

# Research on the Protection of Non-State Owned Shareholders under Mixed Reform: Takes Founder Group as an Example

Jiaying Wang

School of Finance, Jiangxi Normal University, Nanchang city, Jiangxi Province, 330022, China

**Abstract:** From the modern protection of the rights and interests of minority shareholders, observe the nearly four years of financial data changes and using financial data indicators and the same industry average after vertical, horizontal comparative analysis, confirmed the state-owned major shareholders quietly using low sell quality assets, low price transfer equity means emptied the Founder group. Finally, this paper strengthens the protection of minority shareholders from three levels, introduces the diversified subjects, optimizes the supervisory board and the independent board system to protect the rights. These methods are conducive to maintaining the balance between state capital and private capital and jointly promote the economic development of state-owned enterprises.

**Keywords:** mixed ownership reform; protection of the rights and interests of non-state-owned shareholders; perfect measures

## 1. Research Background

Since 2018, the current situation of the mixed reform of state-owned enterprises in China is relatively complicated <sup>[1]</sup>. Divided into state-owned holding companies and state-owned shareholding companies, this article studies state-owned holding companies. In reality, the problem of small and medium shareholders having no right to speak during the mixed reform has been criticized by outsiders, and the state-owned shares of state-controlled enterprises have become more and more serious. Obviously, this problem is difficult to solve in a short time, but it has gradually attracted the attention of scholars. Many scholars have begun to study the mixed reform of state-owned enterprises, and have accumulated a lot of valuable

It is recommended that measures to protect the rights and interests of small and medium shareholders are being improved step by step, which has also prompted the gradual optimization and integration of internal checks and balances between state-owned capital and non-state-owned capital, which is conducive to improving the operating efficiency and competitiveness of state-owned enterprises <sup>[2]</sup>.

## 2. A literature Review

In terms of mixed ownership reform, many scholars at home and abroad have studied this. Luo Mengni, the research found that the reform of mixed ownership enterprises complies with the purpose of market-oriented reform, and the reasonable adjustment of equity structure can play the mechanism of non-state-owned shareholders <sup>[3]</sup>. Gaoming Hua, Xia Li and other studies found that the mixture of state-owned capital and private capital is an important way of mixed ownership reform of state-owned enterprises. Under the case of emphasizing state-owned capital holding, non-state-owned shareholders are in the position of small and medium-sized investors <sup>[4]</sup>. Han Yueyang and Wu Lidong's research found that the controlling shareholder has the right to make decisions on the company's business operations, and there is a serious information asymmetry problem between the controlling shareholder and the minority shareholders. In most cases, the minority shareholders can only use the company's disclosed statements, announcements, and media reports. To understand the company's operating status with relevant information, it is difficult to make correct judgments on the company's major shareholders' decision-making and development plans. They can only "vote with their feet", which is very unfavorable for the game between small and medium shareholders and major shareholders.

Therefore, protecting the rights and interests of non-state-owned shareholders has become the core problem of introducing private investors to participate in the mixed ownership reform of state-owned enterprises. Wang Shengbin and Wang Aiwu found that the key point of mixed ownership reform is whether to introduce the participation of non-state-owned shareholder capital and create a good environment for shareholders to exercise their rights and share the risks of interests equally <sup>[5]</sup>. Pearl M.C.'s research found that the analysis of stock prices and financial data of listed companies has verified that the tunneling effect is positively correlated with controlling shareholders. Wang Tingting's research found that, based on the analysis of tunneling theory, it has become normal for the controlling shareholder or actual controller to quietly transfer the company's assets and profits out of the company in order to obtain additional equity interests.

## 3. Case Introduction

Founder Group Co., Ltd. is a large state-owned holding enterprise with a history of more than 30 years invested and established by Peking University in 1986. Founder Group takes IT plate, medical plate, industry and finance plate, and industry and city integration plate as the industrial development pattern. These four sectors have 6 major listed subsidiaries, such as Founder Holdings, Founder Technology, Peking University Resources, on February 18th, 2020, Peking University Founder was applied for restructuring by the Bank of Beijing.

This paper collects the 2015~2018 annual report data and the data from the same industry, in order to make its own comparison and the horizontal comparison with the same industry. Between 2015 and 2018, Founder Group's short-term solvency indicators generally showed a downward trend.

