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# Financial Services Regulatory Update 金融服务监管资讯

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## Exchange Reports on Listed Issuers' Corporate Governance Practices and Launches Third Director Training Webcasts

The Hong Kong Stock Exchange published the findings of its latest review of listed issuers' corporate governance practices. The review involved analysing the disclosures made by 1,428 issuers (approximately 72 per cent of all issuers listed as at 31 December 2016) in their 2016 annual reports, covering the financial period from 1 January to 31 December 2016.

Findings of the review included the following:

- 34 per cent of issuers complied with all 78 Code Provisions (CPs) in the Corporate Governance Code and Corporate Governance Report part of the Listing Rules (the Code).
- 94 per cent complied with 75 or more CPs.
- 100 per cent complied with 70 or more CPs.
- Issuers with a larger market capitalisation achieved a higher overall compliance rate than those with a smaller market capitalisation.

"We are encouraged to see that the 2016 review shows that issuers' overall compliance with the Code has improved since the 2014 review. Most notably nearly all issuers have complied with the CPs on risk management and internal controls, which were only upgraded from Recommended Best Practices in the financial year 2016. Going forward we will continue to focus on enhancing issuers' corporate governance performance", said David Graham, HKEX's Chief Regulatory Officer and Head of Listing.

The Exchange has also launched its third director training webcasts. The new series, entitled "Corporate Governance – Director and Company Secretary's Roles", covers the following seven topics, each explained in a short video posted on the HKEX website:

- Corporate governance – who is responsible?
- Support for the Board
- Selecting the right Company Secretary
- Managing inside information
- Board Secretaries
- External Service Provider as Company Secretary

## 聯交所公布發行人遵守企業管治常規情況的報告及推出第三輯董事培訓短片

香港交易所刊發報告，詳述最近一次審閱上市發行人遵守企業管治常規的結果。是次審閱分析了1,428家發行人（約佔截至2016年12月31日所有上市發行人的72%）的2016年年報內有關2016年1月1日至12月31日止財政期間所作的企業管治披露。

審閱結果包括以下各項：

- 完全遵守《上市規則》下的《企業管治守則》及《企業管治報告》全部78條守則條文的發行人佔34%。
- 遵守75條或以上守則條文的發行人佔94%。
- 遵守70條或以上守則條文的發行人佔100%。
- 市值較高的發行人的整體遵守率高於市值較低的發行人。

香港交易所集團監管事務總監兼上市主管戴林瀚說：「2016年度審閱的結果顯示，發行人遵守《守則》的整體情況比2014年度審閱顯著改善，尤其是有關風險管理及內部監控的條文原為建議最佳常規，於2016年財政年度才升級為守則條文，但幾乎所有發行人都有遵守，我們對此深感鼓舞。展望未來，我們將繼續致力於提高發行人企業管治的表現。」

此外，聯交所於香港交易所網站上載了第三輯董事培訓短片，題為「企業管治 — 董事及公司秘書的角色」，每個短片闡述的主題如下：

- 企業管治 — 責任誰屬？
- 支持董事會
- 挑選合適的公司秘書
- 管理內幕消息
- 董事會秘書
- 外聘服務供應商擔任公司秘書
- 實務提示

Source 来源:

<https://www.hkex.com.hk/eng/newsconsul/hkexnews/2017/17>

1013news.htm

[https://www.hkex.com.hk/chi/newsconsul/hkexnews/2017/171013news\\_c.htm](https://www.hkex.com.hk/chi/newsconsul/hkexnews/2017/171013news_c.htm)

### **The Listing Committee censures Mr Wang Kai, a former Executive Director of Sound Global Limited, for breaching the Director's Undertaking**

The HKEx censures Mr Wang Kai, a former executive director of Sound Global Limited for breaching his obligations under the Declaration and Undertaking with regard to Directors given to the HKEx in the form set out in Appendix 5B to the Listing Rules.

The Listing Department submitted that Mr Wang (a) is taken to have received the Listing Department's enquiry letter and reminders by virtue of the deemed service position in his Undertaking; (b) was clearly aware of the need for his cooperation in the investigation through the telephone conversation he had with a staff member of the Listing Department; (c) failed to respond to the investigation without any reasonable grounds; and (d) therefore failed to comply with his Undertaking to cooperate in the HKEx's investigation.

