

Regulating Squeeze-outs and Delistings by Controlling Shareholders: the Divergence Between Hong Kong and Singapore

**Associate Professor Wan Wai Yee
Assistant Professor Christopher Chen
Assistant Professor Zhang Wei
Singapore Management University**

**This research was supported by the Singapore Ministry of Education (MOE)
Academic Research Fund Tier 2 grant with the MOE's official grant number MOE2015-
T2-1-142.**

January 2017



What are squeeze-outs and delistings?

- Squeeze out (in the form of compulsory acquisitions or schemes of arrangements)
 - bidder acquires 100% of target
- Delisting (followed by exit offers) – bidder procures the target to be delisted, followed by making an exit offer

Summary of thesis

- Differences in how Hong Kong and Singapore regulate privatisations
- Impact of these differences
 - Outcome to minority shareholders (empirical study on privatisations in Hong Kong and Singapore over 2008-2014 period)
 - Interaction between privatisations and related party transactions (another form of tunneling)
- Explanation for the differences
- Normative implications



Privatisations – The Theoretical Framework

- Coercive nature of privatisations, particularly by controlling shareholders
- Agency problem and the “law matters” thesis
 - Conflict between controlling and minority shareholders (controlling shareholders choose timing and consideration)
 - Versus privatisation may be value enhancing for controlling shareholders
- Interest group politics to explain the reasons for the differences
 - Extending Armour and Skeel’s theory (Armour and Skeel, “Who Writes the Rules for Hostile Takeovers and Why? – The Peculiar Divergence of US and UK Takeover Regulation” to jurisdictions with concentrated shareholdings?)

Choice of jurisdictions

- We choose Hong Kong and Singapore to compare for the following reasons:
 - Exploit the small but important differences in regulation (HK being more stringent in allowing privatisations, as compared to Singapore) and explain whether differences lead to substantive consequences
 - Similar enforcement framework in the two jurisdictions



Regulatory differences between HK and Singapore

	Hong Kong	Singapore
General offer followed by compulsory acquisition	<ul style="list-style-type: none">• 90% of offer shares AND 90% of disinterested shares• 90% cannot include shares held by bidder and associates or concert parties	<ul style="list-style-type: none">• 90% of offer shares• 90% cannot include shares held by bidder and related corporation (narrower than associates and concert parties) so room for arbitrage

Regulatory differences between HK and Singapore

	Hong Kong	Singapore
Scheme of arrangement	<ul style="list-style-type: none">• Pre-2014 – Majority in number representing 75% in value AND not more than 10% of disinterested shares cast votes against• Post-2014 - 75% in value AND not more than 10% of disinterested shares cast votes against• Disinterested shares will mean that shares held by bidder and associates cannot count (note definition of associates not identical to the definition in general offers)	<ul style="list-style-type: none">• Majority in number representing 75% in value• Court has discretion to disapply the majority in number requirement• 75% cannot include shares held by bidder and concert parties (Takeover Code)

Regulatory differences between HK and Singapore

	Hong Kong	Singapore
Delisting offer	<ul style="list-style-type: none">• 75% vote of disinterested shares, present and voting and not more than 10% of the disinterested shares voting against• Disinterested shares mean that shares held by bidder, CEO, controlling shareholders and their associates cannot count	<ul style="list-style-type: none">• 75% present and voting and not more than 10% voting against• No exclusion

Dataset

- Privatisations of HK and Singapore listed companies for 2008-2014 period
- Focus on companies that are privatised by controlling shareholders (defined as holding 30% or more as at the date of offer, including holdings by concert parties)
- We examine premiums of offer price to volume weighted average price (1, 3, 6 and 12 months)
- Our approach is consistent with Subramanian (for US transactions) and Bugeja (for Australian transactions)*

