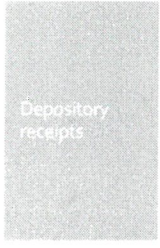
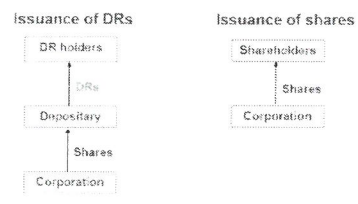
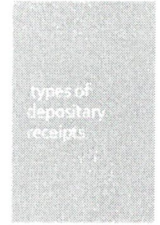
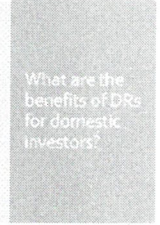
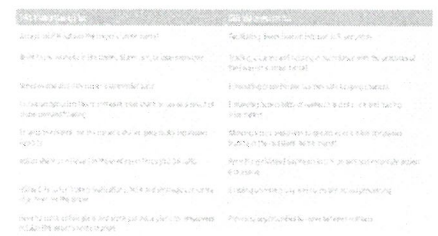
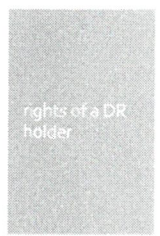
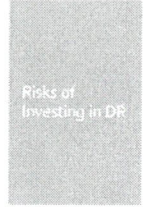
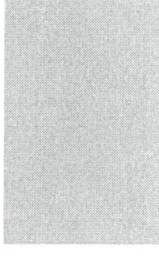


中國文化大學 111 年度教育部高等教育深耕計畫 計畫成果紀錄表

子計畫	子計畫 B																		
具體作法	B4-1 法學院「企業法務人才跨域培育計畫」																		
主題	B4-1 法學院「企業法務人才跨域培育計畫」																		
內容 (活動內容簡述/執行成效)	<p>主辦單位：法律學系 活動日期：111 年 10 月 24 25 (五) 13:00-15:00 活動地點：大新館 301 教室 授課課程：比較商事法專題 主講者：陳盈如業師今日分享[The Protection of TDR Investor]</p> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 50%;">  <p>Depository receipts</p> <p>DR (Domestic Receipts) refer to the receipt, issued with the trade of the existing company by the depository bank, in the jurisdiction where the depository receipts are issued. The rights and obligations represented by these depository receipts extend to the common stock of that issuing company. The stock represented by the depository receipts are under the custody of the depository bank designated by the depository bank.</p> <p>A DR may represent the underlying shares in a one-for-one basis, or may represent a fraction of a share or multiple shares. For example, for one common stock share represented under a share of the underlying shares, when the issuing company, an DR may represent a fraction of the underlying shares.</p> </div> <div style="width: 50%;">  <p>Issuance of DRs</p> <pre> graph TD DRHolders[DR holders] <--> DRs Depository[Depository] Depository <--> Shares Corporation[Corporation] </pre> <p>Issuance of shares</p> <pre> graph TD Shareholders[Shareholders] <--> Shares Corporation[Corporation] </pre> </div> </div> <div style="display: flex; flex-wrap: wrap; margin-top: 20px;"> <div style="width: 50%;">  <p>types of depository receipts</p> <ul style="list-style-type: none"> Classified by the locations of issuer: <ul style="list-style-type: none"> American depository receipts, abbreviated as ADR, are depository receipts issued in the United States. Global depository receipts, abbreviated as GDR, are overseas depository receipts issued outside the United States, and European depository receipts, abbreviated as EDR, are depository receipts issued in Europe. Classified by the listing method: <ul style="list-style-type: none"> Sponsored Unsponsored </div> <div style="width: 50%;">  <p>What are the benefits of DRs for domestic investors?</p> <p>DRs can be a convenient way for domestic investors to invest in the "foreign" stock listed in other countries in their local markets, thereby providing them with the same rights and benefits as if they were to invest in the foreign securities directly. However, the different regulatory requirements, communication, and settlement in DRs may be different from those of the underlying securities.</p> <p>DRs can be listed on local exchanges in accordance with the standard listing, settlement and custody practices of the domestic market. The custody of shares will be local, investors will be protected from local market risk, and corporate communication and dividends will be convenient to be received by the investors. In addition, the settlement, risk control, communication and the trade on the Market Observation Post System. The investor will also be able to benefit from voting, redemptions to the issuer and exercise the shareholders' rights in the domestic market.</p> </div> </div> <div style="display: flex; flex-wrap: wrap; margin-top: 20px;"> <div style="width: 50%;">  <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>DRs Issued in the</th> <th>DRs Issued in the</th> </tr> </thead> <tbody> <tr> <td>United States (ADR)</td> <td>United States (ADR)</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> <tr> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> <td>ADR holders are entitled to the same rights as the common stock of the issuer.</td> </tr> </tbody> </table> </div> <div style="width: 50%;">  <p>rights of a DR holder</p> <p>The rights of a shareholder and a DR holder are not identical. The rights of a DR holder arise from the deposit agreement, which is a contractual document, whereas the rights of the shareholder will be governed by local statute. However, in general, the rights of a DR holder will be equivalent to those of a shareholder.</p> </div> </div> <div style="display: flex; flex-wrap: wrap; margin-top: 20px;"> <div style="width: 50%;">  <p>Risks of Investing in DR</p> <ul style="list-style-type: none"> Information Asymmetry Risk of Complication Transaction Process Jurisdiction and Cross-Border Enforcement </div> <div style="width: 50%;">  <p>美國存託憑證終止上市與投資人保護</p> </div> </div>	DRs Issued in the	DRs Issued in the	United States (ADR)	United States (ADR)	ADR holders are entitled to the same rights as the common stock of the issuer.	ADR holders are entitled to the same rights as the common stock of the issuer.	ADR holders are entitled to the same rights as the common stock of the issuer.	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美國存託憑證種類

