Information Transparency in Cross-Shareholding

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Abstract:

Cross-shareholding is a situation in which two enterprises jointly own shares of each other—this activity is like a double-edged sword, with both advantages and disadvantages. Cross-shareholding played a vital role in the goal of economic development in history. Cross-shareholding shareholders promote becoming "stable" and control the profit-sharing policy. Along with the historical position, cross-ownership has consequences for the economy. The article studies the influence of cross-ownership on the quality of information transparency. Specifically, cross-ownership can falsify disclosed information. Cross-shareholding will affect the interests of related parties, affecting the market's health. Thereby, the article gives legal recommendations to control information transparency in cross-ownership. Accordingly, enterprises participating in cross-ownership need to comply with regulations on transparency of ownership structure. At the same time, the law should protect the interests of related parties in case false information is affected due to cross-ownership.

Keywords: cross-shareholding; information transparency; information disclosure; information disclosure;

Introduction

Cross-shareholding is a situation in which two businesses jointly own shares of each other. This activity is compared to a double-edged sword, with both advantages and disadvantages. Along with the historical role in revitalizing the economies of some countries, cross-ownership has had corresponding consequences for the economy as a whole. As we have seen that cross-ownership is a "double-edged sword" the question is how to promote the positives of cross-ownership and limit the adverse effects it brings. . The issue of cross-ownership has received much attention from researchers abroad, in both economic and legal aspects. Most of the works share the same opinion on cross-ownership: (i) Cross-ownership is a situation where two or more businesses own each other; (ii) The determination of cross-ownership is based on the criteria of the cash flow path, not on the business sector or industry; (iii) cross-ownership is not just an activity of two enterprises. Cross-ownership networks can involve many businesses in many different models. Theoretically, the number of participating businesses is unlimited. The more businesses involved, the greater the level of complexity. However, studies on the legal connection of cross-ownership to information transparency are still minimal. It is essential to analyze the potential impact of cross-ownership on information transparency. Thereby, it is recommended to improve the law on cross-ownership to ensure the quality of information disclosure on the stock market.

Research purpose and methods

The article clarifies the theoretical issues of cross-shareholding. Thereby, the report evaluates the possibility of the influence of cross-shareholding on the quality of information transparency. On this basis, the report considers the role of the law in regulating cross-shareholding, thereby forming recommendations to improve the Vietnamese law on cross-shareholding to limit the adverse effects of the law on cross-shareholding. beBenefitsrom cross-shareholding without losing the positive impacts of cross-shareholding.

The article mainly uses the following research methods:

Analytical method: evaluating and commenting on situations, opinions, legal provisions, and practical application of legal requirements on information transparency in cross-ownership.

Synthetic method: used when evaluating to draw general conclusions, opinions, suggestions, and recommendations in terms of theory and experience in legal regulation for the issue of information transparency in Vietnam.

Interdisciplinary research method: using a combination of economic theories with theories and legal perspectives to clarify the theoretical basis of cross-shareholding and the reason for the existence of cross-shareholding. , the effects of cross-shareholding on the quality of information transparency.

In addition, the article is researched based on financial and economic benefits. Cross-shareholding is a situation arising from the activities of enterprises, and the theoretical issues of cross-shareholding are analyzed in monetary terms. Therefore, to study cross-shareholding, the author investigates, researches, and considers from the point of view of economic benefits based on economic theories.

1. Overview of the basis and meaning of information transparency requirements

Agency cost and signaling are theories related to information transparency requirements.

The agency cost theory is used to analyze the determinants of choice. Starting from Jensen and Meckling (1976) is a pioneering work that many later authors inherited.[1] A significant challenge for any economy is allocating savings to investment opportunities. Businesses want to attract savings from individuals, households, and organizations. to finance their business activities. Both the saver and the business sides wish to do business together. However, this leads to two problems. First, the entrepreneur side often has an informational advantage over savers on the value of the investment opportunity. Second, the information entrepreneurs provide investors may not be completely reliable.

There are generally three measures to mitigate this problem: (i) An optimal contract between the business and the investor to eliminate the problem of misjudgment; (ii) regulations that require managers to disclose information, Healy, Palepu, Botosan, and Plumlee argue that providing information can reduce agency costs between managers and owners, where the

[1] Jensen, M.C. and Meckling, W. H. (1976), "Theory of the Firm: Managerial Behavior, Agency Costs, and Ownership Structure," *Journal of Financial Economics*, 3, pp. 82-137.

financial statements are significant;[2] (iii) An additional solution is the involvement of intermediary information organizations, such as financial analysts and rating agencies.

Next, signaling theory completes the explanation of corporate disclosure responsibility. Akerlof views information asymmetry as a significant problem when buying a used car.[3] The seller knows more than the buyer. The difference in product information is the information asymmetry between buyers and sellers. This scenario compares to the problem when a business becomes a public company in capital markets. The current owners of the company and its managers (sellers) know more about the company (products) than potential investors (buyers). Disclosure of more financial and non-financial information to potential investors can reduce the problem of asymmetric information. The company's disclosure policy regarding its operations' sustainability is based on the voluntary disclosure principle.

Disclosure is the primary means businesses can become transparent, an essential requirement of an efficient capital market.[4] The purpose of corporate governance is to serve stakeholders.[5] Disclosure is crucial in ensuring the efficient allocation of resources in society and reducing information asymmetry between the company and its stakeholders.

There are five pillars that disclosures must meet, including:[6]

(i) Truthfulness, which means that the information provided must be as wholly and accurately described as possible;

(ii) Completeness, the information provided must be sufficient for investors to make investment decisions. The information must include both financial and non-financial aspects.

(iii) Materiality, information must be disclosed in physical form.

(iv) Timeliness, disclosed information must react as quickly as possible.

(v) Accessibility, disclosed information must be accessible and available for investors to access at the lowest cost.

The quality assurance of information transparency plays an important role, including the following issues:

Firstly, the quality of information transparency affects the stock market's liquidity. An adequate stock market must base on transparent information.[7] Where investors suffer from inadequate disclosure and transparency, the stock market becomes vulnerable to information asymmetry between sellers.[8] Besides, if they do not know the actual status of the business, potential investors can only participate in the market at the most average level. They will pay

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[2] Prabowo, R.and Angkoso, K.S. (2006), "Factors Influencing the Extent of Web-Based Disclosure: An Empirical Analysis of Indonesian Manufacturing Firms", *Jurnal Akuntansi Dan Keuangan*, 8 (2), pp. 92-98.

[3] Akerlof, G. (1970), "The Market for Lemons: Quality Uncertainty and the Market Mechanism," *Quarterly Journal of Economics*, pp. 629-650.

[4] Healy, P.M., and Palepu, K.G. (2001), "Information Asymmetry, Corporate Disclosure, and the Capital Markets: A Review of the Empirical Disclosure Literature," *Journal of Accounting and Economics*, 31(1), pp. 373-381.

[5] Solomon, J. (2007), *Corporate Governance and Accountability*, John Wiley & Sons Ltd publisher, p. 143.

[6] Benjamin Fung (2014), "The Demand and Need for Transparency and Disclosure in Corporate Governance," *Universal Journal of Management* 2(2): 72-80.

[7] Merritt B. Fox (1999), "Retaining Mandatory Securities Disclosure: Why Issuer Choice Is Not Investor Empowerment," *Virginia Law Review* (85), 1335.