Why does the growth rate of net profit decline while the growth rate of operating income decline, and the magnitude of both rise and decline change greatly? This may be due to the increase of operating income is not the main business income, but other operating income, as mentioned above, Founder group non-recurring profit and loss, recurring income and loss, mainly by selling quality assets, if there is no non-recurring profit and losses, the four net profit are losses, 15.565 billion yuan, so the net profit growth rate has been abnormal rapid decline, and operating income growth rate has been rising strange phenomenon. Thus, the company's growth ability is very poor.

#### 4. Case Analysis

Equity balance index can measure a company except the largest shareholder of the largest shareholder, the lower the ratio, the lower the supervision restriction ability. Founder group is special, the group has only two shareholders, and different identity, one represents state-owned capital; one represents private capital. As can be learned from before, from the beginning of 2016 to 2020, private capital will relatively have no right to speak at all, so Founder Group has a unique phenomenon, and it is difficult for non-state-owned shareholders to effectively supervise and checks and balances the infringement of major state-owned shareholders.

The general meeting of shareholders is the highest authority to all the shareholders of the company, that is, the major decision of the company must be approved by the general meeting of shareholders before being valid. Minority shareholders exercise their decision-making power mainly by participating in the shareholders' general meeting.

As a matter of fact, the Board of Supervisors of Founder Group is surprisingly consistent with the resolutions of the board of directors when the major shareholders occupy the rights and interests of minority shareholders. It has not expressed objections to major decisions in the past three years. Turn a blind eye to the illegal guarantee of major shareholders for failing to pass the assessment procedure. It should belong to the scope of the key supervisory responsibilities of the Board of Supervisors, but the Board of Supervisors has not found

any non-compliance behavior, let alone prevent the occurrence of such behavior. It can be seen that the establishment of the Board of Supervisors of Founder Group did not have any supervision effect, and has basically become a decoration

As an internationally well-known enterprise, Founder Group is also a leading enterprise of school-run enterprises. After more than ten years of the restructuring, the property rights of private enterprises were illegally occupied by the public economy, which has attracted wide attention from all walks of life and needs to be dealt with fairly in accordance with the law and regulations. This event will certainly affect the enthusiasm and confidence of private enterprises to participate in the reform of SOEs. Founder Securities major equity transfer events, should be investigated<sup>[5]</sup>. In order to safeguard the interests of non-state-owned shareholders, enhance the enthusiasm of private enterprises to join.

It showed a rapid increase in operating revenue growth in 2017, up 11-fold from the previous year. Why does the growth rate of net profit decline while the growth rate of operating income decline, and the magnitude of both rise and decline change greatly? This may be due to the increase of operating income is not the main business income, but other operating income, as mentioned above, Founder group non-recurring profit and loss, recurring income and loss, mainly by selling quality assets, if there is no non-recurring profit and losses, the four net profit are losses, 15.565 billion yuan, so the net profit growth rate has been abnormal rapid decline, and operating income growth rate has been rising strange phenomenon. Thus, the company's growth ability is very poor.

At present, state-owned controlling shareholders take advantage of the government's biased attitude to protect state-owned shareholders and the absolute control they have, who are abusing their power to infringe on the economic interests of other shareholders. Specifically, it is shown that the controlling shareholder can make use of their voting rights to directly interfere in the decision-making of the company and operation, destroys the independent operation of the company, and also infringes on the economic interests of non-state-owned shareholders.

To strengthen quantitative assessment and improve the incentive and restraint mechanism, it is necessary to clarify the responsibilities of the board of supervisors. First, it is necessary to quantify the specific work responsibilities of the board of supervisors, and specify the power and authority of the board of supervisors. Establishing sound performance appraisal management methods, incorporating the incentive mechanism of the board of supervisors into the overall human resource management system of the enterprise, and giving corresponding rewards to the supervisors who earnestly perform their duties will help mobilize the enthusiasm of the supervisors and give full play to their initiative. Perform corresponding accountability penalties for dereliction of supervisors, and assume corresponding joint and several liabilities. The supervisory authority will hand over the specific indicators of the supervisor's work

to the general meeting of shareholders, and the general meeting of shareholders can review and make corresponding decisions based on the corresponding evaluation indicators. Reward or punishment.

