

Abstract

Although there seems to be a broad consensus to prohibit insider trading among supervising authorities and market professionals, the debate on insider trading has not settled definitively. We introduce a distinction between insider trading and market manipulation on the one hand and corporate insiders versus misappropriators on the other hand. This gives rise to four types of alleged wrong transactions. Using a utilitarian and a non-utilitarian fairness approach, we demonstrate that it is hard to find good arguments against insider trading in its purest form (type I transactions). Using a property rights perspective in particular, we show that neither a general ban nor a general permitting of insider trading is an efficient outcome. We propose a solution in which companies solve this compensation problem contractually with their corporate agents. In this way, insider trading can be used as a governance instrument which can reinforce the fiduciary relationship.