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Sina Concentrated Its Control Shortly After Winning the Proxy Fight Against a U.S. Investor

By Yan Zhang, LL.M. Candidate 2018 | Nov 10, 2017

On November 8, 2017, following the victory of a proxy fight against a U.S. investor, Sina issued a new class of shares and gave 55.5% of the company's voting power to Charles Chao, Sina's chairman and chief executive, to avoid facing such fights in the future.

Sina, listed on NASDAQ since 2000, is an Internet pioneer and tech giant in China. Its weibo service is one of China's most popular social networks. The forced shareholder vote was initiated by hedge fund, Aristeia Capital, who nominated two candidates for the company's board to push for significant changes of Sina. However, on November 3, 2017, Aristeia Capital failed with more than 77% and 56% of the votes against the two nominations.

The contest draws attention because it is the first proxy fight between a New York-listed Chinese company and a U.S. investor. Some even view it a "test case" to show how far the foreign ownership of Chinese companies listed in the U.S. can go. Sina also seems to take it very serious, changing its shareholder structure in just less than four days after the victory. It "believes any future proxy contest could be costly, time consuming, and disruptive." The investors may hold another opinion though, as the share price of Sina fell about 10% the day after the announcement.

Some U.S. investors have complained about the lack of shareholder rights in U.S.-traded Chinese companies since their boards are not held to the expected US standards. NASDAQ offers foreign private issuers some exemptions, and many Chinese companies like Sina are incorporated in "business-friendly" places, thus not necessarily subject to US laws.

Many foreign investors have been richly rewarded by China's Internet market. Back in late 1990s, when Chinese Internet start-ups sought capital and few Chinese venture capital firms existed, the companies' financing largely depended on foreign investors.

This could be a problem because the Chinese government has some restrictions on foreign investment in certain sensitive areas. Except for the investment structure (variable interest entity or V.I.E) invented for this situation, some analysts speculate that one reason for the foreign investors' success in avoiding certain scrutiny from the authorities is that they have taken a largely passive role in the companies. But the proxy fight may express some dissatisfaction with such passiveness. Will the approach taken by American activists touch the nerves of the Beijing authorities? Will the Chinese government take a more active role in the management of its corporate giants? Do American investors really understand how China's Internet sector works and will their active participation truly benefit the shareholders? The answers are still pending.