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# Financial Conglomerates and the Chinese Wall: Regulating Conflicts of Interest

Harry McVea

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# Financial Conglomerates And The Chinese Wall

**Yifei Yang**



## **Financial Conglomerates And The Chinese Wall:**

**Financial Conglomerates and the Chinese Wall** Harry McVea, 1993 The growth of financial conglomerates offering a range of services hitherto unprecedented has caused problems for regulators While conglomerates bring with them many economic benefits diversification of risk economies of scope etc they also impose costs systemic risk and conflict of interest abuses This book explores ways in which regulators can ensure that the regulation imposed is sufficiently strong to eradicate these abuses but at the same time sufficiently flexible to allow the benefits of conglomeration to be secured The Chinese Wall a regulatory mechanism aimed at stemming the flow of information from one department in a firm to another and reconciling conflicts of interest more generally is singled out for special treatment The legal position of the device which has become all the more important in the wake of the recent Law Commission inquiry into the relationship between the Financial Services Act 1986 and the rules made under it and the general law is considered in detail The author argues that an effective Chinese Wall will in most cases be legally sufficient to absolve a firm from potential liability at general law but that there are situations where Chinese Walls are not satisfactory Here the conglomerate will have to suffer the commercial disadvantages of being a fiduciary by adopting a different albeit more restrictive regulatory option

**Financial Conglomerates** Lutgart A.A. Van den Berghe, 2012-12-06 The last couple of years financial conglomerates have been established all over Europe This horizontal diversification has not only attracted a great deal of attention in the banking and insurance sector but has also alarmed the supervisory authorities and the European Commission Although the benefits of financial conglomerates are straightforward it is clear that quite a number of potential risks can not be ignored Since the phenomenon of financial conglomeration is rather new the regulators do not possess a great deal of objective scientific reference bases on which to construct the necessary regulations Moreover the complexities and specific characteristics of the financial conglomerates do not permit a simple extrapolation of the rules for industrial conglomerates Even the extrapolation of banking regulations to insurance groups and vice versa poses a lot of difficult questions These observations lie at the origin of the research carried out at the Erasmus Finance and Insurance Centre EPIC at the Erasmus University in Rotterdam in collaboration with the Impulse Centre for Financial Services and Insurance ALEA at the Vlerick School of Management of the University of Ghent To confront the research results with the expertise of the business world and the supervisory authorities a workshop was organised in Rotterdam 1994 This publication is partly based on these research results and the workshop discussions Three main blocs can be distinguished the definition of financial conglomerates the potential risks and the regulatory aspects the strategic issues

International Banking Regulation: Law, Policy and Practice George Walker, 2001-12-06 This work offers a comprehensive examination of the development and structure of the provisions for the control of international financial markets It explores the background to the major financial crises of the late 20th century and the nature of the global response

Research Handbook on Fiduciary Law D. Gordon Smith, Andrew S. Gold, The Research Handbook on Fiduciary

Law offers specially commissioned chapters written by leading scholars and covers a wide range of important topics in fiduciary law Topical contributions discuss various fiduciary relationships the duty of loyalty and other fiduciary obligations fiduciary remedies the role of equity the role of trust international and comparative perspectives and public fiduciary law This Research Handbook will be of interest to readers concerned with both theory and practice as it incorporates significant new insights and developments in the field

**Corporate Structure and Banking Resolution** Marcelo J. Sheppard Gelsi, 2024-06-06 This book provides a legal analysis of the regulation of bank based financial conglomerates from a structural commercial and regulatory perspective It includes a comparative analysis of the regulation of bank based financial conglomerates from the standpoint of the three jurisdictions that established a distinct regulatory model i e Germany the UK and the US At the same time it analyses which banking resolution strategy is most appropriate for different models taking into account four factors applicable to bank insolvency The book further examines the types of capital structure associated with each model and in particular how BBFCs have influenced industry developments in Germany the United Kingdom the United States and the EU While there are several books that focus on the regulation of banks insurance companies and securities firms this book will include the first analysis of BBFC from a structural commercial and resolution standpoint analysing not only the three major jurisdictions but three different BBFC models and will be of particular interest to students researchers and professors of banking and financial institutions