[8] George A. Akerlof (1970), "The Market for "Lemons": Quality Uncertainty and the Market Mechanism," *The Quarterly Journal of Economics*, 84, 488.

for securities at a price that has been dramatically reduced compared to the published statistics.[9] Voluntary disclosure minimizes the problem of asymmetric information.[10] Therefore, for businesses with a higher degree of transparency, investors can have relative confidence that any stock transactions are in line with the value of the business. This increases the liquidity of the company's shares on the stock market.[11]

Financial accounting information of a business assists investors in identifying and evaluating investment opportunities. The absence of reliability and access to information in an economy can impede the flow of financial capital. Quality financial accounting data enhances efficiency by enabling managers and investors to identify more valuable opportunities with minor errors. This leads to the correct allocation of money to the most useful transparent financial accounting system that provides direct information about investment opportunities. From Black and Ball's point of view, a business with a robust financial accounting system focuses on credibility and accountability, which is also a prerequisite for a vibrant stock market. An efficient stock market in which stock prices reflect all information and access to current and potential investors. Dye and Sridhar[12] clearly described the strategic direction of the stock's price.[13] In these models, the stock price has attracted individual, decision-related information unknown to the managers, and the managers' investment decisions respond to this. A transparent financial report will increase confidence in the fairness of the market.[14]

Second, the quality of information transparency affects the supervisory role of the market. With the tremendous volatility of the international market economy, providing adequate and appropriate corporate financial statements is essential[15] According to the 2006 edition of the Guidelines on Corporate Governance Practices by the United Nations Conference on Trade and Development, the guidance focuses on financial disclosure and a range of non-financial information such as target company; ownership and rights of shareholders; changes in controls, and transactions involving significant assets; and governance structure and policy. Disclosure to minimize information asymmetry between management and capital market participants allows for better monitoring of regulatory agency decisions.[16] The timely incorporation of economic losses in published financial statements increases the effectiveness of corporate governance, compensation systems, and debt arrangements in promoting management oversight.[17] Financial and accounting information plays a management role, contributing directly to economic efficiency through practical asset management disciplines

[9] Bernard Black (2000), "The Core Institutions that Support Strong Securities Markets," *Business Lawyer* (55), 1565, 1567-68.
[10] Kim O, Verrecchia R (1994), "Market liquidity and volume around earnings announcements," *Journal of Account Economic*, 17(1-2): 41-67.
[11] Healy PM, Palepu KG (2001), "Information asymmetry, corporate disclosure, and the capital market: A review of the empirical disclosure literature," *Journal of Account Economic*, 31(1-3): 405-440.
[12] Dye and Sridhar (2001), Strategy-Directing Disclosures, Northwestern University
[13] *Dye, R., and S. Sridhar* (2001), Strategy-Directing Disclosures, Northwestern University.
[14] Benjamin Fung (2014), "The Demand and Need for Transparency and Disclosure in Corporate Governance," *Universal Journal of Management* 2(2): 72-80.
[15] Benjamin Fung (2014), "The Demand and Need for Transparency and Disclosure in Corporate Governance," *Universal Journal of Management* 2(2): 72-80.
[16] Baldwin, B.A. (1984), "Segment Earnings Disclosure and the Ability of Security Analysts to Forecast Earnings Per Share," *Accounting Review* (54), 376–389.
[17] *Ball, R., S. P. Kothari, and A. Robin* (2000), "The Effect of International Institutional Factors on Properties of Accounting Earnings," *Journal of Accounting and Economics* (29), 1: 1-51.

(for example, timely abandoning lost projects), selecting better projects, and reduced appropriation of investor assets by managers.[18]

Third, information transparency enhances economic efficiency by reducing liquidity risk and adverse selection. Some studies argue that protecting investors from managers' opportunistic behavior is a fundamental determinant of investment willingness to finance firms. Therefore, a country's financial and accounting regime significantly influences investor rights.[19] According to Amihud and Mendelson, the liquidity in a company's securities affects the company's cost of capital.[20] If the liquidity risk in the capital market is low, investors can rest assured of investing in long-term projects (no income/dividend at first). Requires a commitment to keep the capital unchanged for a long time.[21] As a result, high liquidity facilitates high-risk, high-risk, long-term, and more likely to lead to innovative technology. Therefore, a high-quality financial accounting regime supports capital markets function.[22] A company is a concatenation of contracts designed to minimize transaction costs. Contracting parties expect information about the company's ability to meet the contract terms. Its ability to comply with its contractual obligations.

2. Effect of ownership structure on information transparency

Studies have acknowledged that ownership structure is an essential component of corporate governance.[23] The relationship between ownership structure and economic performance has been a topic of great interest to management strategy.[24]

As analyzed, in the distributed ownership system (the outsider system, also known as the Outsider System), typically in the U.S. and U.K., ownership is widely distributed among all types of shareholders. These systems tend to be open and fair in the distribution of information. The emphasis on quality, transparency, and strict disclosure in countries like the U.S. and U.K. is designed to boost stock market performance. Because of greater openness, Doidge points out that US-listed companies have a higher market value than other countries.[25] The external system operates to strike a balance between providing measures to protect shareholder rights and allowing investors to perceive and assess risk.

Unlike companies in distributed ownership systems such as the U.S. and U.K., listed companies in the inside system (Insider System), most of the world, including Europe Continent, Latin America, Southeast Asia, and Africa, often have concentrated ownership.[26]

[18] Robert M. Bushman and Abbie J. Smith (2003), "Transparency, financial accounting information, and corporate governance," Economic Policy Review, (9), 1.
[19] La Porta, R., F. Lopez-De-Silanes, and A. Shleifer (1999), "Corporate Ownership around the World." *Journal of Finance* 54, no. 2: 471-517.
[20] Amihud, Y., and H. Mendelson (2000), "The Liquidity Route to a Lower Cost of Capital," *Journal of Applied Corporate Finance* (12), 4: 8-25.
[21] Levine, R. (1997), "Financial Development and Economic Growth: Views and Agenda," *Journal of Economic Literature* (35), 2: 688-726.
[22] Robert M. Bushman and Abbie J. Smith (2003), "Transparency, financial accounting information, and corporate governance," Economic Policy Review (9), 1.
[23] Shleifer, A., & Vishny, R. (1986), "Large shareholders and corporate control," *Journal of Political Economy*, 94, 461-488.
[24] Li, M., & Simerly, R. L. (1998), "The Moderating Effect of Environmental Dynamism on the Ownership and Performance Relationship," *Strategic Management Journal*, 19(2), 169- 179.
[25] Doidge C, Karolyi G. AStulz RM (2004), "Why are foreign firms listed in the U.S. worth more?", *Journal of Financial Economics*,71(2):205–238.
[26] Claessens S, Djankov S, Lang L.H.P. (2000), "The separation of ownership and control in East Asian corporation," *Journal of Financial Economics*, 58(1-2): 81-112.

The central ownership structure's primary conflict is not between shareholders and managers but between controlling and non-controlling shareholders. These enterprises' C.M.S. (Controlling Minority Shareholder) system often hides the direct control linkages.[27] As the thesis analyzed, this mechanism differentiates between ownership and control rights. This creates voting rights that do not correspond to ownership, increasing control for shareholders who do not own controlling shares. The C.M.S. scheme's commonly used structure is pyramid and cross-ownership, or both within the same corporation. The separation between ownership and control of minority shareholders' appropriate interests. [28] Studies demonstrate that shareholder control of firms in centralized ownership systems is more likely to place family members on the board of directors. Thus the firm's board of directors is viewed as insiders with controlling shareholders. For this reason, the C.M.S. mechanism has recently come under strict control in many countries.[29]

The agency theory shows that ownership structure will determine the business's behavior and performance and affect the business's transparency.[30] From there, ownership structure can affect the level of information disclosure.[31] Research finds that information transparency will be low if high ownership and voting rights are elevated.[32] A higher degree of ownership concentration can lead to more secrecy and information asymmetry, i.e., businesses in control systems may want to keep information within the organization but not external supply.[33] Furthermore, suppose the level of family ownership is significant. In that case, it is more likely that the family members themselves will participate in the practice of driving the business, leading to information asymmetry between the family and outside managers.[34] This means that businesses controlled by a single family are less timely disclosure. Thus outsiders will not be able to detect the elements of the business on time, even if This factor affects the stock price.[35]

Poor accounting information and high capital costs pose a serious threat to the competitiveness of companies with a high degree of ownership concentration.[36] Fan and Wong show that control owners have experience hiding their information from the outside to avoid

