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Guide to Shanghai STAR Market IPOs 2021

亚洲法律杂志

上海科创板首次公开发行 手册 2021

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亚洲法律杂志
上海科创板首次公开发发行手册
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在此，我谨代表ALB的每位员工，向您隆重介绍这本《亚洲法律杂志上海科创板首次公开发行手册2021》。

这本《手册》的出版可谓恰逢其时。2020年12月初，新致软件刚刚成为第200家登陆上海证券交易所科创板的企业。根据官方数据，伴随新致软件的上市，已上市的200家科创企业合计在科创板融资2876.58亿元人民币（440亿美元）。在此可以为您提供另一组数据作为比较：根据万得数据，自科创板于一年半前开板以来，上交所主板上市企业数字仅为100余家。此外，科创板也得到了境外投资者的关注：根据华兴资本数据，2019年底，科创板获得的境外投资为2.7亿元人民币，而到了2020年11月底，这一数字已经飙升至56.4亿元人民币。

科创板设立于2019年7月22日，正如其名，其聚焦于中国科学和技术板块的资本投资。其对标对象为美国纳斯达克交易所，旨在帮助中国科学和技术企业更为便利地获得资本市场认可。仅在设立之后的12个月内，科创板就成为了亚洲最具价值的股票交易市场，总价值超过4000亿美元。未来，科创板仍有希望突破更多个资本市场领域的纪录。

然而，虽然科创板已然吸引了境内外企业和投资者的注意，作为全新的投资市场，企业的上市之路并非总是一帆风顺。这本《手册》旨在为公司在科创板上市道路上可能遇到的一系列问题提供指引，这些问题包括但不限于上市前准备、上市申请流程、知识产权问题及知识产权诉讼风险管理、律所在上市中扮演的角色、具体上市问题、境外公司上市问题、税务问题、离岸工具选择、上市公司治理，以及上市公司合规问题。

我们希望这本《手册》能够帮助您的企业在科创板实现成功上市。在此我也向本书撰稿机构致以最诚挚的谢意，没有你们，就不会有这本《手册》。

谢京庭

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上海科创板 为资本市场 改革辟出 新路

上海证券交易所即将在2020年底前成为全球IPO募资排名榜前三的证券交易所，这很大程度上归功于其对标纳斯达克的科创板。

自2019年7月22日开市交易起，科创板就扮演起了中国资本市场改革“试验田”的角色，强烈吸引着来自创新技术、生命科学以及新经济板块的公司来到这里进行新股发行。

科创板是中国大陆首个允许未盈利企业，以及同股不同权企业进行新股发行的交易所板块。此外值得一提的是，港交所也于2018年底修改了上市规则，许可未盈利企业赴港上市。此前多年，未盈利企业在进行首次公开发行时没有其他选择，只能够前往海外资本市场募资。

在首个交易日，科创板只迎来了25家上市企业，当天涨幅在84%至400%之间。

贯穿整个2020年，科创板继续扮演了中国资本市场发展与改革“试验田”的角色。在2020年上半年，科创板在IPO和二次上市总融资金额层面仅次于纳斯达克，位列世界第二，占全球新股发行总数的17.3%。在同一时段，科创板甚至以微弱优势超越了港交所。

与此同时，科创板也成为了上海证券交易所的发展支柱。

根据德勤数据，在2020年前三季度，上交所共迎来179宗IPO，总募资额为394亿美元，稳居世界首位。而在2020年前九个月上交所迎来的全部IPO中，科创板占据了113个席位，总募资额达282.6亿美元。

“大小通吃”

和纳斯达克一样，科创板重点关注吸引科技及新经济板块企业的新股发行。根据中国金融数据提供商万得数据，科创板上市公司主要集中于新一代信息技术、新能源、新材料和高端装备制造产业，上述企业总共占比超过93%。

科创板对于大小型企业都深具吸引力，甚至包括中国最具利润前景的企业。

在2020年前九个月，中国大陆排名前五的IPO中有三宗发生在科创板，其中包括中芯国际募资额达80.3亿美元的IPO。中芯国际是中国最大的芯片制造商。

中芯国际来到科创板的道路有些波折，对于那些希望回归中国大陆资本市场的企业来说，中芯国际不失为一个有趣的案例。2004年，中芯国际曾在纽交所和港交所上市。2019年6月，公司选择从纽交所退市，结束了长达15年的“旅美生涯”。一年后的2020年7月，中芯国际在科创板完成了募资额达462.8亿元人民币（80.3亿美元）的二次上市，是其招股书中200亿元人民币募资目标的两倍有余。

另外一个有趣的案例是康希诺生物，这是一家正在研发新冠疫苗的生物科技公司，在该领域颇具竞争力。2019年3月康希诺在香港上市，2020年8月则在科创板完成了二次上市。

资本市场改革

科创板在中国持续进行的资本市场改革中扮演着重要角色。和其他交易所板块相比，科创板的监管呈现放松趋势，因为它采取了注册制，上市申请人只需通过上交所——而非中国证监会的审核。因此，科创板整体审核速度更快，也能够允许在其他板块上难以获得机会的企业在此上市。

前言

资本市场注册制改革旨在使企业募资流程变得更为简易，同时通过采用公开、无纸化的审批系统，加强整个流程的透明度。新制度的核心在于信息披露，同时将披露责任更多放到了发行人以及中介机构身上。

此种方式为尚未盈利企业的上市开辟了道路。大多数创新型企业，例如高科技和生物科技企业，都是在上市多年后才开始盈利。

此后，注册制试验又延展到了深交所的创业板上。

注册制引发的效果之一是等待提交IPO申请的数量大幅下降。当数百宗原本积压的IPO流入市场，投资者就有了更多机会。根据某些机构估算，注册制使得IPO流程平均缩减了5个月。

事实上，注册制改革使得科创板上市速度可以和海外知名交易所媲美，例如向来以上市速度著称的纳斯达克。

科创板及创业板采取的注册制也为新股上市开辟了更快的道路。根据德勤数据，科创板截止2020年底预计将发生170宗新股上市，总募资额达3200亿元人民币。与此同时，上交所主板的上市数量预计在120至150宗之间，募资额不到科创板的一半。

2020年12月6日，新致软件成为了第200家登陆科创板的企业。根据官方数据，此时科创板总募资额达到了2876亿元人民币。与之相比，同一时间段内，上交所主板上市企业数量只有科创板的一半。

通过合格境外机构投资者制度（QFII），科创板也吸引了海外投资者。事实上，2019年底，科创板获得的境外投资为2.7亿元人民币，而到了2020年11月底，这一数字已经飙升至56.4亿元人民币。未来境外投资将大有增长空间：毕竟，它们如今只占据科创板总资本额不到0.2%的份额。