## 5. Conclusions and Suggestions

This article takes the major state-owned shareholders of Founder Group to infringe the rights and interests of minority shareholders as an example, and explores what means the major state-owned shareholders occupy the rights and interests of minority shareholders. Secondly, the board of directors and the board of supervisors are all controlled by the major shareholders and do not fulfill their responsibility for supervision<sup>[6]</sup>. Finally, there are external governance protection measures for shareholders are not perfect, including the disclosure mechanism has defects. There are a large number of causes of internal and external cause the occurrence of infringement<sup>[7]</sup>. The infringement means of major shareholders of Founder Group include selling high-quality assets at a low price, and major shareholders and executives quietly jointly transfer a large number of highly valued equity to Peking University assets at a low price, which is suspected of emptying the suspicion of Founder Group.

In terms of improving the discourse power of non-state-owned shareholders. In 2017, the CSRC's new regulation on shareholding reduction has made strict provisions on the company's bulk transactions. The promulgation of this new regulation has strongly cracked down on the loopholes in major shareholders' cash out of bulk transactions. In recent years, the main method for the vast majority of major shareholders to reduce their holdings is to use bulk transactions and agreement transfer.

First of all, in improving the discourse power of non-state-owned shareholders, they should specify the shareholders' right to check accounts, expand shareholders' right to know and the scope of participation. Shareholders of the Company shall have the right to consult and copy the articles of association, financial statements and the minutes of shareholders' meetings, the minutes of the board of supervisors and the board of directors, the stubs of corporate bonds, financial statements and other information. The right to know for shareholders is the premise and basis for the exercise of other rights.

Often the high costs make small shareholders give up safeguarding their rights and interests, and suggest to improve the legal system. If the defendant proves that the lawsuit filed by the plaintiff shareholders is malicious, or the lawsuit of the plaintiff shareholders does not make the reasonable possibility of the company and other shareholders income, then the costs shall be borne by the

defendant. The legislation of the Company Law makes detailed provisions on how supervisors should work diligently and responsibly. Use legal means to protect the exercise of powers and obligations. To this end, we can refer to the provisions of foreign legal supervisor obligations: for example, German law, each supervisor has the obligation to review the financial management and business situation, the company's management and employees must actively cooperate with supervisors, supervisors to provide required financial information, supervisors must sign about internal information disclosure to bear the confidentiality agreement.

Only by fully understanding the company's real financial data and information, can the shareholders accurately and effectively exercise other rights. The right to know for minority shareholders is the premise and basis for the exercise of other rights. In practical operation, although the Company Law stipulates the right to know of shareholders, the managers of minority shareholders often do not cooperate, complain or even ignore them when exercising their right to know. Therefore, it is suggested that when safeguarding the right to know, the minority shareholders' special investigation right at the same time, so that the relevant rights of minority shareholders may go out more smoothly<sup>[8]</sup>.

## Reference

- [1] Path Analysis of Mixed Ownership Reform. *Western Forum*, 2015, 25 (02):33-39.
- [2] Study on the Effect of Xu Equity Separation Reform on Equity Structure and Company Performance. Shanxi University of Finance and Economics, 2018.
- [3] Hengbin Yin, Zhuo Chen, Yi Xiao. Risk perception affecting the performance of shipping companies: the moderating effect of China and Korea. *Maritime Policy & Management*, 2019, 46(3).
- [4] Study on the Effect of Xu Equity Separation Reform on Equity Structure and Company Performance Shanxi University of Finance and Economics, 2018.
- [5] Joachim Lipski. Natural diversity: A neo-essentialist misconstrual of homeostatic property cluster theory in natural kind debates *Studies in History and Philosophy of Science*, 2020.
- [6] N. Amiot, Mayer-Glenn, Parker. Applied critical race theory: educational leadership actions for student equity *Race Ethnicity and Education*, 2020, 23(2)[41].
- [7] Hong Zhang, Rupeng Zhu, Dongyan Shi, Qingshan Wang, Hailiang Yu. Study on vibro-acoustic property of composite laminated rotary plate-cavity system based on asimplified plate theory and experimental method *International Journal of Mechanical Sciences*, 2020, 167.
- [8] Patrick W. Schmitz. Moral hazard and the property rights approach to the theory of the firm. *Economics Letters*, 2020, 186.