



THE EVOLVING ROLE OF STOCK EXCHANGES IN ASIA

**STANDARD-SETTING, SUPERVISION AND ENFORCEMENT OF
DISCLOSURE OBLIGATIONS AND CORPORATE GOVERNANCE
RULES**

DRAFT BACKGROUND REPORT

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Introduction

After the wave of profound structural changes, including the demutualisation and privatisation process that began among some OECD stock exchanges in the 1990s, a number of stock exchanges in Asia have over the past decade embarked on a similar process, challenging the scope of their responsibilities and role in supporting sound corporate governance. This report examines the evolving role of stock exchanges with regard to standard-setting, supervision and enforcement of disclosure obligations and corporate governance rules in Asia considering structural changes in the stock exchange industry and public equity markets. The objective is to support institutions in the region as they implement the *G20/OECD Principles of Corporate Governance* (“the *Principles*”).

This report is expected to engage Asian stock exchanges and relevant institutions in a discussion on their new role in supporting corporate governance, taking into account the context in which they operate, the global trend of demutualisation and the different incentives and business models of the stock exchanges. This report does not intend to discuss broadly the role of stock exchanges in the Asian market, but is focused on their evolving role with regard to corporate governance rules; it does not intend either to discuss the governance of stock exchanges themselves.

Recognising the key role that exchanges have played and can continue to play, this report provides a stock-taking using an 2016 OECD survey (“**Survey**”) to highlight key issues and good practices by stock exchanges in advancing corporate governance in their respective jurisdictions.

Some statistics about the participating jurisdictions in the Survey:

- 13 Asian jurisdictions were surveyed (Bangladesh; the People’s Republic of China, hereafter China; Chinese Taipei; Hong Kong, China; India; Indonesia; Korea; Malaysia; Pakistan; Philippines; Singapore; Thailand and Viet Nam).
- The Survey covers 18 stock exchanges.

This report is structured in the following manner. Part 1 describes the traditional role of stock exchanges, the main structural changes in the global landscape. Part 2 introduces the specific issues faced by the Asian region in relation to the global trends. Part 3 discusses the evolution in the traditional role of exchanges as a consequence of structural shifts, focusing respectively on the role of stock exchanges in standard-setting, supervision and enforcement of disclosure obligations and corporate governance rules in Asia with examples of practices around the region. Finally, Part 4 – acknowledging the changing business models of stock exchanges – examines good practices in different jurisdictions and discusses how stock exchanges are promoting and implementing corporate governance standards.

Part 1. The global landscape

The primary direct contribution of stock exchanges to ensuring sound corporate governance has traditionally been the issuance of listing rules, disclosure standards and the monitoring of compliance with these standards. In relation to corporate governance standards, other roles performed by stock exchanges include promoting corporate governance recommendations for listed companies, clarifying existing aspects of the corporate governance framework, monitoring compliance with legislation or subsidiary securities regulation, and collaborating with other regulatory bodies, most often securities regulators, in promoting good governance outcomes. On the enforcement side, stock exchanges are

generally limited to administrative sanctions such as reprimands, fines, suspension and delisting. Some stock exchanges have also complemented the regulatory role by providing training to directors, conducting corporate governance studies and supporting national initiatives (Christiansen and Koldertsova, 2009).

Recent global trends have led to changes in the ownership structure of stock exchanges, which in turn affect the scope of their responsibilities with respect to standard-setting, supervision and enforcement of disclosure obligations and corporate governance rules. In many countries, stock exchanges were initially established as member-owned organisations or government institutions. Since the mid-1990s, many stock exchanges have been transformed into privately-owned for-profit or non-for profit corporations and then demutualised.

Demutualisation is the process of converting a non-profit, mutually-owned organisation into a for-profit, investor-owned corporation (Aggarwal, 2002). The members of mutually-owned exchanges are also their owners, with all the voting rights conferred by ownership. In contrast, a demutualised exchange is a limited liability company owned by its shareholders. Although demutualised exchanges provide many, if not most, of the same services as mutually-owned exchanges, they have a different governance structure in which outside shareholders are represented by board directors. Decisions by exchanges to demutualise are often based on the recognition that the former member-owned association structure does not provide the flexibility and the financing needed to compete in today's environment.

The process of demutualisation takes place in stages and can ultimately take several different forms. In the first phase, members are typically given shares and so become legal owners of the organisation. The organisation then raises capital through a private placement, typically from outside investors as well as members. Having thus become a privately-owned corporation, demutualised exchanges typically have two options: (i) the exchange can stay private, or (ii) the exchange can list on its own market and remove all restrictions on trading. A demutualised exchange can also become a wholly-owned subsidiary of a publicly traded company, rather than becoming a standalone company. For example, after demutualising in 1993, the Swedish Stock Exchange became a subsidiary (called the OM Stockholmsbörsen AB) of the OM Group, a publicly traded and listed company (Aggarwal, 2002); the Italian Stock Exchange (Borsa Italiana) demutualised in 1997 and, in 2007, became a subsidiary of the London Stock Exchange Group, a publicly traded and listed company.

In the midst of these developments, there have also been a large number of mergers and acquisitions in the stock exchange industry, involving electronic trading platforms, financial information and financial index providers, data management and asset management. The structural changes that have followed from these mergers and acquisitions have been accompanied by a shift in the revenue structure of stock exchanges. The share of revenues from listing new companies and issuer services, for example, has dropped globally. Meanwhile, the share of revenues from derivatives trading and over-the-counter markets has increased, making income from trading (cash, capital markets, derivatives and over-the-counter) a larger source of revenue for stock exchanges (OECD, 2016).

In OECD member countries, more than three-fourths of the stock exchanges are self-listed or demutualised for profit institutions (OECD, 2017). Nine OECD jurisdictions have demutualised, but their own stock is not listed on the exchanges. An additional 10 remain non-listed as a private corporation, association or other form such as a state owned public institution.

Table 1. Select demutualised stock exchanges in OECD countries

Stock exchanges	Year of demutualisation
Stockholm Stock Exchange	1993
Borsa Italiana	1997
Australian Stock Exchange	1998
Toronto Stock Exchange	2000
London Stock Exchange Group	2000
Deutsche Börse	2000
Euronext	2000
The Nasdaq Stock Market	2001
New York Stock Exchange	2006

Source: OECD research

Another important global trend relates to the emergence of new categories of competitors in the stock exchange industry and the movement away from the trading of specific stock in a single venue. There is an emerging fragmentation between trading on stock exchanges (on-exchange) and a number of other trading venues (off-exchange); and secondly, there is fragmentation between transactions where investors have access to pre-trade information about buying and selling interests (lit or displayed trading) and transactions where pre-trade information is not made available (non-displayed trading, often referred to as dark trading). These developments have led to a move away from the economies of scale and network externalities that had made stock exchanges considered as natural monopolies sustained by regulatory advantages.