未来，科创板将继续保持其吸引力。2020年12月初公布的处理中的中国A股IPO申请数量约为800宗，其中28%瞄准了科创板，约一半瞄准了创业板。

而在12月初公布的科创板新上市申请名单中，近四分之一企业来自健康与生命科学领域，数量几乎已经与TMT板块企业旗鼓相当。另有超三分之一企业来自先进制造业。





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第 10 章

上市公司公司治理问题

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第一节 公司治理的概念、主要制度及原则

一、 公司治理的概念

学术界对公司治理尚无统一定义。我国具有代表性的观点之一是李维安2001年在《公司治理》一书中提出的，“狭义的公司治理，是指所有者（主要是股东）对经营者的一种监督与制衡机制”“广义的公司治理则不局限于股东对经营者的制衡，而是涉及广泛的利益相关者”。

二、 中国上市公司治理的主要制度

中国上市公司治理的相关内容在法律、行政法规及国务院公布的其他文件、证监会及其他相关部门公布的部门规章，以及证券交易所和全国中小企业股份转让系统有限责任公司公布的业务规则等多个层级的规范性文件中均有所涉及，主要包括《中华人民共和国公司法》（以下简称“《公司法》”）《中华人民共和国证券法》《首次公开发行股票并上市管理办法》《上市公司治理准则》《上市公司章程指引》《上海证券交易所股票上市规则》《深圳证券交易所股票上市规则》等。

三、 上市公司治理的基本原则

上市公司治理应当健全、有效、透明，强化内部和外部的

监督制衡，保障股东的合法权利并确保其得到公平对待，尊重利益相关者的基本权益，切实提升企业整体价值。上市公司股东、实际控制人、董事、监事、高级管理人员，应当依照法律、行政法规、部门规章、规范性文件和自律规则行使权利、履行义务，维护上市公司利益。董事、监事、高级管理人员应当持续学习，不断提高履职能力，忠实、勤勉、谨慎履职。

本章结合我国现行法律法规中的相关规定，主要对上市公司治理涉及的主要问题作简要介绍。

第二节 股东与股东大会

一、 股东的权利

- 1、上市公司股东依照法律法规和公司章程享有权利并承担义务。上市公司章程、股东大会决议或者董事会决议等应当依法合规，不得剥夺或者限制股东的法定权利。
- 2、在上市公司治理中，应当依法保障股东权利，注重保护中小股东合法权益。
- 3、上市公司应当建立与股东畅通有效的沟通渠道，保障股东对公司重大事项的知情、参与决策和监督等权利。
- 4、上市公司应当积极回报股东，在公司章程中明确利润分配办法尤其是现金分红政策。上市公司应当披露现金分红政策制定及执行情况，具备条件而不进行现金分红的，应当充分披露原因。
- 5、股东有权依照法律、行政法规的规定，通过民事诉讼或者其他法律手段维护其合法权利。

二、 股东大会的主要职权

股东大会是我国股份有限公司的权力机构，对公司的重大事项进行决策，主要包含决定公司的经营方针和投资计划、决定董事、监事的人选及薪酬，审议批准董事会、监事会的报告、公司的年度财务预算方案、决算方案、公司的利润分配方案和弥补亏损方案、对公司注册资本、公司形式变更、公司章程的修改作出决议等。

三、 股东大会的规范

1、股东大会的召开

股东大会应当每年召开一次年会，出现法定或公司章程规定的情形时应当召开临时股东大会。

股东大会会议由董事会召集，董事长主持；董事长不能履行职务或者不履行职务的，由副董事长主持；副董事长不能履行职务或者不履行职务的，由半数以上董事共同推举一名董事主持。董事会不能履行或者不履行召集股东大会会议职责的，监事会应当及时召集和主持；监事会也不召集和主持的，连续九十日以上单独或者合计持有公司百分之十以上股份的股东可以自行召集和主持。

上市公司股东大会会议应当设置会场，以现场会议与网络投票相结合的方式召开。现场会议时间、地点的选择应当便于股东参加。上市公司应当保证股东大会会议合法、有效，为股东参加会议提供便利。

2、股东大会的表决

股东大会作出决议，必须经出席会议的股东所持表决权过半数通过。但是，股东大会作出修改公司章程、增加或者减少注册资本的决议，以及公司合并、分立、解散或者变更公司形式的决议，必须经出席会议的股东所持表决权的三分之二以上通过。股东可以委托代理人出席股东大会会议，代理人应当向公司提交股东授权委托书，并在授权范围内行使表决权。

上市公司应当在公司章程中规定股东大会的召集、召开和表决等程序，并制定股东大会议事规则，并列入公司章程或者作为章程附件。

四、股东权利保护的特殊安排

1、累积投票制

累积投票制，是指股东大会选举董事或者监事时，每一股份拥有与应选董事或者监事人数相同的表决权，股东拥有的表决权可以集中使用。

上市公司股东大会在董事、监事选举中应当积极推行累积投票制。单一股东及其一致行动人拥有权益的股份比例在30%及以上的上市公司，应当采用累积投票制。

2、股东投票权征集

上市公司董事会、独立董事和符合有关条件的股东可以向公司股东征集其在股东大会上的投票权。

征集投票权的具体要求包括上市公司及股东大会召集人不得对股东征集投票权设定最低持股比例限制、投票权征集应当采取无偿的方式进行，并向被征集人充分披露具体投票意向等信息。

五、机构投资者

机构投资者，主要指社会保障基金、企业年金、保险资金、公募基金的管理机构和国家金融监督管理机构依法监管的其他投资主体等。

监管部门鼓励机构投资者通过依法行使表决权、质询权、建议权等相关股东权利，合理参与公司治理。机构投资者依照法律法规和公司章程，通过参与重大事项决策，推荐董事、监事人选，监督董事、监事履职情况等途径，在上市公司治理中发挥积极作用。

第三节 董事与董事会

一、 董事的选任和义务

1、董事的选任

上市公司应当在公司章程中规定规范、透明的董事提名、选任程序，保障董事选任公开、公平、公正。

上市公司应当在股东大会召开前披露董事候选人的详细资料，便于股东对候选人有足够的了解。董事候选人应当在股东大会通知公告前作出书面承诺，同意接受提名，承诺公开披露的候选人资料真实、准确、完整，并保证当选后切实履行董事职责。

上市公司应当和董事签订合同，明确公司和董事之间的权利义务、董事的任期、董事违反法律法规和公司章程的责任以及公司因故提前解除合同的补偿等内容。

2、董事的义务

董事应当遵守法律法规及公司章程有关规定，忠实、勤勉、谨慎履职，并履行其作出的承诺；董事应当保证有足够的时间和精力履行其应尽的职责。

董事应当对董事会的决议承担责任。董事会的决议违反法律法规或者公司章程、股东大会决议，致使上市公司遭受严重损失的，参与决议的董事对公司负赔偿责任。但经证明在表决时曾表明异议并记载于会议记录的，该董事可以免除责任。

