

# 证券市场规范与发展 国际研讨班论文集

■ 中国证券监督管理委员会 编

Collection of Essays and Articles from the  
Training Workshop on the Standardization and  
Development of Securities Markets




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中国证监会副主席高西庆(左二)、中国证监会首席顾问梁定邦(右二)以及中国证监会秘书长屠光绍(左一)在研讨班开幕式上

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Secretary General of China Securities Regulatory Commission (First left)



研讨班会场  
The Symposium



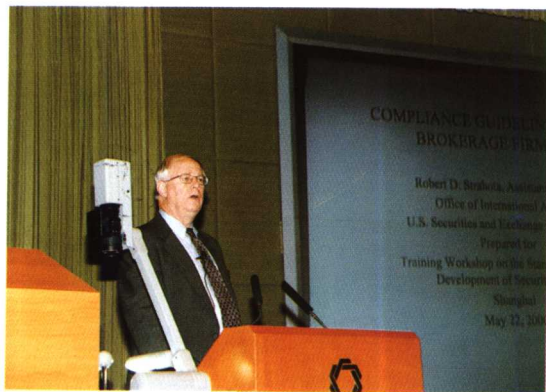


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Anthony Neoh, Visiting Professor of Peking University  
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美国证监会国际事务部助理  
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纽约银行香港部副总裁和地区董事加里·佩克(右)、Cleary, Gottlieb, Steen & Hamilton 律师事务所合伙人麦克·M·希克曼博士(中)以及来自硅谷的研究法人治理和法人控制问题的专家戴维·J·伯杰



Gary Peck, Vice President and Regional Director at the Bank of New York in Hong Kong (Right), Michael M. Hickman, a partner of Cleary, Gottlieb, Steen & Hamilton (Middle) and David Berger, Silicon Valley's leading experts on issues of corporate governance and corporate control (Left)



与会的外方专家

International experts presented at the Symposium



与会的中方专家和学者

Domestic experts and scholars at the Symposium



研讨班工作小组

Staff of the Symposium

# 中国证监会副主席高西庆在证券市场 规范与发展国际研讨班上的讲话

(代 序)

各位来宾,各位专家,早上好!

今天中国证监会、上海证券交易所与美国杜克大学国际资本市场研究中心共同在上海举办证券市场规范与发展国际研讨班,对我们来说是一件很重要的事情。研讨班邀请了美国的一些专家进行专题演讲,也请了一些国内专家主持研讨,还请了监管部门的工作人员,国内一些上市公司、证券公司的代表参加此次培训。

众所周知,我国证券市场在短短十年里发展得很快,取得了很大的成绩,但也存在许多问题,市场规范化程度并不高。我们的市场是一个新兴的市场,要发展到很规范、水平很高的程度,还需要相当一段的时间。我们现在的任务是要尽量地去缩短这个时间。我们不能再像美国那样用



200年的时间去慢慢地发展。我们要站在巨人肩膀上,用尽可能多的时间去学习别人在成功市场已有的经验,去了解他们的制度,学习他们的优点,并想办法避免他们所走过的弯路。所以,借鉴国外的经验与教训,促进我国证券市场整体水平、素质的提高,是我们这次培训学习的重要目的。

这次研讨班有几个很重要的题目。一是公司法人治理结构问题。现在很多人反映上市公司质量不高,上市之前看起来很好,结构方面看上去也很合理,上市之后就出现各种各样的问题。这样的问题为什么会出现,除了制度方面的原因外,很重要的原因在上市公司本身。当然监管部门的水平也有待于提高,大家对于一个合理机制应该怎么去运作,怎样构成,经验还是不够。所以,我们请了美国公司法方面最著名的专家之一——考克斯先生。他在这方面有很深的造诣,而且在美国这个领域里,很受尊重。他会给我们讲公司法人治理结构的问题,其中包括一些很重要的原则,比如诚信原则等等。这对于我们这个市场来讲是一个相对比较新的事情,我们希望在这方面得到很多收获。

二是证券监管工作问题。在座的多数人来自监管部门。这次我们很荣幸请来了美国证监会的斯塔侯塔先生。他在美国联邦证券和交易委员会工作了很多年,对美国证券监管系统很了解,这方面知识经验很多,希望在证券监管部门的法规、制度及运作规范等方面给我们以启发。

三是信息披露问题。我们请到美国会计师事务所的专家讲信息披露的问题。信息披露对我们上市公司和证券公

司来说都不是陌生的,但和成熟市场相比,我们这方面的差距是很大的。尤其是有些方面从表面上看起来比较一致,到了深层就会出现問題。最近,在关于金融企业上市的一个座谈会上,周小川主席讲到了大量有关这方面的问题。这次会上我们与银行、保险、证券业界的很多同事就这些问题进行了磋商,就银行、保险和证券类企业上市的问题交换了意见。如果金融企业上市,将其自己业界目前所要求的制度拿出来披露的话可能有一定的问题。但如果制定了一些规则,又不让别人去知道,这在证券市场上是不能允许的。类似的问题对于我们来说都是一个挑战。在我们整个制度转轨的过程中,如何参照成熟市场的做法去做这些事情,对于我们来说是很重要的。

