

Having taken up the role as Head of Listing of Hong Kong Exchanges and Clearing (HKEX) a few weeks before the COVID-19 pandemic roiled the markets locally and globally, Bonnie Chan says HKEX's primary responsibility is to maintain a well-regulated, competitive and resilient market through which stakeholders are able to transact. "The HKEX Listing Division is unique as we are a valuable and indispensable pillar of the Hong Kong financial services sector," says Ms Chan who points out how considerable efforts made over the years have contributed to making Hong Kong the international financial centre that it has become. "Recent global developments have underscored even more the need for us to maintain the integrity and competitiveness that Hong Kong's markets offer," adds Ms Chan who, as head of HKEX's IPO Listings from 2007-2010, is familiar with landscape of the City's markets.

Ms Chan says in addition to her previous tenure with HKEX, her experience as solicitor, a banker and in-house counsel of an investment bank, allows her to draw on diverse roles to analyse issues from different perspectives. "Being able to view situations holistically allows me to better assess the impact of our policy initiatives on different stakeholder groups, and hopefully be able to pre-empt issues and come up with more thorough solutions," says Ms Chan who believes purpose, partnership and pride — which she refers to as the three P's — provide a framework for measuring effectiveness and efficiency. "If we keep Purpose in mind and work together with a committed sense of Partnership (within the team and with our stakeholders), Pride will naturally follow," says Ms Chan who emphasises that pride is a gratification intended to be shared by the entire Hong Kong community.

Ms Chan says examples of purpose and partnership have been demonstrated in response to the unprecedented disruption caused by the COVID-19 crisis. With disruptions, including travel restrictions putting pressure on many listed issuers in preparing their audited annual results, Ms Chan says HKEX acted quickly to ensure the market would stay informed and orderly. "For many listed issuers, navigating through the volatility created a formidable challenge. This is why we focused a lot of our energy on providing guidance," Ms Chan explains. To help listed companies navigate their financial reporting challenges, in partnership with the Securities and Futures Commission (SFC), since early February, multiple joint statements and FAQs have been issued.

就在新型冠狀病毒肆虐本港及全球金融市場前的數週，陳翊庭履新香港交易及結算所（港交所）上市主管一職，她表示港交所的主要職責是維持一個有妥善規管、具競爭力及韌力的市場，使持份者能夠高效有序地進行交易。陳女士表示：「港交所上市科的獨特之處在於我們是香港金融服務業不可或缺的重要支柱，一直為香港發展成國際金融中心而出力。」陳女士於2007年至2010年期間出任港交所首次公開招股的主管，對香港市場的狀況瞭如指掌。她說：「近期的全球局勢變化更加突顯了我們維護香港市場誠信與競爭力的必要性。」

曾經在港交所任職外，陳女士亦曾擔任律師、銀行家及於投資銀行任職內部律師，這些經驗使她能夠以不同的身份從不同的角度分析問題。她說：「這份綜觀形勢的觸覺，使我能夠更準確評估政策措施對不同持份者群體的影響，及早看到事態發展，從而提出更全面的解決方案。」陳女士有一套三個P的原則 — purpose（宗旨）、partnership（合作）、pride（自豪），她認為這套原則為衡量功效和效率提供了一個框架。陳女士表示：「如果我們牢記宗旨，（在團隊內部以及與持份者）堅守合作精神，自然會感到自豪。」她強調自豪感應該是屬於全香港社會的。

面對新型冠狀病毒疫情帶來前所未見的影響，陳女士表示有不少堅守宗旨和秉持合作原則的例子。她表示，外遊限制等因素，對許多上市發行人在編製經審核年度業績時構成壓力，港交所迅速採取行動，確保市場資訊流通，有序運行。「對於許多上市發行人來說，應對此番波動無疑是巨大挑戰。為此，我們將大量精力投放在提供指引方面。」為協助上市公司解決財務報告方面的困難，自2月初以來，港交所與證券及期貨事務監察委員會（證監會）合作，發表多份聯合聲明及常問問題。



While encouraging listed companies to make all reasonable efforts to maintain “business as usual” in relation to their reporting obligations, where necessary, arrangements were made that allowed issuers to defer the delivery of their audited financial statements. Under the revised requirements, listed companies were required to publish preliminary financial information including financial figures such as assets, liabilities, income and expenses, and changes in shareholders' equity to allow the affected issuers to continue trading. In normal circumstances, companies listed on the HKEX Main Board with 31 December as their year-end must release results agreed with auditors by 31 March and issue annual reports, including audited financial statements, by 30 April. The deadline for companies listed on the secondary GEM is 31 March. Since the COVID-19 outbreak began, HKEX has been in active dialogue with issuers and provided specific guidance to them regarding the financial information they are required to publish.