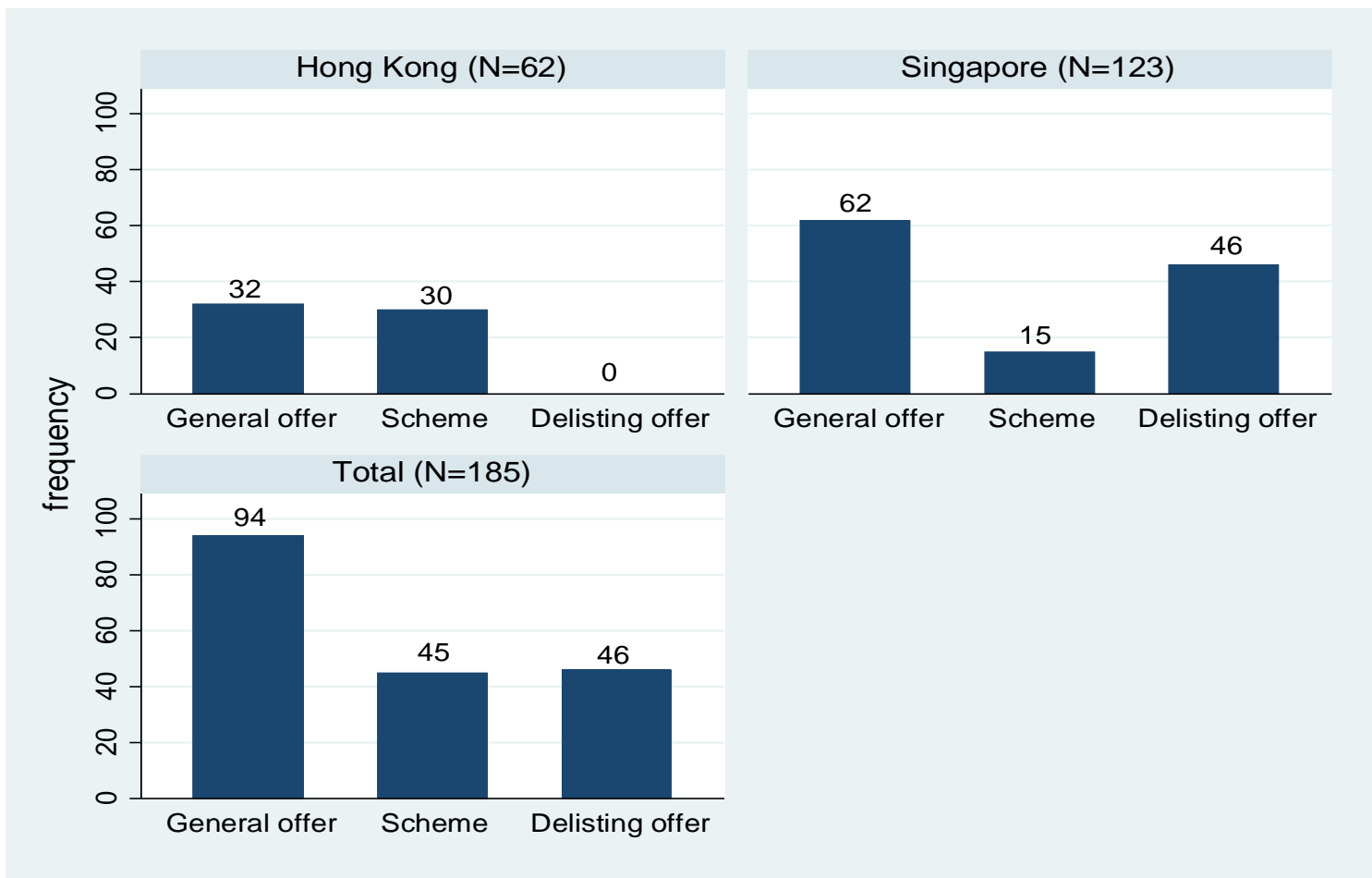
*M Bugeja et al, “To scheme or bid? Choice of takeover method and impact on premium” (2015) Aust J of Mgt 1; G Subramanian, “Post-Siliconix Freeze-outs: Theory and Evidence” (2007) 36 J of Legal Studies 1

Summary of key findings

- Singapore has far more privatisations than Hong Kong, taking into account the respective sizes of the markets, and premium payable is significantly less than Hong Kong
- Significant arbitrage opportunities in Singapore using the general offers, with the effect that premium payable in arbitrage is significantly less than in non-arbitration cases
- Hong Kong has far higher intensity of related party transactions, compared with Singapore, which represents another form of tunnelling

