Although the actions of both the CBS board and the Redstone family are still ongoing as of the completion of this report, as a result of the events, investors have been hurt, most notably through the decline in stock prices from close to $70 to $56 per share at the end of June 2018, despite “excellent” financial results.[137]

Former NBCUniversal Media, LLC CEO Bob Wright commented in an interview with CNBC that "there's no benefit that Shari [Redstone] is bringing to the table with 10% ownership and trying to control all the board. It doesn't make sense anymore.… The reality of it is [that] this exposes [the DCS structure] as negative to shareholder values.…This is probably going to go down in history as the beginning of the end of that whole type of ownership," he added.[138]

[137]Countryman et al. 2018. “Verified Complaint, Paragraph 3.” CBS Corporation.
[138]Aiello, C. 2018. “CBS Fight Is 'The Beginning of the End' of Dual-Share Structures, Says Former NBCUniversal Media, LLC CEO.” CNBC, 18 May 2018.

7. Conclusions and Recommendations

Companies listing with a DCS structure are becoming more common in APAC. Although CFA Institute considers the "one-share, one-vote" system as the most potent form of investor protection, it is important to appreciate the implications of such changes as the allowance of DCS listings so that our stakeholders can make informed decisions. In this conclusion, we review our findings, especially in relation to the questions we first asked in Chapter 1 regarding lessons learned, safeguards, and investor protection.

Lessons Learned

From the history of DCS usage in the United States, we learned the following:

- The current boom in DCS listings has very similar hallmarks as the previous high watermarks in DCS listings in the United States during the 1920s and 1980s, including increased liquidity and outsized optimism.
- The booms in the 1920s and 1980s were each followed by a prolonged period of market turmoil.
- The rise and fall (and rise again) of DCS listings in the United States shows that the present situation is neither inevitable nor unique, and that there are many more options than a wholesale adoption of DCS structures.
- For stock exchanges contemplating joining the fray, it is perhaps appropriate to reflect on their own unique selling propositions. If and when there is a level playing field in rules, and issuers cannot arbitrage between exchanges, what are the factors that would make one stock exchange more attractive than another?

From the case studies, we learned the following:

- For family businesses with a DCS structure, it is much easier for major shareholders to abuse their position and take advantage of public shareholders, either through massive executive compensation packages or questionable consultancy arrangements.
- Major shareholders are not incentivized to maximize the company's potential—after all, given their low equity ownership, few benefits would accrue to them.

- A company may have an excellent track record, but there is no assurance that such outperformance will continue indefinitely. When things go wrong, public shareholders of listed DCS companies have little influence—without a vote, they cannot provide oversight of boards or management. As the *Financial Times* said, "Shareholder democracy is a burden to companies that are well-run. But for shareholders, this is akin to the burden of carrying an umbrella. When it begins to rain … the cost can suddenly seem like one worth paying."[139]
- Time is not on our side. Perpetual super voting rights that are transferrable store up trouble for the future.

Safeguards

We have considered a range of safeguards and examined their effectiveness in relation to investor protection. Our recommendations are as follows:

- *Mandatory time-based sunset:* We have been urging exchanges that have DCS structures in place to consider mandating time-based sunset provisions, which means super voting rights will automatically convert to regular voting rights on a "one-share, one-vote" basis after a period agreed upon between management and investors.

  In our view, the single most important safeguard is a mandatory time-based sunset of not more than five years. On the one hand, this this safeguard provides enough time for founding shareholders to execute their strategy and create value without undue worries of market vagaries; on the other hand, it protects public shareholders from long-term entrenchment.

  - We note that five years is the absolute maximum time period, especially because issuers now come to the market at a much later point in their life cycle and are already large, established companies by the time they list on an exchange.
  - We believe the time-based sunset provision should be a "hard stop" for clarity and certainty.
  - Corporate and evergreen entities should not be allowed to benefit from super voting rights without a mandatory time-based sunset provision.

[139]The FT View. 2018. "A dysfunctional family reunion at CBS/Viacom." Financial Times.

- *Event-based sunset:* Super voting rights attached to beneficiaries' shareholdings should lapse if such beneficiaries:
  - are no longer directors of relevant companies; or
  - die or are incapacitated; or
  - transfer their shares to another person.

  Again, we believe the event-based sunset provision should be a "hard stop" for clarity and certainty.