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Describing the outcome as a “favourable achievement”, Ms Chan says HKEX is pleased to see that most listed companies have performed well in fulfilling their reporting obligations. “Despite the COVID-19 virus outbreak making it difficult for listed companies to complete their financial reports, we believe the actions we took helped to allay concerns that a mass suspension of listed issuers would be necessary,” says Ms Chan. Of the issuers that have 31 December as their year-end (excluding long suspended companies), all but 9 released material financial information or management accounts without agreement with auditors, or fully complied with the rules and released results that were agreed with auditors. Following a review by their auditors, only about 80 companies published changes to their key financial figures that exceeded 10%. Acknowledging the efforts of audit committees of listed issuers who stepped up to assist companies during this process, Ms Chan says it is gratifying to see stakeholders coming together to guide issuers towards publishing financial information that is timely and reliable. To date, only seven out of about eighteen hundred listed companies have not published any financial information and remained suspended from trading.

港交所一方面鼓勵上市公司盡一切合理努力「如常」履行匯報責任，另一方面作出適切安排，允許發行人在有需要時推遲提交經審核財務報表。根據修訂後的要求，上市公司必須發表初步財務資料，包括資產、負債、收入、支出等財務數據以及股東權益變動，以便其股份可繼續進行交易。在正常情況下，以12月31日為結算日的港交所主板上市公司須於3月31日之前發表經核數師同意的業績，並於4月30日之前發佈年度報告（包括經審計財務報表）。GEM上市公司的截止日期為3月31日。自新冠疫情爆發以來，港交所與發行人一直保持密切溝通，就發行人需要發佈何種財務資料提供具體指引。

“ **港交所的市場與全球接軌，讓發行人及投資者得以進行重要的集資活動和資產配置，對我而言這比僅僅看排名表更為重要。** ”

陳女士稱在此事上取得了「良好成果」，港交所樂見大部分上市公司妥善履行匯報責任。她指出：「儘管新型冠狀病毒疫情令上市公司編製財務報告時遇上困難，但我們採取的措施，有助減輕上市發行人可能需要大規模停牌的憂慮。」在以12月31日為結算日的發行人中（不包括長期停牌的公司），除九家之外，所有都發表了未經核數師同意的重大財務資料或管理層賬目，或者完全遵守規則並發表經核數師同意的業績。與經核數師審核的業績比較，僅有約80家公司的關鍵財務數據變動幅度超過10%。陳女士感謝上市發行人審計委員會在過程中加倍努力提供協助，對於持份者能齊心協力使到發行人能及時發表可靠的財務資料，她感到十分欣慰。截至今日，在大約1,800家上市公司中，只有七家尚未發表任何財務資料，仍處於暫停交易狀態。

Raising the Bar

As environmental, social and governance (ESG) matters increasingly face scrutiny by stakeholders, Ms Chan believes HKEX's enhanced mandatory and "comply or explain" rules, which came into effect on 1 July 2020, will help to raise the standard of ESG reporting by Hong Kong companies to the global level. "ESG is no longer merely a corporate social responsibility or a reputational issue," Ms Chan says, "today it is widely recognised that ESG risks present financial, operational and compliance risks to companies." Ms Chan points out that failure to manage ESG risks could result in financial impact on the company, "It is important for a company, regardless of its size, to develop an ESG strategy to respond to and, manage such risks," she says. Although this can require substantial efforts, it is a good opportunity for boards to revisit what ESG means to their businesses, as well as understand not just the key risks, but also the opportunities to drive value from the compliance exercise.

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Key elements of the enhanced ESG rules include issuing a board statement setting out its consideration of ESG matters and an explanation of the boundaries of ESG reports. Listed companies are also required to disclose significant climate-related issues which have impacted or may impact the issuer. Furthermore, the deadline for ESG reports will be shortened to within five months after the end of a financial year. Conceding that smaller companies that raised concerns during the consultation period that compliance burdens could be time consuming and costly, Ms Chan says it could take some time before smaller companies recognise the benefits of meeting ESG governance practices. However, Ms Chan stresses, HKEX is aware of the need to provide guidance and assistance, particularly for smaller companies that may not have the resources or an in-house ESG expert to prepare an ESG report. "We have issued guidance and training materials to provide education on governance practices and help companies plan their ESG journey," she says. Guidance and training materials include a step-by-step guide to preparing an ESG report and practical guidance for directors on their leadership role in ESG policy practices. Education and support materials also include e-training to facilitate issuers' understanding of the new ESG reporting requirements and an updated FAQs.