A director's compliance with his Undertaking to cooperate in the HKEx's investigation into possible breaches of the Listing Rules is of utmost importance in enabling the HKEx to discharge its function to maintain and regulate an orderly market. The Listing Committee regards Mr Wang's breach in this matter seriously, as it has an adverse impact on the Listing Department's ability to conduct an efficient and thorough investigation.

#### **上市委員會譴責桑德國際有限公司前執行董事王凱先生違反《董事承諾》**

上市委員會桑德國際有限公司前執行董事王凱先生違反其以上市規則附錄五 B 表格向聯交所作出的承諾所載的責任。

上市部認為王先生(a)按照其承諾中有關視為已送達的條文乃當作已收到上市部的查詢及跟進函件；(b)透過與上市部職員在 2016 年 11 月 22 日的電話通話，已清楚知道有需要配合該調查；(c)在沒有合理理由下未就該調查作出回覆；及(d)因此未有遵守其《承諾》以配合聯交所調查。

董事遵守承諾配合聯交所就可能違反上市規則的事宜進行調查極為重要，有助聯交所履行維持及監管市場秩序的職能。是次事件對上市部展開有效和全面的調查帶來負面影響，上市委員會嚴正處理王先生的這次違規。

Source 来源:

<https://www.hkex.com.hk/eng/newsconsul/hkexnews/2017/171025news.htm>

[https://www.hkex.com.hk/chi/newsconsul/hkexnews/2017/171025news\\_c.htm](https://www.hkex.com.hk/chi/newsconsul/hkexnews/2017/171025news_c.htm)

### **The SFC fully implements Manager-In-Charge regime**

The Securities and Futures Commission announced the full implementation of the Manager-In-Charge (MIC) regime following a six-month transition period which ended on 16 October 2017.

Under the regime, MICs of overall management oversight and key business line functions are expected to be responsible officers (ROs). The vast majority of these MICs are already ROs. At present, the SFC is handling RO applications from about 500 MICs of these two core functions.

On 16 October 2017, the Hong Kong Monetary Authority issued a circular requiring registered institutions to submit their up-to-date management structure information and organisational charts via email to both the HKMA and the SFC. To allow sufficient time for preparatory work, RIs are expected to report the required information starting from 16 March 2018 and not later than 16 April 2018.

#### **證監會全面實施核心職能主管制度**

證券及期貨事務監察委員會宣布全面實施核心職能主管制度，有關制度的六個月過渡期已於 2017 年 10 月 16 日結束。

在這個制度下，整體管理監督及主要業務職能的核心職能主管應為負責人員，而這些核心職能主管絕大部分都已經是負責人員。證監會目前正在處理約 500 名屬於這兩個範疇的核心職能主管所提出的負責人員申請。

2017 年 10 月 16 日，香港金融管理局發出通函，要求註冊機構須透過電郵同時向金管局及證監會提交其最新的管理架構資料及組織架構圖。為令註冊機構有足夠時間進行準備工作，它們應該自 2018 年 3 月 16 日起且不遲於 2018 年 4 月 16 日，提交所需的資料。

Source 来源:

<http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=17PR131>

<http://www.sfc.hk/edistributionWeb/gateway/TC/news-and-announcements/news/doc?refNo=17PR131>

### **SZSE Collaborates with TMX Group to Create A Technology and Innovation Companies Service Mechanism**

Shenzhen Stock Exchange ("SZSE") and TMX Group

Limited entered into a Memorandum of Understanding (“MOU”) recently to promote cooperation between the capital markets and serve technology and innovation companies in the two countries.

TMX group is the biggest securities exchange group in Canada with a diversified business encompassing securities offering, trading, settling and market analysis. It owns and operates the Toronto Stock Exchange (TSE), TSX Venture Exchange, TSX Private Markets and other securities financing platforms. TMX Group has always been emphasizing the market services to SMEs and innovative companies and shares many common grounds with SZSE, which serves as a solid foundation for future cooperation and cross-border allocation of innovation resources between the two sides.