二、 董事会的主要职权

董事会对股东大会负责，职权主要包括召集股东大会并报告工作、决定公司的经营计划和投资方案、制订公司的年度财务预算、决算方案、制订利润分配方案和弥补亏损方案、决定公司内部管理机构、制订公司的基本管理制度、决定公司高级管理人员的人选及薪酬等。

三、 董事会的规范

1、董事会的构成

上市公司的董事会的成员人数为五人至十九人。董事会设董事长一人，可以设副董事长。

上市公司董事会成员中可以有公司职工代表，职工代表由公司职工通过职工代表大会、职工大会或者其他形式民主选举产生。国有投资主体出资的公司在设置职工代表董事时应当遵守《公司法》及国务院国有资产监督管理委员会相关文件中的规定。

2、董事会的召开

董事会每年至少召开两次会议。董事会会议由董事长召集和主持；董事长不能履行职务或者不履行职务的，由副董事长召集和主持；副董事长不能履行职务或者不履行职务的，由半数

以上董事共同推举一名董事召集和主持。

代表十分之一以上表决权的股东、三分之一以上董事或者监事会，可以提议召开董事会临时会议。董事长应当自接到提议后十日内，召集和主持董事会会议。

3、董事会的表决

董事会作出决议，必须经全体董事的过半数通过。董事会决议的表决，实行一人一票。表决方式上，在保障董事充分表达意见的前提下，根据上市公司的实际情况，可以采用书面表决票、传真等方式。

四、 独立董事制度

独立董事是指不在公司担任除董事外的其他职务，并与其所受聘的上市公司及其主要股东不存在可能妨碍其进行独立客观判断的关系的董事。

上市公司董事会成员中应当至少包括三分之一独立董事，其中至少包括一名会计专业人士，即具有高级职称或注册会计师资格的人士。

独立董事除应满足董事的任职资格外，还应当具备必要的工作经历，并应当满足独立性要求。

五、 董事会专门委员会

上市公司董事会通常设立审计、战略、提名、薪酬与考核等相关专门委员会。专门委员会对董事会负责，依照公司章程和董事会授权履行职责，专门委员会的提案应当提交董事会审议决定。

专门委员会成员全部由董事组成，其中审计委员会、提名委员会、薪酬与考核委员会中独立董事应当占多数并担任召集人，审计委员会的召集人应当为会计专业人士。

第四节 监事与监事会

一、 监事的选任

- 1、监事会的人员和结构应当确保监事会能够独立有效地履行职责。监事应当具有相应的专业知识或者工作经验，具备有效履职能力。上市公司董事、高级管理人员不得兼任监事。上市公司可以依照公司章程的规定设立外部监事。
- 2、监事有权了解公司经营情况。上市公司应当采取措施保障监事的知情权，为监事正常履行职责提供必要的协助，任何人不得干预、阻挠。监事履行职责所需的有关费用由公司承担。

二、 监事会的主要职权

监事会对股东大会负责，职权主要包括检查公司财务、对董事、高级管理人员执行公司职务的行为进行监督、提议召开临时股东大会、向股东大会提出议案、发现公司经营情况异常可以进行调查等。

三、 监事会的规范

1、监事会的构成

上市公司监事会成员不得少于三人。监事会设主席一人，可以设副主席，监事会主席和副主席由全体监事过半数选举产生。上市公司监事会应当包括股东代表和适当比例的公司职工代表，其中职工代表的比例不得低于三分之一。

国有独资公司监事会成员不得少于五人，其中职工代表的比例不得低于三分之一。

2、监事会的召开及表决

监事会主席召集和主持监事会会议；监事会主席不能履行职务或者不履行职务的，由监事会副主席召集和主持监事会会议；监事会副主席不能履行职务或者不履行职务的，由半数以上监事共同推举一名监事召集和主持监事会会议。

监事会决议应当经半数以上监事通过。相关法律法规对监事会议事规则并无过多强制性规定，需由上市公司自行制定。

第五节 高级管理人员与公司激励约束机制

一、 高级管理人员

高级管理人员，是指公司的经理、副经理、财务负责人，上市公司董事会秘书和公司章程规定的其他人员。

高级管理人员应当遵守法律法规和公司章程，忠实、勤勉、谨慎地履行职责。高级管理人员违反法律法规和公司章程规定，致使上市公司遭受损失的，公司董事会应当采取措施追究其法律责任。

二、 绩效与履职评价

上市公司应当建立公正透明的董事、监事和高级管理人员绩效与履职评价标准和程序。董事和高级管理人员的绩效评价由董事会或者其下设的薪酬与考核委员会负责组织，上市公司可以委托第三方开展绩效评价；独立董事、监事的履职评价采取自我评价、相互评价等方式进行。

董事会、监事会应当向股东大会报告董事、监事履行职责的情况、绩效评价结果及其薪酬情况，并由上市公司予以披露。

三、 薪酬与激励

董事、监事报酬事项由股东大会决定。上市公司章程或者相关合同中涉及提前解除董事、监事和高级管理人员任职的补偿内容应当符合公平原则，不得损害上市公司合法权益，不得进行利益输送。

上市公司可以依照相关法律法规和公司章程，实施股权激励和员工持股等激励机制。上市公司的激励机制，应当有利于增强公司创新发展能力，促进上市公司可持续发展，不得损害上市公司及股东的合法权益。

第六节 控股股东及其关联方

一、 控股股东及其关联方的行为规范

1、控股股东的概念

控股股东，指其持有的股份占公司股本总额50%以上的股东，或者持有股份的比例虽然不足50%，但依其持有的股份所享有的表决权已足以对股东大会的决议产生重大影响的股东。

2、控股股东及实际控制人的诚信义务

控股股东、实际控制人对上市公司及其他股东负有诚信义务。控股股东对其所控股的上市公司应当依法行使股东权利，履行股东义务。

控股股东提名上市公司董事、监事候选人的，应当遵循法律法规和公司章程规定的条件和程序。控股股东、实际控制人及其关联方不得违反法律法规和公司章程干预上市公司的正常决策程序，损害上市公司及其他股东的合法权益。

控股股东、实际控制人及上市公司有关各方作出的承诺应当明确、具体、可执行；承诺方应当在承诺中作出履行承诺声明、明确违反承诺的责任，并切实履行承诺。

二、 上市公司独立性的基本要求

上市公司的独立性主要包括人员、资产、财务分开，机构、业务独立等五个方面。

主要规定包括上市公司的高级管理人员在控股股东不得担任除董事、监事以外的其他行政职务；控股股东投入上市公司的资产应当独立完整、权属清晰；上市公司应当依照法律法规和公司章程建立健全财务、会计管理制度，坚持独立核算；控股股东、实际控制人及其内部机构与上市公司及其内部机构之间没有上下级关系；控股股东、实际控制人及其控制的其他单位不应从事与上市公司相同或者相近的业务，应当采取有效措施避免同业竞争等。