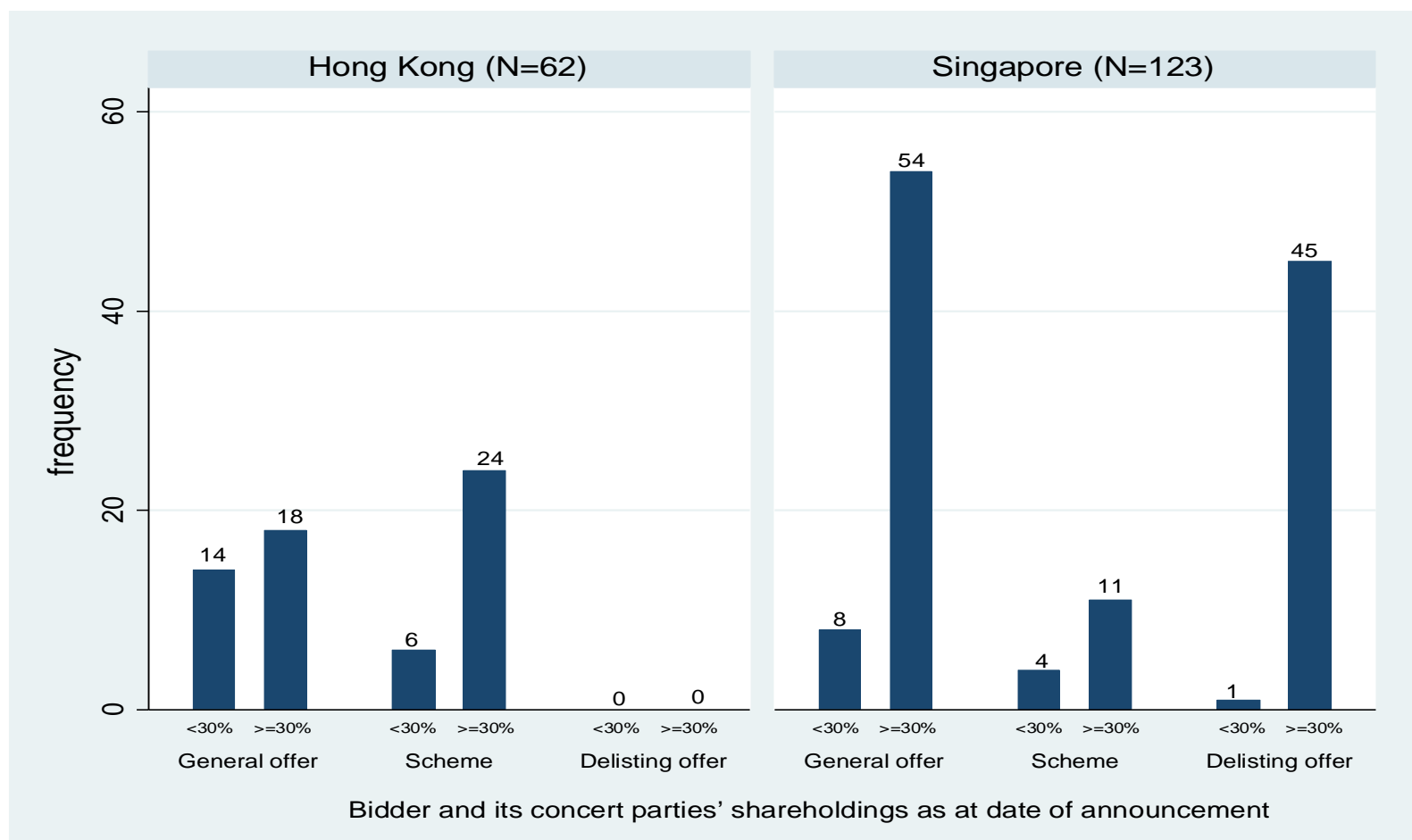
Findings – Difference in Outcomes

- Figure 1: Differences in frequencies and transaction structures



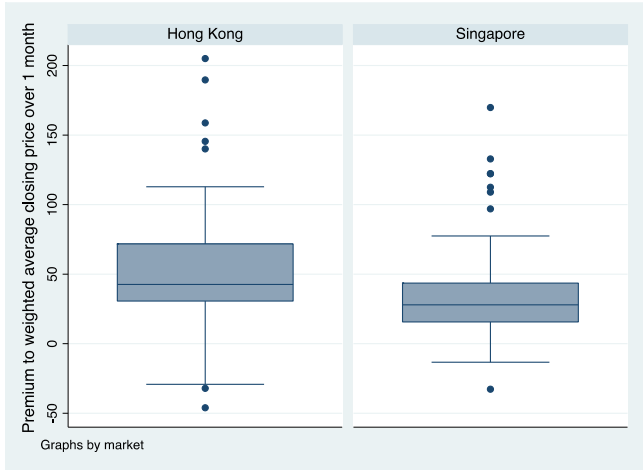
Findings – Difference in outcomes

Figure 2: Privatisations by controlling and non-controlling shareholders in each market



