



February 2023

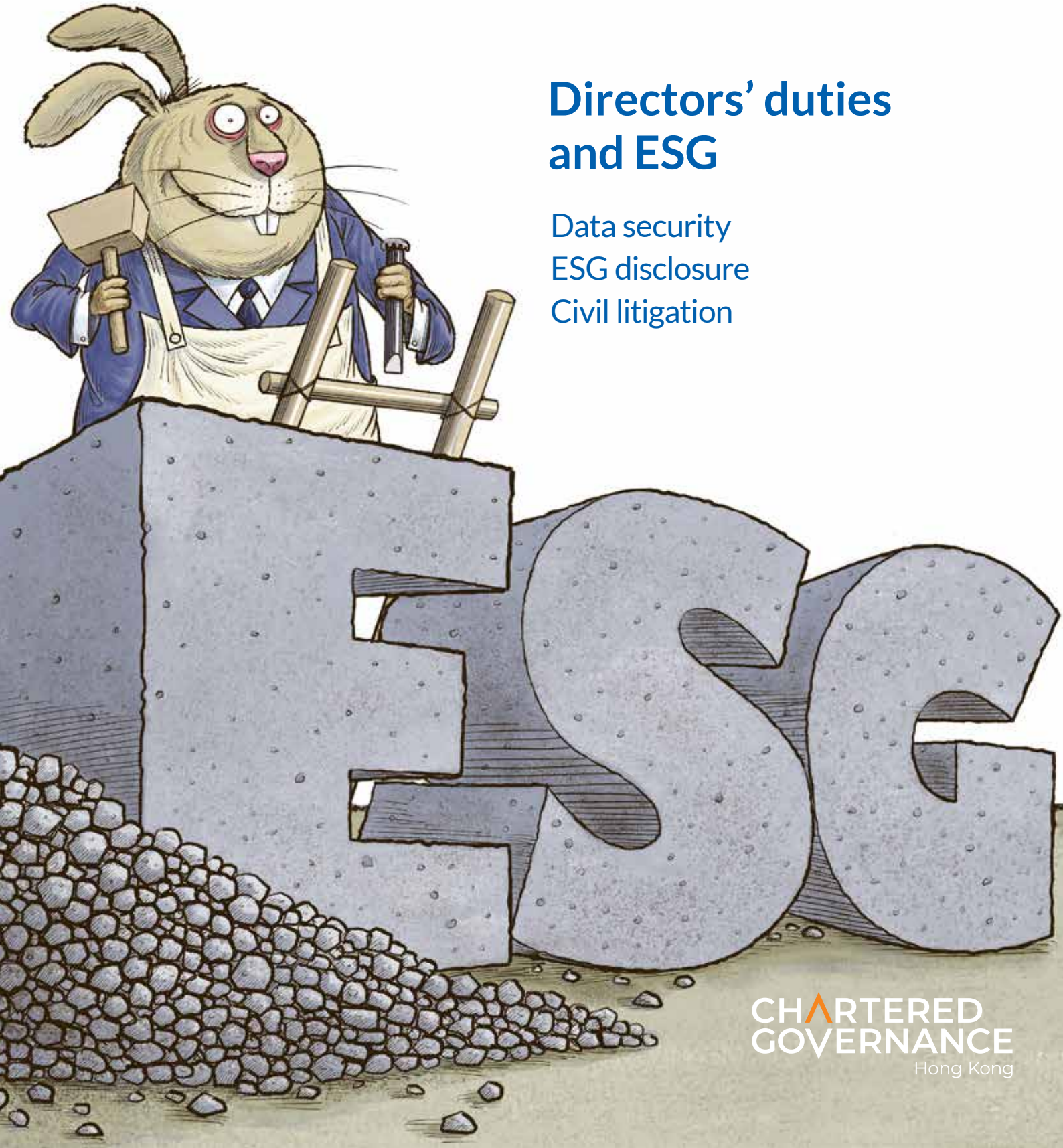
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The journal of the Hong Kong
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COURSE INFORMATION

Intake: 3 intakes per year (Spring, Summer & Autumn)

Teaching Venue: Any of the HKU SPACE's Learning Centres on Hong Kong Island

Programme Title	QF level	QR Registration No.	QR Registration Validity Period
Boardroom Dynamics  4	4	21/001317/L4	01 Dec 2021 - on-going
Corporate Governance  4	4	21/001318/L4	01 Dec 2021 - on-going
Corporate Secretaryship and Compliance  4	4	21/001319/L4	01 Dec 2021 - on-going
Hong Kong Company Law  4	4	21/001320/L4	01 Dec 2021 - on-going
Hong Kong Taxation  4	4	21/001321/L4	01 Dec 2021 - on-going
Interpreting Financial and Accounting Information  4	4	21/001322/L4	01 Dec 2021 - on-going
Risk Management  4	4	21/001323/L4	01 Dec 2021 - on-going
Strategic Management  4	4	21/001324/L4	01 Dec 2021 - on-going

TARGET STUDENTS

1. Be 21 years old or above. (Students should be either a Hong Kong permanent resident or have valid permit to study in Hong Kong)
2. Students aiming to prepare for the HKCGI CGQP examinations.