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[27] *Thesmar*, D. (2001), *The governance of subsidiaries: how pyramidal ownership magnifies the separation of ownership and control*, Center for Research in Economics and Statistics, Paris.
[28] Leuz C, Nanda D, Wysocki P (2003), "Earnings management and institutional factors: An international comparison," *Journal of Financial Economics*, 69(3): 505-527.
[29] LucianAyeBebchuk, ReinierKraakman, and George Triantis (2000), "Stock Pyramids, Cross-Ownership and Dual Class Equity: The Mechanisms and Agency Costs of Separating Control From Cash-Flow Rights," *Concentrated Corporate Ownership* (R. Morck, ed.), pp. 445-460 (2000).
[30] Hill, C.W. and S. Snell (1988). "External Control, Corporate Strategy, and Firm Performance in Research Intensive Industries," *Strategic Management Journal* 9, 577–590.
Hill, C.W. and S. Snell (1989), "The Effects of Ownership Structure and Control on Corporate Productivity," *Academy of Management Journal* 32, 25–46.
[31] Aman, H., W. Beekes and P. Brown (2011), 'Corporate Governance and Transparency in Japan,' Working Paper, Universities of Kwansei Gakuin, Lancaster, New South Wales, and Western Australia. Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1874611
[32] Hao-Feng Xu and Mei-Feng Lin (2011), "Controlling owner and transparency: Information transparency and disclosure rankings system," *African Journal of Business Management* 5(29), pp. 11589-11598.
[33] Fan, J.P.H. and T.J. Wong (2002), "Corporate Ownership Structure and the Informativeness of Accounting Earnings in East Asia," *Journal of Accounting and Economics*, 33, pp. 401 – 425.
[34] Anderson, R.C. and D.M. Reeb (2003), "Founding-Family Ownership and Firm Performance: Evidence from the S&P 500", *The Journal of Finance*, 58, No. 3, pp. 1301-1328.
[35] Chen, S., X. Chen and Q. Cheng (2008), "Do Family Firms Provide More or Less Voluntary Disclosure?", *Journal of Accounting Research*, Vol. 46, No. 3, pp. 499-536.
[36] Fan PH, Wong TJ (2002), "Corporate ownership structure and the informativeness of accounting earnings in East Asia," *Journal of Accounting and Economics*, 33(3): 401-425.

market discipline. This implies that the information asymmetry between firms has a higher cross-ownership rate than other firms. More centralized ownership allows managers to be less involved in information disclosure. Studies show a negative relationship between cross-ownership and asymmetric information, affecting shareholder earnings quality.[37]

Patel studied the relationships between information transparency and cross-ownership in 19 emerging markets. [38]. For most countries, the correlation between ownership and transparency is negative, while the correlation between stock price ratio and openness is positive. This may imply that corporate groups with complex cross-holdings may find it difficult to be transparent in their operations, so investors in the market may undervalue the company's shares—market versus independent firms that do not engage in cross-ownership.[39]

Cross-ownership is characterized by close relationships and interdependence, thus leading to stable relationships between firms. Cross-ownership is, therefore, one of the reasons for reducing the quality of information transparency in the market.[40]

3. Overview of cross-shareholding

3.1. Perspectives on cross-shareholding

Cross-shareholding is a form of ownership structure considered popular in many countries in Asia and Europe.[41] Listable mainly in Japan, Korea, China, Taiwan, Malaysia, Indonesia, Russia, Belgium, and Italy.[42] Although the research literature on cross-shareholding is quite diverse, very few works mention the original origin of cross-shareholding. However, several pieces asserting cross-shareholdings originated in Japan, originating in real estate businesses in 1952, made through mutual stock transactions. The aim is to avoid being taken over. This activity initiated cross-shareholding and led to a later Mitsubishi corporation internal ownership structure system. Then, during the first 60 years of the 20th century, Japanese

[37] Joseph. P. H. Fan and T. J. Wong (2002), "Corporate ownership structure and the informativeness of accounting earnings in East Asia," *Journal of Accounting and Economics* 33 (3): 401–425.
[38] Patel, Sandeep, Bwakira, Balic (2002), "Measuring transparency and disclosure at the firm – level in emerging markets," *Emerging Markets Review*, vol 3, issue 4.
[39] Ram Kumar Kakani, Tejas Joshi (2006), "Cross shareholding strategy to increase control: Case of the Tata group," *XLRI Jamshedpur*, India.
[40] Bergloff, Erick, Perotti (1994), "The Governance structure of the Japanese financial keiretsus," *Journal of Financial Economics*, p. 259-284.
[41] Claessense, S., S. Djankov, L.Lang (2000), "The Separation of Ownership and Control in East Asian Corporations," *Journal of Financial Economics*, 112(3), tr. 693-728.
[42] Junning Cai và Jiameng Zhang (2008), *Measuring Cross Shareholding Linkages Among Companies*, Central University of Finance and Economics, Bắc Kinh, Trung Quốc.

Okabe Mitsuaki (2001), "Are Cross-shareholding of Japanese Corporations Dissolving? Evolution and Implications", *Nissan Occasional Paper Series,* 33.

Altunbas, Yener, Kara, Alper, Adrian van Rixtel (2007), *Corporate Governance and Corporate ownership: The Investment Behaviors of Japanese Institutional Investors*, 0703.

Jaang, Daehong T., Kim, Kyung-Soo, Kim, Woo Tack và Sangsoo Park (2002), *Cross shareholding and Corporate Financial Policy: The case of Korea,* Working Paper, 02.

Claessens, s. Djankov S, Fan, J., Lang L.H.P.(2000), "The separation of ownership and control in East Asian Corporations," *Journal of Financial Economics,* 58, 81-112.

Marco Becht, Ariane Chapelle and Luc Renneboog (2000), "ShareholdingCascades: The Separation of Ownership and Control in Belgium," *Ownership and Control: A European Perspective*, Nxb. Oxford University.

enterprises implemented this cross-ownership policy. The reason is that joining the Organization for Economic Co-operation and Development (OECD) caused Japan to abolish regulations protecting the domestic market gradually. Japanese businesses protect themselves by cross-ownership with other companies, forming a network of satellite businesses around a central bank.[43]

Cross-shareholding is a situation where "two businesses hold shares of each other,"[44] Also known as "an implicit agreement between two businesses to hold each other's shares, a network of cross-holdings between companies is created, stabilizing majority ownership.[45] Author Misaki Okabe describes cross-shareholding with a simple model but clearly shows the essence as follows::[46]

Cross-shareholding is "a situation in which enterprise X holds a share of the capital of enterprise Y; in turn, enterprise Y also holds a part of the capital of enterprise X."[47] Moreover, "stock cross-ownership can be easily calculated if it includes only two businesses (business A owns B and B owns A)."[48]

In other words, "In a cross-shareholding structure, the firms in the group are interrelated: One firm in the group holds the equity of another, which in turn also owns the rest of the business, creating a complex ownership structure." [49]

This economic interpretation agrees with cross-shareholdings by legislators in 19 developed countries.[50] When adjusting for cross-shareholding, the legal regulations of these 19 countries agree with the theoretical researchers.[51] For example, French law distinguishes three cases. (i) Basic cross-shareholding: Cross ownership of shares is considered fundamental in a situation where company A owns company B, and in turn, company B also owns the company

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[43] Miyashita K, Russel D (1994), *Keiretsu: Inside the Hidden Japanese Conglomerates,* MacGraw-Hill, 21-33.

[44] Gen Goto (2014), "Legally "strong" Shareholders of Japan," *Michigan Business & Entrepreneurial Review*, Tokyo.

[45] Zenichi Shishido (2000), "Japanese Corporate Governance: The Hidden Problems of Corporate Law and Their Solutions," *Delaware Journal of Corporate Law*, 189, 210-11.

[46] Mitsuaki Okabe (2002), *Cross shareholding in Japan: A New Unified Perspective of the Economic System*, Edward Elgar Publisher, Japan.

[47] OECD (1999), "The Transformation of The French Model of Capital Holding and Management," *The Conference on "Corporate Governance in Asia: A Comparative Perspective,"* Korea.