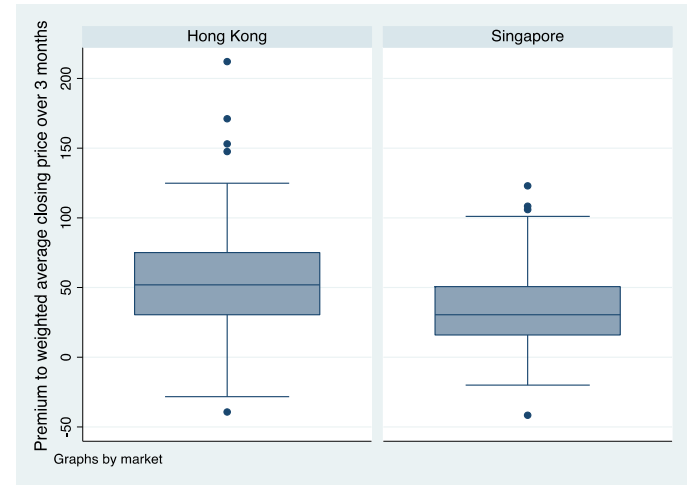


Findings – Difference in outcomes (comparing VWAP)



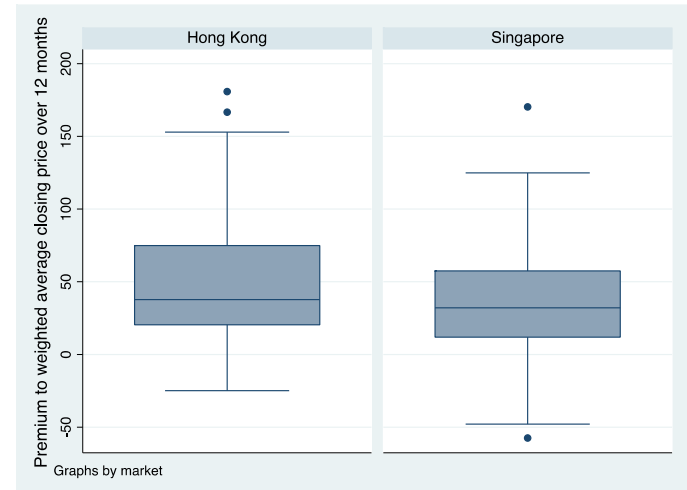
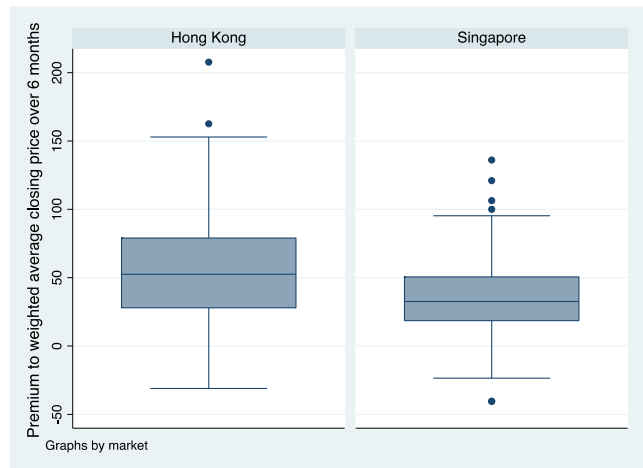
1-month VWAP

