BLOG

Why was the listing of China's Ant Group dropped?

It would have been the world's largest stock market IPO (initial public offer), raising $34 billion; but two days before Ant Financial Services Group was due to list on the Shanghai and Hong Kong Stock Exchanges, the listing was dropped. Why? Was corporate governance the reason, as the Shanghai Exchange suggested?

In the fourth edition of my *Corporate Governance* textbook,[1] and my book on Corporate Governance in China,[2] I tell the story of the Alibaba Group, one of China's most successful companies, founded in 1999 by Jack Yun Ma, a teacher of English from Hangzhou.

In 2011, Alibaba spun-off its financial arm into Ant Financial Services Group, including its vast electronic payment system, Alipay, keeping a controlling stake. In 2020, Jack Ma and his colleagues decided to float the Ant Group on the Shanghai and Hong Kong Stock Exchanges. The listing was planned for 5th November 2020; but two days before, on 3rd November, the Shanghai Exchange stopped the listing and the Hong Kong Exchange had little choice but do the same.

Alibaba

The Alibaba Group is China's largest e-commerce group and processes more transactions than Amazon and eBay combined. Alibaba is a global leader in internet-based businesses, offering advertising and marketing services, electronic banking through Alipay, cloud-based

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[1] Tricker, Bob (4th edition 2019), *Corporate Governance – principles, policies, and practices,* Oxford University Press
[2] Tricker, Bob and Gregg Li (2019), *Understanding Corporate Governance in China,* Hong Kong University Press

computing, network services, and mobile communications. The Group also sells products, both wholesale and retail.

The Alibaba Group was listed in New York in 2014, raising US$22 billion, then the largest initial public offering, and was massively over-subscribed. Alibaba shares in New York fell dramatically when the Ant Group listing was aborted.

The governance of Alibaba

The company publishes a mission statement and emphasizes the importance of its values, with a code of ethics stating that the conduct of all employees should ‘reflect Alibaba Group’s values and promote a work environment that upholds and improves Alibaba Group’s reputation for integrity and trust’. The board has established corporate governance guidelines describing the principles and practices that it follows in carrying out its responsibilities. The board of directors had 9 members. Six executive or connected directors, 3 independent outside directors.

The shareholders in Alibaba Group Holding Ltd have few powers over the governance of the operating company. Alibaba shareholders do not own shares in the Alibaba company itself, but in a company incorporated in the Cayman Islands, tied to Alibaba by legal agreements.’ Power over Alibaba itself is exercised by an opaque and unaccountable entity called the ‘Alibaba Partnership. Shareholders’ interests are side-lined. In the words of the Economist[3]: ‘Alibaba’s legal structure is controversial’.’

The Alibaba Partnership has around 30 members, mainly top management, including a contingent from Ant Financial Services. The number of partners is not fixed and changes from time to time. All

[3] The Economist, 9 August 2018.

partnership decisions are made on a one-partner/one-vote basis. The 'Partnership' is governed by a partnership agreement
and operates under principles, policies, and procedures that have evolved over time.

The Group believes that the peer nature of the Partnership enables senior managers to collaborate and override bureaucracy and hierarchy. 'Our partnership is a dynamic body that rejuvenates itself through admission of new partners each year, which we believe enhances our excellence, innovation and sustainability.'

Corporate governance control over the Alibaba Company, which is listed in New York as well as Shanghai, is maintained by dual-class shares, giving enhanced voting power to those shares held by dominant shareholders. Many prominent listed companies in the USA, including Silicon Valley high-tech companies, have similar dual-class shares to keep control in the hands of the founders.

Alibaba's founder, Jack Ma, stood back from executive control in 2019 but remains a powerful presence behind the Chair.

Ant Financial Services Group

Coming to the game later than the Western world, China was able to leap-frog the personal computer era, jumping to almost all electronic transactions being conducted over the cell phone network. Many cities in China now claim to be 'smart cities,' with super-fast communications and broadband handling most business and personal transactions electronically.

Alipay (https://intl.alipay.com), which handles money transfer Transactions electronically, became vast with the growth of Alibaba. Other financial services were added, including insurance, credit-rating, loans, and the sale of financial products. This entire financial enterprise became the

Group. In 2020, Mr. Ma, and his colleagues decided to launch the Ant Group on the Shanghai and Hong Kong Stock Exchanges, keeping a dominant, controlling interest.