New challenges

The trend towards demutualisation and self-listing of stock exchanges may reduce the emphasis on their role in supporting corporate governance aspects in order to reduce costs and focus on promoting trading (OECD, 2013). This has raised some concerns regarding the regulatory functions of stock exchanges, where possible conflicts of interest may exist (OECD, 2016). Additionally, as there are fewer IPOs in OECD countries and increased options for cross-listing have intensified, stock exchange business models have naturally evolved to seek other revenue streams, including consulting and IT services that may be in conflict with a regulatory role. As a result, policymakers in a number of countries have reacted to the transformation of domestic exchanges into private companies, by at times removing some regulatory powers from stock exchanges, and at times allowing stock exchanges to retain their regulatory powers on the condition that they separate their regulatory and commercial functions to avoid conflicts of interests.

These new trends are recognised in the *Principles*, which include a new chapter on “Institutional investors, stock markets and other intermediaries”. The *Principles* note that, “regardless of the particular structure of the stock market, policy makers and regulators should assess the proper role of

stock exchanges and trading venues in terms of standard setting, supervision and enforcement of corporate governance rules. This requires an analysis of how the particular business models of stock exchanges affect the incentives and ability to carry out these functions” (OECD, 2015).

Part 2. The Asian landscape

Corporate governance frameworks in Asia have gone through major transformation since the 1997-8 Asian financial crisis. Long perceived as having been exacerbated by poor corporate governance practices, the 1997-8 Asian financial crisis set off a first wave of corporate governance reforms. During this period, policymakers, regulators and stock exchanges in Asia introduced new laws, listing requirements and codes, as well as established institutions, such as institutes of directors and capital market supervisory authorities to enhance corporate governance practices.

Since the initial promulgation of the *Principles* in 1999, Asian stock exchanges have enhanced their regulatory role to embrace a wider range of corporate governance concerns. They have contributed to the development of corporate governance standards and encouraged their use by listed companies while collaborating with supervisory, regulatory and enforcement agencies. As the emphasis of policymakers in the region has shifted towards implementation and enforcement of these standards, one trend has been the introduction of corporate governance codes or guidelines applicable on a "comply-or-explain" basis.

2.1. Demutualisation process in Asia

Trends in public equity markets are presented in greater detail in the *OECD Equity Markets Review: Asia 2017*. Below are some observations. The global process of structural change has reached the region and today a rising number of Asian stock exchanges are private and joint stock companies (see Table 2). The privatisation of some Asian stock exchanges and industry consolidation raises questions about how stock exchanges carry out their regulatory functions, considering the potential for conflict of interest and other challenges as explained above.

Table 2. Stock exchanges in select Asian countries (as of August 2017)

Jurisdiction	Stock exchange(s)		Stock exchange model	Year of Demutualisation	Self-listed	Main funding
Bangladesh	DSE	Dhaka Stock Exchange	Private company	2015	No	Self-funding
	CSE	Chittagong Stock Exchange	Private company	2013	No	Self-funding
China	SSE	Shanghai Stock Exchange	State-owned	N/A	No	Public funding
	SZSE	Shenzhen Stock Exchange	State-owned	N/A	No	Public funding
Hong Kong, China	SEHK	The Stock Exchange of Hong Kong Limited	Joint Stock Company	2000	Yes	Self-funding
India	NSE	National Stock Exchange of India	Joint Stock Company	N/A	No	Self-funding
	BSE	Bombay Stock Exchange	Joint Stock Company	2007	No	Self-funding
Indonesia	IDX	Indonesia Stock Exchange	Private company	N/A	No	Self-funding
Korea	KRX	Korea Exchange	Joint Stock Company	2005	No	Self-funding
Malaysia	BURSA	Bursa Malaysia	Joint Stock Company	2004	Yes	Self-funding
Pakistan	PSX	Pakistan Stock Exchange Limited	Private company	2012	Yes	Self-funding
Philippines	PSE	Philippine Stock Exchange	Joint Stock Company	2001	Yes	Self-funding
Singapore	SGX	Singapore Exchange Limited	Joint Stock Company	1999	Yes	Self-funding
Chinese Taipei	TWSE	Taiwan Stock Exchange	State-owned	N/A	No	Self-funding
	TPEX	Taipei Exchange	State-owned	N/A	No	Self-funding
Thailand	SET	Stock Exchange of Thailand	State-owned	N/A	No	Self-funding
Viet Nam	HSX	Ho Chi Minh Stock Exchange	State-owned	N/A	No	Self-funding
	HNX	Hanoi Stock Exchange	State-owned	N/A	No	Self-funding

Source: OECD Survey of Corporate Governance Frameworks in Asia 2017 and OECD Equity Markets Review: Asia 2017

Considering that demutualisation may lead to the potential for a new set of conflicts of interest, a number of jurisdictions in Asia have made changes to the governance and regulatory powers of stock exchanges (see Table 6). In some jurisdictions, for example, conflict may arise where a significant number of the stock exchange board members are themselves both investors in listed companies and playing the dominant role in the decision-making of the exchange. In the case of Pakistan, under provisions of the Stock Exchanges Demutualization Act, members of Pakistan Stock Exchange (PSX) who previously had trading and ownership rights have ceased to be members and have been issued Trading Right Entitlement Certificates (TREC), representing trading rights, and PSX shares, representing ownership. The Act envisages that persons representing TREC holders on the PSX Board must not be in majority. This structure aims to reduce conflicts of interest and safeguard investors' interest.

The source of funding is an important indicator for ensuring the ability of a stock exchange to operate independently. There are different funding sources for stock exchanges, including market participants, funding through government sponsorships or third-party sponsorships, and these may influence or give rise to various conflicts of interest, lack of independence and accountability. The benefits associated with budgetary independence are also important to address situations such as market downturns when the exchange may not be able to function on internally generated revenues. The main source of revenue for exchanges in select participating Asian jurisdictions can be seen in Table 3. Another factor to consider is that a number of governments in Asia such as Singapore, Malaysia, Philippines and Thailand may have some influence in listed companies through state investment funds, giving rise to the potential risk of political interference. Exchanges may be reluctant to take action against government-owned or government-linked listed companies.

