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Editorial

Dear Reader,

We proudly release Issue 3 of *The Dovenschmidt Quarterly* (DQ) in continuation of our mission to provide a platform for multi-disciplinary research and perspectives on corporate social responsibility and its various stakeholders, financial institutions, regulatory authorities and corporate actors. Since we released our first issue in October 2012, there has been no sign that interest in the social responsibility and effective governance of enterprises and the mitigation of their externalities has abated. If anything, the discussion has intensified in light of ongoing media attention given to new governance failures and corporate irresponsibility. We are pleased that we can make a positive contribution to the debate through our work on *DQ* and thank our readers for their own dedication.

In this issue, we have three contributions from Lambooy and Stamenkova van Rumpt, Anker-Sørensen and Stevens, respectively. Each of these contributions looks at a different question in relation to company groups and externalities. The first paper examines the innovative use of corporate law to enable corporate groups to effectively address climate change through group policies. Anker-Sørensen's contribution offers a practical tool for examining various parental liability approaches for the externalities of subsidiaries. The final paper looks to New Zealand company law for insights on how South African company law can better protect creditors in situations where the insolvency of companies within a group may leave 'external' (*i.e.* non-group) creditors in a worse position.

In their paper, Lambooy and Stamenkova van Rumpt ask the following: can corporate law on groups assist groups to effectively address climate change? To answer this question, the authors performed a cross-jurisdictional analysis of barriers and useful domestic corporate law approaches concerning group identification and managing a common climate change policy. After mapping the legal and non-legal expectations of corporate groups with regard to implementing climate change programs, Lambooy and Stamenkova van Rumpt focus on three questions, namely: (1) In which way does corporate law identify or define a corporate group? (2) Does corporate law oblige or allow corporate groups to have a common policy to which all group companies must adhere? (3) What instruments does corporate law offer to the central group management to implement a common policy? The authors conclude by suggesting legal approaches which are capable of mandating and assisting corporate groups in adopting and effectively implementing environmental policy goals to combat climate change.

In the second contribution, Anker-Sørensen examines domestic and extraterritorial approaches for holding parent companies liable for externalities caused by their subsidiaries. The paper offers a structural tool for examining various parental liability approaches for negative environmental impact of subsidiaries' operations. As well as discussing traditional barriers to parent company liability (such as separate legal personality and limited liability), the paper offers a matrix which systematizes different approaches to liability. In doing so, the matrix provided by the author distinguishes between three levels, namely domestic and extraterritorial, statutory and judicial, and direct and indirect liability. This makes it possible to identify the main barriers to group liability in regulation and jurisprudence.

The third and final contribution by Stevens examines the application of the principle of limited liability in situations where the dominant shareholder is another company. The article hypothesizes that South African law, as it is, is inadequate to fully protect 'external' creditors of companies which are part of a larger group of companies, especially in the case of undercapitalized subsidiary companies. In line with this, the author asks what South African company law can learn from New Zealand's company law with regard to the consolidation of assets and liabilities within company groups. Using New Zealand case law and jurisprudence, the author argues that section 21 of New Zealand's Insolvency Act 2006 may serve as an example for a presumption where the assets of the holding company and/or other group members could be used to settle the debts of an insolvent group member.

We hope that you enjoy these contributions and that they inspire you to continue contributing to the agenda concerning the global discussion on corporate life, law and governance.

The Editorial Board

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