三、 关联交易的基本要求

关联交易指上市公司或者其合并报表范围内的子公司等其他主体与上市公司关联人之间发生的交易。

上市公司及其关联方不得利用关联交易输送利益或者调节利润，不得以任何方式隐瞒关联关系，具体规定包括上市公司应当与关联方就关联交易签订书面协议，遵循平等、自愿、等价、有偿的原

则，协议内容应当明确、具体、可执行；上市公司应当采取有效措施防止关联方以垄断采购或者销售渠道等方式干预公司的经营，损害公司利益；关联交易应当具有商业实质，价格应当公允等。

第七节 信息披露

一、信息披露内容的范围

上市公司和相关信息披露义务人应当披露所有可能对上市公司股票交易价格产生较大影响或者对投资决策有较大影响的事项。

除依照强制性规定披露信息外，上市公司可自愿披露可能对股东和其他利益相关者决策产生影响的信息。

二、信息披露的主要要求

上市公司和相关信息披露义务人应当及时、公平地披露信息，保证所披露信息的真实、准确、完整。

上市公司的董事、监事、高级管理人员应当保证公司及时、公平地披露信息，以及信息披露内容的真实、准确、完整，不存在虚假记载、误导性陈述或者重大遗漏。

第八节 科创板中的表决权差异安排

一、表决权差异安排的概念

在科创板中，表决权差异安排指在一般规定的普通股份之外，发行拥有特别表决权的股份。每一特别表决权股份拥有的表决权数量大于每一普通股份拥有的表决权数量，其他股东权利与普通股份相同。

随着证券发行注册制在我国资本市场的稳步推进，创业板也允许符合条件的企业设置表决权差异安排。

二、科创板对表决权差异安排的相关要求

设置表决权差异安排的科创板上市公司及拟上市公司需要满足相关法律法规中对市值及财务指标、设置的时间节点、拥有特别表决权股份的股东、与普通股份拥有权利的差异、特别表决权股份的增发、转换等方面的要求。

设置特别表决权股份的公司应当就其表决权差异安排在公司章程中明确规定，并在招股说明书等公开发行文件中，披露并特别提示差异化表决安排的主要内容、相关风险和对公司治理的影响，以及依法落实保护投资者合法权益的各项措施。

ASIAN LEGAL BUSINESS

GUIDE TO SHANGHAI STAR MARKET IPOs 2021



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Publisher's Note

December 2020

On behalf of everyone at ALB, it gives me great pleasure to introduce to you the **Asian Legal Business Guide to Shanghai STAR Market IPOs 2021**.

The release of this guide could not have been timelier. In early December, Newtouch Software became the 200th company to list on the Shanghai Stock Exchange STAR Market. That brought the total amount raised by companies on the new stock board to more than 287.6 billion yuan (\$44 billion), according to official figures. In comparison, a little more than 100 companies went public on the Shanghai main board since the STAR Market opened for trading a year and a half ago, according to the Wind Information database. Additionally, foreign investors are starting to pay attention: The amount of foreign investment in the new stock board surged from 270 million yuan at the end of 2019 to 5.64 billion yuan at the end of November, according to figures from China Renaissance.

Officially known as the Shanghai Stock Exchange Science and Technology Innovation Board, the STAR Market was established on July 22, 2019, with a focus on Chinese science and technology-focused equities. Touted as the Shanghai equivalent of the U.S. stock exchange Nasdaq, its goal was to give Chinese science and technology companies greater access to capital markets. In the 12 months since its launch, it had already become Asia's most valuable stock market, valued at more than \$400 billion. And given the track record so far, it is expected to keep shattering records for some time to come.

However, while the Shanghai STAR Market has captured the attention of companies and investors globally, as a new stock board, listing can be a tricky exercise. This guide, which aims to help you navigate the process, features articles contributed by experts on the various aspects of your listings journey, including pre-IPO preparation, the IPO application Process, intellectual property issues and IP litigation risk management, the role played by law firms, listings issue, the listing process for foreign corporations, tax considerations, offshore listing vehicles, corporate governance for listed companies, listed company compliance issues and much more.

I hope this guide assists your company in listing journey on the Shanghai STAR Market, and I would like to sincerely express my deepest appreciation to our contributors for helping make this guide possible.

Amantha Chia

Head of Legal Media Group, Asia & Emerging Markets
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Shanghai's STAR Market Paves Way for Reform

The Shanghai Stock Exchange is set to end the year among the top three markets for initial public offerings (IPOs) this year and that success is in large part due to its Nasdaq-style STAR Market.

Since it started trading with some fanfare on July 22, 2019, the Shanghai Stock Exchange Science and Technology Innovation Board, known as the STAR Market, has been a test bed capital markets regulatory reforms and a magnet for new issuances particularly from innovative technology, life sciences or new economy companies.

The STAR Market was the first board in mainland China to allow pre-profit companies to issue shares as well as companies with dual-class shareholding structures. The Hong Kong Stock Exchange (HKEx) amended its listing rules at the end of 2018 to allow pre-revenue companies. For years, pre-revenue companies had no choice but to raise funds in stock markets abroad.

On its first day of trading, the STAR Market included just 25 listed companies that gained between 84 percent and 400 percent.

Through 2020, the STAR Market continued building on its role as fertile experimental land for the development and reform of China's capital markets. Through the first half of 2020, the STAR Market was second only to Nasdaq in terms of the value of IPOs and secondary listings it attracted, accounting for 17.3 percent of all issuances around the world. It even narrowly topped the HKEx for total funds raised during that same period.

And the STAR Market has turned out to be a key pillar of growth for its parent, the Shanghai Stock Exchange (SSE).

In the first three quarters of 2020, the SSE attracted a total of 179 IPOs that raised a combined \$39.4 billion, the most for any stock exchange in the world for the period, according to consulting firm Deloitte.

The STAR Market accounted the bulk of all those issuances and funds raised. Of all the IPOs on the SSE in the first nine months of 2020, the STAR Market accounted for 113, which raised a total of \$28.26 billion.

Issuances Large and Small

Emulating the Nasdaq, the STAR Market is heavy on technology companies and new economy issuances. Statistics from Wind Information Co., a Chinese provider of financial data, suggest the STAR Market has proven attractive for next-generation information technology companies, new energy companies, new materials companies, high-end equipment manufacturers and the biotechnology bioindustry, sectors that account for about 93 percent of all companies on the MARKET.