Table 3. Revenue of selected stock exchanges in Asia (USD million)

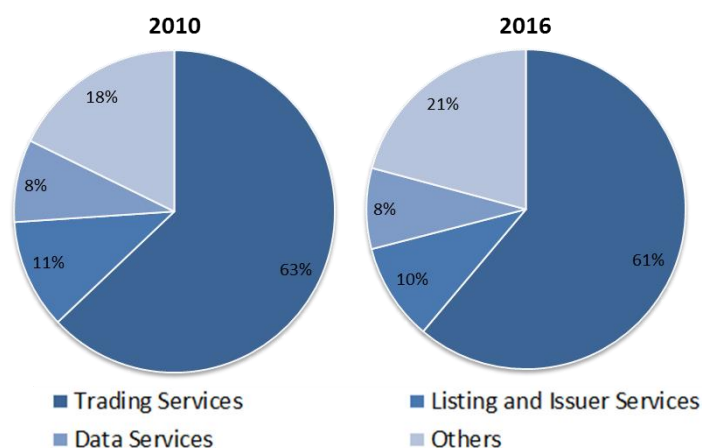
	2010	2016
Bombay Stock Exchange	N/A	102.07
Bursa Malaysia	84.06	118.00
Dhaka Stock Exchange	17.24	23.23
Hanoi Stock Exchange	N/A	N/A
Ho Chi Minh Stock Exchange	N/A	18.52
Korea Exchange	N/A	N/A
National Stock Exchange of India	196.95	366.21
Philippines Stock Exchange	18.55	28.67
Shanghai Stock Exchange	N/A	N/A
Singapore Exchange	466.35	596.40
Taiwan Stock Exchange	167.31	244.96
The Stock Exchange of Hong Kong Limited	969.54	1 424.45
The Stock Exchange of Thailand	121.44	179.06

Source: OECD analysis based on stock exchanges' financial reports and websites

All stock exchanges have shown a steady increase in their revenue over the last few years. Among the surveyed jurisdictions, The Stock Exchange of Hong Kong Limited has the highest revenue, which amounts to USD 1 424 million for 2016 (Table 3). Figure 3 shows the revenue structure of selected stock exchanges for 2010 and 2016, respectively. Not all of the surveyed stock exchanges have detailed data for revenue structure analysis. Of the jurisdictions with public available information, as

of 2016, 61% of the total operating revenue comes from trading services, 10% from listing and issuer services, 8% from data services and 21% from other services (Figure 1). This represents a decrease of two percentage points in trading services and one percentage point in listing and issuer services, complemented by an increase of three percentage points in other services (e.g. membership fees). It is also noteworthy that this contrasts with the revenue structure of listed stock exchanges worldwide (OECD, 2016), where data services make up 19% of total revenue.

Figure 1. Revenue structure of selected Asian stock exchanges¹



Source: OECD analysis based on stock exchanges' financial reports and websites

2.2. SME markets

Another international trend that has influenced the region are nascent SME markets, which may affect the role of stock exchanges in corporate governance, providing a form of flexibility and proportionality because their listing requirements may be less stringent than those of main board stock exchanges. As SMEs are contributing to a significant part of economic growth, countries worldwide have been seeking ways to improve the access to finance of SMEs. One of the approaches has been to develop an SME exchange to provide access to equity financing, which is often accompanied by relaxing the requirements for listing. The SMEs that list do not only benefit from access to finance, but also credibility to the market, attracting new investors and receiving support for listing on the main stock exchange in the future. The experience and success of these venues has differed among jurisdictions, and has been particularly challenging for emerging markets.

Despite the consensus on the importance of SME markets to promote economic development, less focus has been paid to the consequences with regard to the role of the stock exchange in supporting good corporate governance practices among listed SMEs. Typically, the role will vary depending on the legal structure of the SME exchange, the relationship with the stock exchange under which it is created (if applicable), the listing rules for SMEs and other corporate governance requirements that the listed SME is expected to follow.

For the 13 Asian jurisdictions surveyed, 11 jurisdictions have one or more SME exchange or platform, two of which were launched in 2017 (see Table 4). Although Bangladesh and Indonesia do not have

¹ Bursa Malaysia, the Stock Exchange of Hong Kong Limited, National Stock Exchange of India, Singapore Exchange and the Stock Exchange of Thailand.

specific markets for SMEs at the moment, reforms are expected in both countries. The size, legal structures and listing requirements of the SME exchanges differ among countries much more than of the main exchanges. Therefore, the role of the SME exchange in standard-setting, supervision and enforcement of corporate governance rules should be assessed taking into consideration the particularities of the SME market, the trading venue and the role of the regulators in each jurisdiction.

SME exchanges are typically structured as a separate board or market housed under the main market, part of the main board, or a completely separate entity. There is no strong evidence regarding which model delivers the optimum results in emerging market economies (Harwood and Konidaris, WBG, 2015), but good practices have been developed. As of today, Asian SME exchanges have followed different models. Some countries have created an SME board under the main stock exchange (Malaysia, Singapore, Thailand and the recently introduced SME board in Pakistan), while others are different entities, for example GreTai Securities Market is stand-alone and not linked to the Taiwan Stock Exchange. Emerge, an India, is described as an “SME platform” under a separate board of the National Stock Exchange of India that allows start-ups and fast-growing SMEs to list with or without an IPO. In China, the Shenzhen Stock Exchange has developed a three-tier trading venue, comprising the Main Board, the SME Board (2004), and ChiNext, a high-tech venture board (2009).

Listing requirements on SME exchanges vary across Asian jurisdictions too. Some SME markets have minimum capital/revenue requirements, such as Konex in Korea, where companies must meet the following financial criteria: i) at least 500 million won of paid-in capital, ii) total annual sales of one billion won or more, or iii) at least 300 million won of net profit per year. The possibility to invest in SME exchanges also varies across countries. Some markets are restricted to sophisticated investors, such as Malaysia’s Leading Entrepreneur Accelerator Platform (Leap) Market, launched in 2017.

On the whole, SME markets may introduce lower corporate governance standards and disclosure requirements, which differ across countries. Some venues have similar requirements as the main board, but other SME markets allow a lower number of non-executive directors, or the reporting timing varies (bi-annual disclosure instead of quarterly disclosure).

While the development of SME exchanges in Asia is expected to boost economic growth with more flexible requirements providing access to equity financing, it also brings new challenges in relation to the fulfilment of global corporate governance standards by the listed SMEs and the role of the stock exchange itself under which the SME market operates. As the *Principles* recommend, ensuring the basis for an effective corporate governance framework is a priority, with policies that support the role of stock exchanges in enhancing corporate governance by their listed issuers, but taking into consideration the specificities of the SME market.