We believe the following safeguards are also important when enacted as a "package" together:

- Implement enhanced corporate governance measures.
- Limit the maximum voting differential (to below 10 votes per share).
- Revert to a one-share, one-vote system on related party transactions and large transactions.

Enhancing Investor Awareness

We cannot rely on market forces alone for investor protection. Rather, stakeholders must play an important role in protecting themselves:

- Investors need to perform thorough due diligence.
- Exchanges need to balance the tension between business development and upholding a high corporate governance standard.
- Regulators need to ensure effective monitoring and enforcement.
- The courts in the United States have taken on significant responsibilities in upholding investor rights. However, even in jurisdictions where courts have a history of stepping in and intervening, it can take years for cases to be resolved.

In APAC, legal action against rogue companies or management is not an avenue available to most investors. In markets where direct retail participation is significant, not only does the caveat emptor (i.e., buyer beware) argument offer scant comfort to investors, in times when many investors feel taken advantage of, they inevitably turn to governments and regulators for assistance, which is seldom forthcoming.

Our recommendations, therefore, are as follows:

- Exchanges and regulators should coordinate their efforts and invest in investor education and awareness.
- In jurisdictions where class and derivative actions are unavailable and/or uncommon, governments and regulators should establish a mechanism to enable small investors to seek recourse.
- Regulators must intervene in a timely manner when investors are taken advantage of or harmed.

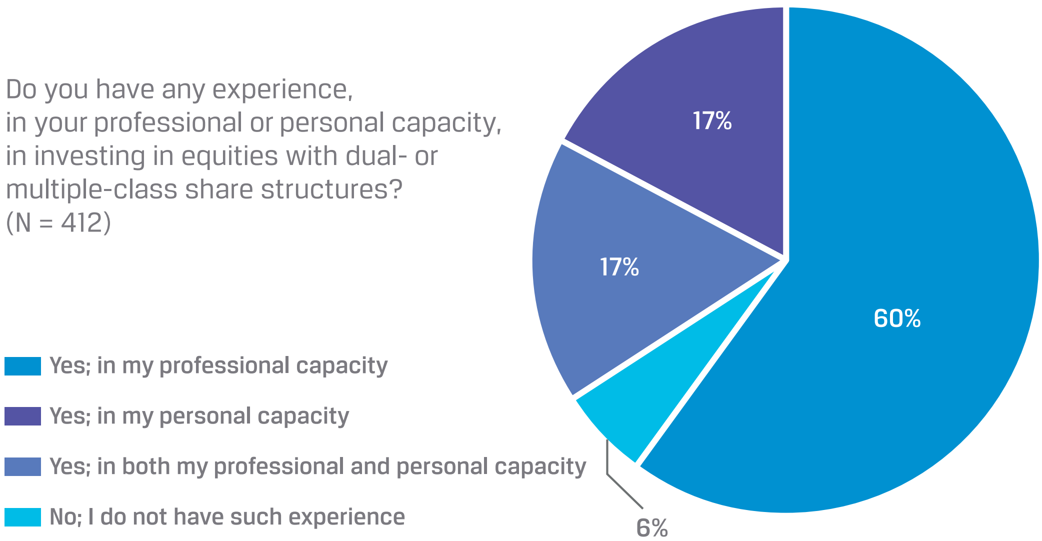
Next Steps

DCS structures are a relatively new development in APAC. CFA Institute will continue to remain watchful of market developments and work with stakeholders to raise investor awareness. We will continue to engage with regulators and stock exchanges going forward.

Appendix A: CFA APAC Survey

Noting that listings of DCS stocks had not been the norm in APAC, CFA Institute conducted a survey in March 2018 to gauge the views of our members on the introduction of DCS listings and the necessary safeguards in APAC ("CFA APAC Survey"). The survey found that 60% of respondents had not had any experience in investing in DCS stocks, either in their professional or personal capacities (see **Exhibit 24**). Considering that the survey was only circulated to and answered by CFA Institute members whom we would regard as relatively better equipped with financial knowledge than the general public, we suspect the percentage of general investors who have investment experience in DCS stocks could be even lower, signifying the need for action by governments and regulators if or when DCS listings are introduced to the markets.