Award:

Certificate for Module

Fee per subject:

HK\$4,500 (36-hour lectures)

HK\$5,900 (45-hour lectures)

All fees paid are NOT refundable, unless the programme is oversubscribed or cancelled. All fees are subject to revision.



This course has been included in the list of reimbursable courses under the Continuing Education Fund.



This course is recognised under the Qualifications Framework (QF Level 4).



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About The Hong Kong Chartered Governance Institute

The Hong Kong Chartered Governance Institute (HKCGI, the Institute) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, as well as the development of the profession of the Chartered Secretary and Chartered Governance Professional in Hong Kong and the mainland of China (the Mainland).

The Institute was first established in 1949 as an association of Hong Kong members of The Chartered Governance Institute (CGI). In 1994 the Institute became CGI's Hong Kong Division and, since 2005, has been CGI's Hong Kong/China Division.

The Institute is a founder member of Corporate Secretaries International Association Ltd (CSIA), which was established in March 2010 in Geneva, Switzerland. Relocated to Hong Kong in 2017, where it operates as a company limited by guarantee, CSIA aims to give a global voice to corporate secretaries and governance professionals.

HKCGI has over 6,800 members, more than 300 graduates and around 3,000 students.

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February 2023

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In my message this month, I would like to focus on the theme of our Annual Celebration 2023 – upping our game. The Celebration, held at the Hong Kong Club last month, was the first time in three years that our Institute has been able to host a large-scale, in-person gathering. While Covid-19 has certainly not disappeared over the horizon, the event hints at the long-awaited return to normality that we have all been hoping for.

The evening looked back at the achievements of the past year, but also forward to the work ahead of us to continually ‘up our game’ as a premier professional body in governance. In 2022, our professional development schedule included over 90 CPD training sessions and four major forums – our Climate Change Conference, Annual Corporate and Regulatory Update (ACRU), Corporate Governance Conference and AML/CFT Conference. While all of this was going on, we also found time to launch a new brand identity and strategic position!

2023 will be no less energetic, however. We will be running our annual flagship events, including the ACRU and AML/CFT forums mentioned above. The year will also see the launch of a new forum – our inaugural Family Office Conference in September.

Upping our game

We will also be launching two new certification courses. The first batch of our ESG Reporting Certification Course will run from February to April and the second batch from June to September. Our AML/CFT Certification Course will run in the second half of the year. Both courses will give participants not only comprehensive training in the relevant subjects, but will also lead to a certificate and a post-nominal, valid for two years, that will help them demonstrate their skills and knowledge in these critical areas to prospective employers. Their names and post-nominals will be listed on the Institute’s website for public search.

2023 will also see the completion of our director training series (Director training – a focus on INEDs), launched in November 2022. This series is a collaboration with Hong Kong Exchanges and Clearing Ltd (HKEX). Both HKEX and our Institute recognise the key role that director training plays in ensuring that boards remain informed and effective. If you haven’t already done so, I recommend you sign up for the two remaining sessions on 17 February and 17 March. These are hybrid events, so you can register for physical or online participation via our website.

2023 will also see the continuation of our research and thought leadership work. This month’s edition of your journal reviews the Institute’s latest research paper, Legal Developments in Directors’ Duties and ESG – What Every Hong Kong Company Director Should Know, published in

collaboration with Ben McQuhae & Co. The paper focuses on the very timely topic of the potential personal liability that directors face if they fail to effectively oversee the ESG function.

To conclude, I would like to thank everyone who has supported, and continues to support, our work. Participants at our Celebration included key representatives of government and regulatory bodies. Our Guest of Honour at the event was The Honourable Christopher Hui Ching-yu GBS JP, Secretary for Financial Services and the Treasury, and his speech is reprinted in this edition of CGj.

Other participants included our peers and colleagues from educational institutions and fellow professional firms and institutes. The event was also attended by past chairmen and presidents, Council members, our Secretariat team, graduates, guests and friends. Our Institute deeply appreciates and thanks all of those who have worked for and with us to promote better governance in Hong Kong and the Mainland. I look forward to the work ahead of us in continuing to up our game in the core areas of our work – education, professional development and thought leadership.

Ernest Lee FCG HKFCG(PE)

提升专业竞争力

在本月的寄语中，我想重点谈谈公会2023年度庆典的主题--提升专业竞争力。上个月在香港会举行的年度庆典活动是三年来公会第一次举办大规模的现场聚会。虽然新冠病毒肯定没有在地球上消失，但这次活动让我们回到了期待已久的正常状态，而这正是我们所有人的期待。

晚宴回顾了公会过去一年的成就，也展望了公会未来继续“提升专业竞争力”，成为治理方面的重要专业机构的工作安排。2022年，公会的专业发展计划包括了90多个持续专业发展培训课程和四个重要研讨会--气候变化研讨会、企业规管最新发展研讨会、公司治理研讨会和打击洗钱/恐怖分子资金筹集研讨会。在这一切进行的同时，我们还抽出时间推出了新的品牌标识和战略定位！