The floatation of the Ant Group

The proposed listing of the Ant Group was sponsored by Morgan Stanley, J. P. Morgan, and two Chinese financial institutions. The Hong Kong listing was detailed in a draft document, of more than 400 pages plus appendices, published by the Hong Kong Exchange, with due usual warnings to potential investors. For more information see HKSA Listing Document: (https://www1.hkexnews.hk/app/sehk/2020/102484/documents/sehk20102101021.pdf).

In this document, the Executive Chairman of Ant, Eric Jing, wrote a somewhat eulogistic letter, outlining his vision of the company. Although long, I have included it in full, given its significance.

'Ant Group is not a financial institution, nor simply a mobile payments company. We are a technology company using the best technologies and resources to empower banks and financial institutions to serve every consumer and small business. Sixteen years ago, Ant Group was founded on the dream that in the future, financial services would not only benefit a select few, but serve all ordinary people in their daily lives, all the time.

'Today, we are privileged to provide one billion consumers and 80 million small businesses in China with the benefits and conveniences of technology-enabled finance to facilitate their living and business activities. We are motivated by this milestone, but we believe this is only the beginning. The financial system of the past 200 years was designed for the industrial era and served only 20% of the population and organizations. As we enter the digital age, we must better serve the remaining 80%.

‘Together with our like-minded partners, our vision is that consumers and businesses will no longer have to navigate inefficiencies to find capital, but rather, capital will be matched with consumers and businesses based on data-driven predictive technologies, which will enable every consumer and small business in the world to benefit from tailored financial services. This is our company’s responsibility and also the future we invite you to join.

‘**Small is beautiful, small is powerful together** - our business is built on three major pillars: digital payments, digital finance, and digital daily life services. That is today, but we will continue to evolve with a focus on the future. Our raison d’être is the pursuit of “the good life” by our customers – hundreds of millions of consumers and small businesses.

‘We believe that if we can enable ordinary people to enjoy the same financial services as the bank CEO and help mom and pop shops to obtain growth financing as easily as big firms, then we will be a company that belongs to the future.

‘We do not believe bigger is better. We aspire for our customers – consumers and small businesses – to become better and stronger. Our pursuit is sustainable development that lasts at least 102 years. We expect that because of our determination, every individual will enjoy inclusive and sustainable financial services; every small business will have equal opportunity to compete on a level playing field; and all aspects of life in the digital world can be accessible through open collaboration with service providers.

‘**Solving trust issues is at the core of what we do**. We have a track record of solving real problems for consumers and small businesses. Sixteen years ago, Alipay pioneered online escrow payments to solve the problem of settlement risk due to a lack of trust between online buyers and sellers. Ten years ago, we created “Quick Pay” to improve online transaction success rates. Seven years ago, we launched our money market fund, Yu’ebao, to provide ordinary people access to money management tools even if they only wanted to invest 1 renminbi. Three years ago, we made popular the Alipay’s QR merchant code, so that nearly every street vendor across all corners of China could enjoy the convenience of mobile payments. Our innovations are driven by how they fulfil our mission and vision over the long-term and not by the pursuit of short-term gains.

‘To better realize our mission “to make it easy to do business anywhere”, we are dedicated to solving the trust problem for our customers. Lack of trust is the biggest cost of doing business. Through innovations ranging from trusted online escrow to credit-underwriting based on data technology, we provide unsecured loans to small business

‘Now, AntChain is exploring the application of blockchain to establish trust in transactions among multiple parties. It would be safe to say that if we solved one core issue over the past sixteen years, it would be establishing trust. We always ask ourselves, what should we leave for the world if one day our company were no longer in business? We hope that it would be a system of trust.

‘**We are firm believers in the future of digital inclusion.** ‘The world is undergoing a holistic digital transformation in every respect. This is not exclusive to technology companies. The true era of digitization is heralded only when all industries and businesses participate. Today, the modern services industry including financial services is boosting domestic demand and employment. And the growth of the services industry will rely on digital infrastructure. This is also the expectation of consumers in their pursuit of good living. We are firmly committed to advancing the digital transformation of the modern services industry, including financial services, so that every small business can reap the dividends of digitization, and every individual can access services digitally at their fingertips.