As per the MOU, both sides shall collaborate in the following aspects. First, personnel exchanges. Both parties shall establish a communication mechanism between senior management, and arrange visits between their employees to discuss their job and responsibilities, and increase understanding of the markets of the other side, making full preparation for future cooperation. Second, sharing information and services. Both sides shall leverage their respective service channels to explore ways to present their technological and innovative companies in the other market, share market information, try to involve professional intermediaries in the cross-board capital services, and provide full services for cross-border investment and financing of their companies. Third, cross-border product and index researches. Both sides shall cooperate in index researches with a focus on innovation and shall develop products based on the innovative indexes of the other market for listing, conduct researches on cross-border financing products and promote innovation on the products.

#### 深交所与加拿大多伦多交易所集团合作共建中加科技创新型企业服务机制

日前，深圳证券交易所与加拿大多伦多交易所集团签署合作谅解备忘录，共同推动资本市场合作，服务两国科技创新型企业发展。

多伦多交易所集团是加拿大最大的交易所集团，涵盖证券发行、交易、结算、市场分析等多元化业务领域，旗下包括多伦多证券交易所、多伦多创业板市场、多伦多私募市场等证券融资平台。多伦多交易所集团历来注重面向中小企业及新创企业的资本市场服务，与深交所具有较强共性，双方进一步开展多样化合作、促进创新要素跨境配置具备良好基础。

根据协议，双方将在以下方面开展合作：一是积极推动人员交流。双方建立高层沟通机制，并在工作层面开展人员互访、岗位交流等方面合作，增进双方市场的相互

了解，为进一步开展合作打下基础。二是促进信息展示与服务对接。双方将利用各自业务渠道，探索中加科技创新型企业在对方市场的展示，实现双方市场信息对接，并积极推动专业中介机构参与中加跨境资本服务，为企业跨境投融资提供全方位服务体系。三是开展跨境产品及指数研究。双方将探索围绕创业创新主题，开展合作编制指数研究，推动对方创业创新特色指数在本地开发产品并挂牌，在跨境融资产品开发方面开展研究，促进跨境产品创新。

Source 来源:

<http://www.szse.cn/main/en/AboutSZSE/SZSENews/SZSENews/39775146.shtml>

<http://www.szse.cn/main/aboutus/bsyw/39775105.shtml>



#### CSRC imposes administrative penalties for one case

The pharmaceutical firm Hengkang Medical Group Co Ltd\* (恒康医疗集团股份有限公司) (“Hengkang”) has acquired a series of hospitals, including Sichuan Province Red Cross Cancer Hospital Cancer Center\* (红十字肿瘤医院肿瘤诊疗中心), Ziyang Jian Wang Wang Check Hospital Co., Ltd.\* (资阳健顺王体检医院有限公司), Deyang Bright Future Co., Ltd\* (德阳美好明天医院有限公司) and Pengxi County Health and Shun Wang Traditional Chinese Medicine (Orthopedic) Hospital Co., Ltd.\* (蓬溪县健顺王中医(骨科)医院有限责任公司), for the purpose of strategic transition from pharmaceutical industry to medical services. Such actions constitute a significant event as defined under the provisions of the "significant investment behavior of the company and the decision to purchase a major property\*" of section 2 of Article 67 of the Securities Law of the People's Republic of China, and such information would be regarded as insider information before public disclosure.



Liu Yuejun, the actual controller of the counter party(ies) of the Company's mergers and acquisitions, and at the same time the "market intermediary"; Wang Guoxiang and Xue Bingyuan are the stockholders or party(ies) in concert with the inside information insiders. Their engagement in insider trading has seriously undermined the market order, and damaged the legitimate rights and interests of small investors. The CSRC have punish themed in accordance with the laws. Mergers and acquisitions of listed companies are at the high-end of insider trading, where hidden market manipulation is very possible. The related entities are driven by illegal profits to cross the line and the legal rights of small and medium investor might, as a result, be damaged. The Commission intends to focus on monitoring and cracking down on such lawbreakers.