2023年将更是充满活力的一年。公会将举办一些年度旗舰活动，包括上文提到的企业规管最新发展研讨会和打击洗钱/恐怖分子资金筹集研讨会。这一年还将举办一个新的研讨会--公会将在9月举办首届家庭办公室研讨会。

公会还将推出两个新的认证课程。第一批ESG报告认证课程将在2月至4月进行，第二批将在6月至9月进

行。公会的打击洗钱/恐怖分子资金筹集认证课程将在今年下半年进行。这两门课程不仅为参与者提供相关科目的全面培训，而且完成课程者还将获得有效期为两年的证书和头衔，这将有助于他们向未来的雇主展示他们在这些关键领域的技能和知识。完成课程者的名字和头衔将列于公会网站上供公众查询。

公会于2022年11月推出的董事培训系列（董事培训—聚焦独立非执行董事）课程将于2023年完成。这个系列课程由公会与香港交易及结算有限公司（港交所）合作开展，因为港交所和公会都认为董事培训在确保董事会保持知情和有效方面所发挥关键作用。如果您还没参加这个培训，建议您报名参加2月17日和3月17日的两场讲座。这些讲座都是线上线下结合，您可通过公会网站报名现场或在线参与。

2023年，公会还将继续开展研究和思想引领方面的工作。本月会刊回顾了公会与Ben McQuhae & Co.合作出版的最新研究报告《董事职责和ESG的法律发展--香港公司董事须知》。这份报告着重讨论了一个非常切合目前需求的话题：如果董事未能有效监督ESG职能，他们可能面临的个人责任是什么。

最后，我想感谢所有曾经/一直以来支持公会工作的人们。参加公会年度庆典活动者包括政府和监管机构的代表，此次活动的主礼嘉宾是财经事务及库务局局长许正宇先生GBS JP, 他的致辞载于本期会刊中。

其他参与者包括我们的同行和来自教育机构及专业公司和机构的同事。前任主席和会长、理事会成员、我们的秘书处团队、毕业学员及其他客人和朋友们也参加了这次活动。公会对所有为我们工作并与我们一起促进香港和内地更佳治理的人士深表赞赏和感谢。我期待着开展我们未来的工作，继续在我们的核心工作领域--教育、专业发展和思想引领方面提升我们的专业竞争力。



李俊豪先生 FCG HKFCG(PE)

Directors' duties and ESG



CGj reviews the Institute's latest research paper, published in collaboration with Ben McQuhae & Co, highlighting directors' duties to take into account environmental, social and governance (ESG) developments for sustainable business operations.

Integrating ESG into business strategy is increasingly recognised as a core part of good governance and effective risk management. Directors therefore have every incentive to give ESG appropriate consideration, but a new research paper published by the Institute in November 2022 highlights an additional, and perhaps even more persuasive, incentive for directors to adequately address ESG matters – namely, that directors who fail to do so can be deemed to be negligent in the performance of their directors' duties.

The research paper, *Legal Developments in Directors' Duties and ESG – What Every Hong Kong Company Director Should Know (the Paper)*, serves as a wake-up call to any directors under the illusion that ESG falls outside the remit of their fiduciary duties, or their duties to exercise care, skill and diligence. It clarifies the standards expected of directors for properly discharging their duties

in respect of ESG considerations with reference to existing legal and regulatory requirements.

It also makes the point that directors need to stay informed, not only of changes to the local regulatory regime, but also of the broader, global developments that are informing the trajectory of those regulations, as well as stakeholder expectations. Governance professionals can play a crucial role here and the Paper emphasises their role in ensuring that material ESG issues get the attention they deserve at the board level.

ESG is a board responsibility

1. The statutory obligations

One of the reasons that directors are not always aware of the personal liability they potentially face if they fail to effectively oversee the ESG function is that there is currently no express common law authority or statutory provision under Hong Kong law obliging directors, in the discharge

Highlights

- directors who fail to effectively oversee the ESG function could be personally liable for ESG breaches
- the Institute's new research paper urges directors to stay adequately informed of ESG developments
- governance professionals should ensure that consideration of ESG risks and implications is a regular board agenda item

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as advisers to boards on governance-related matters, governance professionals need to be well-equipped to ensure regular board consideration of ESG risks and their implications for the company’s business
 ”

of their duties (fiduciary or otherwise), to consider ESG considerations.

The Paper points out, however, that directors should not assume that they are not under any legal obligation to have regard to ESG considerations under Hong Kong law. On the contrary, because directors are legally obliged to act in the best interests of the company, and to exercise reasonable care, skill and diligence in the performance of their functions, they are obliged to consider any ESG issues that affect the company’s interests.

The ESG issues with material significance for companies will of course depend on the specific industry and circumstances of each company, but there are few companies unaffected by core ESG issues such as climate change, for example, and a failure by the board to consider such issues would be likely to have an adverse impact on the business and operations of the company.

Moreover, the Paper points out that directors are increasingly subject to legal requirements relating to the

disclosure of their ESG strategies and performance. Schedule 5 of the Companies Ordinance specifies that the business review that companies have to include in their annual reports must include a discussion of the company’s environmental policies and performance, and a discussion of the company’s compliance with relevant laws and regulations.