'We believe if you want to go fast, walk alone, but if you want to go far, walk together. We will join hands with our partners and welcome the future of digitalization together. Our aim is to leverage technology to develop incremental market opportunities by serving the long tail of small businesses and consumers. We choose to focus on enlarging the pie together with our partners rather than engaging in the zero-sum game of dividing up the existing pie. We believe that as long as we continue to leverage technological innovation to address problems, we can create even bigger markets and opportunities.

'Today, more and more people in developing countries and regions urgently need inclusive services and their small businesses need more growth opportunities. We are committed to supporting ordinary citizens and small businesses because helping them helps ourselves by bringing the beauty of inclusion into this world.

Technology must serve society as the biggest gift of our time. We have been persistent in doing what others refuse to do or cannot do well, because technology blesses us with this ability and opportunity. It is technology that makes inclusiveness as a sustainable model possible, and therefore technology exhibits the greatest potential to unlock social value. We will continue to invest in technology and ensure that it's accessible to people. Whether it's QR codes, AI, cloud computing, or blockchain, we must move these technologies from the lab to the community, so that every ordinary person can smile because we've made a difference to them.

'At Ant Group, we have cared about our responsibility to society from the very beginning. We have dedicated 0.3% of our annual revenue to philanthropy and will continue to make this annual commitment. At the same time, we continue to increase our investments in green initiatives. Over the past four years, with the participation of 550 million users who support our Ant Forest carbon-reduction program, we planted over 200 million trees. We plan to plant one billion more trees over the next decade to make the Earth a greener place. We have and will continue to support advancement for women, including our programs to give girls in poverty-stricken areas a chance to go to school and broaden their choices.

'We know that countless difficulties and challenges lay ahead, but we will continue on the path that we believe is right. We invite you to join us on this journey of conviction and hope. They say seeing is believing, but for me and my colleagues at Ant Group, just like sixteen years ago, we can see the future because we believe.'

The governance of the Ant Group

The HKSE Listing Document (p157/8) provides a group-wide ownership family tree. Mr. Ma is shown as owning 34% of the Hangzhou Yumbo Group, with three colleagues (Mr. Eric Jing, Mr. Simon Hu, and Ms. Fang Jiang) holding the balance equally. Hangzhou Yumbo then owns three companies:

Alibaba, which owns 32.65% of Ant,

Hangzhou Juhan/Junao, which owns 50.52% of Ant

Overseas Investors Group, which owns 16.83% of Ant.

These companies are all described as ‘onshore’ companies. They are then shown as controlling ‘offshore’ companies, including 100% of Alibaba, which together with the A, B, and C shareholders own the Ant Group. These ‘offshore’ companies are probably incorporated in an offshore tax haven.

The Hong Kong listing document for the Ant float also provides the names and details of the three executive directors, three non-executive directors, and three independent non-executive directors of Ant, together with three members of the supervisory board. The membership and chairs of an Audit Committee and a combined Nomination and Remuneration Committee are given, as follows:

<u>Executive Directors</u>

Mr. Eric Xiandong JING,47, Hangzhou, Zhejiang
Executive Chair 2018, Executive Director 2013. Partner of the Alibaba Partnership, a limited partner of Hangzhou Junao and a shareholder of Hangzhou Yunbo. Joined Alipay 2009 and served as senior vice president and CFO, COO, President, and CEO; previously senior finance director and Vice-President Finance at Alibaba.

Mr. Simon Xiaoming HU, 50, Hangzhou, Zhejiang
CEO 2019. President from 2018/19. A partner of the Alibaba Partnership, a limited partner of Hangzhou Junao and a shareholder of Hangzhou Yunbo. Joined Alipay 2005. Founder and President AliFinance 2009. Chief Risk Officer 2013 to 2014. President Alibaba Cloud 2014 to 2018.

Mr. Xingjun NI, 43, Hangzhou, Zhejiang
Executive Director and Chief Technology Officer 2020. A partner of the Alibaba Partnership and an indirect limited partner of Hangzhou Junao.

Joined Alipay a in 2004 and laid the foundations for the technical framework of Alipay. President of the business and technology groups of Alipay.