The STAR Market has proven attractive to issuances large and small, including some of the highest-profile companies in China.

Three of the five largest IPOs in Mainland China during the first nine months of 2020 issued shares on the STAR Market, including the \$8.03 billion IPO by Semiconductor Manufacturing International Corporation (SMIC). SMIC is the largest chipmaker in China.

SMIC's road to the STAR Market, slightly winding as it proved to be, was an interesting case and not atypical for many of the companies returning home looking to raise funds on Mainland China's pioneering market. SMIC had gone public in 2004 on both the New York Stock Exchange and the Hong Kong Stock Exchange. The company withdrew its New York listing in June 2019, after 15 years. A year later, in July 2020, SMIC issued a secondary listing on the STAR Market that raised 46.28 billion yuan (\$8.03 billion), more than double the 20 billion yuan the company had targeted in its listing prospectus.

Another interesting company on the STAR Market is CanSino Biologics, a biotech company that is developing a COVID-19 vaccine and is among the leading contenders. CanSino issued shares in Hong Kong in March 2019 and followed that up in August 2020 with a secondary listing on the STAR Market.

INTRODUCTION

Capital Market Reforms

The STAR Market plays an important role in China's ongoing efforts to reform its capital markets. It is regulated but more lightly than other boards. Because it applies on a registration-based system, new issuances on the STAR Market are approved by the Shanghai Stock Exchange and not with the China Securities Regulatory Commission. As a result, approvals tend to be faster and permit companies that would not typically be allowed on other boards.

The goal of the registration-based IPO system is to make it easier for companies to raise funds while increasing transparency through a review system that is both open and paperless. At the core of the system is information disclosure but also puts more responsibility for those disclosure on the issuers themselves and intermediary agencies – the Shanghai Stock Exchange – as opposed to the regulator.

The approach makes it possible for companies that have not yet turned a profit to go public on the STAR Market. Most innovative companies in areas like high technology or biotechnology, to name two examples, often go public long before turning a profit.

The system is also being tested on Shenzhen's ChiNext board.

One side-effect has been a significant reduction in the number of open applications of IPOs. Eliminating a backlog of hundreds of potential listings makes it possible for investors to tap into funds faster. The IPO process has been cut by about five months, according to some estimates.

In fact, the registration system has made it possible for the amount of time it takes companies to list on STAR Market to be competitive with the fastest markets overseas, such as the Nasdaq.

The launch of a registration-based system for IPOs on the STAR Market as well as Shenzhen's ChiNext should pave the way for more listings. According to Deloitte, the STAR Market was set to finish 2020 with as many as 170 new listings that could raise as much as 320 billion yuan. By comparison, the main board of the SSE was expected to attract between 120 and 150 IPOs that raised about half that much.

The STAR Market attracted its 200th IPO on Dec. 6, 2020, when Newtouch Software started trading. That IPO helped the market reach 287.6 billion yuan in new issuances, according to official figures. By comparison, only about half that many companies went public on the main board of the SSE during that period.

The STAR Market is also attracting foreign investors, which can tap into it through Qualified Foreign Institutional Investor quotas. In fact, foreign investment on the STAR Market grew quickly from 270

million yuan at the end of 2019 to 5.64 billion yuan by November 2020. And there is plenty of room for foreign investment volumes to grow. At current levels, they account for less than 0.2 percent of the market's capitalization.

And the STAR Market is likely to remain attractive for quite some time to come. More than a quarter, 28 percent, of the 800 or so active IPO applications for A-share IPOs in China open by the beginning of December 2020 were for the STAR Market. Almost half were for Shenzhen's ChiNext board.

Among the applications for new listings on the STAR Market open in early December, almost a quarter were from healthcare and life sciences companies and just as many for companies in the technology, media and telecoms (TMT) space while more than a third were advanced industrials companies.





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CHAPTER

10

CORPORATE GOVERNANCE OF LISTED COMPANIES

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Section 1: The Concept, Main Policies and Principles of Corporate

1. “Corporate governance” as a concept

Academics have not agreed on a “standard” definition of corporate governance to date. One of the most widely accepted definitions in China is the one proposed by Li Wei’an in his book *Corporate Governance* - “Defined in the narrow sense of the term, corporate governance refers to supervision and counterbalancing mechanisms exercised by business owners (mostly shareholders) over business operators”, and “in the broad sense, corporate governance is not only limited to the enforcement of counterbalance by shareholders on operators, but involves an extensive range of stakeholders”.

2. Main corporate governance-related policies governing Chinese public companies

Many normative documents at various levels such as laws, administrative regulations, other documents promulgated by the State Council, departmental rules and regulations promulgated by the China Securities Regulatory Commission (CSRC) and other authorities, and business rules of stock exchanges and the National Equities Exchange and Quotations Co., Ltd. (NEEQ), mainly including the *Company Law of the People’s Republic of China* (hereinafter referred to as the “Company Law”), *Securities Law of the People’s Republic of*

China Interim Measures on Administration of Initial Public Offering and Listing on Growth Enterprise Board (《首次公开发行股票并上市管理办法》), *Code of Corporate Governance for Listed Companies in China*, *Guidelines for Articles of Association of Listed Companies*, *Stock Listing Rules of the Shanghai Stock Exchange* and the *Stock Listing Rules of the Shenzhen Stock Exchange*, contain provisions regarding corporate governance among listed companies in China.

3. Basic principles for listed companies conducting corporate governance

Corporate governance in listed companies shall be fully established, effective and transparent, and be capable of strengthening internal and external supervision and checks and balances, safeguard shareholders' legitimate rights, ensure fair treatment of shareholders and respect of stakeholders' basic interests, and effectively improve the overall value of the respective companies. Shareholders, ultimate controllers, directors, supervisors and senior managers of listed companies shall exercise their rights, discharge their obligations, and safeguard the interests of their respective companies in accordance with the laws, administrative regulations, departmental rules, normative documents and self-disciplinary rules. The directors, supervisors and senior managers shall commit themselves to continuous learning, and consistently improve their competence in faithfully, diligently and prudently performing their duties. This chapter outlines the main issues concerning corporate governance among listed companies based on an analysis of existing Chinese laws and regulations.

Section 2: Shareholders and the Board of Shareholders

1. Shareholders' rights

- (1) Shareholders of listed companies shall be entitled to related rights and assume obligations in accordance with the laws, regulations and the articles of association of their respective companies. The articles of association of listed companies and resolutions made by their boards of shareholders or directors shall conform to the laws and regulations, and may not prevent or restrict the shareholders from exercising their statutory rights.
- (2) Corporate governance in listed companies shall involve protecting shareholders' rights according to law, focusing on safeguarding the legitimate interests of small- and medium-sized investors.
- (3) Listed companies shall set up channels for conducting effective communications with shareholders, and safeguard their rights to access information on significant matters concerning their respective companies, to participate in related decision-making processes, and to supervise the companies.
- (4) Listed companies shall proactively provide returns on investment to shareholders, and specify the profit distribution method, especially the cash dividend payout policy, in their articles of association. Listed companies shall disclose information concerning the formulation and execution of the cash dividend payout policy - where a listed company fails to pay cash dividends after relevant criteria are fulfilled, it shall thoroughly disclose the reason as to why dividends are not paid.
- (5) Shareholders have the right to defend their legitimate rights through civil litigation or other legal means, in accordance with the provisions of relevant laws and administrative regulations.