2. The regulatory requirements

Directors of listed or regulated entities also have to take note of relevant non-statutory requirements – notably the Listing Rules or ESG-related regulations introduced by their regulator. Indeed, the Listing Rules play an arguably more critical role in the regulation of companies in Hong Kong since they apply to all companies listed on The Stock Exchange of Hong Kong, irrespective of their jurisdiction of incorporation.

The Paper points out that Hong Kong Exchanges and Clearing Ltd (HKEX) has been progressively tightening the Listing Rule requirements relating to listed companies’ management of ESG



issues. Companies are required, for example, under the Environmental, Social and Governance Reporting Guide (Appendix 27 of the Main Board Listing Rules), to report on the board’s overall responsibility for the company’s ESG strategy and reporting. The Corporate Governance Code (Appendix 14 of the Main Board Listing Rules) also includes an explicit link between ESG and corporate governance – requiring directors, as part of their annual review of their risk management and internal controls systems, to consider the effectiveness of their ESG governance structure.

Since a primary duty of directors is to ensure compliance with regulations,



a breach of the Listing Rules is likely to be deemed a breach of a director's duty to exercise reasonable care, skill and diligence. Moreover, the Listing Rules are not the only rules of relevance to directors' ESG obligations. ESG regulations have been introduced by the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA). Directors working for financial institutions in Hong Kong will therefore need to consider the SFC or the HKMA's requirements. These include requirements relating to incorporating climate considerations into the company's governance, strategy, risk management, and disclosure policies and procedures.

The importance of effective board oversight of ESG issues has been a key theme of Hong Kong's major regulators and of the emerging international consensus on ESG and sustainability best practice. Indeed, the Paper warns that international trends will continue to raise the bar for directors in Hong Kong.

'Directors should be mindful that the range and breadth of ESG-related obligations will certainly expand as the ESG policy and regulatory landscape evolves, including through the adoption in Hong Kong of sustainability reporting standards developed by the International Sustainability Standards Board (ISSB)', the Paper states.

In particular, directors of listed companies in Hong Kong should be preparing now for a new requirement to report on their Scope 3 greenhouse gas (GHG) emissions. Scope 3 emissions include all indirect emissions that occur in the value chain of companies, both upstream and downstream. Regulators in Hong Kong have committed to aligning Hong Kong's ESG regime with the finalised sustainability standards about to be launched by the ISSB – standards that will certainly require Scope 3 reporting.

Staying informed

The purpose of the Institute's latest research paper is not only to make directors more aware of the personal liability they potentially face for ESG breaches, it also makes suggestions on how they can avoid such breaches. First and foremost, it urges directors to stay adequately informed of ESG developments.

'They need at least to have access to information via internal or external sources about ESG considerations affecting, or potentially affecting, the company, the likely consequences for the company, and how the company is currently monitoring and managing such considerations,' the Paper states.

Directors should proactively make inquiries to obtain the necessary information, or to seek appropriately qualified and independent expert advice where necessary, but governance professionals also have a part to play in this.

'As advisers to boards on governance-related matters, governance professionals need to be well-

equipped to ensure regular board consideration of ESG risks and their implications for the company's business. Directors might find it helpful to seek advice from governance professionals, including company secretaries, to ensure that consideration of ESG risks and implications is a regular agenda item. Boards and governance professionals are reminded to seek duly qualified assistance regarding ESG matters where necessary,' the Paper states.

Determining the level of detail required by directors will be a difficult judgement for governance professionals and will depend on the specific circumstances of each company. Nevertheless, the Paper points out that the information should go beyond changes to the local regulatory regime.

'The global ESG regulatory landscape continues to evolve and expand across jurisdictions. To enable directors to properly and continually discharge their ESG-related obligations in Hong Kong, directors would be well advised to keep ahead by staying informed of the direction of travel, such as via public statements by Hong Kong's regulators and policymakers, and developments in other key jurisdictions,' the Paper states.

Developments in other jurisdictions, the Paper points out, may be an indication of how Hong Kong's own regime will evolve in the years ahead. Many jurisdictions have express statutory provisions that either permit or obligate directors to consider ESG matters and stakeholder interests in discharging their fiduciary duties to the company.

The Canada Business Corporations Act, for example, permits directors to have regard for the environment and stakeholders, such as employees and consumers, in their pursuit of the company's best interests. The UK Companies Act imposes a clear affirmative duty on directors to consider a number of factors when discharging the duty to act in utmost good faith to promote the company's success. These factors include the interests of employees, the impact of company operations on the community and environment, the need to foster the company's business relationships with suppliers, customers and others, and the importance of maintaining a reputation for high standards of business conduct.

The EU's proposed Corporate Sustainability Due Diligence Directive, currently under debate in the European Parliament, would impose a duty of care on directors, when fulfilling their duty to act in the best interest of the company, to 'take into account the consequences of their decisions for sustainability matters, including, where applicable, human rights, climate change and environmental consequences, including in the short, medium and long term'.