Exhibit 24: Results of CFA APAC Survey Regarding Experience with Investing in Dual- or Multiple-Class Share Structures



Source: CFA Institute

With the introduction of DCS structures to the Hong Kong and Singapore markets, two major international financial centers in APAC, other markets have been closely watching the ongoing development.

Prior to the introduction of DCS structures in Asia, regulators and market participants have gone through some emotive debates. On the one hand, corporate governance experts and advocates have been—and continue to be—steadfast in the belief that the "one-share, one-vote" principle that has served the markets well in the past decades should not be scrapped, and that regulators should remain vigilant in protecting shareholders' rights.

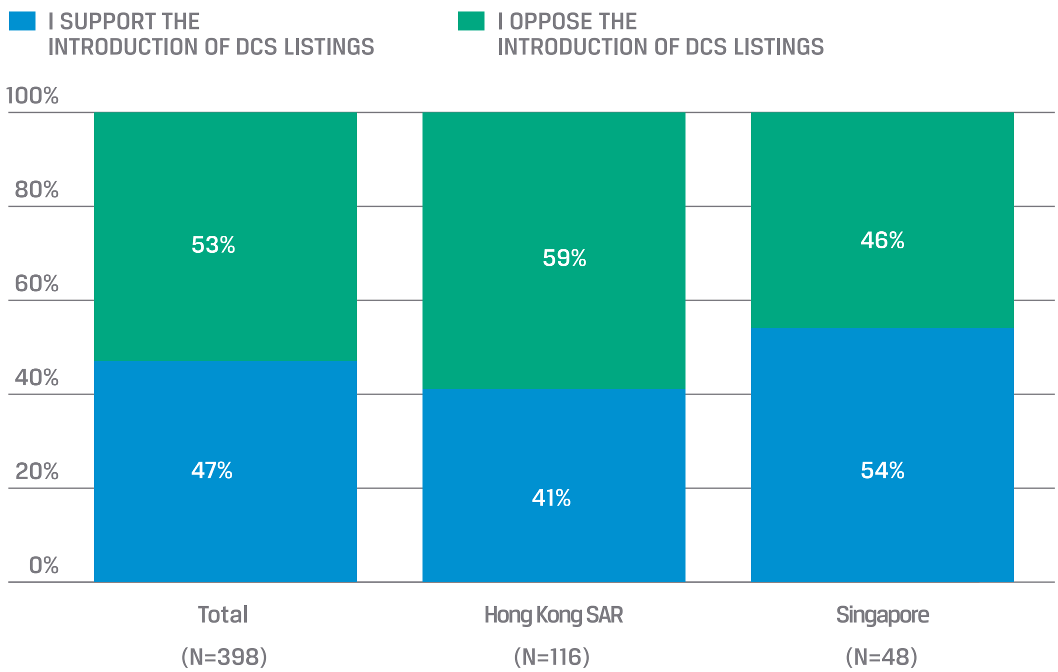
On the other hand, comparing to their initial reluctance to introduce the DCS structure to their respective markets earlier this decade, government and exchange officials in Hong Kong and Singapore have shown a notable change of heart, citing the importance of remaining relevant in the competitive IPO business landscape. Indeed, when they released consultation conclusions in early 2018, both HKEX and SGX claimed that they had gained support for the introduction of DCS structures from a "majority" of the stakeholders from the previous round of consultation in their respective markets.

Although such a claim appears to be reasonably grounded, according to the exchanges' announcements—despite the fact that some quite generic responses were submitted by anonymous respondents—such findings deviated somewhat from what our members told us. According to the CFA APAC Survey, support for and opposition to the introduction of the survey was split down the middle, leading us to believe that it remains an emotive debate.

The survey also revealed that respondents were divided when asked if DCS structures should be introduced to the market, with 53% opposing the introduction and 47% in favor (see **Exhibit 25**). Regardless of their position on DCS, almost all (97%) respondents considered it necessary to enact additional safeguards in the event DCS structures are permitted. This, in our view, also reaffirmed the need for more in-depth research on the subject.

Exhibit 25: CFA APAC Survey Opinion Regarding Whether DCS Listings Should Be Introduced into Markets

What is your opinion on the introduction of DCS listings to the market you primarily cover and/or are based?



Source: CFA Institute

The CFA APAC Survey was conducted between 8 March and 16 March 2018. With an objective to gather views from CFA Institute members on the appropriate safeguards in the likely scenario that DCS will be permitted in the region, the survey was sent to 28,334 members in the APAC region, of which 454 members responded. The overall response rate was 1.6%, with a margin of error of ±4.6% at a 90% confidence level.