Balancing Governance with Opportunity

With the latest round of HKEX's consultation on corporate weighted voting rights (WVR) recently completed, Ms Chan believes the listing regime, which allows corporate entities to benefit from the WVR structure, is another "step in the right direction", while stressing that HKEX has no intention of expecting the WVR concept to become the mainstream approach for new listings. WVR refers to governance structures in which certain persons or entities are given voting power,

提高標準

隨著環境、社會及管治事宜面對持份者的審查日益增加，陳女士認為，港交所於2020年7月1日生效的經加強之強制性及「不遵守就解釋」規則將有助提高香港公司的環境、社會及管治報告標準達至全球水平。她稱：「環境、社會及管治不再僅僅涉及企業社會責任或商譽等事宜，而是普遍認識到環境、社會及管治風險會為公司帶來財務、營運及合規風險。」陳女士認為未有妥善管理環境、社會及管治風險可能會對公司造成財務影響，她指出：「無論公司的規模大小，均須制定環境、社會及管治策略來應對及管理這些風險，這一點十分重要。」儘管這可能需要付出不少努力，但對於董事會來說，這是重新審視環境、社會及管治對其業務可帶來什麼機遇的機會，除可了解主要風險外，亦能發掘如何從合規活動中獲取價值。

經加強之環境、社會及管治規則的重要元素包括發佈董事會聲明，闡明其對環境、社會及管治事宜的考慮因素，並解釋環境、社會及管治報告的範圍。上市公司亦須披露影響或可能影響發行人的重大氣候相關事宜。此外，環境、社會及管治報告的截止日期將縮短至財政年度結束後五個月內。考慮到在諮詢期間有小型公司擔心合規工作可能費時及昂貴，陳女士表示小型公司可能需要一段時間才能體會到遵守環境、社會及管治的管治實務的好處。但她強調，港交所必定會為那些可能沒有資源或內部專家來編製環境、社會及管治報告的小型公司提供指引及幫助。她表示：「我們已發表指引及培訓材料，提供管治實務教材，並協助公司規劃其環境、社會及管治旅程。」指引及培訓材料包括編寫環境、社會及管治報告的詳細指引，以及有關董事在環境、社會及管治政策實務中如何發揮領導作用的實用指引。教材及支援材料亦包括電子培訓，以助發行人了解環境、社會及管治報告新規定及經更新的常問問題。

“ 如今，我們已有近二十家生物科技公司上市，已形成一套由專門從事該領域的研究分析師、銀行家及會計師組成的強大生態系統。 ”

平衡管治與機會

隨著港交所最新一輪有關企業不同投票權的諮詢於近期完成，陳女士認為，允許企業實體採用不同投票權架構的上市制度是「朝著正確方向邁進的一步」，同時強調港交所並不認為不同投票權概念會成為新上市的主流方式。不同投票權是指某些人或實體具有與其股權不成比例的投票權力或其他相關權利的管治架構。陳女士說：「我們需要在為公眾投資者提供投資機會，與制定適當保障之間取得平衡。」她指出，不同投票權架構是在主要國際證券交易所上市之公司所採用的普遍方式，尤其在涉及高科技及電子商務的

or other related rights disproportionate to their shareholdings. “We need to balance the desire to provide our public investors with investment opportunities, yet also ensure that appropriate protection measures are in place,” says Ms Chan who points out the WVR structures are a common feature adopted by companies, especially those in the “new economy” involved in high technology and e-commerce, listed on major international stock exchanges. The Hong Kong bourse operator reformed its listing regime in 2018 to allow innovative companies with WVR structures to list, but only individuals with an active executive role in the business were allowed to be WVR beneficiaries. In the consultation paper, HKEX outlined how the latest WVR proposals could be extended to corporate shareholders in order to attract innovative companies to Hong Kong, adding diversity to an exchange dominated by financial services and property companies.