[48] Heitor Almeida, Sang Yong Park, Marti Subrahmanyam, Daniel Wolfenzon (2011), "The Structure and Formation of Business groups: Evidence from Korean Chaebols," *Journal of Finacial Economics*, 99, 447-475.

[49] Heitor Almeida, Sang Yong Park, Marti Subrahmanyam, Daniel Wolfenzon (2011), "The Structure and Formation of Business groups: Evidence from Korean Chaebols," *Journal of Finacial Economics*, 99, 447-475.

[50] These 19 countries include Belgium, Denmark, Germany, Estonia, France, Finland, Greece, Hungary, Ireland, Italy, Luxembourg, Netherland, Netherlands, Spain, Switzerland, U.K., Australia, U.S.A., and Japan.

[51] Shearman & Sterling, Institutional Share Holder Services and European Corporate Governance Institute (2007), *Proportionality between Ownership and Control in E.U. Listed Companies: Comparative Legal study*, Brussels, 17.

A. (ii) Direct shareholding: If one enterprise (A) directly controls another (B), and if the controlled enterprise (B) also holds shares of the business that controls it (A), which will not have voting rights. (iii) Indirect shareholding. [52]

Cross-ownership of shares takes place between two enterprises and can form a system of mutual ownership of shares between enterprises.[53] "Cross-ownership of shares can take place only in the form of two enterprises and the condition of a network of shares between three or more enterprises."[54] It can explain with a specific example when "company X holds shares of Company Y, and company Y holds shares of company Z. In turn, company Z holds shares of company X, forming a "circular ownership situation."[55]. With the same point of view above, the simplest case of circular ownership is "Company A owns shares in Company B, Company B owns shares in Company C, and Company C owns shares in Company A."[56] Theoretically, "the number of intermediaries is unlimited."[57].

Theoretically, in Vietnam, cross-shareholding started to receive research attention in about 2010. Most research works inherit and agree with foreign results; the cross-ownership of shares is mutual ownership. "*In general, cross-shareholding is a concept to refer to a phenomenon that occurs when company A holds shares of company B, which company B also holds shares in company A. In other words. In other words, cross-shareholding is holding shares back and forth between companies. In its simplest form, cross-shareholding includes only two companies.*".[58]The familiar spirit of cross-shareholding is that two organizations own shares. Company A invests in company B, then company B reinvests in company A, or companies A and B invest in Company C. Company C invests back in company A and B."[59]

Before 2014, cross-shareholding was just a purely economic term to describe how businesses buy shares from each other. In 2010, the first draft of the Circular guiding the establishment and management of open-ended funds (the version sent by the Drafting Board to securities companies and relevant individuals and organizations for comments). The clause explains cross investment is an organization's participation in the capital of another

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[52] Articles L. 233 – 31 of the French Commercial Code, 2007 amendments and supplements, English version at), English version at WIPO's website, link https://wipolex.wipo.int /en/text/180801, last accessed May 31, 2019.

[53] Federal Reserve Bank of San Francisco (2009), *Japan's Cross shareholding Legacy: The Financial Impact on Bank*, United States.

[54] Seiji Ogishima, Takao Kobayashi (2002), *Cross shareholding and Equity Valuation in Japan,* Tokyo University, Japan.

[55] Shearman & Sterling, Institutional Share Holder Services and European Corporate Governance Institute (2007), *Proportionality between Ownership and Control in E.U. Listed Companies: Comparative Legal study*, Brussels, 17.

[56] The Korea Fair Trade Commission (2014), *Fair Trade Commission News: Stock Ownership of Large Corporate Groups in 2014*, Korea.

[57] Mitsuaki Okabe (2001), *Are cross-shareholding of Japanese Corporation Dissolving? Evolution and Implications*, Oxford University, 33, 21.

[58] Vu Thanh Tu Anh, Tran Thi Que Giang, Dinh Cong Khai, Nguyen Duc Mau, Nguyen Xuan Thanh, Do Thien Anh Tuan (2013*), Overlapping ownership between credit institutions and economic groups in Vietnam*, Chapter Fulbright Economics Teaching Program.

[59] Trinh Thanh Huyen (2012), "Cross-Ownership: From Korean Chaebols to Vietnam's Banking System," *Finance*, 11, 58-60.

organization. After that, the investee organization enters into economic contracts or invests vice versa in the investment organization." Although the Draft uses the term "cross-investment," the interpretation of this term shows that managers are aiming for cross-shareholding. However, this explanation no longer existed when the Ministry of Finance issued Circular 183/2011/TT-BTC dated 16/12/2011 of the Ministry of Finance guiding the establishment and management of open-ended funds.

Until 2014, "cross-ownership" officially became a legal term in Clause 2, Article 189 of the Enterprise Law No. 68/2014/QH13: "Subsidiaries of the same parent company are not allowed to jointly contribute capital or buy shares to cross-own each other's shares. Up to this point, cross-ownership has become a legal term within the scope of the law on enterprises. However, the Enterprise Law only mentions "cross-ownership," not explaining what cross-ownership is.

"Cross-ownership" is explained in Clause 2, Article 16 of Decree No. 96/2015/ND-CP dated October 19, 2015, of the Government detailing several Articles of the Enterprise Law. Accordingly, "cross-ownership is when two enterprises simultaneously on each other's contributed capital and shares ."Although it is only preliminary, it shows that Vietnam shares the same opinion as most countries worldwide on the signs of cross-shareholding in legal terms.

3.2. Types of cross-ownership structures

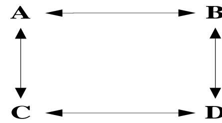
There are many ways to classify stock cross-ownership. However, the most common and effective classification will be based on the complexity of the cross-ownership network and the business object involved in the cross-ownership.

3.2.1. Cross-shareholding structure with no central business

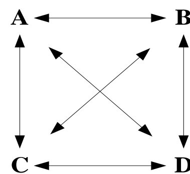
The first type of structure, at its most superficial level, involves only two firms participating in a cross-shareholding network, in which each company acts as a shareholder of the other, following the following model:

The second type of structure, the cross-ownership of shares, creates a straight line of business links. Enterprises cross-own each other, each of which also shares with the next, and so on. In the illustration below, firms A and B are cross-owners. Shares of each other, then firm A and B are in a cross-shareholding relationship with enterprises C and D, but firms C and D do not have a cross-ownership relationship.

The third type of structure is circular shareholding. This type between enterprises whereby each enterprise is the first point but also the endpoint of the process of cross-shareholding, forming a circle. In this illustrative model, businesses A, B, C, and D cross-own each other's shares. The path of investment capital forms a closed circle.

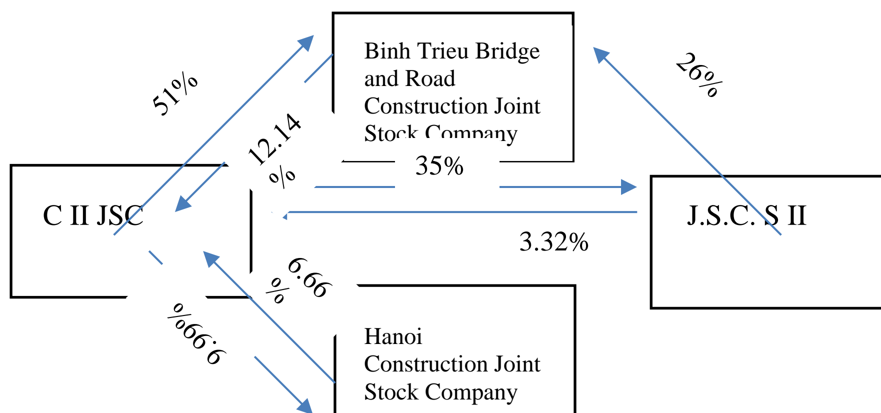


The fourth type of structure is a complex cross-shareholding network between firms. Enterprises cross-own shares with each other and, at the same time, cross-own shares with other enterprises. These businesses may or may not be related, creating a complex web. The more involved companies, the more entangled the network and the more difficult it is to separate the assets of the businesses from each other. In the illustration, enterprise A owns shares of enterprise B, and enterprise B owns shares of enterprises D and C. In turn, enterprise C invests in enterprise A and enterprise D. This extends the more complex third type of grid.