Non-executive Directors

Mr. Joseph C. TSAI, 56, Hong Kong

Member Audit Committee. Non-executive Director 2019. A partner of the Alibaba Partnership. Tsai joined Alibaba 1999 as a founding member and served on Alibaba's board of directors since its inception. Alibaba's chief financial officer until 2013, has served as executive vice-chairman of Alibaba, and is a founding member of Alibaba Partnership. From 1995 to 1999, he was a private equity investor based in Asia with Investor AB, the main investment vehicle of Sweden's Wallenberg family.

Mr. Li CHENG, 45, Hangzhou, Zhejiang.

Joined company 2005, developer and chief architect Alipay, COO international business. Limited partner Hangzhou Junao.

Ms. Fang JIANG, 46, Hangzhou, Zhejiang,

Member Nomination and Remuneration Committee. Responsible for planning, international website integrity, global operations.

Non-executive Director since 2020. Partner Alibaba Partnership, Limited Partner Hangzhou Junao.

Independent Non-executive Directors

Ms. Quan HAO, 62, Beijing,

Chair Audit Committee. CPA California and PRC. Partner KPMG Huazhen. NED Best Inc., (listed NYSE), Legend Holdings (listed HKSE), HSBC China.

Dr. Fred Zuliu HU, 57, Hong Kong
Chair Nomination and Remuneration Committee, member Audit Committee. Founder and Chair Primavera Capital Group. Previously MD Goldman Sachs China, and IMF. Director UBS Group (listed NYSE), NED IC Bank of China (listed Shanghai), Hong Kong Stock Exchange (listed HKSE).

Dr. Yiping HUANG, 56, Beijing
Member Nomination and Remuneration Committee. Professor and Director Institute of Digital Finance Peking University. Director Citicorp Asia.

Supervisory Committee

According to the listing document, the Supervisory Committee has three Supervisors - one employee representative and two non-employee representatives. The non-employee representative supervisors are elected at the shareholders' general meetings. The employee representative Supervisor is elected by the employee representatives' general meeting.

The three supervisors are shown as:
Mr. Hang JIA,48, Supervisor since 2016. Chair of the Supervisory Committee 2020. Previously, with China UnionPay Co., Ltd. as representative for its American office, and the general manager of the operations division of UnionPay International.

Mr. Hong XU, 47, appointed Supervisor 2020. Joined Alibaba 2018, Alibaba Deputy Chief Financial Officer 2020. Previously, with

PricewaterhouseCoopers 1996 to 2018. Non-executive director of Other companies listed oi Hong Kong, Shanghai, Shenzen, and Singapore Stock Exchanges. A member of the Chinese Institute of Certified Public Accountants.

Ms. Quan YU, Supervisor since January 2020. Joined Ant in 2016, and served as a senior director. Previously, Ms. Yu was a senior director Capital One Financial Corporation, an American bank holding company, 2002 to 2016.

The market's reaction to the Ant IPO

The proposed floatation was well received by markets around the world. Some commentators questioned whether the company should be valued as a high-tech company, in which case it had the largest customer base imaginable with almost every business in China and large swathes of the population (over 1.4 billion) needing an Alipay account: or should Ant be valued as a financial institution, recognising that Ant was a vast bank even by global standards, and was at the heart of facilitating the shift from printed currency notes to electronic transactions? Either way, the broad conclusion was that the IPO was favourable and the launch price reasonable.

Concerns were expressed about the political and regulatory risk. It was recognised that all listed companies in China had to be acceptable to the leaders of the CCP (Chinese Communist Party) as well as satisfying government and stock exchange regulators.

The possibility of competition was also raised. As a high-tech platform, competitors included the powerful TenCent Group (another vast Chinese company listed abrad). But, given Alipay's user base, Ant seemed well entrenched. As a financial institution, the competitors were China's traditional banks, but it would be hard to displace Ant, because of its massive financial electronic base and scale.

The listing is dropped

On 3 November 2020, two days before launch, the Shanghai Exchange stopped the Ant listing, citing ‘corporate governance failures.’ The Economist (2.1.21) suggested that Jack Ma had been told by the Financial Authorities to ‘rectify the Ant financial institutions.’ Anti-trust investigations had already begun into Alibaba.