6-month VWAP



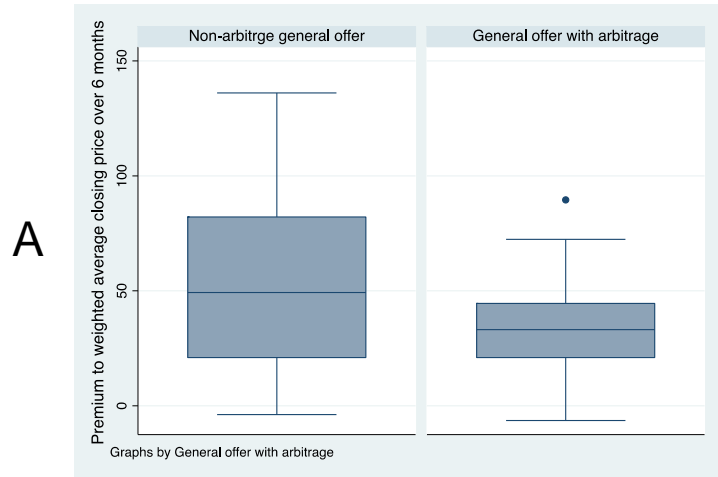
3-month VWAP

12-month VWAP

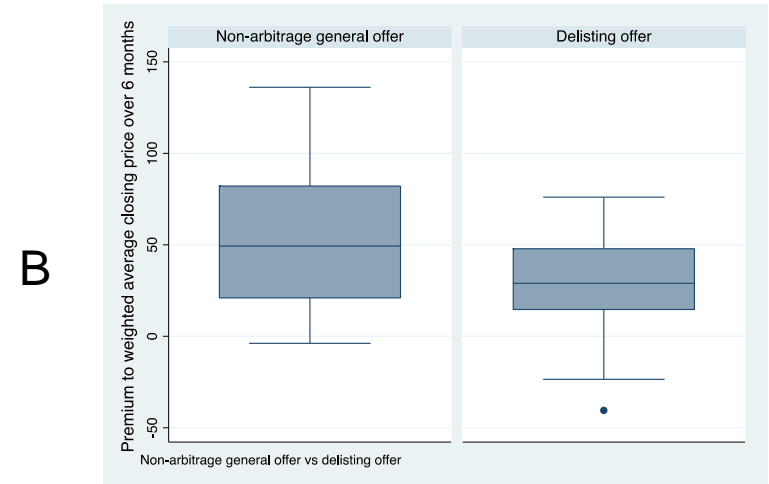


Findings – Difference in outcomes (comparing arbitration v. non-arbitration cases in Singapore)

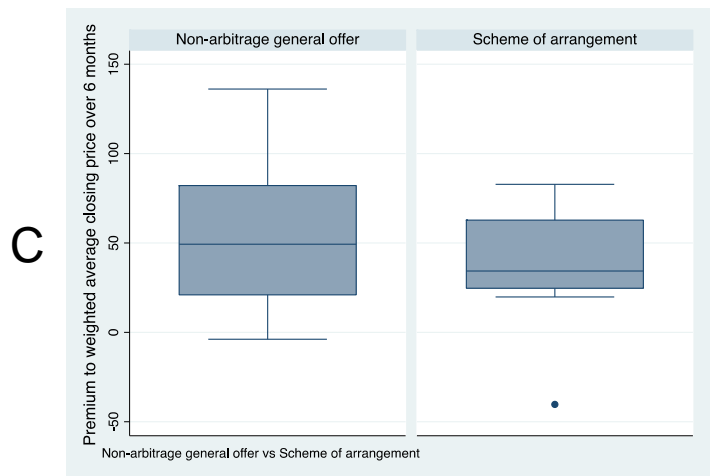
Non-arbitrage v arbitration general offers



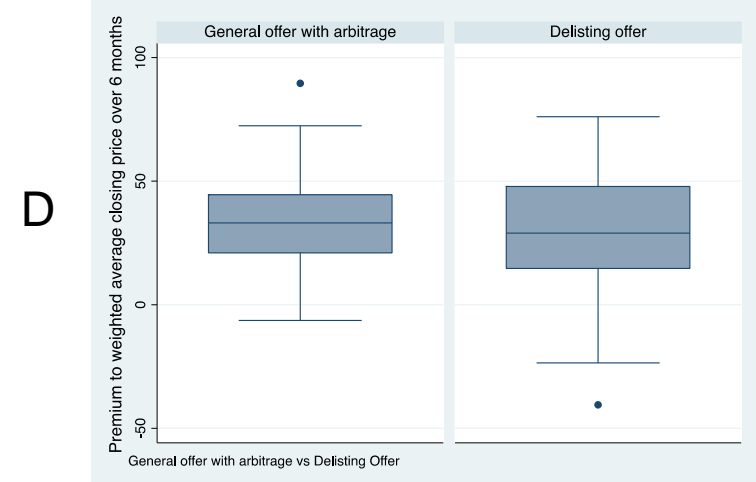
Non-arbitrage general offer v Delisting



Non-arbitrage general offer v scheme



Arbitration general offer v Delisting





Privatisations and related party transactions

- Related party transactions (RPTs), connected party transactions (CPTs, HK) and interested person transactions (IPTs, Singapore)
- While they are not per se detrimental to the company or shareholders, minority shareholders are potentially prejudiced at two levels:
 - Reduction in the net asset value of the company, and
 - Having been brought out at low prices. (See Du et al have found that in respect of Hong Kong privatisation transactions carried out between 1989 to 2008, controlling shareholders carry out self-dealing transactions that lead to low stock prices, and when remaining public is no longer attractive, controlling shareholders privatise and pay a low premium to minority shareholders).