This first activity often occurs in businesses that want to create links into complete value chains and increase profits and competitiveness through cross-shareholding. This is the link between enterprises belonging to different manufacturing industry groups.

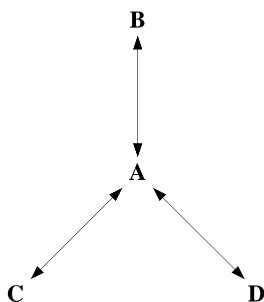
A specific example in Vietnam in the cross-ownership network of Binh Trieu Bridge and Road Construction J.S.C. in September 2012 is as follows:[60]



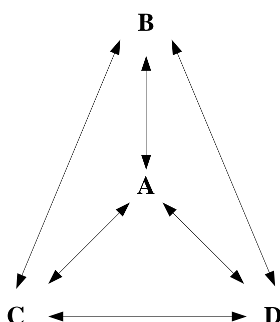
3.2.2. Shareholding cross-ownership structure with a central business

In the fifth type of structure, one enterprise will be at the center of the cross-ownership of shares with other businesses.

[60] Bao Viet Securities J.S.C., link: http://www.bvsc.com.vn/News/2012927/212704/thi-truong-chung-khoan-so-huu-cheo-va-nhung- cau-hoi.aspx, last accessed on 02/5/2022.

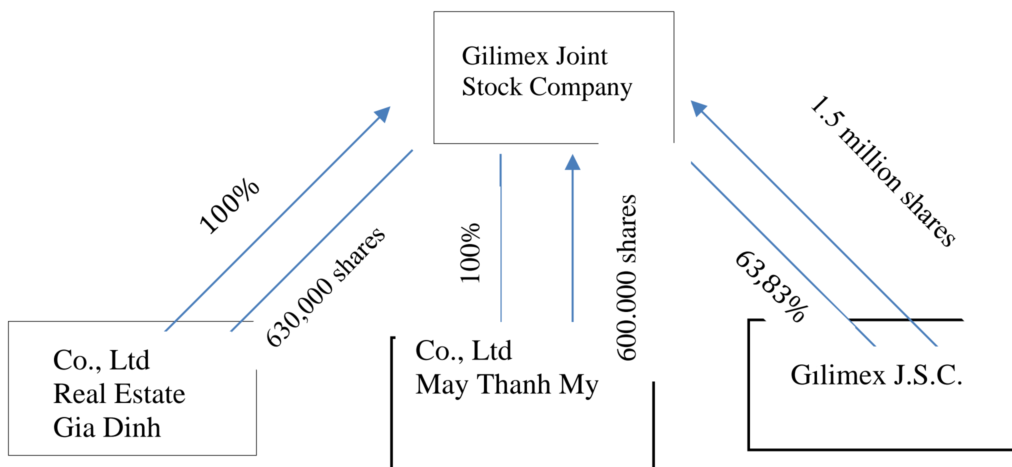


The sixth type extends the fifth but with a higher degree of complexity.



An example of this type of cross-ownership in Vietnam is the situation of Gilimex Joint Stock Company in the first six months of 2012,

according to the following model:[61]



[61] Securities Investment electronic magazine, link: https://tinnhanhchungkhoan.vn/chung-khoan/so-huu-cheo-va-nhung-cau-hoi-24168.html, last accessed on 02/5/2022.

3.3. The role of cross-shareholding

3.4. Reduce operating costs of the business

Firstly, cross-ownership helps businesses save transaction costs.

Transaction costs include the time and cost of negotiating, drafting, and executing transactions. This cost arises from opportunistic behavior, limited human capabilities in an uncertain environment, and asymmetric information conditions. This cost increases when there is deception, for example, when one counterparty to a transaction acts opportunistically to obtain its profit at the expense of the other. In addition, transaction costs include costs that enterprises have to pay for investigation, learning about the situation of related parties and remedial costs when opportunistic behavior occurs.

For businesses, this participation helps companies to save capital costs.[62] Research studies have explained why cross-shareholding networks (usual corporations) attach great importance to banking. The success of the industrialization process of some countries has had a significant contribution from the banking-enterprise alliance because the revenue is round within a single area, not shared outside.[63]

Second, cross-shareholding helps businesses access resources, network distribution channels, research, and technology development, increase profits, and improve competitiveness. Cross-shareholding is a competitive strategy helping stabilize the supply of raw materials, capital, technology, or services, helping to maintain a system of consumption and sharing of management information, and having a strategic unified business strategy of cooperation and support when facing financial difficulties. The alliance thus enables partners to rely on each other to forecast and cope with market changes against unintended takeovers.[64]

3.4.1. Anti-unintentional business acquisition

Anti-takeovers are traditional motives for cross-shareholding, and this effect is well documented in economics.[65] In a cross-shareholding relationship, the parties' capital sources are relatively stable because enterprises with cross-shareholding often act as long-term investors, becoming regular shareholders. [66]Stable shareholders are:

(i) Shareholders facilitate and support the managers of the enterprise.
(ii) The shareholder commits not to sell the part of capital it owns to any buyer who intends to participate in the acquisition of the business;

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[62] Phan Thi Nha Truc (2016), "Cross-ownership between commercial banks and companies listed on the stock market," *Financial Review*, 2, 3.

[63] Nguyen Tuan Duong (2010), "Profit-making methods of economic groups," *Microfinance* (06), 5-6.

[64] Yuan Lu and Jun Yao (2006), "Impact of State Ownership and Control Mechanisms on the Performance of Group Affiliated companies in China," *Asia Pacific Journal of Management,* 23, 485-503.

[65] Morck, R. and M. Nakamura (1999), "Banks and Corporate control in Japan," *Journal of Finance,* 54, 319–39.

Noe, T. and M. Rebello (1997), "Renegotiation, Investment horizons, and Managerial Discretion," *Journal of Economic Business,* 70, 385–407.

[66] Guo Li and Yakura Shinsuke (2010), *The Cross Holding of Company Shares: A preliminary Legal Study of Japan and China*, http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1618688, last accessed on 2/5/2022.

(iii) If these shares must be sold, shareholders will notify the enterprise of an appropriate time. Claims will not be sold without the necessary information about the buyer.[67]

3.4.2. Stability in corporate governance

The stabilizing effect in corporate governance is a continuation of anti-unintended takeovers. Managers will focus on long-term goals when the business is less likely to be taken over. In addition, cross-shareholding creates a mutual monitoring mechanism between enterprises, thereby preventing opportunism in management activities.[68] Cross-shareholding creates a relationship known as the *Long term Employment System*.[69] This stems from the following reasons:

When a business is isolated from the competitive market, managers will perform the operation and administration of the company according to their best will. In Japan, for example, most business managers are recruited, trained, and developed by the same managers of the previous generation of the business. This appointment system creates a perception on both sides, managers, and employees, that the company is "owned" by all shareholders, related parties, *and stakeholders.* [70]Therefore, corporate management is for shareholders - business owners- and employees who come from the direction. As a result, in long-term working practice, essential skills are formed in increasing the efficiency of production and sales activities. This shows that a stable shareholder system is a factor that allows the system to work in the long term by isolating corporate governance from the pressures of the capital market.

Under the long-term system, the risk to employees in doing business is shallow (for example, they will not take chances as quickly as with firms in the U.K. and the U.S.). Layoffs only increase when the business goes bankrupt or is acquired. Meanwhile, in Japanese enterprises, it is common for both managers and employees to receive less than what they contribute to the business and more later. This may refer to a "deferred payment of wages" system, not a wage payment system at the dedication. Under this deferral system, managers and workers risk not receiving deferred payments if a sudden change in wage and employment policy occurs.[71]

Therefore, creating stability in corporate governance is one of the motivations for cross-shareholding. Cross-shareholding enhances management's ability to respond to outside interference and improves management's ability to protect itself.[72]

In summary, the benefits of cross-shareholding can be identified as follows: (i) Preventing unintended takeovers, (ii) Having stable partners in transactions, (iii) stabilizing

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[67] OECD (1999c), *Changing patterns of Industrial Globalisation: Cross border Mergers and Acquisition,* DSTI/IND(99)12.