In October 2020, Mr. Ma took the opportunity, when addressing a conference in Shanghai, to rail against financial regulation that he thought was inhibiting the development of e-based transactions. His comments must have concerned the Beijing authorities; a reaction was predictable.

The last-minute decision to intervene by the authorities in Beijing suggests that when the floatation value (the world’s largest public offering) was announced, they suddenly realised the implications. The company that dominated the entire country’s electronic payments systems and e-commerce activities was in private hands and about to be floated on the stock markets: anyone, anywhere in the world, could buy shares through the Hong Kong Stock Market.

Moreover, this company would be one of the world’s largest financial institutions. Maybe, the Politburo realised they were holding a tiger by the tail: time for more Government control.

The concerns of China’s corporate and financial regulators

China is a one-party state, run for the benefit of ‘the people’ by China Communist Party (CCP). During 2020, among the issues concerning the CCP authorities were the control of 'big-tech,' the private companies that dominated the provision of electronic communication, e-transactions, and e-commerce; and the growth of electronic money transactions associated with the provision of credit, which challenged traditional banking systems and was not susceptible to existing banking controls.

To appreciate the implications of such concerns about the Ant floatation, it is necessary to understand something of the Beijing regulatory apparatus.

The Politburo

(https://www.theguardian.com/china/page/0,12650,842712,00.html)

The Politburo comprises the top officials of the China Communist Party (CCP) and meets monthly. The policy concerns of the Politburo can often be deduced from commentaries in the People's Daily, the main newspaper of the CCP. Both the concerns about the implications of 'big-tech, and the effect of electronic money on the banking system were apparent.

Regulators in Washington, London, and Brussels have voiced similar concerns about the unaccountable power and influence of Western internet powerhouses, such as Google, and Facebook.

State Administration for Market Regulation

(https://en.nim.ac.cn/node/647#:~:text=State%20Administration%20for%20Market%20Regu)

China's *a*uthoritarian government initially seemed to take *a laissez-faire* approach to big-tech, allowing the unfettered growth of country-wide internet communication and internet platforms to thrive. Indeed, the internet companies were celebrated as icons of the nation's technological lead, with its ‘smart cities,’ electronic money transfer, and e-commerce.

Eventually, Alibaba and Alipay began to dominate their markets. Now, it seems, the big-tech companies have attracted the regulator’s attention. In 2020, the State Administration for Market Regulation instituted an investigation into whether the e-commerce group Alibaba had engaged in monopolistic practices, such as requiring vendors not to sell goods on other platforms.

The week after the Ant listing failed, the market regulator issued rules to combat anti-competitive behaviour by internet companies.

China Securities Regulatory Commission (CSRC)
(http://www.csrc.gov.cn/pub/csrc_en/)

China Securities Regulatory Commission (CSRC) is a ministerial-level public institution, directly under the State Council, which performs a unified regulatory function on China’s securities and futures markets, and ensures the legal operation of the capital market. The CSRC oversees the operation of the China Company Law (1993 and subsequent updates) and regulates state-owned and private companies.

The Peoples’ Bank of China (PBOC)
(www.pbc.gov.cn

PBOC is the central bank of China, responsible for carrying out monetary policy and regulating the banking laws of mainland China (not Hong Kong Special Administrative Region). It is an executive department of the State Council. Its asset holdings are the largest in the world.

The digital yuan, now dominated by Alipay, is a potential threat to the traditional bank notes and the banking system's money handling regime.

*Ministry of Finance of the PRC (*http://www.mof.gov.cn/en/)

The Ministry of Finance handles fiscal policy, economic regulations, and government expenditure. It is also the national executive agency for macro-economic policies and the national annual budget. The Ministry publishes the country's macroeconomic data.

During 2020, while Ant was preparing its IPO, China's financial regulatory authorities, including the Ministry of Finance, the Peoples' Bank of China, and possibly the CSRC, called for a meeting with Ant to discuss its financial supervision.

Bank of China (BOC)
(https://www.boc.cn/en)

A large commercial bank founded in 1912, Bank of China survived the vicissitudes of China's history, to become the dominant financial institution in the country, with a global service network. The Bank was a wholly state-owned enterprise, until floated in 2006 on the Shanghai and Hong Kong Stock Exchanges. The Bank developed China's international trade settlement system, overseas fund transfer, and other non-trade foreign exchange services. The Bank now offers business and personal banking, loans, investment fund and securities management, insurance, aircraft leasing, and other financial services. The Bank claims to relate its strategies to leader Xi Jinping's 'Thoughts on Socialism with Chinese Characteristics for a New Era.'

