

controlling shareholders, minorities) from acting opportunistically. Second, any increase in legal diversity should benefit most European firms as their needs tend to differ across classes. Some firms may suffer higher costs because of reduced standardization, but this should not prove sufficient to outweigh the benefits for other firms (Hertig and Burkart 2001). Third, and most importantly, adopting a step-by-step approach, under which a limited number of legal options are tested during an introductory phase, should limit the risk of regulatory inefficiencies or distortions.

E. Step-by-Step Reform Recommendations

In this section, we develop a set of reform suggestions based on the investigations above. It is crucial to note that most studies suggest that a new regulatory approach cannot be expected to be incorporated within the existing framework without proper consideration and assessment regarding the impact on other rules and regulations as well as the effect of such an approach for investors, creditors and other stakeholders (European Policy Forum 2004a; 2004b).

A law reform proposal based on our regulatory choice model may prove complex and thus place a burden on EU policymakers and regulators. Moreover, a legal options approach is likely to create significant market and regulatory uncertainties. In this respect, we propose that implementation should occur initially in only a handful of areas. Adopting a simpler, unbundled approach makes it possible to pay closer inspection to the respective merits of the default measures and their effectiveness in practice.

In the next sections, we examine the company and governance law areas that are best suited to mandates and the areas that would benefit, in principle, from legal options. This will permit us to propose a step-by-step approach allowing for early adoption of a limited number of opt-ins and opt-outs. A trial introductory phase would permit benchmarking and testing of their use and potential impact.

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**Kendall F. Svengalis, Rhode Island
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