2. Powers of the board of shareholders

The board of shareholders, as a governing body of a given limited liability companies in China, is responsible for making decisions on major matters within the company, mainly including determining internal business

policies and investment plans, appointment and remuneration of directors and supervisors, reviewing and approving reports submitted by the boards of directors and supervisors, and the company's annual financial budget plan, final account plan, profit distribution plan and loss recovery plans, and deciding on the company's registered capital, change in the company's corporate form changes, and amendments to the company's articles of association.

3. Rules of procedure for meetings of the board of shareholders

(1) Convening meetings of the board of shareholders

The board of shareholders shall hold an annual meeting every year, and shall convene extraordinary meetings upon the occurrence of relevant circumstances prescribed in the laws or the company's articles of association.

Meetings of the board of shareholders shall be convened by the board of directors and hosted by the board chairman; where the chairman cannot or refuses to perform his/her duties, the meeting shall be hosted by the vice chairman; where the vice chairman cannot or refuses to perform his/her duties, the meeting shall be convened by a director elected by the majority of the directors. Where the board of directors is unable or refuses to perform its duty of convening a meeting of the board of shareholders, the meeting shall be convened and hosted by the board of supervisors in a timely manner; if the board of supervisor does not convene or host the meeting, a meeting may be convened and hosted by a shareholder whose shareholding exceeds 10% for more than 90 days, or by shareholders with a combined shareholding of more than 10%.

The board of shareholders of any given listed company shall designate the venues for board meetings, which shall be conducted face-to-face with online voting provided. Selection of the meeting time and venue shall be conducive to shareholders' participation. Listed companies shall ensure the legitimacy and validity of meetings of their boards of shareholders, and facilitate participation in the meetings by the shareholders.

(2) Voting during meetings of the board of shareholders

Resolutions made by the board of shareholders must be validated with the approval of shareholders representing more than 50% of the total voting rights held by shareholders present at the meeting; However, resolutions made by the board of shareholders to amend the articles of association, increase or decrease the registered capital, or concerning any merger, dissolution or liquidation of the Company or change in corporate form shall be subject to the approval of shareholders representing more than two-thirds of the total voting rights held by shareholders present at the meeting. Shareholders may authorize a proxy to attend meetings of the board of shareholders, in which case the proxy shall submit the power of attorney to the company, and exercise voting right within the authority granted to him/her.

Listed companies shall specify the procedures for convening, holding and voting on meetings of the board of shareholders in their articles of association, and set the rules of procedure for the board meetings, and enclose the same in their articles of association, or append them to the articles of association as annexes.

4. Special arrangements concerning the protection of shareholders' rights

(1) Cumulative voting

Cumulative voting refers to a policy where, during an election of directors or supervisors conducted by

the board of shareholders, each share represents voting rights equivalent to the number of directors/supervisors to be elected, and the shareholders may exercise their voting rights in a concentrated fashion.

Listed companies shall actively promote the use of cumulative voting in director and supervisor elections. Listed companies, in which a single shareholder and its persons acting in concert hold a 30% or greater stake, shall adopt the cumulative voting system.

(2) Solicitation of voting rights from shareholders

The board of directors, independent director(s) and eligible shareholders of a listed company may solicit voting rights exercisable at meetings of the board of shareholders from the company's shareholders.

Specific eligibility criteria regarding solicitation of voting rights include the following items: the listed company and the convener of the board of shareholders may not set any minimum shareholding limits for the solicitation of voting rights from shareholders; solicitation of voting rights shall not involve the offering of any compensation for voting rights provided, and details of the voting intension, etc. shall be fully disclosed to the shareholders from whom voting rights are solicited.

5. Institutional investors

Institutional investors mainly include the managing bodies of social security funds, corporate annuities, insurance funds and publicly offered funds, and other investment entities regulated by national financial supervisory and regulatory authorities.

The regulatory authorities encourage institutional investors to exercise their shareholders' rights, e.g. voting, inquiry and suggestion rights, and participate in corporate governance operations according to law. Institutional investors shall play an active role in corporate governance of listed companies by getting involved in decision-making on significant matters, recommending director and supervisor candidates, and supervising directors and supervisors in performing their official duties, in accordance with the laws, regulations and the companies' articles of association.

Section 3: Directors and the Board of Directors

1. Selection and appointment of directors, and their obligations

(1) Selection and appointment of directors

Listed companies shall set out standardized and transparent procedures for nominating, selecting and appointing directors in their articles of association, so as to ensure the openness, fairness and impartiality of director selection and appointment activities.

Listed companies shall disclose detailed information of director candidates before holding a meeting of the board of shareholders, such that shareholders can acquire an adequate understanding of the candidates. Prior to the announcement of the board meeting notice, the director candidates shall acknowledge their agreement with the nomination in writing, guarantee the authenticity, accuracy and completeness of the candidate information publicly disclosed, and undertake to effectively discharge their duties as directors after appointment.

Listed companies shall enter into a contract with each director to specify their respective rights and obligations, the director's term of office, liability of the director for violation of the laws or regulations or the company's articles of association, and compensation payable for early termination of the contract on the company's part.

(2) Directors' obligations

The directors shall comply with the laws, regulations and the company's articles of association, faithfully, diligently and prudently perform their official duties, and carry out undertakings made by them; and ensure that they have adequate time and energy to perform their duties.

The directors shall be liable for resolutions made by the board of directors. Where a resolution made at a meeting of the board of directors is found in violation of the laws, regulations, the company's articles of association or any resolution adopted by the board of shareholders, resulting in the company suffering serious losses, the directors involved with the resolution shall be held responsible to compensate the Company for the losses. However, directors who objected to the resolution with relevant information recorded in the meeting minutes shall be excluded from the liability.

2. Powers of the board of directors

The board of directors is responsible to the board of shareholders. Its powers mainly include the power to convene meetings of the board of shareholders and report on its work, determine the company's business and investment plans, develop the company's annual financial budget plan, final account plan, profit distribution plan and loss recovery plans, determine the company's internal governing bodies, compile basic management policies in the company, appoint the company's senior managers, and determine their remuneration.

