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Delaware Re-Affirms Validity of Poison Pills

It is fifteen years since Delaware Supreme Court first approved poison pill rights plans in the landmark Household case. In a recent case, the Delaware Court of Chancery has reviewed the validity of current rights plan provisions, and has strongly endorsed “the clear validity of poison pill rights plans.” Leonard Loventhal Account v. Hilton Hotels Corp., C.A. No. 17803 (Del. Ch. Oct. 10, 2000).

The Court noted that, since Household, “rights plans have become commonplace in Delaware, [and] there is not a single state that does not permit their adoption.” Moreover, “as the popularity of the poison pill defense has grown among Delaware directors over the past fifteen years, plans once described as ‘novel and complicated’, have become increasingly commonplace.”

The Court rejected the attack on the Hilton Plan, stating that “the [plaintiff’s] argument fundamentally misunderstands the issuance of securities in general and the operation of the Rights Plan in particular” and that Household “specifically approved [the] mechanism[s]” challenged by plaintiffs. The Court made clear that whether or not a particular argument was directly addressed by the Household opinion, the Household decision “considered and upheld the basic concept of a stockholder rights plan, including its core elements and the manner in which it operates.”

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