Du J, He Q & Yuen SW (2013) “Tunneling and the decision to go private: Evidence from Hong Kong” 22 Pacific Basin Finan. J. 50.

Findings - Privatisations and RPTS

Variables	Singapore	Hong Kong			
	Premiums to 3-month VWAP (N=74)	Premiums to 1-month VWAP (N=26)	Premiums to 3-month VWAP (N=26)	Premiums to 6-month VWAP (N=26)	Premiums to 12-month VWAP (N=26)
CPT/IPT	0.80795* (0.03298)	-0.0471^ (0.01172)	-0.03920^ (0.11265)	-0.03898^ (0.01106)	-0.03323* (0.15289)
Board size	-0.67551 (2.08715)	-4.45723 (2.56345)	-4.3062 (3.02025)	-1.70850 (3.72126)	1.17215 (4.45287)
Proportion of independent directors	-0.17326 (0.27736)	0.99510 (0.71801)	0.70734 (0.64609)	0.53020 (0.65039)	-0.65717 (0.85886)
ln(total asset)	-0.89483 (1.93001)	8.97701 (7.01778)	7.61471 (6.99106)	9.21052 (6.16270)	7.51856 (7.50378)
Market-to-book ratio	-2.83334 (1.46033)	5.39201^ (1.71651)	2.85806 (1.53086)	0.52344 (1.60645)	-1.40423 (1.92134)
Debt-to-equity Ratio	-0.01970 (0.02996)	0.42592 (0.38015)	0.03138 (0.03395)	0.04288 (0.03134)	0.06002 (0.03752)
Ln(earning)	-2.92516 (2.33679)	-0.67767 (1.76873)	-2.28978 (2.24443)	-2.60283 (2.26927)	0.28662 (2.73987)
Free cash flow	49.38454 (30.51146)	-198.3921 (127.0224)	-224.8956 (124.1021)	-184.5466 (119.5796)	-109.7585 (132.9551)
Constant	104.1941^ (37.05606)	-14.1197 (51.0534)	43.154~ (59.84234)	13.1665 (56.94537)	-7.2454 (71.33053)
R ²	0.136	0.437	0.270	0.247	0.311

Note:

1. Data is presented as coefficient (standard error).
2. ^ Significant at 1% confidence level; * Significant at 5% confidence level.

Findings - Privatisations and RPTs

- HK has far higher levels of RPTs than Singapore.
- But mixed evidence on correlation between connected transactions (CPTs) and interested person transactions (IPTs) and premiums
- Regression model shows no statistically significant relationship between total amount of RPT and premiums offered to shareholders in either country.
- But we found negative correlation between the premium to 3-month, 6-month and 12-month VWAP obtained in privatisations effected by controlling shareholders and the CPTs entered into in the financial year prior to privatisation for Hong Kong. However, we find no statistically significant results for Singapore IPTs except 3-month VWAP.



Explanation for differences in regulation – using interest group theory

- Singapore's experience with compulsory acquisition provisions
 - 2002 amendment
 - 2008-2014 reforms to the Companies Act
- Hong Kong's experience with compulsory acquisition provisions
 - Influence of the press
 - Greater participation by the retail market



Explanation for differences in regulation – using interest group theory

- Mode of regulation
 - Singapore views matters of compulsory acquisition as reserved for the legislature
 - Hong Kong's non-legislative solution (eg takeover regulation and stock exchange rules take the lead)
- Mode of regulation leads to substantive differences in regulation
 - Legislation (requires certainty and predictability)



Normative conclusions

- Higher premium in HK market may not mean that shareholders are better off:
 - Less offers
 - Potentially other kinds of tunnelling occur
- Arbitrage and delisting offers in Singapore of particular concerns to minority shareholder protections