With Mainland Chinese companies listed in the US caught in the crossfire of escalating trade and political tensions between Beijing and Washington, raising questions about decoupling from the US market and relisting in Hong Kong, Ms Chan says it is not a question of providing a “safe harbour” for any particular group or type of companies. “From HKEX’s perspective, companies that meet our listing requirements are very welcome to list in the Hong Kong market,” she explains. “Our mission is to make our market more efficient and effective for any company that would like to list in Hong Kong.” Moreover, if more new-economy companies such as e-commerce, mobile gaming and artificial intelligence were to list in Hong Kong, Ms Chan believes an ecosystem similar to the ecosystem that has developed around biotech company listings would soon develop. “I am not too worried about it,” she says “today we have nearly twenty biotech companies listed and a strong ecosystem of research analysts, bankers and accountants that specialise in this area.”

「新經濟」領域中更為常見。港交所於2018年實施上市制度改革，允許具有不同投票權架構的創新公司上市，但只有在公司擔任要職的人士才能享有不同投票權。港交所在諮詢文件中概述了如何將最新的不同投票權建議擴展到公司股東，以吸引創新公司來港上市，提升港交所在金融服務及地產公司以外的多樣性。

由於中美的貿易及政治緊張局勢升級，在美上市的中國內地公司陷入困境，引發退出美國市場、在香港重新上市的考量，陳女士表示港交所並非要為任何特定組別或類型公司提供「安全避風港」。她解釋道：「港交所歡迎符合我們上市要求的公司在香港市場上市，我們的使命是提高市場效率及效益，方便任何有意在香港上市的公司。」此外，陳女士認為如果有更多電子商務、手機遊戲、人工智能等新經濟公司來港上市，本港將很快發展出一套生態系統，就如生物科技上市公司生態系統一樣。她坦言：「我對此很有信心。如今，我們已有近二十家生物科技公司上市，已形成一套由專門從事該領域的研究分析師、銀行家及會計師組成的強大生態系統。」

維持市場質素

港交所一方面著力吸引新公司，另一方面亦關注加強公司管治。當談到一直致力維持香港證券市場的質素及聲譽時，陳女士提及旨在打擊買殼上市及相關「殼股」的規則，包括一項禁止上市公司在所有權變更後三年內出售主要業務的規定；該等公司通常是經營水平極低，以及通常為買殼上市的目標公司。買殼上市通常是指新投資者為取得上市地位而收購一家上市公司，從而避過正常申請程序的情況下令業務上市。陳女士明言：「有關規定並非限制上市發行人開展屬於業務策略的正當業務擴展，或業務多元化。」



Maintaining Quality

While some of HKEX efforts are concentrated on attracting new companies, others are focused on tightening corporate governance. Citing on-going efforts to maintain the quality and reputation of Hong Kong's securities market, Ms Chan highlights rules designed to crack down on back-door listings and related "shell companies" — listed companies with very low levels of operations that are often the targets of backdoor listings — including a ban that prohibits listed companies from selling major business operations within three years after a change of ownership. A back-door listing often involves a new investor acquiring a listed company for its listing status to achieve a listing of new businesses without passing the normal application process. "The rules are not intended to restrict listed issuers from legitimate business expansion or diversification that are part of the issuers' business strategies," reassures Ms Chan.



While the rules have been in place for a couple of months, it has needed time to gauge the results, Ms Chan explains. "We understand the price of a shell company has substantially decreased," she says. "We are seeing fewer reports of shell activities leading to market manipulation and speculative trading activities," says Ms Chan who believes this helps to improve the quality of companies listed on HKEX. However, when HKEX proposed measures to curb backdoor listing in a consultation paper, respondents were concerned that the new rules could be interpreted broadly to apply to certain normal business activities or that certain proposals would give the Exchange too much discretion, leading to regulatory uncertainty. This has not been the case says Ms Chan, who explains the rules have been applied purposively.

“ **In the past, some companies remained suspended for long periods of time without taking action to resume trading. We consider this against the interests of public investors.** ”

Citing another example of efforts designed to maintain market quality, Ms Chan highlights rules enhanced in 2018 to delist companies whose shares had been suspended for a continuous period of 18 months (or 12 months for companies listed on GEM). Following the implementation of the delisting rules, in 2018 four companies were delisted, 20 in 2019 and 13 between January and June 2020.