類型	描述	需向SEC提交之文件	轉賣
非參與型	ADR 存託憑證發行公司之股東在或離境外均無投票權。	Form F-6 (由明細表) 12g3-2(b) 2(b)	無
Level 1	ADR 存託憑證發行公司之股東在或離境外均有投票權。	Form F-6 (由明細表) 12g3-2(b) 3(a)	無
Level 2	ADR 存託憑證發行公司之股東在或離境外均有投票權，且該公司之證券在境外市場上市。	Form F-6 Form 20-F	有
Level 3	ADR 存託憑證發行公司之股東在或離境外均有投票權，且該公司之證券在境外市場上市。	Form F-6 Form 20-F Form F-1	有

NYSE強制終止上市規定

	Rule 302(a) (1) 註冊公司 (SEC 註冊公司)	Rule 302(a) (2) 註冊公司 (SEC 註冊公司)	Rule 302(a) (3) 註冊公司 (SEC 註冊公司)
非參與型	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。
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Level 2	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。
Level 3	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。	1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元。 2. 公司股東人數 (Number of Shareholders) 低於 300 人。 3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。

外國上市公司問責法 (Holding Foreign Companies Accountable Act, HFCAA)

2020 年 12 月 2 日，美國眾議院通過了《外國上市公司問責法案》(HFCAA)，該法案要求外國上市公司的審計師人員配合「上市公司會計監督委員會」(Public Company Accounting Oversight Board, PCAOB) 檢查其審計工作底稿。依照 2002 年沙賓法案的要求對非美國業務 (non-US operations) 進行審計，若一家公司的審計人員連續三年不遵守規定，那麼該公司的股票將被禁止在美國交易。

NYSE自願終止上市規定

NYSE listed company Market Rule 801-1 發行人的董事會不得編造上述之資料，導致其被終止上市。發行人在 NYSE 上市後，應遵守 NYSE 的上市規定。發行人在 NYSE 上市後，應遵守 NYSE 的上市規定。發行人在 NYSE 上市後，應遵守 NYSE 的上市規定。

- 1. 非上市發行公司：
 - 1. 向 NYSE 提交註冊聲明 (註冊聲明應通過 SEC 註冊申報表申報)。
 - 2. 發行前報備：發行前應向 NYSE 提交註冊聲明 (註冊聲明應通過 SEC 註冊申報表申報)。
 - 3. 向 NYSE 提交註冊聲明 (註冊聲明應通過 SEC 註冊申報表申報)。
- 2. 上市發行公司：
 - 1. 向 NYSE 提交註冊聲明 (註冊聲明應通過 SEC 註冊申報表申報)。
 - 2. 發行前報備：發行前應向 NYSE 提交註冊聲明 (註冊聲明應通過 SEC 註冊申報表申報)。
 - 3. 向 NYSE 提交註冊聲明 (註冊聲明應通過 SEC 註冊申報表申報)。
 - 4. 向 SEC 提交 Form 25。