Table 4. Selected SME markets in Asia

Stock exchange upon which the SME market depends	Jurisdiction	SME market	Year of launch
Shenzhen SE	China	ChiNext	2009
The Stock Exchange of Hong Kong Limited	Hong Kong, China	Growth enterprise market	1999
National Stock Exchange India	India	Emerge	2012
BSE India Limited	India	Small & Medium Enterprises	2012
Korea Exchange	Korea	Kosdaq ²	1996
Korea Exchange	Korea	KONEX ³	2013
Bursa Malaysia	Malaysia	ACE market ⁴	1997
Bursa Malaysia	Malaysia	LEAP Market ⁵	2017
Pakistan Stock Exchange	Pakistan	SME Board	2017
Philippines SE	Philippines	SME Board	2006
Singapore SE	Singapore	SGX Catalist	2007
Taipei Exchange ⁶	Chinese Taipei	GreTai	1994
Stock Exchange of Thailand	Thailand	Market for Alternative Investment	1998
Hanoi Stock Exchange ⁷	Viet Nam	UpCom Platform	2009

Source: OECD analysis based on exchange websites

² The KOSDAQ market was launched in July 1996 for the purpose of providing funds for startup companies as well as SMEs in such tech-savvy area as IT, BT (bio technology) and CT (culture technology).

³ KONEX (Korea New Exchange) is a market established in 2013 for early-stage SME.

⁴ In 2009, ACE Market was transformed from MESDAQ Market, a market originally established to facilitate fundraising for high-growth and technology-based companies. Since 2009, ACE Market has served as an alternative sponsor-driven market for corporations from all business sectors to raise funds in Malaysia.

⁵ LEAP Market was established by Bursa Malaysia in June 2017 which is aimed at providing small and medium enterprises (SMEs) with fund raising access and visibility via the capital market under an adviser-driven market. Smaller or early stage SMEs are targeted to list on LEAP Market compared with ACE Market.

⁶ Chinese Taipei has two Stock Exchanges, the Taiwan Stock Exchange (TWSE) and the Taipei Exchange (TPEX). Taipei Exchange (also called GreTai) was established as a stock exchange focused on the SME market. TPEX has built a multi-tiered market structure to meet the fund-raising needs along the life of an SME, dividing its listed SME into a Main Board, an Emerging Stock Board (established in 2002), and GISA (Go Incubation Board for Startup and Acceleration Firms, established in 2014).

⁷ Viet Nam has two stock exchanges, the Ho Chi Minh Stock Exchange (HOSE) and the Hanoi Stock Exchange (HNX), which opened trading in 2000 and 2005 respectively. The Ho Chi Minh Stock Exchange is Viet Nam's principal equity market whereas the Hanoi Stock Exchange primarily supports the fixed-income market and the SME market, (unlisted public company market denominated UpCom platform).

Part 3. Standard-setting, supervision and enforcement of corporate governance in Asia

According to the 2016 OECD Survey, in all 13 participating economies, securities regulators and stock exchanges share the role of ensuring sound corporate governance of listed companies. Nonetheless, it should not be overlooked that the trends in the stock exchange industry described above are leading to changes in the balance of responsibilities between stock exchanges and securities regulators in carrying out regulatory functions, as discussed below.

3.1. The evolving role of stock exchanges in standard-setting

The *Principles* have been widely used across Asia as a benchmark for developing securities regulation and listing rules. The 2016 Survey shows that there are a range of models in Asia when it comes to the role of stock exchanges in standard-setting. In some jurisdictions, the securities regulator sets the general direction of corporate governance while the stock exchange plays an important supporting role in developing listing rules, codes and guidelines for listed companies. In others, the securities regulators play the key role in setting the direction of corporate governance in the jurisdiction while stock exchanges play only a minor role.

Stock exchanges play an important role in standard-setting through the development of listing rules. For example, in Korea, the listing rules for the Korea Exchange (KRX) contain requirements for corporate governance such as the number of independent directors, formation of audit committees, and requirements for audit committees. The disclosure rules contain corporate governance related information such as a director's appointment and dismissal. Also in Pakistan, the PSX, upon demutualisation, developed a consolidated listing regulation which provides comprehensive coverage of the securities market regulations to enhance regulatory awareness and compliance. The PSX Rule Book is approved by the regulator, the Securities and Exchange Commission of Pakistan (SECP).

In jurisdictions where stock exchanges play less of a role in standard setting, the securities regulators develop the listing requirements while the stock exchanges play a role in implementing the listing rules. This is done through monitoring of disclosure of corporate governance practices and/or specific obligations on corporate governance such as a minimum number of independent directors, related party transaction frameworks and the role of the audit committee. For example, in Bangladesh the stock exchange does not play a role in enacting listing rules or codes, but it does monitor and supervise the corporate governance status of listed companies based on the Corporate Governance Guideline of the Bangladesh Securities and Exchange Commission, issued on 7 October 2012.

In addition, a few stock exchanges contribute to corporate governance standard-setting through the development of corporate governance codes. This is especially the case where stock exchanges remain a non for profit governmental entity. For example, in Chinese Taipei the TWSE and TPEX jointly launched the "Corporate Governance Best Practice Principles" in 2002, which was last updated in 2016. In accordance with regulation from the Financial Supervision Commission (FSC), listed companies must disclose implementation of and deviations from the CG Code in their annual reports. The TWSE/TPEX examines the annual reports of listed companies and provides non-disclosure or omissions of information to the FSC. Monetary sanctions are imposed by the FSC for non-disclosure or omissions of information on listed companies. In Viet Nam, the regulator – the State Securities Commission - in collaboration with the two stock exchanges is developing a CG Code for listed and public companies. The stock exchanges will supervise the implementation of the CG Code for listed companies, while the State Securities Commission will supervise public companies.

Box 1. Striking a balance between roles of the stock exchange and regulator - the case of Singapore Exchange

Singapore Exchange (“SGX”) serves as a frontline regulator for the Singaporean securities market, developing and enforcing rules and regulations with a view to building a fair and transparent marketplace working with the relevant regulatory authorities, including the Monetary Authority of Singapore (“MAS”) and the Commercial Affairs Department (“CAD”). The changes to the ownership and operating structure of SGX that occurred as a result of demutualisation in 1999-2000, caused a number of observers to question the ability of the new exchange to competently carry out its role as a frontline regulator.