The Directive would also impose an obligation on directors to put in place and oversee processes and policies for conducting human rights and environmental due diligence of company operations, and to give due consideration to relevant input from stakeholders and civil society organisations. A reporting mechanism is to be implemented at the board level. Directors would have to adapt

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we are of the view
that directors of
listed companies are
obligated, both under
existing legal principles
in relation to directors'
duties and the Listing
Rules, to pay due regard
to ESG considerations
in managing the
company's affairs
”

the company's corporate strategy to consider the actual and potential adverse impacts identified under the due diligence exercises, and the remedial measures taken.

Personal accountability

The Institute's latest research paper also highlights the fact that claims relating to an alleged breach of directors' duties are not hypothetical. Royal Dutch Shell PLC is currently facing a breach of directors' duties claims specifically related to alleged ESG failures. In March 2022, ClientEarth, a non-governmental organisation and shareholder in the company, launched a derivative claim against Shell's board members. The claim seeks to secure:

- a declaration that the directors are in breach of their duties under the UK Companies Act



2006 to promote the success of the company (section 172) and to exercise reasonable care, skill and diligence in carrying out their roles as directors (section 174), and

- an order that the directors should adopt an energy strategy that includes GHG reduction targets that are aligned to the goals of the UN Paris Agreement (which seeks to limit the global temperature increase in this century to 1.5°C above pre-industrial levels).

The claim is still in its early stages, but, whatever the outcome of the case, the Paper emphasises the need for directors to ensure their and their company's compliance with the ESG obligations under existing legal and regulatory requirements.

'We are of the view that directors of listed companies are obligated, both under existing legal principles in relation to directors' duties and the Listing Rules, to pay due regard to ESG considerations in managing the company's affairs,' it states.

The operating environment for companies in Hong Kong will continue to evolve, but the Institute's latest research paper makes it very clear that directors cannot afford to neglect their ESG obligations.

'The ESG obligations imposed on directors under relevant ESG regulations will likely influence and shape the scope of directors' duties in respect of ESG considerations. In light of the current and anticipated future regulatory environment, it will become increasingly complex, if at all possible, for a director of a regulated entity to

act reasonably if they fail to reasonably consider and/or manage relevant and material ESG risks affecting the company,' the Paper states. [CG](#)

Legal Developments in Directors' Duties and ESG - What Every Hong Kong Company Director Should Know can be accessed via the Thought Leadership/Research Papers sections of the Institute's website: www.hkcg.org.hk.

The Institute is grateful for the contributions of Ben McQuhae and his team to the Paper, with input from Ernest Lee FCG HKFCG(PE), Institute President; Gillian Meller FCG HKFCG(PE), Institute Past President; April Chan FCG HKFCG, Institute Past President and Chairman, Technical Consultation Panel; and Mohan Datwani FCG HKFCG(PE), Institute Deputy Chief Executive.

Director training – a focus on INEDs

WHY?

Hearing from HKEX regulators, prominent directors including INEDs, as well as market practitioners, governance professionals to understand:

- ▲ Director/INED's duties, functions and authority
- ▲ How to respond to current governance issues, e.g. risk management, investor communications, conflicts of interest, ESG
- ▲ Complex transactions that INEDs need to seek more information from management and/or professional advice
- ▲ Enforcement

FORMAT – Hybrid

A series of three director training sessions in **HKEX Connect Hall**, with limited physical attendance and live streaming for online participation.

Session One [Physical] / [Online]	Understanding Director/INED's Duties	22 November 2022 (2.00pm to 4.00pm)
Session Two [Physical] / [Online]	Tackling Current Governance and Regulatory Issues	17 February 2023 (4.00pm to 6.00pm)
Session Three [Physical] / [Online]	Enforcement - Current Issues and Disciplinary Processes	17 March 2023 (4.00pm to 6.00pm)

CPD ACCREDITATION

HKCGI: 2 ECPD points per session, **The Law Society of Hong Kong:** 2 CPD points

ENQUIRIES

Please contact the Institute's Professional Development Section: 2881 6177, or email: cpd@hkcg.org.hk.
For details, please visit the Institute's website: www.hkcg.org.hk.

Session One

You will learn:

- ▲ What is corporate governance about?
- ▲ Boardroom dynamics
- ▲ Directors' duties, functions and authority
- ▲ INED specific duties, roles and authority
- ▲ INED's role in risk management, including ESG and climate-related risks and opportunities
- ▲ Shareholder communications/ investor expectations

Speakers:

- ▲ **Ms Edith Shih FCG(CS, CGP) HKFCG(CS, CGP)(PE)**
Past International President, The Chartered Governance Institute and Past President, HKCGI; Executive Director and Company Secretary, CK Hutchison Holdings Ltd
- ▲ **Ms Ellie Pang FCG HKFCG(PE)**
Chief Executive, HKCGI
- ▲ **Mr Ernest Lee FCG HKFCG(PE)**
President, HKCGI; Technical Partner, Deloitte China
- ▲ **Ms Gillian Meller FCG HKFCG(PE)**
Immediate Past President, HKCGI; Legal and Governance Director, MTR Corporation Ltd
- ▲ **Ms Katherine Ng**
Managing Director and Head of Policy and Secretariat Services, Listing Division, HKEX
- ▲ **Ms Teresa Ko JP BBS FCG HKFCG**
Senior Partner, Hong Kong and China Chairman, Freshfields Bruckhaus Deringer; Co-Vice Chair, IFRS Foundation