美國終止上市之投資人保護措施

1. SEC對終止上市附加條件

SEC 對終止上市附加條件，包括：(1) 公司資產淨值 (Net Worth) 低於 \$100 萬美元；(2) 公司股東人數 (Number of Shareholders) 低於 300 人；(3) 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。

2. 對董事等超超反受託義務之訴訟

終止上市中投資者保護的另一種方式是對董事 (或被終止上市決定) 違反其受託義務者，提起訴訟。但由於美國法律對於沒有利益衝突的商業決策，除非這些決策完全不合理，否則董事將享受商業判斷法則 (business judgement rule) 之保護。

臺灣存託憑證終止上市相關疑問與投資人保護

目前仍有總計 10 檔 TDR 在臺灣掛牌，26 檔已下市

臺灣存託憑證名稱	代碼	臺灣掛牌日期	美國發行地
德華銀行存託憑證	3007	2012/01	德國
德意志銀行存託憑證	3008	2012/01	德國
德意志銀行存託憑證	3009	2012/01	德國
德意志銀行存託憑證	3010	2012/01	德國
德意志銀行存託憑證	3011	2012/01	德國
德意志銀行存託憑證	3012	2012/01	德國
德意志銀行存託憑證	3013	2012/01	德國
德意志銀行存託憑證	3014	2012/01	德國
德意志銀行存託憑證	3015	2012/01	德國
德意志銀行存託憑證	3016	2012/01	德國

終止上市原因	數量
1. 公司資產淨值 (Net Worth) 低於 \$100 萬美元	1
2. 公司股東人數 (Number of Shareholders) 低於 300 人	1
3. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
4. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
5. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
6. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
7. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
8. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
9. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1
10. 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元	1

臺灣終止上市之投資人保護措施

臺灣終止上市之投資人保護措施，包括：(1) 公司資產淨值 (Net Worth) 低於 \$100 萬美元；(2) 公司股東人數 (Number of Shareholders) 低於 300 人；(3) 公司最近一年度 (Last Fiscal Year) 的營業額 (Revenue) 低於 \$1 萬美元。

TDR 下市後外國發行人是否履行收購義務

	數量	數量	TDR
有履行	6	4	金衛-DR、揚子江、新輝科技、研壯
沒有履行	15	2	聯馬丁-DR、聯光樂源-DR
因私有化收購而下市	4		聯馬丁-DR、友臣-DR、東亞科、通電電
與投資中心和解後履行	1		聯馬丁-DR

執行成效：

藉由業師分享探討 TDR 投資者的保護及存託憑證類型介紹；美國存託憑證簡稱 ADR，全球存託憑證簡稱 GDR，台灣存託憑證簡稱 TDR。業師先介紹美國存託憑證中止上市與投資人保護及外國上市公司問責法等相關規範；並引入台灣 TDR 與投資人保護介紹，藉由分享說明可窺探台灣對於投資人保護的相關措施為何，另外藉由實例操作-杜康案，來補充

運作過程，經過業師精彩解說及實例分享，師生討論熱烈，也讓學生可以從不同角度切入思考，易使學生容易理解且感興趣，加上授課教師補充說明互動，讓學生受益匪淺。



業師跟授課老師合照



業師跟同學合照

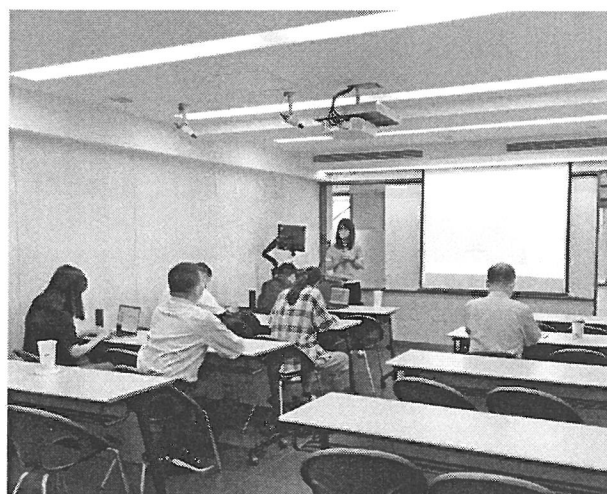
相關圖
片



業師授課



業師授課



業師授課