[68] Berglof, E. and E. Perotti, 1994, "The governance structure of the Japanese financial keiretsu," *Journal of Financial Economics,* 36, 259–84.

[69] Osano, H (1996), "Intercorporate shareholdings and Corporate control in the Japanese Firm," *Journal of Banking and Finance,* 20, 1047–68.

[70] Those with rights and interests are closely related to the enterprise and influence the organization and operation. The scope and extent of influence depend on the position of each individual.

[71] Oscano (1996), *Financial and Labour system in Janpan,* Nxb Đại học Tokyo, Nhật Bản.

[72] Morck, R., M. Nakamura (1999), "Banks and Corporate Control in Japan," *The Journal of Finance*, (54): 319-339.

prices stocks, (iv) stabilizing corporate governance, (v) stabilizing capital sources, (vi) reducing the cost of capital, (vii) retaining profits.

4. Effect of cross-ownership on information transparency

Cross-shareholding can create some benefits for businesses participating in the network, specifically:

Businesses participating in cross-ownership will reduce agency costs.[73] Agency cost is the cost arising from the conflict of interest between the board of directors and shareholders, related to the lack of consensus between the purposes of the administrator and shareholder. The problem of asymmetric information between business owners (who are shareholders and capital contributors) and managers and operators of the business is a typical form of this cost. Each position will play a different purpose, leading to misleading actions that can be costly to correct. The representative (administrator) is the person who works on behalf of the owner (shareholders). Meanwhile, the enterprise's shareholders usually do not regularly monitor each administrator's action or have minimal conditions. This is an easy point to give rise to information asymmetries and continue to cause moral hazard and adverse selection problems to the detriment of shareholders.

Enterprises in the cross-ownership network, when transacting with each other, can avoid the problem of asymmetric information because they (i) Be able to exchange and provide reliable information; (ii) Do not have to pay a lot of costs and personnel for investigating and learning about the situation of the parties involved in the transaction; (iii) Minimizing the costs of remedying and dealing with the consequences of not having full access to the other party's information in the transaction; (iv) Take advantage of the knowledge of businesses in the network towards a third party (a party not in the network) when there is a need to make transactions with this third party. It can be said that, because of interdependence, cross-ownership can help reduce dangerous ethical problems of team members.[74]

Reducing these transaction costs for cross-ownership networks involving banks has implications for lending. "According to the experience of many countries and from many research experts, except for unexpected shocks such as economic crisis, natural disasters, etc., the biggest cause of bad debt is because banks do not have sufficient information despite many efforts in due diligence." [75] In credit activities, the bank is always the party with little information about the project and the purpose of using the credit granted by the customer. To ensure safety in their operations, credit institutions must handle asymmetric information to lend to the proper subjects and closely supervise to ensure the recovery of both principal and interest of the credit. Lending to businesses in the same cross-ownership system will help banks limit risks. Banks will have more customer information so that transaction costs will reduce.[76]

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[73] Nguyen Hoang (2008), "Cross ownership of shares on the Japanese stock market," *Vietnam Securities* (7), pp.87 – 89.

[74] Berglof, E. and Perotti, E. (1994), "The governance structure of the Japanese financial keiretsu," *Journal of Financial Economics,* 36, 259-84.

[75] Huynh The Du, Nguyen Minh Kieu and Nguyen Trong Hoai (2005), "Asymmetric information in credit activities in Vietnam," Case Study FullBirght Economics Curriculum, http://www. fetp.edu.vn/vn/tinh-huong/thong-tin-bat-can-xung-trong-hoat-dong-tin-dung-tai-Viet-Nam/

[76] A.D.B. Institute (2004), *Relationship Banking and Its Role in Corporate Governance,* Research paper series, 56.

However, cross-shareholding creates adverse effects on the quality of information transparency.

The influence of cross-ownership on the quality of information transparency has received more attention since the early 1980s.[77] Research shows that the higher the level of cross-ownership, the greater the information asymmetry in the market.[78] The stock exchange cross-ownership network has a two-tier network.[79] The two-tier shared network includes the network of companies listed in the cross-ownership group and the network of external shareholders of the business.[80] This can create two layers of information.

The first layer is internal information between enterprises in a network and is provided only. This information has less fraud and error to reduce transaction costs and create advantages for businesses in the network. This information is exchanged through operating agencies and meetings between managers, so network enterprises will not be under pressure for information. This information may not exist in the business's financial and public statements.

This tradition often happens in Japanese businesses. In the keiretsu system, there is usually a club whose members include the presidents of corporations called "cache-kai."[81] This is an essential feature in fostering relationships between businesses belonging to Keiretsu. Meetings are often secret; no minutes are recorded, and no statements are made after the session ends, so outsiders cannot have information about the meetings.[82] [83]

From information security, cross-ownership businesses hold each other's shares to strengthen business relationships. The sorted market consists of long-term trades, not short-term ones. Most transactions between manufacturing and financial firms' investors are done by arrangement, not market arrangement. Cross-ownership provides a guarantee of long-term transactions.[84] Therefore, the decision to continue or terminate their relationship must not make from the market's point of view.[85]

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[77] Fama (1980), "Agency Problems and the theory of the firm," *Journal of Political Economy* 88 (2): 288–307. Fama, E. F. and M. C. Jensen (1983), "Separation of ownership and control," *Journal of Law and Economics,* 26 (2): 301–325.

[78] Heflin, F. and K. W. Shaw (2000), "Blockholder ownership and market liquidity," *Journal of Financial and Quantitative Analysis,* 35: 621–633.

Fan, J. P. H. and T. J. Wong (2002), "Corporate ownership structure and the informativeness of accounting earnings in East Asia," *Journal of Accounting and Economics*, 33 (3): 401–425.

Gul, F. A., J.-B. Kim, and A. A. Qiu (2010), "Ownership concentration, foreign shareholding, audit quality, and stock price synchronicity: Evidence from China," *Journal of Financial Economics,* 95 (3): 425–442.

[79] Yvind B hren, Yvind Norli (1997), *Determinants of Intercorporate Shareholdings*, Norwegian School of Management.

[80] Yvind B hren, Yvind Norli (1997), *Determinants of Intercorporate Shareholdings*, Norwegian School of Management.

[81] Kunio Odaka (1993), *The Source of Japanese Management, in Japanese Business – Cultural Perspectives*, State University of New York Press publisher, 20-24.

[82] Caslav Pejovic *(2011),* "Japanese Corporate Governance: Behind Legal Norms*," Penn State International Law Review* 483*,* Singapore.

[83]Zenichi Shishido (2000), *Japanese Corporate Governance: The Hidden Problems of Corporate Law and their Solutions*, Berkeley Law Scholarship Repository, Japan.

[84] Zenichi Shishido (1989), "A Texan Raid on a Japanese Company*," Japan Echo,* 151-4, 61.

[85] Zenichi Shishido (2000), *Japanese Corporate Governance: The Hidden Problems of Corporate Law and their Solutions*, Berkeley Law Scholarship Repository, Japan.