Prior to the demutualisation and merger, the Stock Exchange of Singapore (SES) and Singapore International Monetary Exchange (SIMEX) had assumed regulatory and business development functions concurrently with potential conflicts on two levels. First, members of the exchanges had to set and enforce rules in the public interest that might negatively affect their commercial interests. Second, the exchanges were expected to conduct effective and impartial supervision of their own members. The potential conflicts of interests in these respects were mitigated by the fact that in a mutually-owned exchange, members share the financial and reputation risks from a failure to properly regulate. To ensure that any perceived or actual conflict of interest between SGX group’s regulatory responsibilities and commercial interests are addressed, SGX implemented self-regulatory organisation conflict guidelines.

SGX then launched a process of setting up a subsidiary to carry out its regulatory role. This aimed to strengthen the safeguards to manage potential conflicts of interest between its commercial and regulatory roles. The subsidiary is governed by a separate board of directors and chairman. The majority of directors are independent of SGX, though SGX’s chief regulatory officer is the chief executive of the subsidiary and reports to the subsidiary’s board.

Another important aspect of the Singaporean case is that the relationship between SGX and MAS is expected to evolve over time, given rapid changes in the capital markets brought about by technological advances. Both entities have agreed that the regulatory arrangement will continually be reviewed, and recalibrated if necessary, in keeping with market developments, to ensure effective oversight of the capital markets.

Source: OECD Questionnaire and SGX website

3.2. The evolving role of stock exchanges in supervision

In addition to contributing to standard-setting, most stock exchanges in Asia play a role as frontline regulators in ensuring that the market is fair, orderly and transparent. In undertaking this role, stock exchanges carry out supervisory activities such as reviewing disclosures required under the listing rules and monitoring market activities. Where misconduct results in a breach of the rules, the stock exchanges may have the power to impose penalties or refer the findings to the appropriate regulatory authorities for enforcement action.

Monitoring disclosures

Disclosure requirements can be broadly categorised into three types – periodic disclosures, continuous disclosure of material information and disclosure of corporate governance statements. Periodic disclosures refer to interim statements (whether quarterly or semi-annually) and annual financial statements as well as annual reports issued by listed companies. Typically, the contents of the financial statements are prescribed in national legislation or accounting standards and these do not fall within the purview of the stock exchanges. The role of stock exchanges in this regard relates

particularly to the notes of the financial statements, as well as the annual reports, where the contents or additional information are prescribed in the listing rules. The exchanges are typically responsible for monitoring compliance with the disclosure requirements prescribed.

As for the disclosure of material information, the requirement to immediately announce relevant information of interest to investors by listed companies is becoming increasingly common in the listing rules across Asian markets. While listed companies generally comply with the obligation, it has been noted that the quality of disclosure remains a challenge, especially in terms of prospective information. In addition, while the application of the definition of materiality avoids a one-size-fits-all approach, it may also lend itself to differing interpretations. To address these concerns, some stock exchanges have issued guidance to supplement the mandatory requirements. The guidance is intended to support listed companies to better understand and comply with disclosure obligations by providing clarification and illustrations on how the disclosure requirements should be applied in practice (e.g. this is the case in Chinese Taipei, Malaysia and Thailand). In some instances where the market is less mature, more prescription in the listing rules may be necessary.

The disclosure of corporate governance standards, meanwhile, provides an effective communication tool for shareholders and the investing public to understand the corporate governance practices of companies. In this regard, some exchanges directly require their listed companies to disclose compliance in annual reports on a “comply-or-explain” basis i.e. listed companies are required to state whether or not the company (and its management) have complied and, if not, the extent of, and reasons for, non-compliance, with the code or guidelines. In Chinese Taipei, a stock exchange-led corporate governance evaluation system launched in 2014 reviews corporate governance information incorporated in annual reports every year. Based on the review results, the Taiwan Stock Exchange and Taipei Exchange undertake a tiering exercise to distinguish listed companies that report effectively. This helps to set a benchmark for the listed companies and encourages voluntarily adoption of corporate governance initiatives.

In most jurisdictions, stock exchanges play a secondary role in the surveillance of corporate governance standards (See Table 5). While the securities regulator is the main custodian of the codes and principles of corporate governance, the stock exchanges have played an important supportive role promoting good corporate governance processes and structures, leading companies to a compliance-oriented mindset. In some jurisdictions, such as Singapore, the exchange has introduced sample reporting templates as guidance for companies. This has made supervision by the regulator easier. One of the main functions of the Bursa Malaysia’s Regulation Group is to monitor disclosures made by the listed issuers including on compliance/adoption of the principles and best practices of the corporate governance code. The Regulation Group monitors compliance with disclosure requirements via the review of corporate announcements, circulars, annual reports, review of media articles on corporate information and monitors timeliness of financial report submissions as well as material announcements. The Regulation Group also engages with the listed issuers to address any disclosure gaps noted. Its objectives in carrying out these functions are to inculcate a better disclosure culture amongst the listed issuers as well as ensure that investors are provided with timely, adequate and accurate information.

Stock exchanges have adopted various measures to enhance the quality of disclosures, such as issuing guides to assist listed companies to understand and apply the listing rules and the corporate governance code. The exchanges also issue guidance in the form of frequently asked questions to provide clarification to listed issuers on the Listing Rules. In addition, an advisory helpdesk is also

established to assist listed issuers with queries on the Listing Rules. These measures have been taken to fight against the complaint by investors that the so-called “boilerplate” statements often stand in the way of quality disclosure.

Most companies in the surveyed jurisdictions do not disclose adequate details about board members and their contributions to the board, particularly regarding independent directors. For example, the 2016 Survey shows that companies in China, India, and Viet Nam could do more to disclose the board evaluation process, nomination committee composition and process to identify and select board nominees as well as use of an external search firm. In Viet Nam, for example, processes for disclosing board identification and selection can be improved as few companies disclose these issues voluntarily. Other key areas where disclosures can be enhanced are: share ownership, inadequate disclosure of related party transactions, material information and insider trading, directors’ remuneration, role of the audit committee and their activities during the year and audit fees.