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Glossary

AMEX	American Stock Exchange
APAC	Asia-Pacific region
ASX	Australian Securities Exchange
CDR	Chinese Depository Receipts
CFE	Committee on The Future Economy in Singapore
CII	Council of Institutional Investors
CRSP	The Center for Research in Security Prices in the United States
Dual class shares (DCS)	Companies with dual class shares confer different voting rights to shares in different share classes. Typically, ordinary shares have one vote per share, while shares with super voting rights have more than one vote per share
Event-based sunset	Refers to when shares with super voting rights convert Event-based sunset HKEX HK$ INED IOSCO IPO IOSCO IRRCI ISS KOSDAQ MV shares NASDAQ NYSE to ordinary shares as a result of specific, pre-determined events
HKEX	Hong Kong Exchanges and Clearing Limited
HK$	Hong Kong Dollar
INED	Independent non-executive director
IOSCO	International Organization of Securities Commissions
IPO	Initial Public Offering
IOSCO	International Organization of Securities Commissions
IRRCI	Investor Responsibility Research Center Institute
ISS	Institutional Shareholder Services
KOSDAQ	A trading board of the Korea Exchange
MV shares	Multiple voting shares
NASDAQ	NASDAQ Stock Market
NYSE	New York Stock Exchange
OECD	Organisation for Economic Co-operation and Development

One-share, one-vote	A corporate governance principle that each share of a publicly listed company has one vote, and that shareholders' voting rights are commensurate with their equity stakes
SEBI	The Securities and Exchange Board of India
SEC	Securities and Exchange Commission in the United States
SEHK	The Stock Exchange of Hong Kong Limited, wholly owned by HKEX
SFC	Securities and Futures Commission of Hong Kong
SFIPC	Securities and Futures Investors Protection Center in Taipei
SGX	Singapore Exchange
SGX RegCo	Singapore Exchange Regulation Pte. LTD., set up in August 2017 to undertake all regulatory functions on behalf of SGX and its regulated subsidiaries.
Sunset provision	A sunset provision describes the circumstances when shares with super voting rights convert to ordinary shares
Super voting rights	Extra voting rights that come with a particular class of shares in a company.
S$	Singaporean Dollar
Time-based sunset	Refers to when shares with super voting rights convert to ordinary shares after a pre-determined, specific time frame
TSE	Tokyo Stock Exchange
WVR	Weighted voting rights; considered as having the same meaning as DCS in this report

CFA Institute

AUTHORS

Mary Leung, CFA
Head, Advocacy
Asia Pacific

Rocky Tung
Director
Capital Markets Policy
Asia Pacific

CONTRIBUTORS

Kurt N. Schacht, JD, CFA
Managing Director
Advocacy

Matt Orsagh, CFA, CIPM
Director
Capital Markets Policy

THE AMERICAS
(800) 247 8132 PHONE (USA and Canada)
+1 (434) 951 5499 PHONE
+1 (434) 951 5262 FAX

915 East High Street
Charlottesville, VA 22902
USA

292 Madison Avenue
2nd Floor
New York, NY 10017 USA

ASIA PACIFIC
+852 2868 2700 PHONE
+852 2868 9912 FAX

23/F, Man Yee Building
68 Des Voeux Road
Central, Hong Kong SAR

Si Wei (Beijing) Enterprise Management Consulting Co. Ltd. Unit
5501, 55/F China World Tower B
No. 1 Jianguomenwai Avenue, Chaoyang District
Beijing, 100004, China

CFA Institute India Private Limited
Naman Centre, Unit No. 103
1st Floor, Bandra-Kurla Complex, G Block, Bandra (East)
Mumbai 400 051, India

EUROPE, MIDDLE EAST, AND AFRICA
+44 (0) 20 7330 9500 PHONE
+44 (0) 20 7330 9501 FAX

67 Lombard Street
7th Floor
London EC3V 9LJ United
Kingdom

Rue du Champ de Mars 23
1050 Brussels, Belgium

Al Maqam Tower 7th floor
Al Falah Street
Al Maryah Island
Abu Dhabi
United Arab Emirates

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CFA Institute

www.cfainstitute.org
info@cfainstitute.org