From this point of view, the market for corporate control is virtually non-existent. For example, during the development phase of cross-ownership, unintended takeovers were not common in Japan because there were already several cross-holds that were not publicly traded on the market.[86] In 1985, the equity ratio was stable among companies listed on the Japanese stock exchange peaking at 66.1% of the total market value and remaining above 50% until 1999.[87] This explains why Japan had an economic bubble in the late 1980s and burst in the 1990s; there were no unintended takeovers despite the takeover efforts. While also addressing the significant decline in the proportion of shareholders stabilized in the late 1990s and early 2000s, when businesses were forced to cross-sell under capital pressure.[88] The maintenance of cross-ownership, which forms stable shareholders, makes Japan one of the "utopian" countries for unintended acquisitions.[89]

Because of the convenience of accessing information, businesses in the cross-ownership group will also have more efficient operations because there are few transaction costs. Regarding intra-group cross-ownership, holding shares reduces information asymmetry (Sheard, 1989[90]; Kester, 1993[91]; Hoshi and associates, 1990[92] Gilson and Roe, 1993[93]). Information sharing also leads to the flexibility of human resources managed by employee rotation or restructuring to one of the member companies or subcontractors. Companies within a particular group can rely on this approach to reduce costs during an economic downturn.[94]

The second layer is the information provided to the outside; it includes information deducted, changed, or deviated. In other words, this information may not accurately and truthfully reflect the state of the business. This disadvantages non-controlling shareholders, market research analysts, and state regulators. Specifically:

(i) They create difficulties for outside businesses to enter transactions with enterprises in the cross-ownership network. In a cross-ownership network where firms only intend to do business with the group, it will be difficult for firms outside the group to engage in this business despite having the same or superior conditions. In most cases, the selection of customers and partners will not be based entirely on the quality of a partner's products or services but rather on objects in the same cross-ownership network. This makes it difficult for outside sources to participate in business transactions. This leads to the exclusion and

[86] Ebengt Holmstrom (1979), "Moral Hazard and Observability," *The Bell Journal of Economics, 10,* 74.
[87] Tokyo Stock Exchange (2016), *2015 Share Ownership Survey*, available at www.jpx.co.jp/english/markets/statistics-equities/examination/b5b4pj00000154dp-att/e-bunpu2015.pdf (last accessed July 20, 2016).
[88] Ronald J. Gilson (2004), "The Poison Pill in Japan: The Missing Infrastructure," *Columbia Law and Economics Working Paper No. 244.*
[89] Dan W. Puchniak (2008), The Efficiency of Friendliness: Japanese Corporate Governance Succeeds again without Hostile Takeovers, Berkeley Business Law Journal, 195, 251-254.
[90] Sheard, P. (1989). "The main bank system and corporate monitoring and control in Japan," *Journal of Economic, Behavior, and Organization*, 11, 399-422.
[91] Kester, W.C. (1993). "Governance, contracting, and investment horizons: a look at Japan and Germany," *Journal of Applied Corporate Finance*, 10, 82-98.
Lim, Y.(1999), *Technology and Productivity: The Korean Way of Learning and Catching Up*, The M.I.T. Press publisher, Cambridge.
[92] Hoshi, T., Kashyap, A., Scharfstein, D. (1990). "The role of banks in reducing the costs of financial distress in Japan," *Journal of Financial Economics*, 27, 67-88.
[93] R. J. Gilson/ M. J. Roe (1992), "Understanding the Japanese Keiretsu: Overlaps Between Corporate Governance and Industrial Organization," *Yale Law Journal,* 102, 871.
[94] Debnath, Sajit Chandra & Tokuda, Akio (2013), "Value-based Management in Japanese Keiretsu and Korean Chaebols," *Ritsumeikan International Affairs*,11, 45-70.

restriction of competitive activities.[95] In addition, this is also one of the reasons why businesses become isolated from the adjustment of the market. When the company is separated from the market's regulation, business managers tend to control it according to their will.[96]

Shareholders will only transact internally in a "tunnel" between the group's businesses, even if outside companies can provide better goods and services. Cross-ownership will pursue policies emphasizing stability in terms of profits rather than profit maximization. This harms the interests of the shareholders of a particular business by allocating resources or profits to another corporate business.[97]

(ii) Where enterprises of the cross-ownership network operate in the relevant market, they are competition. However, it is possible to create agreements to limit competition in setting standard policies on customers and transaction conditions due to cross-ownership. In other words, businesses are more likely to take joint actions to adjust profits or prices in the market. At this point, the profit obtained will be the monopoly profit.[98] Suppose these enterprises operate in specific and influential fields such as Finance and telecommunications. The consequences for the market are not minor. These businesses can create group cohesion to maintain a competitive advantage over other groups, even though they share the same relevant market. This is also why cross-ownership businesses are subject to the Japanese Monopoly Law.[99] The complex patterns of cross-ownership that often arise between firms involved in insider systems and which lead to large corporate groups can also lead to collusive, policy-sharing behavior. [100]

In addition, an enterprise's business and financial position can be affected by the relationship between related parties, even if there are no transactions. The mere existence of this relationship can be enough to affect the business's dealings with other parties. For example, a subsidiary may terminate a business relationship with a customer after purchasing another subsidiary that operates the same business as its partner. In other cases, an enterprise may restrict its operations due to influence from another enterprise.[101]

With long-term relationships between businesses and suppliers, sharing information can help companies to achieve cost and product quality benefits. However, an increase in concentration within the same industry can weaken the overall level of competition in the product market. Related businesses in cross-ownership networks often increase complicated relationships in the internal system, leading to collusion and the same competition policy. "This

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[95] Mark Scher (2001), "Bank-firm Cross-shareholding in Japan: What is it, why does it matter, is it winding down," *Economics & Social Affairs*, DESA Discussion Paper No.15, United Nations.
[96] Mitsuaki Okabe (2001), "Are cross-shareholding of Japanese corporation dissolving? Evolution and implications", *Nissan Institute, University of Oxford*, 33, p.21.
[97] Claesens, Djankov, Fan, Lang (1999), "Expropriation of minority shareholders: evidence from East Asia," *Policy Research Paper 2088,* The World Bank.
[98] Reynolds, R.J., Snapp (1986), "The Competitive Effects of Partial Equity Interests and Joint Ventures," *International Journal of Industrial Organization*, 4, 2, 141-153.
[99] Nguyen Thi Lan Huong (2013), Legal adjustment of cross-shareholding in Japan, *Finance*, (11).
[100] OECD (1999), *Corporate Governance: Effect on Firm Performance and Economic Growth,* Paris.
[101] Section 9, Accounting Standard No. 26, promulgated and announced under Decision No. 243/2003/QD-BTC dated December 30, 2003, of the Minister of Finance.

shows that the corporate governance situation in the internal system needs special attention to strengthen competition in the market."[102].

Japan is a prime example of the effect of cross-ownership on competition. Equity holding has shielded Japanese businesses from capital market pressure.[103] Lawrence presented evidence that cross-shareholdings keiretsu are a barrier to acquisition by Japanese companies and impede foreign direct investment.[104] Keiretsu's businesses typically only transact with each other, engaging in anti-competitive activity by excluding external commercial conduct.[105] Research shows that this characteristic of Keiretsu is one of the causes that negatively affect the bilateral trade balance between the U.S. and Japan.[106]

The absence of an efficient market to control enterprises has hindered the participation of foreign investors, both actively and passively. For example, mergers and acquisitions of operations in Japan are not uncommon. In Germany, it is tough for foreign businesses to buy German companies.[107] Hostile trading was virtually absent in 1988[108] (although this is slowly changing, and acquisition activity is on the rise, both in Japan and mainland Europe).[109] However, acquisition activity is still minimal compared to countries where the economy follows the rules of the market, such as the U.S. and the U.K.[110] Although the level of competition in Japan is increasing and competition is spreading to formerly protected areas of the economy, Japan's economic prosperity is hampered by the continued distortion of competition in many industries.[111] Similarly, Germany is also a good example. Given the role of cross-ownership between enterprises and employee representation in the corporate supervisory board.