Table 5. Key national corporate governance Codes/Principles and main surveillance body

Jurisdiction	Key national Corporate Governance Codes and Principles	Main custodian	Implementation mechanism			
			Approach C/E: comply or explain B: Binding V: Voluntary	Disclosu re in annual company report or corporat e governan ce report	Basis for framewo rk L: Law or regulatio n LR: Listing rules	Surveillance SR: securities regulator SE: stock exchange P: private institution CB: Central Bank
Bangladesh	Corporate Governance Guideline	Bangladesh Securities and Exchange Commission	B	Yes	L	SR
China	The Code of Corporate Governance for Listed Companies in China	China Securities Regulatory Commission	V	Yes	L	SR
Hong Kong, China	Corporate Governance Code under the Listing Rules	Securities and Futures Commission of Hong Kong and the Stock Exchange	C/E	Yes	LR	SE
India	SEBI (listing obligations and disclosure requirements) Regulations Corporate Governance Voluntary Guidelines	Securities and Exchange Board of India (SEBI) and Stock Exchange	B	Yes	L	SR and SE

Indonesia	Indonesia Code on Good Corporate Governance	Indonesia Financial Services Authority (OJK)	V	No	N/A	N/A
Korea	Code of Best Practice for Corporate Governance	Ministry of Justice	V	N/A	L	SR
Malaysia	Malaysian Code on Corporate Governance	Securities Commission of Malaysia and Stock Exchange	C/E	Yes	LR	SR, SE and CB
Pakistan	The Code of Corporate Governance	Securities and Exchange Commission of Pakistan (SECP) and Stock Exchange	B	Yes	LR	SR, SE, and CB
Philippines	The Revised Code of Corporate Governance	Securities and Exchange Commission (SEC) – Corporate Governance Division and Stock Exchange	B or V	Yes	L	SR and SE
Singapore	The Code of Corporate Governance	Accounting and Corporate Regulatory Authority (ACRA), Monetary Authority of Singapore (MAS) and Stock Exchange	C/E	Yes	LR	SE
Chinese Taipei	Corporate Governance Best Practice Principles	Financial Supervisory Commission and Stock Exchange	C/E	Yes	LR	SR and SE
Thailand	The Principles of Good Corporate Governance for Listed Companies	Securities and Exchange Commission (SEC)	C/E	Yes	LR	SR and SE
Viet Nam	Regulations on Corporate Governance applicable to public companies	Ministry of Finance (MOF)	B	Yes	L	SR

Source: OECD Survey of Corporate Governance Frameworks in Asia 2017

More effective disclosure: good practices promoted by stock exchanges

In efforts to improve the quality of disclosures, a number of stock exchanges are conducting regular assessments on issuers' compliance with the corporate governance code. This is the case of Bursa Malaysia and more recently, the Singapore Exchange, which have effectuated corporate governance reports to assess the quality of disclosure and show improvements from one year to another, publicising their findings on their websites. Bursa Malaysia also has issued various guides such as the Corporate Disclosure Guide, Corporate Governance Guide as well as the Sustainability Reporting Guide and Toolkits to assist listed issuers to embrace better corporate governance and sustainability practices as well as to enhance the quality of disclosures by listed issuers.

The Hong Kong Stock Exchange Limited conducts regular reviews of issuers' corporate governance disclosures. The latest review findings are contained in the "Analysis of Corporate Governance Practice Disclosure in June Year-end 2015 Annual Reports". SEHK also provides annual and topical listing rules training to issuers' representatives. Most of the training seminars have been recorded and posted on SEHK's website as webcasts. In order to further support issuers and their directors, the Exchange provides Guidance Letters and Letters to Issuers, among other guidance materials on the Exchange's website. The TWSE and TPEX also conduct workshops and training events to cover a variety of topics, including corporate governance, and presentation materials are posted on the exchanges' websites. To ensure an effective and robust disclosure framework under the listing rules, the securities laws in both Singapore and Malaysia impose statutory obligations on companies to comply with continuing disclosure obligations under the listing rules. With such statutory backing, the securities regulators are empowered to take action for breaches of the listing rules. The potential legal liability under the law certainly serves as a strong deterrent for breach of disclosure obligations by listed corporations.

3.3. The evolving role of stock exchanges in enforcement

Enforcement remains among the most challenging of the stock exchanges' roles as it often takes place in an environment in which the exchange's credibility is affected by public perception. It should be noted that the powers of most stock exchanges in Asia as frontline regulators are limited to enforcing breaches of listing rules and not specifically corporate governance standards. The *Guide to Public Enforcement and Corporate Governance in Asia* (OECD, 2014) provides practices to support policy makers and regulators in Asia in the area of public enforcement.

Access to information and adequate resources remain among the most significant obstacles to effective enforcement by stock exchanges. Common problems faced by stock exchanges include that information and records are not properly maintained or that information is kept in other jurisdictions and hence not available to the investigating exchange due to lack of assistance from the foreign authorities. At times, the information required by the stock exchange is in the hands of third parties which the stock exchange has no reach over. In such instances, the assistance of the relevant authorities is critical to ensure that the information is procured quickly.⁸

Furthermore, as investigations normally take a long time to complete, it is often important for enforcement action to be taken swiftly with the aim of preventing damages to shareholders. As such,

⁸ OECD (2014), *Public Enforcement and Corporate Governance in Asia: Guidance and Good Practices*, OECD Publishing.

one issue is whether exchanges should be empowered to take pre-emptive actions such as injunctions, freezing of assets or suspensions.

Enforcement powers of stock exchanges regarding listing rules

The 2016 Survey finds that clarity in the responsibilities attributed to the exchange is important in empowering the exchanges to take effective enforcement actions. In jurisdictions that have multiple stock exchanges, the regulators typically prescribe the rules and undertake the relevant enforcement action. The regulator and exchange may meet periodically to discuss the progress of compliance monitoring, the challenges faced by the exchanges and issues faced in enforcement. The minutes of the meeting can be used as a regulatory standard or a mechanism for implementation by the exchanges, and if appropriate, as evidence in case the decisions of exchanges are challenged in any judicial forum.

The 2016 Survey further shows that the sanctioning powers of stock exchanges in Asia vary widely. Most exchanges have the power to impose sanctions, suspend or de-list a listed company. However, it should be noted that forced de-listing has been relatively rare. The question of de-listing is often viewed not only from the perspective of companies for which it is punitive but also from the perspective of shareholders who may be adversely affected by de-listing. From the perspective of shareholders, de-listing may not help address abuses and may further disadvantage them unless adequate protection is put in place in the applicable legislation or the constitution of the company. The stock exchange may also have disincentives to delist companies that provide it with revenue that relies on trading activity and market size.