(In alphabetical order)



Session Two

You will learn:

- ^ INED's oversight role in:
 - Internal control system
 - Connected transactions and major transactions
- ^ Conflicts of interest
- ^ When to seek information from management
- ^ When to seek professional advice

Speakers:

- ^ **Ms Christine Kan**
Managing Director, Head of Listed Issuer Regulation, Listing Division, HKEX
- ^ **Mr David Gordon Eldon GBS CBE JP**
Deputy Chairman, The Hongkong and Shanghai Banking Corporation Ltd
- ^ **Mr David Simmonds FCG HKFCG**
Vice President and Chairman, Membership Committee, HKCGI; Chief Strategy, Sustainability & Governance Officer, CLP Holdings Ltd
- ^ **Mr Frank Yuen FCG HKFCG**
Group General Counsel and Head of Compliance, CK Hutchison Holdings Ltd
- ^ **Mr Joe Fan**
Vice President, Listed Issuer Regulation, Listing Division, HKEX
- ^ **Mr John MM Williamson FHKSI**
Independent Non-Executive Director, London Metal Exchange and Pacific Basin Shipping Limited; Chairman, UK Tote Group
- ^ **Ms Melissa Fung**
Risk Advisory Southern Region Lead Partner, Deloitte China

(In alphabetical order)

Session Three

You will learn:

- ^ Disciplinary cases against INEDs
- ^ HKEX's disciplinary process
- ^ Latest case studies relating to INEDs
- ^ How to respond to disciplinary actions?
- ^ How to defend disciplinary actions?

Speakers:

- ^ **Ms Candy Au**
Assistant Vice President, Enforcement, Listing Division, HKEX
- ^ **Mr Ernest Lee FCG HKFCG(PE)**
President, HKCGI; Technical Partner, Deloitte China
- ^ **Mr Jon Witts**
Senior Vice President, Head of Enforcement, Listing Division, HKEX
- ^ **Ms Julia Charlton**
Principal Partner, Charltons
- ^ **Dr Kelvin Wong SBS JP**
Chairman, Accounting and Financial Reporting Council
- ^ **Mr Mohan Datwani FCG HKFCG(PE)**
Deputy Chief Executive, HKCGI

(In alphabetical order)

Physical seats are limited while attendance is subject to the social distancing rules in place at the time of the session. The Institute reserves the right to change the above session, listed presenter(s) and time, if necessary.

Promoting good corporate governance in Hong Kong

At the Institute's Annual Celebration 2023, held in January this year, The Honourable Christopher Hui Ching-yu GBS JP, Secretary for Financial Services and the Treasury, spoke about the close cooperation between the government and the governance profession in promoting good governance and Hong Kong's competitive edge.



I am delighted to speak to you all face-to-face. It has been over three years since the Covid-19 pandemic caught us, but with the concerted effort of different sectors of the community and the government, we are now moving back to normalcy.

We are ready to relaunch Hong Kong on the global stage, and we open our arms to welcome people and companies who would join our journey. The Chief Executive set out clearly in his 2022 Policy Address that we will compete for talent more proactively and aggressively.

Competing for talent

I am particularly keen to see more talent joining the domain of environmental, social and governance (ESG). We require a wide range of ESG expertise – ranging from ESG financing, investment, product development, disclosure and reporting standards, rating assessment, risk management, regulation and compliance, to investment research and analysis. We need this expertise to grasp the ESG-related financial business opportunities emerging with our country and Hong Kong's endeavour to achieve carbon neutrality in the years ahead.

Apart from grooming local professionals, we have strengthened talent admission schemes to encourage talent to come to work in Hong Kong. The latest talent list, which outlines professions that Hong Kong needs most and are eligible for the immigration facilitation under the Quality Migrant Admission Scheme, already includes experienced financial professionals in ESG.

The government has doubled its effort through launching the non-employment-tied Top Talent Pass Scheme to attract individuals whose annual salaries reach a certain level and graduates from the world's top 100 universities. The Top Talent Pass Scheme is very well received, with around 3,800 applications received since its launch on December 28 last year, and the government has already approved around 2,400 applications.

I understand HKCGI also attaches great emphasis to talent training as one of the most prominent qualifiers of the internationally recognised Chartered Secretary and Chartered Governance Professional qualification in the region. I am delighted to learn that despite the Covid-19 pandemic in the past few years, the Institute's Chartered Governance Qualifying Programme, master programmes under the Institute's Collaborative Course Agreement, Partnership Bachelor's Programme and other professional development programmes continue to be well received and enthusiastically enrolled in. The programmes will surely continue to play a major role in nurturing corporate governance talent going forward, and my bureau and

“
abundant supply
of high-quality
corporate governance
professionals is one of
our competitive edges
”

the Companies Registry are happy to provide support.