\*For identification purpose only

### 证监会对 1 宗案件作出行政处罚

本案中，简称恒康医疗为了实现由制药向医疗服务的战略转型而相继收购四川省红十字肿瘤医院（简称红十字医院）肿瘤诊疗中心、资阳健顺王体检医院有限公司（简称资阳医院）、德阳美好明天医院有限公司（简称德阳医院）和蓬溪县健顺王中医（骨科）医院有限责任公司（简称蓬溪医院）等一系列医院的事项，构成了《证券法》第 67 条第 2 款第项规定的“公司的重大投资行为和重大的购置财产的决定”的重大事件，该信息公开前属于《证券法》第 75 条第 2 款第项规定的内幕信息。

刘岳均既是上市公司并购重组对手方的实际控制人，又是“市场中间人”，王国祥、薛兵元是内幕信息知情人的密切关系人或利益关联人，他们从事内幕交易的行为严重破坏市场秩序，损害中小投资者合法权益，证监会依法对其予以严惩。上市公司并购重组过程是内幕交易的高发领域，有的甚至隐藏有市场操纵行为，相关主体在利益驱使下突破法律底线，攫取非法利益，侵害中小投资者合法权益，证监会对此类行为将始终予以重点监控和严厉打击，决不让任何一个以身试法者有机可乘、有利可图。

Source 来源:

[http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/201710/t20171020\\_325633.html](http://www.csrc.gov.cn/pub/newsite/zjhxwfb/xwdd/201710/t20171020_325633.html)

### SEC Proposes to Amend FAST Act

The American Securities and Exchange Commission (SEC) have recently proposed amendments to modernize and simplify disclosure requirements with regards to the Fixing America's Surface Transportation (FAST) Act. These amendments will affect public companies, investment advisers, and investment companies.

The aim of the SEC is to reduce the costs and burdens on registrants while continuing to provide all material information to investors. The readability and navigability of disclosure documents will be improved in order to discourage the repetition and disclosure of immaterial information.

The proposed amendments would:

- Revise rules or forms to streamline the SEC's disclosure framework;
- Update rules to account for developments;
- Simplify the disclosure process, including filing and confidentiality requirements;
- Incorporate technology to improve access to information.

### SEC 建議修改美国地面交通法案 FAST

美国证券交易委员会(SEC)最近提出修复美国地面交通法案 FAST 的修改建议以现代化及简化相关的披露规定。这些修改将对公众公司、投资顾问及投资公司产生影响。

美国证券交易委员会此举的目的在于持续向投资者提供所有关键信息的同时，减少注册人士的成本和负担。披露文件的可读性及可浏览性将得到改善从而减少非重要信息的重复和披露。

修改建议包括：

- 修订规则或表格以简化美国证券交易委员会的披露框架；
- 更新规则以适应发展；
- 简化披露流程，包括备案及保密要求；
- 结合技术以改善信息的获取。

Source 来源:

<https://www.sec.gov/news/press-release/2017-192>

### ASIC updates evidence metrics for performance reporting

The Australian Securities and Investments Commission has updated their evidence metrics to report six key performance indicators (KPIs) in the Regulator Performance Framework. The purpose of the Framework is to provide measures to assess how regulators operate and their level of performance. The amendments were needed as the metrics had become outdated through changing business practices.



Changes include:

- Grouping related KPIs together to establish performance coherently;
- Ensuring metrics are not repeated and are placed under the most relevant KPI; and
- Expanding metrics that were excessively specific in order to encompass ASIC's processes as they change.

#### 澳证会为绩效报告更新证据指标

澳大利亚证券和投资委员会(“澳证会”)更新了其证据指标,以报告“监管者绩效框架”中的六项关键绩效指标(KPI)。框架的目的是提供措施来评估监管机构的运作情况及其绩效水平。这些修正是需要的,因为商业惯例的改变,衡量标准已经过时。

变更包括:

- 将相关 KPI 组合,一致地建立绩效;
- 确保指标不重复,并置于最相关的 KPI 之下;和
- 扩展过度具体的指标,以便涵盖澳证会不时更改的流程。

Source 来源:

<http://asic.gov.au/about-asic/media-centre/find-a-media-release/2017-releases/17-353mr-asic-releases-update-to-evidence-metrics-for-performance-reporting/>

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