3. Rules of procedure for the board of directors

(1) Composition of the board of directors

The board of directors of a listed company shall have five to nineteen. One chairman shall be appointed, and one or more vice chairmen may be appointed.

Members of the board of directors may be representatives of employees, who are democratically elected by the company's employees at a workers' congress, a meeting of staff representatives or other democratic elections. In the case of companies funded by a state-owned investment entity, their staff-representative directors shall be appointed in compliance with the Company Law and relevant provisions set out in documents issued by the State-owned Asset Supervision and Administration Commission (SASAC) of the State Council.

(2) Convening meetings of the board of directors

The board of directors shall hold at least two meetings every year. Meetings of the board of directors shall be convened and hosted by the board chairman; where the chairman cannot or refuses to perform his/her duties, the meeting shall be convened and hosted by the vice chairman; where the vice chairman cannot or refuses to perform his/her duties, the meeting shall be convened and hosted by a director elected by the majority of the directors.

An extraordinary meeting of the board of director may be convened, if it is proposed by shareholders

representing more than 1/10 of the total voting rights, or by shareholders or supervisors representing more than 1/3 of the total voting rights. The board chairman shall convene and host the meeting within 10 days after receiving the proposal.

(3) Voting during meetings of the board of directors

Resolutions of the board of directors must be validated with the approval of the majority of the directors. The board of directors adopts the “one man, one vote” system for its resolutions. Voting may be conducted in writing, by fax, etc. depending on the actual situation at the listed company, provided that the directors are allowed to thoroughly express their opinion.

4. Independent directors

“Independent directors” refer to directors who do not hold any other positions in the listed company hiring them, and who do not have any relationship with the company or its main shareholders that may affect the objectivity of their judgment.

At least 1/3 of the members of the board of directors shall be independent directors, and at least one of the independent directors shall be an accounting professional, i.e. a person holding a senior professional title or is qualified as a Chartered Public Accountant (CPA).

In addition to the general eligibility criteria for directors, independent directors shall also meet special requirements with respect to professional experience and independence.

5. Dedicated committees under the board of directors

The board of directors of a listed company typically has dedicated audit, strategic, nomination, remuneration and performance appraisal committees. They are responsible to the board of directors, and discharges their duties pursuant to the company’s articles of association and based on authorization granted by the board of directors. Proposals made by the committees shall be submitted to the board of directors for deliberation and approval.

Members of the committees shall be consisted exclusively of directors. Specifically, independent directors shall make up the majority of the members of the audit, nomination and remuneration and performance appraisal committees, and the conveners of these committees shall be served by independent directors; the convener of the audit committee shall be served by an accounting professional.

Section 4: Supervisors and the Board of Supervisors

1. Selection and appointment of supervisors

- (1) The board of supervisors shall be composed of and structured in a way that enables the board to discharge its duties independently and effectively. The supervisors shall possess the corresponding professional expertise or experience, and be capable of effectively performing their duties. Directors and senior managers of listed companies may not concurrently act as a supervisor. Listed companies may appoint external supervisors in accordance with relevant provisions of their articles of association.

- (2) The supervisors have the right to inquire into the company's business operations. Listed companies shall take measures to safeguard their supervisors' right of information, and provide them with necessary assistance in normally discharging their duties. No one may interfere with or obstruct their performance of official duties. Expenses incurred by the supervisors in discharging their duties shall be borne by the company.

2. Powers of the board of supervisor

The board of supervisors shall be responsible to the board of shareholders. Its powers mainly include the power to conduct inspections on the company's financial operations, supervise the practices of directors and senior managers in performing their duties, propose to convene an extraordinary meeting of the board of shareholders, put forward proposals to the board of shareholders, and to investigate into business irregularities once detected.

3. Rules of procedure for the board of supervisors

(1) Composition of the board of supervisors

The board of supervisors of a listed company shall have at least three members. It shall have a chairman, and one or more vice chairmen may be appointed. Both the chairman and vice chairmen shall be elected by the majority of supervisors. Members of the board of supervisors of a listed company shall include representatives of the shareholders and an proportionate number of staff representatives. In particular, the staff representatives shall make up at least 1/3 of the total number of supervisors.

In the case of wholly state-owned companies, the board of supervisors shall have least five members, at least 1/3 of whom shall be staff representatives.

(2) Convening meetings of the board of supervisors, and voting during the meetings

Meetings of the board of supervisors shall be convened and hosted by the board chairman; where the chairman is unable or refuses to perform his/her duty, the meeting shall be convened and hosted by the vice chairman; where the vice chairman is unable or refuses to perform his/her duty, another supervisors shall be elected by the majority of the supervisors to convene and host the meetings.

All resolutions of the board of supervisors must be validated with the approval of more half of the supervisors. The laws and regulations do not contain a substantial number of compulsory provisions related to the rules of procedure for the board of supervisors, and such rules of procedure need to be developed by listed companies at their own discretion.

Section 5: Senior Managers and Incentive and Discipline Mechanisms

1. Senior managers

"Senior managers" refer to a company's managers, deputy managers, chief financial officers, secretary to the board of directors of listed companies, and other people prescribed in their articles of association. Senior managers shall comply with the laws, regulations and the company's articles of association, and discharge their duties faithfully, diligently and prudently. Where a senior manager is found in violation of the laws, regulations or the company's articles of association, resulting in damages being caused to the Company, the board of directors shall investigate into his/her legal liability.

2. Appraisal of work performance and performance of duties

Listed companies shall set up fair and transparent standards and procedures for appraising the work performance of directors, supervisors and senior managers, and their performance of official duties. Work performance appraisal for directors and senior managers shall be conducted by the board of directors or its remuneration and performance appraisal committee. The listed company may engage a third party to conduct the performance appraisal; appraisal of independent directors and supervisors shall be conducted in the form of self-assessment or peer review.

The boards of directors and supervisors shall report to the board of shareholders on the directors' and supervisors' performance of their duties, outcomes of work performance appraisal and their remuneration, and relevant information shall be disclosed by the listed company.

3. Remuneration and incentives

Matters related to the remuneration of directors and supervisors shall be determined by the board of shareholders. Provisions concerning compensation arrangements for early removal of a director, supervisor or senior manager (if any) specified in the company's articles of association or related contracts shall conform to the principle of impartiality, and shall not jeopardize the listed company's legitimate interests, or involve tunneling of interests.

Listed companies may enforce equity incentive and employee stock ownership incentive mechanisms in accordance with relevant laws, regulations and their respective articles of association. Such incentive mechanisms shall conduce to improvement in the listed companies' ability to drive innovation-oriented development, and to their sustainable growth, and shall not jeopardize the legitimate interests of the listed companies and their shareholders.

