (longer-term) view over a company’s trajectory; and the exclusive focus on shareholder value maximization that drives their often successful campaigns: again, that may contrast with other shareholders’ preferences about the goals managers at public corporations should pursue.

Also amongst the proceedings of the event, was the **appointment of Luca Enriques**, Allen & Overy Professor of Corporate Law, University of Oxford, Faculty of Law, to the board of ECGI.

Prof. Enriques studied law at the University of Bologna before completing his LLM at Harvard Law School and working at the Bank of Italy while at the same time earning a Doctorate degree in Business Law at Bocconi University. He then became a member of the University of Bologna Faculty of Law (1999-2013). During that period, he was a consultant to Cleary Gottlieb Steen & Hamilton and an adviser to the Italian Ministry of the Economy and Finance on matters relating to corporate, banking and securities law with a special focus on European Union policy initiatives. He was a Commissioner at Consob, the Italian Securities and Exchange Commission between 2007 and 2012 and Professor of Business Law at LUISS University, Department of Law, in Rome in 2013-14.

He has held visiting posts at various academic institutions including Harvard Law School, Cornell Law School, the Instituto de Impresa in Madrid, the Radzyner School of Law at the Interdisciplinary Center Herzliya and the University of Cambridge Faculty of Law. He has published widely in the fields of company law, corporate governance and financial regulation. He is the Editor of the ECGI Working Paper Series in Law, an ECGI Research Fellow, and one of the founding academic editors of the Oxford Business Law Blog.

Speaking at the event, Professor Marco Becht, Executive Director, ECGI said:

“The extended programme this year was a great success and significantly improved the dynamics and attractiveness of the event to all of our members. We are particularly grateful to Investor AB and BP plc. for the donations they made to the European Corporate Governance Research Foundation (ECGRF). Without the support of ECGRF, the augmented level of activity would not have been possible. We are also grateful to ESMT Berlin and its President, Prof. Jörg Rocholl for hosting this years’ event in such an outstanding way”.

Videos from the event are available on the ECGI website: www.ecgi.global

About the European Corporate Governance Institute (ECGI)

www.ecgi.global

The ECGI is an international scientific non-profit association which provides a forum for debate and dialogue focusing on major corporate governance issues and thereby promoting best practice. It is the home for all those with an interest in corporate governance offering membership categories for academics, practitioners, patrons and institutions.

Its primary role is to undertake, commission and disseminate research on corporate governance. Based upon impartial and objective research and the collective knowledge and wisdom of its members, it can advise on the formulation of corporate governance policy and development of best practice. In seeking to achieve the aim of improving corporate governance, ECGI acts as a focal point for academics working on corporate governance in Europe and elsewhere, encouraging the interaction between the different disciplines, such as economics, law, finance and management.

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