Among the participating countries, the stock exchanges in Singapore, Malaysia, Chinese Taipei and Hong Kong (China), have fairly comprehensive enforcement powers and actively pursue enforcement actions for breaches of the listing rules. In Singapore, the stock exchange set up in September 2015 a Listings Disciplinary Committee (“LDC”) and a Listings Appeals Committee (“LApC”) to strengthen enforcement powers. The LDC handles serious breaches of listing rules and LApC will offer an avenue for parties to appeal against disciplinary actions. Likewise in Bursa Malaysia, enforcement actions pursuant to its rules are tabled to various independent regulatory committees and appeals committee for decisions.

In Malaysia, the stock exchange is authorised to take a wide range of enforcement actions such as cautions/ private and/or public reprimands against listed issuers and their directors as well as brokers and dealers in participating organisations, as well as fines of up to RM 1 million. The type of sanction imposed depends upon the severity of the breach and conduct of the errant party. Bursa Malaysia had also gone to the courts to compel performance of the enforcement/regulatory decisions imposed including procuring committal orders against the errant directors. Where appropriate, suspension of trading or delisting of a listed issuer may also be commenced by Bursa Malaysia.

In Viet Nam, enforcement sanctions for violation of corporate governance rules and regulations can be used by the Stock Exchanges such as reminders, warnings, suspension or delisting as the severity of each case. The stock exchanges play a role in frontline supervision and report cases to the SSC. Only the State Securities Commission can impose fines.

In Hong Kong, China, the stock exchange monitors the issuers’ continuous obligations to comply with the listing rules and where there are found to be breaches of the rules, the exchange is empowered to

impose public and/or private sanctions against the issuer and/or its directors for the relevant breaches, and to direct the issuer and/or its directors to take remedial action, e.g., internal control review, appointment of compliance adviser for advice on an ongoing basis for a specified period, and director's training (see Box 2).

In India, a jurisdiction in which most of the enforcement power remains with the securities regulator, the Securities and Exchange Board of India rather than the stock exchanges introduced a penalty structure for non-compliance with critical clauses of listing agreement/listing regulations. The fine structure is based on the importance of the information (not disclosed) and the same is elevated depending on the time to compliance and occurrence.

In their efforts to support enforcement and implementation of corporate governance rules, stock exchanges are increasingly seeking to leverage work done by a growing number of stakeholders or "influencers" including among others, institutes of directors, company secretaries, external and internal auditors, minority shareholder representative organisations, bodies representing institutional investors and accountants. Some markets are undertaking collaborative efforts with these key influencers to leverage their activities and build a stronger culture of corporate governance.

**Box 2. Sharing enforcement responsibilities with the regulator -
The Stock Exchange of Hong Kong Limited**

In Hong Kong, China, The Stock Exchange of Hong Kong Limited (SEHK) develops listing rules and monitors issuers' continuous obligations to comply with the rules, which are subject to market support and final approval by the Securities and Futures Commission (SFC). Where there are found to be breaches of the rules, SEHK (acting through its Listing Committee) is empowered to impose public or private sanctions against the issuer or its directors for the relevant breaches, and direct them to take remedial action, e.g., internal control review, appointment of compliance adviser for advice on an ongoing basis, and director's training.

SEHK is empowered to investigate conduct which may give rise to breaches of the Listing Rules where identified (whether during the process of monitoring compliance with the Listing Rules, referrals from other regulatory or law enforcement bodies, or complaints from the public). The table below shows the number of parties and rule breaches involved in the investigations carried out by SEHK during the course of 2016 as compared to the previous year.

	2016			2015		
	MB	GEM	Total	MB	GEM	Total
Investigations	57	14	71	45	7	52
Cases involving:						
Company	41	9	50	40	6	46
Current directors	13	5	18	13	3	16
Former directors	22	7	29	14	3	17
3 listing rule breaches (or less)	30	7	37	19	3	22
More than 3 listing rule breaches	27	7	34	26	4	30
Involvement with and referrals to other regulators	22	2	24	17	4	21

MB – Main Board

GEM – Growth Enterprise Market

Depending on the conduct involved and the facts and circumstances, a variety of regulatory responses to the conduct may be appropriate. Regulatory responses include taking disciplinary action against issuers and their officers for serious breaches, or issuing a warning or caution letter where, for example, breaches are minor or no breach is established but the conduct involved does not meet the expectation of SEHK. Where appropriate, SEHK may direct issuers to appoint compliance advisers for advice on future Listing Rule compliance matters or for carrying out internal control reviews, or requires directors to undergo training on Listing Rule compliance matters and directors' duties. SEHK may also make referrals to other law enforcement or regulatory bodies for conduct which falls within their jurisdiction. If the circumstances justify, SEHK may direct a trading suspension, and in exceptional cases, cancel the listing of the issuer.

Source: OECD Questionnaire and website of SEHK

Part 4. Sharing responsibilities between stock exchanges and the regulator

As analysed in the previous section through different cases, despite the emergence of structural changes and a trend towards demutualisation, stock exchanges in the region still have a role in standard-setting, supervision and enforcement of corporate governance rules. While in some cases the role is direct (particularly in jurisdictions where the stock exchange remains a governmental institution), in other jurisdictions the stock exchanges share responsibilities with the regulator and still have a significant role in improving corporate governance standards through the promotion of good practices among listed companies and by providing incentives to commit to higher governance standards.

Stock exchanges have the ability to enhance awareness around the value of good corporate governance, manage invaluable information and are a key actor to promote a culture of compliance among listed companies. There are some good practices in the region to highlight. For example, Bursa Malaysia engages with listed companies with regard to disclosure and provides these companies with reports on their findings to enable them to improve their corporate governance practices and disclosures. In this regard, Bursa Malaysia has also conducted a follow-up review of these listed issuers' corporate governance disclosures to determine whether there is any improvement by such listed issuers vis-a-vis their disclosures in annual reports. The findings form the basis for advocacy programmes, which aim to create more in-depth understanding about corporate governance issues for directors and practitioners in listed issuers. In addition, Bursa Malaysia conducts advocacy programmes for directors, senior management and company secretaries of listed issuers specific to disclosures areas such as, Management, Discussion and Analysis disclosures in annual reports for the CEOs and CFOs, sustainability reporting as well as technical programmes for practitioners with a view to further improve disclosure practices.

As reflected in the previous sections, the structural changes and evolving business models in most Asian jurisdictions has brought new challenges regarding the role of stock exchanges as profit maximising entities that may operate in competition with each other. As many stock exchanges have kept a role in standard-setting, supervision or enforcement of listing and corporate governance rules, managing conflicts of interest has become central to the effective operation of financial markets. Table 6 shows some of the main practices adopted by selected Asian jurisdictions to address conflicts of interests emerging from any of the three functions mentioned above.