**Regulation of the EU Financial Markets** Dann Busch, 2017

**Takeovers in English and German Law** Jennifer Payne, 2002-11-07 This book arises out of the second Anglo German Law Conference in Oxford held under the auspices of the Oxford Law Faculty and with the support of two leading law firms The law regarding takeovers has recently taken on a new dimension in Europe and nowhere more so than in England and Germany These two jurisdictions have had to consider a number of issues including the ramifications of the Vodafone Mannesmann takeover the proposed Takeover Act in Germany and the impact of the Financial Services and Markets Act 2000 in England This collection examines the law regarding takeovers in England and Germany taking account of these new developments among others It also deals specifically with the issues arising from cross border mergers between the two jurisdictions This collection will be indispensable to practising lawyers and in house counsel whose practice touches on Anglo German business affairs It will also be of real interest to legal academics in this field

**The Oxford Handbook of Financial Regulation** Niamh Moloney, Eilís Ferran, Jennifer Payne, 2015-08-27 The financial system and its regulation have undergone exponential growth and dramatic reform over the last thirty years This period has witnessed major developments in the nature and intensity of financial markets as well as repeated cycles of regulatory reform and development often linked to crisis conditions The recent financial crisis has led to unparalleled interest in financial regulation from policymakers economists legal practitioners and the academic community and has prompted large scale regulatory reform The Oxford Handbook of Financial Regulation is the first comprehensive authoritative and state of the art account of the nature of

financial regulation Written by an international team of leading scholars in the field it takes a contextual and comparative approach to examine scholarly policy and regulatory developments in the past three decades The first three parts of the Handbook address the underpinning horizontal themes which arise in financial regulation financial systems and regulation the organization of financial system regulation including regional examples from the EU and the US and the delivery of outcomes and regulatory techniques The final three Parts address the perennial objectives of financial regulation widely regarded as the anchors of financial regulation internationally financial stability market efficiency integrity and transparency and consumer protection The Oxford Handbook of Financial Regulation is an invaluable resource for scholars and students of financial regulation economists policy makers and regulators Corporate Collapse and Corporate Governance Yifei

Yang,2025-08-25 This book provides an in depth examination of the relationship between the UK s dominant corporate governance regime and major corporate failures with a particular focus on the collapse of Carillion Plc Through a detailed analysis of the Carillion case and its aftermath the book highlights a persistent issue in the market s failure to learn from past collapses allowing similar failures to recur The exploration of corporate constitutional analysis into Carillion is presented as a thought experiment aiming to discover new perspectives on these systemic breakdowns It investigates whether adopting a corporate constitutional paradigm might offer fresh insights and support meaningful reform of the UK s contractualist shareholder focused model The book identifies the dysfunction at the heart of the current framework as a direct cause of corporate collapse and demonstrates how different governance paradigms can shape distinct corporate behaviours and outcomes It calls for a fundamental rethinking of how corporate power is structured and justified By critically evaluating the internal and external dimensions of corporate governance this book provides a timely and thought provoking contribution for scholars policymakers and practitioners seeking more resilient and responsible models of governance *Encyclopedia of*

*Alternative Investments* Greg N. Gregoriou,2008-08-18 A pioneering reference essential in any financial library the Encyclopedia of Alternative Investments is the most authoritative source on alternative investments for students researchers and practitioners in this area Containing 545 entries the encyclopedia focuses on hedge funds managed futures commodities and venture capital It features **Banking Regulation in Israel** Ruth Plato-Shinar,2016-09-15 In the aftermath of the