Updating Hong Kong's regulatory infrastructure

Talent attraction and nurturing aside, the government also reviews the regulatory infrastructure from time to time for enhancing the corporate governance ecosystem. In December last year, we introduced the Companies (Amendment) Bill 2022 into the Legislative Council (LegCo), which seeks to expressly provide flexibility for local companies to make good use of technology when holding general meetings.

Under the proposal set out in the Amendment Bill, companies may hold fully virtual or hybrid general meetings, unless their articles of

Highlights

- the government has strengthened talent admission schemes to deepen Hong Kong's talent pool
- the Companies (Amendment) Bill 2022, scheduled to take effect this year, will provide greater flexibility for local companies to hold fully virtual or hybrid general meetings
- the government will continue its close collaboration with the governance profession in promoting good governance and Hong Kong's competitive edge

“
we are ready to relaunch Hong Kong on the global stage, and we open our arms to welcome people and companies who would join our journey
 ”

association expressly prohibit them from doing so, or require a general meeting to be held only at a physical location. This will enable companies to benefit without having to go through an amendment procedure to their articles of association, while at the same time retaining the companies' right to choose which manner of conducting the general meetings best fits their interests. We will also require companies to ensure that legitimate participants of the general meetings would be able to listen, speak and vote through the technology employed at the meetings, such that interests of shareholders would not be undermined.

We will soon resume the second reading of the Amendment Bill at LegCo and, subject to LegCo's approval, it will take effect three months thereafter to allow sufficient preparatory time for companies. We will provide sufficient guidance notes and reference materials by then. In fact, my team has worked closely with Ernest Lee FCG HKFCG(PE), HKCGI President and Technical Partner of Deloitte, together with his team, when drawing up the legislative proposal, and we thank Ernest for his valuable advice rendered. We will keep in close liaison with the Institute and count on your continued support when it comes to the implementation stage of the proposal.

ESG regulatory developments

For listed companies, The Stock Exchange of Hong Kong Ltd (the Exchange) has also made considerable progress recently on promoting better governance.

In April last year, the Exchange launched a new diversity repository named Board Diversity & Inclusion in Focus, aiming to improve access to information on and transparency around board diversity, enabling investors and other stakeholders to stay informed of businesses' policy and approach to good governance and board diversity. It also introduced the section ESG in Practice in its ESG Academy, which highlights the Exchange's latest ESG regulatory developments, and examples of good ESG practices among its issuers.

In November 2022, the Exchange published the findings of its latest review of issuers' ESG disclosures, which focus on the requirements that came into effect in 2020, namely boards' ESG governance and management of climate-related risks. Results showed that over 95% of issuers disclosed their boards' oversight and management approach on ESG matters. On climate change, 85% of issuers acknowledged the importance of climate-related risks and chose to disclose details on all new climate-related requirements.

These findings show that good progress has been made in ensuring that boards of Hong Kong listed companies are giving the necessary focus to ESG considerations, sowing the seeds for more ESG achievements in the future.

Hong Kong's competitive edge

The Office for Attracting Strategic Enterprises, which came into full operation in December 2022, demonstrates the government's determination to encourage international and Mainland companies to set up and expand their business operations in Hong Kong. Abundant supply of high-quality corporate governance professionals is one of our competitive edges and I am confident that the industry will enjoy lots of new business opportunities as companies look to set foot in Hong Kong. On that, rest assured that the government will continue to be in close collaboration with the industry in forging ahead.

Thank you very much and I look forward to more opportunities to meet with you in person to discuss new ideas in further promoting good corporate governance in Hong Kong. For now, may I take this opportunity to wish you and your families a Happy Year of the Rabbit.

The Honourable Christopher Hui Ching-yu GBS JP, Secretary for Financial Services and the Treasury

Financial Services and the Treasury Bureau

This article has been adapted from Mr Hui's Guest of Honour speech at the Institute's Annual Celebration 2023.