While long-term business-supplier relationships, and subsequent sharing of information, can help drive increased cost-effectiveness and quality, the ensuing increase in industrial concentration can weaken the overall level of competition in the product market. The complex cross-ownership patterns that often arise between companies involved in insider systems resulting in large corporate groups can also lead to collusive behavior. This shows that the internal design of corporate governance needs to pay fees to enhance product capabilities.[112]

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[102] OECD (Organisation For Economic Co-operation and Development) (1999), *Corporate Governance Effects on Firm Performance and Economic growth*, Paris, 30.
[103] Sheard, Paul (1991), "The Economics of Interlocking Shareholding in Japan," *Recherche Economiche*, 45:2-3, pp. 421–48.
[104] Lawrence, Robert Z (1993), "Japan's Low Levels of Inward Investment: The Role of Inhibitions on Acquisitions," *Foreign Direct Investment*, University of Chicago Press publisher, pp. 85–107.
[105] Lawrence, Robert Z (1991), "Efficient or Exclusionist? The Import Behavior of Japanese Corporate Groups." *Brookings Papers on Economic Activity*, 1, pp. 311–30.
[106] Fung, K. C (1991), "Characteristics of Japanese Industrial Groups and Their Potential Impact on U.S.-Japanese Trade," *Empirical Studies of Commercial Policy,* University of Chicago Press publisher, pp. 137–64.
[107] OECD (Organisation For Economic Co-operation and Development) (1999), *Corporate Governance Effects on Firm Performance and Economic growth*. 29.
[108] OECD (1999c), *Changing Patterns of Industrial Globalisation: Cross-Border Mergers and Acquisition*, DSTI/IND(99)12.
[109] OECD (1999b), *The OECD Principles of Corporate Governance*, C999)67.
[110] OECD (1999c), *Changing Patterns of Industrial Globalisation: Cross-Border Mergers and Acquisition*, DSTI/IND(99)12.
[111] Michael E. Porter, Mariko Sakakibara (2004), "Competition in Japan," *Journal of Economic Perspectives*, 18, 27-50.
[112] OECD (1999), *Corporate governance: effects on firm performance and economic growth*, Paris.

5. Vietnamese law on information transparency control

The legal status of information transparency

On September 18, 2013, in Luxembourg, a representative of the State Securities Commission officially signed Appendix A, the Memorandum of Understanding (MMoU) of IOSCO.[113] The majority approved the MMoU of member countries in May 2002 to strengthen supervision and cooperation in market supervision and exchange of regulatory information between securities regulators of member countries.

IOSCO emphasizes the importance of timely disclosure for an issuer. Principle 16 of the IOSCO Principles for the Ongoing Disclosures and Reporting of Physical Developments of Listed Entities states: "Full, accurate, and timely disclosure of financial results is required. Risk and other information that is of decisive importance to investors.IOSCO considers the accuracy, integrity, and comparability of the issuer's disclosure necessary for maintaining confidence. Investor confidence and thus facilitate a stable international financial system".[114]

Vietnam's accession to IOSCO proves Vietnam's interest in the quality of information transparency. In practice, Vietnam's law on information disclosure is compatible with the laws of countries worldwide. These regulations are detailed in Circular No. 116/2020/TT-BTC, dated December 31, 2020, of the Ministry of Finance guiding corporate governance applicable to public companies and Circular No. 96 /2020/TT-BTC, dated November 16, 2020, of the Ministry of Finance, advising the disclosure of information on the stock market.

First, regulations on the responsibilities of public companies::

- Responsibility for information disclosure:
  + Publicly disclose audited financial statements, annual reports, reports on corporate governance, and documents related to the General Meeting of Shareholders meeting.
  + This responsibility is carried out until all capital raised from the public offering of shares is disbursed.
  + Unusual information disclosure happens when there is a decision on the establishment, purchase, sale, or dissolution of a subsidiary, investment, or no more prolonged investment in a joint venture or association.
  + Unusual disclosure of information related to personnel, finance, business operations, and investment of a large part of the company's assets. In addition, a public company must fully disclose accurate and timely other information if such information is likely to affect the price of securities and the decisions of shareholders and investors.

Second, the responsibility to disclose information to shareholders:

Shareholder transactions resulting in holding 5% of the voting shares of the company or transactions leading to a change in this ratio must disclose information. Founding shareholders holding shares during the restricted period of transfer, insiders must also comply with regulations on information disclosure when trading company shares.

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[113] IOSCO is an international organization of National Securities Commissions, one of the critical international industry associations for cooperation between capital market regulators. OSCO is an organization that sets international standards and principles for managing and operating world stock markets. Up to now, IOSCO has developed very strongly and covered most of the capital markets in the world.

[114] IOSCO, 2016, pp. 2

The third is the responsibility to disclose information about the company's management members, which is the information:

- Information about enterprises in which they own capital contributions or shares; rate and time of ownership of the contributed capital or shares;

- Information about enterprises in which their related persons jointly own or separately own shares or contributed capital of more than 35% of charter capital;

- A member of the Board of Directors, the Director, or the General Director, on behalf of an individual to perform work in any form within the scope of the company's business, must explain the nature and content of the company's business activities. The range of such work can only perform when approved by the majority of the remaining members of the Board of Directors;

In addition to the above provisions, which are generally applicable to joint-stock companies, joint-stock companies that are public companies must perform the following additional responsibilities:

Firstly, the responsibility to be honest and avoid conflicts of interest of the members of the Board of Directors, the Supervisory Board, the Executive Director (General Director), and other managers.

- Members of the Board of Directors, members of the Supervisory Board, the Executive Director (General Director), other managers, and people related to these members are not allowed to use business opportunities that can benefit the company. They also can not use the information obtained through their position for personal gain or serve the interests of other organizations or individuals.

- A member of the Board of Directors may not vote on transactions related to such member participation, including transactions in which the material or immaterial interests of a member of the Board of Directors are involved. That board has not been identified. The above transactions must be disclosed in the Company's Annual Report.

- The members of the Board of Directors, Supervisory Board, the Executive Director (General Director), other managers, and people related to the above members are not allowed to use the information or disclose it to others to carry out related transactions.

Accounting Standard No. 25 "Consolidated financial statements and accounting of investments in subsidiaries," Accounting Standard No. 07 "Accounting of investments in enterprises" joint venture" (Issued together with Decision No. 234/2003/QD-BTC dated December 30, 2003, by the Minister of Finance on promulgating and announcing 06 Vietnamese accounting standards) requires the presentation of the following information:

- If this ratio differs from ownership, the financial report must have a list of subsidiaries and affiliated enterprises with information on request and percentage (%) of voting rights.

- Significant transactions between related parties must also be disclosed in the financial statements.

- Controlling related party relationships must be disclosed in the financial statements, regardless of whether transactions are between the associated parties.

- Where there are transactions between related parties, the reporting enterprise needs to disclose the nature of connected party relationships, the types of transactions, and the elements of those transactions.

- Corporations listed on the stock market must submit consolidated financial statements to the State Securities Commission and the Stock Exchanges.

Comment and conclusions

For financial investment activities, not being guaranteed the accuracy of information is one of the significant risks. Cross-shareholding can create unfairness for business entities, stemming from asymmetric information. The influence of cross-shareholding on the information environment has been a concern since the early 1980s. Research shows that the higher the level of cross-shareholding, the greater the information asymmetry in the market. Cross-shareholding networks between firms can create two layers of information.

The first layer of information is only exchanged internally between enterprises in the network of cross-shareholdings through operating agencies and meetings between managers. This information has less fraud and error to reduce transaction costs and create advantages for businesses in the network. The business's financial and public statements may not reflect this information.

The second layer of information is the information provided to the outside. This information has been deducted or changed, deviating from the information in the first class. In other words, this information may not accurately and truthfully reflect the state of the business. Information asymmetry will create disadvantages for investors, minority shareholders, companies not in a cross-shareholding relationship, market research analysts, and agencies. State management agencies analyze, make investment decisions, research policies, and detect violations. This puts uninformed investors at a disadvantage, discouraging investment and damaging the business's reputation, thereby destroying investors' confidence in the market and destroying the unity of the stock market.

Vietnam's law on information transparency is relatively complete, in line with countries' laws worldwide. However, for disclosing information on cross-ownership, Vietnamese law does not have specific provisions on this issue. Therefore, to ensure fairness, the law on information disclosure needs to add the following specific requirements:

Request disclosure of ownership structure information. The annual report must contain information on the ownership structure of the enterprise (including information on the rights and obligations associated with the types of shares), direct ownership shareholders, indirect shareholders, limitations on voting rights, and the right to transfer shares, if any, by the law.

Information disclosure requirements when the enterprise is in a cross-ownership relationship include information on the number of shares held by cross-holdings, the purpose of building a cross-ownership relationship, and limitations related to the number of cross-holding shares.

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