Section 6: Controlling Shareholders and Affiliates thereof

1. Code of conduct for controlling shareholders and affiliates

(1) The definition of controlling shareholders

A "controlling shareholder" refers to the shareholder whose shareholding accounts for more than 50% of the company's total equity, or whose shareholding makes up less than 50% of the total equity, but whose voting rights, which are assigned to the shareholder in proportion to its shareholding, are substantial enough to materially affect the resolutions of the board of shareholders.

(2) Duty of good faith of controlling shareholders and ultimate controllers

The controlling shareholder and the ultimate controller owe the duty of good faith toward the listed company and other shareholders. The controlling shareholder shall exercise their rights as shareholders over the listed company, and discharge their obligations as shareholders.

The controlling shareholder shall nominate director and supervisor candidates following the conditions and procedures prescribed in the laws, regulations and the company's articles of association. The controlling shareholder, ultimate controller and their affiliates shall not interfere with the listed company's normal decision-making process in violation of the laws, regulations or the company's

articles of association, or jeopardize the legitimate interests of the company or other shareholders.

Undertakings made by the controlling shareholder, ultimate controller and other related parties to the listed company shall be explicit, specific and enforceable; the entities making the undertakings shall declare their commitment to the undertakings, and specify the liability for violation of such undertakings in the written undertakings, and effectively fulfill the undertakings.

2. Basic requirements concerning the independence of listed companies

The independence of listed companies requires the separation of personnel, assets, financial operations, institutions and the independence of businesses.

Relevant provisions mainly include: senior managers of a listed company may not hold any administrative positions other than director or supervisor at the controlling shareholder's company; assets injected by the controlling shareholder in the listed company shall be independent and complete with clear ownership; the listed company shall establish and continuously improve its financial and accounting management systems, and stick to independent accounting, in compliance with the laws, regulations and the articles of association; the controlling shareholder, ultimate controller and internal organizations thereof shall not be involved in any superior-subordinate relationship with the listed companies or its internal organizations; the controlling shareholder, ultimate controller and other entities controlled by them shall not operate any businesses identical or similar to those of the listed company, and shall take effective measures to avoid horizontal competition.

3. Basic requirements related to related-party transactions

"Related-party transactions" refer to transactions that take place between a listed company or subsidiaries included in its consolidated financial statements and the listed company's other affiliates.

Listed companies and their affiliates shall not use related-party transactions to tunnel interests or manipulate profits, or conceal such affiliation by any means. Relevant provisions include the following items: the listed company shall enter into a written agreement with the affiliate(s), and abide by the principles of equality, free will, value equivalence and reasonable compensation, and the provisions contained in the agreement shall be explicit, specific and enforceable; the listed company shall take effective measures to prevent the affiliate(s) from interfering with its business operations by creating monopolies on procurement or sales channels, thus jeopardizing the company's interests; related-party transactions shall be conducted based on commercial substance, and be priced based on fair value.

Section 7: Information Disclosure

1. Scope of information disclosure

The listed company and related information disclosure obligors shall disclose information regarding all matters that may significantly affect the trading prices of its shares or strategic investment decisions.

Apart from information whose disclosure is compulsorily required by law, the listed company may disclose information that may affect the decisions made by the shareholders or other stakeholders on a voluntary basis.

2. Main information disclosure requirements

The listed company and related information disclosure obligors shall disclose information in a timely and impartial fashion, and ensure the authenticity, accuracy and completeness of the information disclosed.

Directors, supervisors and senior managers of the listed company shall ensure that the company discloses information in a timely and impartial fashion, and that the information disclosed is authentic, accurate and complete, and does not involve any misrepresentations, misleading statements or material omissions.

Section 8: Weighted Voting Rights Arrangements on the STAR Market

1. Definition of weighted voting rights (WVR) arrangements

As far as the STAR Market is concerned, “WVR arrangements” refer to arrangements where shares carrying special voting rights are issued in addition to common stock prescribed in the regulations. The number of voting rights carried by each WVR share is greater than that of voting rights vested in a common share, and other rights of WVR shareholders are identical to those of common shareholders.

The Growth Enterprise Market (GEM) now allows eligible enterprises to make WVR arrangements, in line with the steady introduction of the registration-based IPO system in the Chinese capital market.

2. WVR-related regulatory requirements on the STAR Market

STAR Market-listed companies with WVR arrangements, and companies with WVR arrangements proposing to file for an IPO on the STAR Market should meet requirements specified in the laws and regulations regarding their capitalization and financial indicators, date of WVR initiation, WVR shareholders, differences in shareholder’s rights relative to common shareholders, issuance of additional WVR shares, and transfers of WVR shares.

Companies with WVR arrangements should set out specific provisions regarding the WVR arrangements in their respective articles of association, disclose and make special reminders of what is involved in the WVR arrangements, related risks and their impact on corporate governance in the share sale prospectus and other public documents, and effectively enforce various measures aimed at safeguarding shareholders’ interests according to law.

About Hai Run Law Firm

Hai Run Tian Rui Law Firm (Hereinafter referred to as “Hai Run Law Firm”), formerly known as Hairun Law Firm, was founded in 1997 and merged with Tianrui Law Firm in 2017. After more than 20 years of accumulation, great progress has been made, and it has developed rapidly after the merger. In 2019, the overall staff growth rate reached 58%. As a large-scale and comprehensive law firm, its business covers: capital markets, banking and finance, insolvency and restructuring, dispute resolution, mergers and acquisitions, real estate and construction, regulatory and compliance, disposal of non-performing assets, intellectual property protection, and government legal affairs and so on.

Asian Legal Business

Guide to Shanghai STAR Market IPOs 2021

The **ALB Guide to Shanghai STAR Market IPOs 2021** provides guidance to companies on solving a variety of issues they might face in their listing journey on the Shanghai Stock Exchange's STAR Market. The IPO handbook features a number of topics on issue that a company needs to consider during its listing journey, with advice provided by experts who have been offering IPO-related services since the beginning of the new STAR Market and have the most up-to-date knowhow.

These include:

- Pre-IPO preparation and IPO application process
- Intellectual property and tax issues
- Red chips, VIE structure, valuation adjustment mechanism and other specific issues
- Choosing your offshore listing vehicle
- Governance and compliance issues of listed companies

And more.

亚洲法律杂志

上海科创板首次公开发行手册2021

ALB上海科创板首次公开发行手册2021旨在为公司在上海证券交易所科创板上市道路上可能遇到的一系列问题提供指引。本手册能够帮助您厘清公司上市过程中需要达到的各方面要求，并邀请有诸多科创板IPO相关业务经验及最新业务情报的专家提供有益建议。

本手册的内容包括：

- 上市前准备和上市申请流程
- 知识产权及税务问题
- 红筹、VIE架构、绿鞋机制、对赌等具体上市问题
- 离岸工具选择
- 上市公司治理与合规问题

以及更多内容。