四是关于“新经济”的问题。目前在即将跨入 21 世纪的时候,国际上产生了一个有很大轰动性效应的课题,叫“新经济”。与此相对应,美国人习惯把它叫做老经济,而中国人则说传统经济。传统经济这个词不一定很准确,我还想要用老经济这个词。我们现在上市公司属老经济的还占绝大多数,另外有一些公司上网、触网,改了名字,用了一点东西搞了一个网,就声称自己成了新经济的代表。但是实质性的进入新经济领域的公司还是少数。为此我们在这次研讨班里请了一些专家专门来给我们讲新经济领域里的一些知识。新经济发展的基础,最先开始的地方是在美国。这次,我们请到了美国硅谷最重要的律师事务所的合伙人伯格先生来给我们讲新经济领域里一些新的规则。不管从

网上交易角度来讲,还是从高新技术企业上市、风险投资机制的建立及新经济企业激励约束机制的建立等方面来说,这对我们都有很重要的意义。

此次研讨班还有一个内容是与世界范围内的证券合作监管问题有关的,即各个市场互相之间的交叉,就是以前我们说的 ADR、GDR、CDR 和 HDR 等,也就是美国信托凭证、全球信托凭证、上海信托凭证、深圳信托凭证、香港信托凭证等。这些问题会给我们带来一些新的课题,尽管有些东西尚未在我国市场上出现,但对我们的发展是有意义的。所以,我希望大家通过这个研讨班,向外面的这些专家们学到一些东西,从而开阔思路,进一步提高自己这方面的水平。

最后,预祝这次研讨班取得成功。

## Preface

Gao Xiqing, Vice Chairman of CSRC

**Good morning, ladies and gentlemen, our distinguished guests,**

We come to the International Workshop on Standardization and Development of Securities Markets, jointly, hosted by China Securities Regulatory Commission, Shanghai Stock Exchange and Duke Global Capital Markets Center. We have invited some American experts to deliver talks on their specialty topics, and some Chinese experts to chair the discussions. Many of our regulatory personnel as well as representatives from Chinese public companies and securities firms will attend the workshop.

As you know, the Chinese securities market has experi-



enced tremendous growth and development over the past decade. Along the way, we have made significant progress, while still encountered some problems, such as the limited level of standardization. We are an emerging market that still has a long way to go. Our job is to shorten the interval. China cannot afford the two hundred years that took the US to reach today's status. Therefore, we have to stand on the giant's shoulders, leverage on other's successful experiences, understand their rules of the game, learn from their accomplishments and lessons, and avoid making the same mistakes. Through practices such as this workshop, we hope to improve the entire domestic security markets.

We will cover several crucial topics during the workshop. The first one is Corporate Governance. There are lots of complaints about the quality of Chinese public companies, citing drastic difference in performance pre and post the IPO. Besides regulatory loopholes of our system, the more profound reason lies within the companies themselves. Certainly our regulatory agencies need more experience in understanding the operation and structure of a good company. That's why we need to learn from the professionals from the more developed markets. Dr. James D. Cox, the famous expert in US corporate laws, will give us a lecture on Corporate Governance, covering many important principles, such as the principles of fiduciary duty.

This is a rather refreshing idea and we look forward to a lot of inspiration from his lecture.

The second topic covers Regulation and Supervision. Most attendants here are from our regulatory agencies. We are honored to have Mr. Strahota from the Securities and Exchange Commission of the US, join us at the workshop. Mr. Strahota is a veteran at the SEC with intimate knowledge and expertise in America's regulatory systems such as laws and regulations, government structure and standard operating standards. We will surely gain some insight from him.

The third topic is Information Disclosure, which will be discussed by several experts from US accounting firms. Information Disclosure is not a new concept to our publicly traded companies or securities firms. However, we still lag well behind the developed markets, especially when we go beyond the surface. Chairman Zhou Xiaochuan talked about this matter in a recent symposium for listing financial institutions. At the same symposium, we have also discussed and exchanged ideas with many colleagues from banks, insurance companies and securities firms regarding disclosure. Should they go public, they would have difficulty disclosing all the rules and terms given the current nature of the industry. Nevertheless, the securities market would not allow partial disclosure by a publicly traded company. This kind of problems presents a great challenge to

us. During the transition period, it is essential for us to find a feasible route by studying the roadmap of the more developed markets.

The forth topic is "New Economy". It is a hot concept throughout the world, just emerged as we enter the new century. The opposite term, as Americans call it, is the "Old Economy", and we call it "Traditional Economy", "Traditional" may not be precise, therefore I will borrow the term "Old". Most of our public companies still belong to the old economy, while some of them hoped to join the new league by changing their names or putting up a website. However, only few enterprises truly possess the characteristics of the new economy. We have invited some experts in the field to share some wisdom on the subject. The US can be said to be the birthplace of the "New Economy". We have asked Mr. David Berger, partner of the most important law firm in Silicon Valley, to introduce some new rules in the new economic environment. We can't stress enough on the importance of this topic, be it from the perspective of online trading, or enlisting high-tech companies, or establishing venture capital mechanisms, or even the incentive system in the new economy.

We will also cover the overlap and cooperation between our markets and international markets in terms of regulation and monitoring. Some relevant products include ADR (American

Depository Receipts ), GDR ( Global Depository Receipts ), CDR(Shanghai and Shenzhen Depository Receipts) and HDR (Hong Kong Depository). Even though they do not exist in our domestic markets, they will bring some new challenges for us to prepare for the globalization of our markets.

I hope we can all learn something from this workshop and open our mind to absorb the expertise from our experts.

I wish the workshop a great success.



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