2008 global financial crisis many governments are seeking ways to improve their banking regulation systems in the interests of both economic health and consumer protection Among the globally competitive countries that withstood the crisis with no significant disruption Israel stands out suggesting that other countries might benefit from an in depth analysis of its banking system This is the first book in English to provide such an analysis emphasizing the crucial balance between prudential regulation and conduct of business regulation which in Israel are both regulated by the same agency unlike the Twin Peaks model that prevails in other market based economies With recommendations that are highly applicable to many countries the book examines a broad range of issues that are of current concern to the banking community worldwide Among these issues

are the following the architecture of financial regulation nationalization and privatization of banks conflicts of interest in the banking system resulting from universal banking problems of concentration and lack of competitiveness in the banking system the growing power of institutional investors and their entry into traditional banking activities mechanisms for recovery and resolution in the event of a bank failure new models of banking regulation such as self regulation and contractual regulation and bank consumer protection complaint handling and redress Even though the book focuses on Israeli banking regulation its detailed attention to the development of a suitable supervisory model is of immeasurable international value for regulators lawyers bankers academics and business people who are in any way connected to the banking world particularly following the 2008 crisis and its devastating effects It is sure to be of service as many jurisdictions continue to search for optimal tools designed to prevent another such crisis

**European Capital Markets Law** Rüdiger Veil, 2022-03-24 The richness clarity and nuances of the structure and methodology followed by the contributors make the book a very valuable tool for students seeking to obtain a general understanding of the market and how it is regulated Ligia Catherine Arias Barrera Banking sustainable finance and the further digitalisation of financial instruments and securities markets The 1st chapter deals with the foundations of capital markets law in Europe the 2nd explains the basics and the 3rd examines the regime on market abuse Chapter 4 explores the disclosure system and chapter 5 short selling and high frequency trading The role of intermediaries such as financial analysts rating agencies and proxy advisers is described in chapter 6 Chapter 7 explains compliance and corporate governance in investment firms and chapter 8 illustrates the regulation of benchmarks Finally chapter 9 deals with public takeovers Throughout the book emphasis is placed on legal practice and frequent reference is made to the key decisions of supervisory authorities and courts This is essential reading for students involved in the study of capital markets law and financial law

Research Handbook on Shadow Banking Iris H.-Y. Chiu, Iain G. MacNeil, Research Handbook on Shadow Banking brings together a range of international experts to discuss shadow banking activities the purposes they serve the risks they pose to the financial system and implications for regulators and the regulatory perimeter Including discussions specific to the UK European Union US China and Singapore this book offers high level and theoretical perspectives on shadow banking and regulatory risks as well as more detailed explorations of specific markets in shadow banking

**Party Autonomy and the Role of Information in the Internal Market** Stefan Grundmann, Wolfgang Kerber, Stephen Weatherill, 2001 Examination of Party Autonomy and its limits has always raised fundamental questions in national contract and private law The concentration on information solutions which enhance and leave more space to party autonomy is a fundamentally new approach to this core issue and is typical of Community legislation The complexity of the question made it advisable to have the different aspects treated and discussed by specialists in different areas by legal scholars and economists by EC law and by contract law specialists by scholars from different jurisdictions with different regulatory approaches and backgrounds The four parts deal with 1 the economic and

constitutionell foundations of the question with 2 the framework to be found in EC treaty law with 3 the fundamental and more general aspects relating to substantive EC contract law legislation and with 4 the most important individual legal measures The book covers both general contract law with consumer contracts and labour contract law      **Financial Crime in China** Hongming Cheng, 2016-01-26 Given China s rapid development many observers assert that world economic growth and key economic indicators are now depending on the country alone including the prospects of the dollar the Euro oil prices industrial commodities global equity markets and bond prices On the other hand China faces a number of major social and economic challenges which could undermine future growth such as prevalent corruption financial crime and the relative lack of the rule of law Financial Crime in China builds upon original research into the topic and offers a never before seen look at the systemic spread of state controlled corruption in the form of bank fraud securities fraud insider trading and Ponzi schemes Cheng presents an authentic picture of financial crime in China by identifying the latest manifestations analyzing empirical data and case studies and drawing conclusions about the origin characteristics dynamics and developmental features of financial criminality in the context of political economy      **Conflicts of Interest** Luc Thévenoz, Rashid