“ **過去一些公司長期處於停牌狀態，並沒有採取任何行動爭取復牌。我們認為這有違投資者利益。** ”

陳女士說：「該規則已實施數月，但仍需要時間來評估結果。我們留意到殼股的價格已大幅降低，而關乎殼股的市場操縱及投機性交易活動情況也相應減少。」她認為這有助提高港交所上市公司的質素。惟當港交所在諮詢文件中建議採取措施遏制買殼上市時，回應者憂慮新規則可能被濫用而窒礙正常業務活動，或者某些建議會給予港交所過多的酌情權，從而為監管帶來更多的不確定性。陳女士表示情況並非如此，反而這些規則是有目的地應用。

談及另一個旨在維持市場質素的措施，她指出，2018年時港交所加強規則，可以對連續停牌18個月（GEM上市公司為12個月）的公司予以除牌。實施除牌規則後，2018年有4家公司被除牌，2019年有20家，2020年1月至6月則有13家。

陳女士表示除牌制度有雙重目標，一方面加快將不適合上市的公司予以除牌，另一方面為那些能夠解決本身問題並復牌的公司提供動力。她表示：「過去一些公司長期處於停牌狀態，並沒有採取任何行動爭取復牌。我們認為這有違投資者利益。」她指出，自新制度生效以來，復牌案例數量明顯增加，由2018年只有五家長期停牌公司復牌，增長至2019年的26家，2020年1月至6月則有12家。

Describing the delisting regime as serving a two-pronged purpose, Ms Chan says the intention is to accelerate the process of delisting companies unsuitable for listing, also referred to as “zombie” companies, and at the same time, provide an impetus for companies that are able to resolve their issues and resume trading. “In the past, some companies remained suspended for long periods of time without taking action to resume trading,” notes Ms Chan. “We consider this against the interests of public investors,” she adds. She notes that the number of resumption cases has increased markedly since the new regime took effect. Whilst only five long-suspended companies resumed trading in 2018, there were 26 resumptions in 2019, and 12 resumptions between January and June of 2020.

On the Horizon

Looking ahead at HKEX’s busy policy agenda, following the listing of the Alibaba Group, HKEX’s first fully-electronic IPO offering process, Ms Chan believes expanding the initiative to offer the option of a paperless IPO listing application process would be widely accepted. “It’s an option that we are putting to the market for consultation,” she says. As people become more accustomed to conducting business transactions electronically instead of physically, replacing the paper listing application process would offer time saving and environmental benefits. “Replacing a trolley full of IPO paper listing applications with a press of a button would be a positive move forward,” notes Ms Chan.

Also on the agenda, HKEX is planning to consult the market on its disciplinary powers. “We want to provide more clarity around what triggers a breach of our listing rules and the disciplinary actions that would follow,” Ms Chan says. Not to be confused with SFC disciplinary procedures, HKEX is proposing to enhance its rules and guidances to ensure it is equipped with the right tools to issue non-financial disciplinary procedures which include reprimands and denial of market access.

With Hong Kong topping the global IPO listings table seven times in 11 years, while hesitant to speculate on the 2020 outcome, Ms Chan has observed a considerable pickup in IPO activities on the Hong Kong bourse in the last few months with technology companies as the main source of activity. “HKEX’s markets are global and connected, facilitating vital capital raising and allocation for issuers and investors, that to me is more important than merely looking at league table rankings,” she says. **M**

— Chris Davis
Editor



展望未來

展望未來，港交所將有多項政策議程，在阿里巴巴集團創先以全電子形式進行首次公開招股上市後，陳女士認為擴大無紙化首次公開招股上市申請程序方案將獲廣泛接受。她說：「這是我們向市場諮詢的一個方案。」隨著大眾逐漸習慣以電子方式取代實體模式進行業務交易，取替紙本上市申請流程將節省時間及有利環保。陳女士說：「只要按一下按鈕，便可取代大量的首次公開招股上市申請書，將是一個積極的進步。」

港交所也計劃就紀律處分事宜諮詢市場。陳女士表示：「我們希望市場更清楚解在什麼情況下公司會被視為違反上市規則及將面對何種紀律處分。」為避免與證監會的紀律處分程序混淆，港交所擬加強其規則及指引，以確保有足夠權力作出非財務之紀律程式，包括譴責及禁止市場准入。

香港在11年內七次獲得全球首次公開招股榜首位置，儘管陳女士不願對2020年的成績多做揣測，但她表示留意到過去數月港交所的首次公開招股活動明顯增加，其中以科技公司居首。她指出：「港交所的市場與全球接軌，讓發行人及投資者得以進行重要的集資活動和資產配置，對我而言這比僅僅看排名表更為重要。」 **M**

— Chris Davis
主編