Why was the listing of Ant Group Stopped?

It would have been the world's largest IPO. The withdrawal of the listing by the Shanghai Stock Exchange, two days before the planned launch, was dramatic. Something significant had obviously happened.

The Shanghai Exchange spoke of 'corporate governance irregularities' and, certainly, there were some unanswered questions about the information provided in the listing documents; although the proposed listing had obviously satisfied the listing rules of the Hong Kong Stock Exchange, which embrace the Hong Kong Corporate Governance Code, itself modelled on the original UK Cadbury code.

Corporate governance commentators had previously raised concerns about the role of the 'partnership' of executive directors and top management in Alibaba: similar concerns were expressed about the 'partnership in Ant, which seemed to wield considerable, but unaccountable, power. Others were dubious about the offshore nature of the companies whose shares were to be listed and offered to investors, while power over the onshore operating companies was wielded by Mr. Ma and his immediate colleagues. The Supervisors, also, all seemed to be senior executives of the company, mainly with a financial orientation: no obvious representative of the workers or a member of the CCP, with a link to the Party, which is found in many Chinese supervisory boards.

But there must have been other, underlying issues to cause such a significant, last-minute cancellation of the listing. Three major issues can be deduced from the case:

1. *Failure of Mr. Ma and his colleagues to appreciate the political context and regulatory risk they faced*

In recent comments to a Shanghai conference, Mr. Ma had publicly criticised the Beijing authorities for what he claimed was their failure to recognise the significance of modern electronic banking and adapt financial regulations accordingly. Such a statement would have been totally acceptable in Western democracies, even welcomed: but not in China. Confucian beliefs demanded respect for hierarchy: children respected the head of the family, who respected the head of the village or family clan, ultimately respect was expected for the Emperor and his learned advisers. Today, the Emperor and his court have been replaced by the leaders of the PCC – the President and the Politburo. Respect, not criticism, is expected. In Chinese society and particularly in business, much effort is made to build close, lasting personal relationships (guanxi): it seems Mr/ Ma might not have cultivated such relationships with Beijing.

2. *Failure of the Beijing financial authorities to appreciate the implications of Ant's domination of electronic systems throughout China*

For years, Beijing had promoted the country-wide development of electronic transactions and money transfer as a sign of China's technological and economic leadership. Too late, they seem to have realised the likely corollary that the organisation providing those services would become very large and powerful.

3. *Failure of the Beijing authorities to appreciate the scale and dominance of Ant as a financial institution*

The vast size of the Ant IPO, the largest in history, probably staggered the Beijing authorities. Too late, they may have realised that the Ant organisation had become a major banking institution.

Hundreds of millions of ordinary people now held Ant accounts, and banked electronically, outside the conventional banking system. Ant had enfranchised hundreds of millions of businesses, merchants, and shop keepers as customers, offering them deposit accounts, credit options, as well as money collection and transfer facilities.

Electronic banking and Ant's domination of it, was a challenge to traditional banking practices and to existing banking regulation in China. The lack of Government oversight and control of the sector had become apparent.

In China, awareness of regulatory risk ought to be a prerequisite in all strategy formulation. Ant's directors may have become over-confident, encouraged by the lack of Government interest to date, despite the staggering growth of their electronic and financial enterprise..

As Gregg Li and I emphasise in our book[4], China's authorities expect and encourage corporate governance practices to evolve, contributing to economic growth and social stability, rather than to see corporate governance as the way to regulate and control, as in the West. But, in an authoritarian, one-party state, political and regulatory risk remain high and need to be understood in every board room.

On the news of the stopping of the Ant listing, Alibaba's shares in New York fell significantly. Mr. Ma, who had met with the authorities in Beijing immediately before the listing was stopped, made no statement and did not appear in public for the next ten weeks: when he did, Alibaba's New York shares rose.

Bob Tricker
January 2021

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[4] Tricker, Bob and Gregg Li (2019), *Understanding Corporate Governance in China,* Hong Kong University Press