Bahar, 2007-01-01 Conflicts of interest arise naturally in all walks of life particularly in business life As general and indeed inevitable phenomena conflicts of interest should not be prohibited but properly managed This book presents indepth analysis of such management in three areas of corporate governance where the conflict of interest problems are particularly acute executive compensation financial analysis and asset management Conflicts of Interest presents the results of a two year long research project bringing together academics and practitioners in both law and finance from Europe and the

Corporate Liability: A Study in Principles of Attribution Cheong-Ann Png, 2001-08-03 When infringement or wrongdoing is alleged against a corporation where are we to look for the imputed reprehensible conduct or knowledge on which the case must depend This is a question that is asked and asked again as each expansion and intensification of corporate activity gives rise to ever more complex issues of accountability and responsibility This major new theoretical study builds on classic and recent work in the field to provide a systematic and coherent analysis of corporate liability in its current context Focusing on rules of attribution developed in a notable series of English cases the author explains in detail the various ways in which these rules may be applied in civil criminal and regulatory proceedings against corporate defendants The book exposes the circumstances in which corporations as legal persons may incur personal liability for the acts or omissions of their servants or agents that were carried out in the course of their employment defining the means through which corporate liability must be determined It focuses on the personal liability of corporations incorporating common law principles of vicarious liability and agency as well as exceptions arising from the Companies Act 1985 and other legislation The study covers such important areas as the following the problem of many hands in which individual servants or agents may be aware of only a portion of a corporate transaction or undertaking the traditional directing mind theory as one of the means of identifying the relevant

individuals whose conduct or state of knowledge may result in corporate liability the development of principles of attribution as a framework for approaching different situations where liability may be established against corporations a new concept of aggregation which allows under particular circumstances the collective knowledge of various individuals to be attributed to the corporation the relevance of Chinese Walls in limiting the extent to which principles of attribution apply a comprehensive survey of the different circumstances in which corporations including holding corporations in corporate groups and their servants and agents may incur liability Corporate Liability A Study in Principles of Attribution is far more than a mere legal device for practical purposes It is in every way a groundbreaking work in the field of absorbing interest to scholars jurists and lawyers alike *Conflicts of Interest and Chinese Walls* Chizu Nakajima, Elizabeth Sheffield (LLB.), 2002 PART OF BUTTERWORTHS COMPLIANCE SERIES *Conflicts of Interest and Chinese Walls* has been designed to bring you thorough yet concise coverage of the law and practice relating to the regulation of conflicts of interest and in particular the device of Chinese walls The work takes a practical and relevant approach in its analysis of conflicts of interest affecting financial intermediaries and other professionals operating in the financial services industry and examines the issues of ensuring international co ordination and dealing with regulators The work also deals with the management of conflict Chinese walls and other in house procedures together with a review of the means of addressing and resolving conflict International Contracts and National Economic Regulation: Dispute Resolution Through International Commercial Arbitration Mahmood Bagheri, 2000-12-06 The growth of national economic regulation and the process of globalisation increasingly expose international transactions to an array of regulations from different jurisdictions These developments often contribute to widespread international contractual failures when parties claim the incompatibility of their contractual obligations with regulatory laws The author challenges conventional means of dispute resolution and argues for an interdisciplinary approach whereby disciplines such as international economic law conflict of laws contract law and economic regulations are functionally united to resolve international and multifaceted regulatory disputes He identifies the normative foundation of contract law as an important determinant in this process contending that contract law is essentially neutral and underpinned by the concept of corrective justice while economic regulations are mainly prompted by distributive justice Applying this corrective distributive justice dichotomy to international contracts the author critically assesses major conflict of laws approaches such as proper law the Rome Convention and governmental interest analysis which could disregard either public interest or private rights The author taking these theories into account proposes an alternative two dimensional interest analysis approach He tests the viability of this approach with reference to arbitral awards and court decisions in various jurisdictions and concludes that it uniquely fits into the structure of international commercial arbitration In adopting this approach arbitrators would take into account both corrective and distributive justice and to the extent that corrective justice prevails would be able to avert a total failure of the contract **Commercial Crime and Commercial Regulation** ,

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