Table 6. Comparative table on the management of conflicts of interest in selected stock exchanges after demutualisation

Stock exchange	Management of conflict of interests after demutualisation
The Stock Exchange of Hong Kong Limited	<p>HKEx, a listed company on its own stock market, is regulated by the SFC to avoid conflicts of interest and to ensure a level playing field between HKEx and other listed companies that are subject to the listing rules of both the Main Board and GEM. Regulation by the SFC is imposed through two sets of provisions, namely, (1) Chapter 38 of the Main Board listing rules and Chapter 36 of the GEM Listing Rules which together contain provisions relating specifically to the listing of HKEx and set out the requirements that must be satisfied for the securities of HKEx to be listed on the Stock Exchange as well as the powers and functions of the SFC in the event of a conflict of interest, and (2) a Memorandum of Understanding dated 22 August 2001 between the SFC and HKEx which sets out the way the parties to it will relate to each other in relation to:</p> <ul style="list-style-type: none"> • HKEx's and other applicants and issuers' compliance with the Listing Rules; • the Stock Exchange's enforcement of its rules in relation to HKEx's securities and those of other applicants and issuers; • the SFC's supervision and regulation of HKEx as a listed issuer and, where a conflict of interest arises, other applicants and issuers; • conflicts of interest which may arise between the interests of HKEx as a listed company and companies of which it is the controller, and the interests of the proper performance of regulatory functions by such companies.
Korea Exchange	<p>The structure of KRX, which was created on 19 January 2005 through the merger of the KSE, the KOFEX and the KOSDAQ, is that of a stock company that was converted from a membership organisation. KRX launched an IPO plan on 22 September 2006, though announced on 28 August 2007 to indefinitely delay the plan after discrepancies on several key issues. Under the regime of FSCMA, KRX may conduct its IPO subject to the supervision of the Financial Services Commission. Article 409 of FSCMA opens the way for KRX to self-list on its bourse upon approval of the Financial Services Commission.</p> <p>The Market Oversight Commission is an internal agency of KRX pursuant to laws governing the exchange and performs self-regulation duties on securities and futures markets. However, because precisely KRX is not a SRO anymore, it can be said that the Market Oversight Commission has responsibilities related to self-controlling management rather than self-regulation duties. The term, “self-controlling management”, is used in Article 3 of AMPI. KRX’s more emphasized public characteristics as a public institution would mandate greater separation between its regulatory and operational functions.</p> <p>In detail, the Market Oversight Commission conducts the following business services: market surveillance, investigation of abnormal trading and supervision of members; cross-market surveillance among the securities market, KOSDAQ and the derivative market; discipline of members or decision on the requests for disciplinary measures against executives or employees concerned as a result of the investigation of abnormal trading, supervision of members, cross-market surveillance among the securities market, the KOSDAQ and the derivative market; self-resolution; and establishment, amendment and repeal of the Market Surveillance Regulations and the Dispute Resolution Regulations. (Jung, 2011)</p>

<p>Bursa Malaysia</p>	<p>In the wake of demutualisation, Bursa Malaysia set up an internal framework for managing conflicts of interest to ensure no compromise in the discharge of its regulatory role. The measures that were put in place included the following:</p> <ul style="list-style-type: none"> • Separation of regulatory functions from commercial functions to ensure that these functions operate independently; and that business units within Bursa Malaysia are not in a position to influence any supervisory or regulatory decisions; • Implementation of conflicts of interest framework and guidelines, which stipulate the framework and appropriate controls and measures to ensure systematic identification and management of conflicts of interest in an effective and timely manner. This include the establishment of a Regulatory and Conflicts Committee which is responsible for overseeing the regulatory structure and functions of Bursa Malaysia including regulatory independence as well as adequacy of resource allocation; • Establishment of various Regulatory Committees (i.e. Listing Committee, Market Participant Committee and Appeals Committee) to make significant regulatory decisions; the members of which are appointed by the Board and consist of independent individuals from various professional and industry participants; • External oversight by the Securities Commission where the Securities Commission takes all actions and makes all decisions in relation to Bursa Malaysia as a listed issuer which includes monitoring compliance and taking enforcement action involving Bursa Malaysia. <p>It should also be noted that Bursa Malaysia is required to submit an Annual Regulatory Report (ARR) to the Securities Commission Malaysia with details of the extent and scope of its compliance with its statutory duties and obligations. The Securities Commission conducts a regulatory audit on Bursa Malaysia annually upon submission of the ARR. There are also discussions between the Securities Commission and Bursa Malaysia on operational and strategic supervisory matters. The Securities Commission's approval and concurrence is required for changes to the rules and for new or enhancement of products provided by Bursa Malaysia.</p>
<p>Philippine Stock Exchange</p>	<p>As a Self-Regulatory Organization (SRO) and front-line regulator, the Philippine Stock Exchange (PSE) enforces its Listings and Disclosure Rules, which provide requirements for companies to continue to be listed on the Exchange.</p> <p>In the wake of PSE's demutualisation, a corporate governance committee was established in PSE with the aim of aligning the exchange's corporate governance practices with internationally accepted standards by assisting on issues related to the performance of the exchange, the performance of the president and his management team, compensation package, succession planning, the overall governance of the exchange, and market governance. In addition, the PSE Corporate Governance Office was created to assist the corporate governance committee to carry out the fundamental functions of corporate governance. The office also provided support to the PSE in uplifting corporate governance in the Philippine stock market through various market initiatives, and partnership with regulators, corporate governance advocates, and other stakeholders (Sin-Yu Ho and Nicholas M. Odhiambo, 2015).</p>

<p style="text-align: center;">Singapore Exchange Limited</p>	<p>SGX is expected, as an approved exchange, to meet certain regulatory objectives and, as a listed company, to advance its shareholders' interests through its commercial activities. The management of this dual role is referred to as self-regulatory organisation (SRO) governance.</p> <p>SGX has implemented self-regulatory organisation conflict guidelines to ensure that any perceived or actual conflict of interest between SGX group's regulatory responsibilities and commercial interests is addressed. Meanwhile, SGX actively mitigates the risks through the following (SGX, 2012):</p> <ul style="list-style-type: none"> • An independent Regulatory Conflicts Committee that reviews potential conflicts; • A new independent Listings Advisory Committee comprising individuals who are at the top of their profession and are equipped with legal, corporate finance and other relevant knowledge, to review upcoming IPOs; and • Regular training and assessment of regulatory staff on potential conflict risks.
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Source: OECD questionnaire and OECD research

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