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HKEX enforcement cases highlight top-level accountability

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Hong Kong Exchanges and Clearing Limited (HKEX) has consistently emphasised the importance of listed issuers complying with its listing rules. Accordingly, where non-compliance occurs, HKEX has established mechanisms to address such breaches. This article discusses several enforcement cases recently published by HKEX, presented on an anonymised basis.

Enforcement body

HKEX's listing regulation and enforcement department, within the listing division, is responsible for monitoring issuers' compliance of the listing rules, such as continuous disclosures and corporate governance practices, through investigation and implementation of regulatory response.

The HKEX listing committee supervises the operation of listing division and is responsible for making decisions of material significance such as disciplinary actions and cancellations of listing.

During 2025, the listing division identified 104 enforcement cases involving issuers listed, and referred 100 matters to other enforcement authorities and regulatory bodies including the judiciary, the police force, and the Securities and Futures Commission.

Repeated breaches

This case involves a Main Board listed company (company A), which was incorporated in Bermuda and engages in manufacturing, wholesale and retail businesses, its six former directors and its company secretary.

During a period of 38 months, a subsidiary of company A made 333 fund transfers to an entity owned by company A's controlling shareholder, then chairman and executive director. Those transfers constituted 31 disclosable and connected transactions, and 191 major and connected transactions, and yet company A failed to comply with the relevant disclosure and shareholders' approval requirements under the listing rules.

Despite the auditor's recommendations to stop the fund transfers and to consider the listing rules requirements, certain directors continued to approve new fund transfers where other directors did not take adequate actions to address the issues. The company secretary failed to advise the board on governance and listing rules implications. Although all outstanding balances had eventually been recovered in full, disciplinary actions were imposed on the directors and company secretary.

The listing committee also found that company A had conducted other types of disclosable and major transactions again without complying with the listing rules, and it also failed to maintain effective internal controls to prevent non-compliances despite previous warnings and sanctions from the listing committee.

The six directors and the company secretary were publicly censured by HKEX. The directors were also imposed a "prejudice to investors' interests statement", meaning that the occupation of director or senior management positions of company A or any of its subsidiaries by these directors may cause prejudice to the interest of investors.

Dereliction of duties

The Main Board listed company concerned (company B), a medical technology company incorporated in the PRC, provided financial assistance of about RMB2.5 billion (USD368 million) to two executive directors in the form of loans over three years, although its constitutional documents explicitly prohibited the provision of loans or loan guarantees to any director and any prohibited loan provided shall become immediately repayable.

Company B admitted that those loans were provided without authority of its board, and had breached the listing rules disclosure and shareholders' approval requirements.

Despite their unauthorised nature, the loans were disclosed in company B's annual results and reports as significant amounts of "advances to related parties", "advances to a director", "advances to a related party controlled by a director", and "due from a director", before such loans were subsequently announced separately.

However, the company secretary did not personally review the relevant draft annual results or reports, and delegated his company secretarial function to a service team (of the same service company in which he was engaged by company B) for the review. Therefore, he did not raise questions on potential non-compliances with the listing rules or company B's own constitutional documents.

The company secretary was censured and directed to attend further training on regulatory and listing rules compliance, as he failed to discharge his duties and was liable for company B's breaches. If he had reviewed the relevant draft annual results and reports, he could have identified the listing rules and governance implications, and so company B could have taken remedial actions and prevented further non-compliances.

HKEX stresses that the appointment of company secretary is personal, and delegation of duties to the service team will not displace the company secretary's personal responsibilities. Also, the involvement of auditors and external legal advisers did not relieve the company secretary of his professional obligations.

Failure to co-operate

This case involves a former executive director of a Main Board company (company C) that engages in investments and property leasing. The director failed to co-operate in the investigation conducted by the listing division or to provide up-to-date contact information to HKEX for three years since he ceased to be a director, resulting in HKEX not being able to send investigation and reminder letters to him. Therefore, he had failed to respond to the listing division's enquiries.

The listing committee censured him and imposed a "director unsuitability statement" against him, i.e., he is unsuitable to occupy a position as director or within senior management of company C or any of its subsidiaries.

Takeaway points

These cases underscore the importance of timely compliance with the listing rules and full co-operation with the listing division. Listed companies should maintain robust corporate governance and internal control systems to ensure compliance with applicable laws, regulations, listing rules and constitutional documents.

The cases also highlight that directors, senior management personnel and company secretaries may all be exposed to disciplinary actions, even if the non-compliant conduct is not initiated by them. A failure to take appropriate steps to prevent, identify or rectify compliance deficiencies may in itself constitute grounds for disciplinary sanctions. Reliance on auditors or external advisers does not absolve them of their responsibilities.

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