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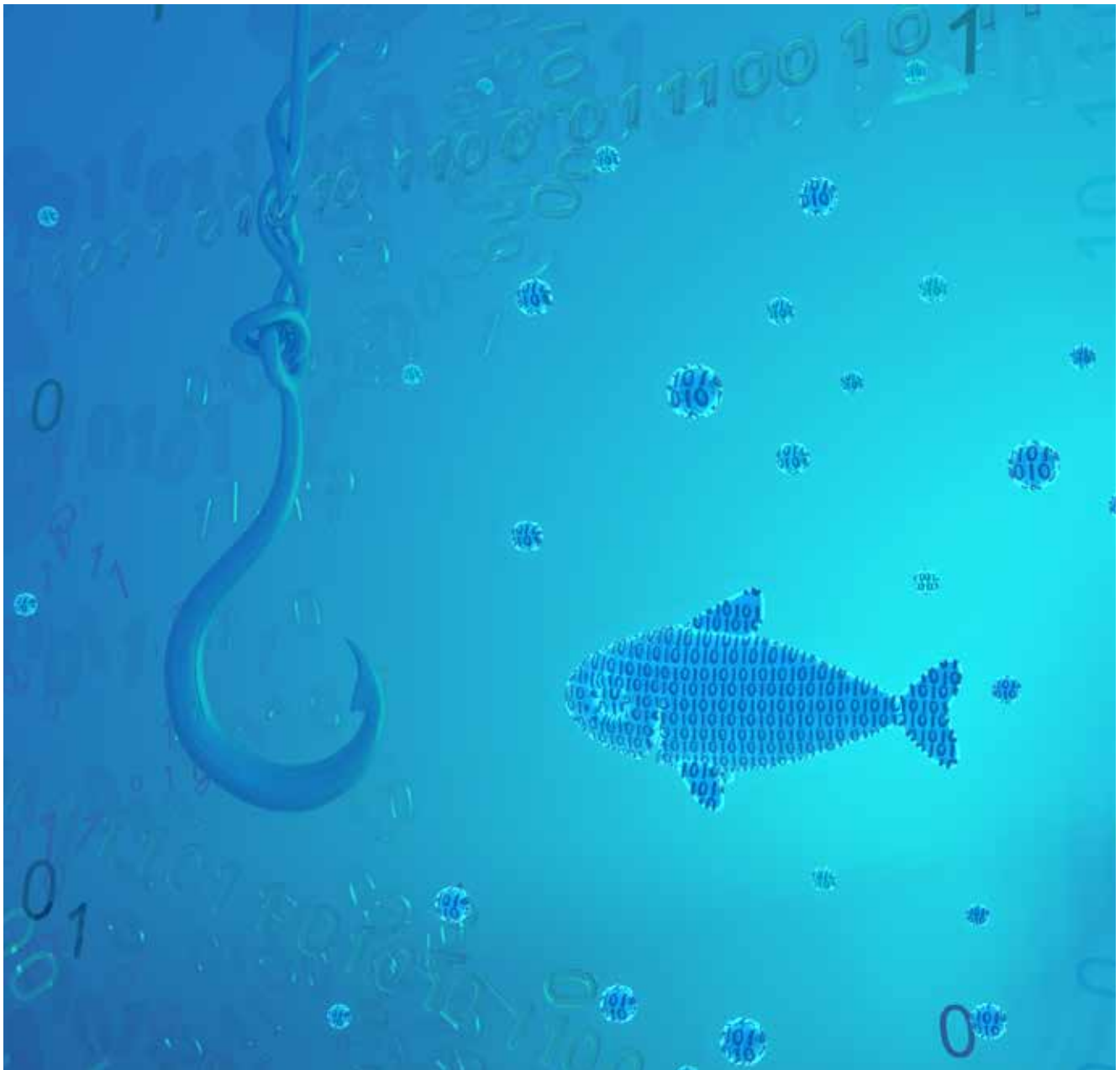


Supporting Organisations



Guidance on data security

Heightened importance of data security amid increased cyberthreats



Ada Chung Lai-ling FCG HKFCG, Privacy Commissioner for Personal Data, Hong Kong, discusses the increasing trend of cyberattack incidents, and explains the guidance published by her Office on recommended data security measures for information and communications technology.

As we leap towards the fourth industrial revolution, digitisation is fast gaining ground and has revolutionised the way we hold and use data. Nonetheless, easier and faster means to process and hold data comes with an increased risk of data security, which can be detrimental to organisations of all sizes. Cyberattacks that target personal data for malicious purposes have been on the rise and have become one of the leading concerns for most businesses, especially those that provide online services and products. Such attacks may lead to financial losses, reputational damage, regulatory penalties and other harm. Regardless of their size, organisations may come under attack from threat actors at any time.

A notable example is the data breach incident of a major airline carrier in Hong Kong that happened in October 2018. The incident involved an unauthorised access by external parties to the carrier's servers, affecting around 9.4 million passengers worldwide. The damage arising from the incident not only tarnished the goodwill and reputation of the carrier gained over the years, but also led to substantial financial losses. Other than being subject to an investigation into the incident undertaken by my Office – the Office of the Privacy Commissioner for Personal Data (PCPD) – which concluded that the carrier had contravened the requirements of the Personal Data (Privacy) Ordinance (Cap 486) (the PDPO), the carrier was

also fined £500,000 (about HK\$4.8 million) by the UK Information Commissioner's Office in 2020, and had to pay Can\$1,550,000 (about HK\$9 million) in 2021 to settle a class action brought against it in Canada.

The increasing trend of cyberattack incidents

Indeed, in recent years leakage of personal data on the internet has become an unprecedented risk to users and surfers, with the number of data breaches on a steady rise. As suggested in the Mid-Year Update of the 2022 SonicWall Cyber Threat Report, when compared to the first half of 2021, Asia and Europe experienced a 4% and 63% increase, respectively, in ransomware attacks in the first half of 2022. In particular, ransomware attacks targeting the financial and healthcare sectors showed a triple-digit increase of 243% and 328%, respectively.

As for the data breach incidents handled by my Office, cyberattack

incidents, including ransomware attacks, comprised almost 30% of the reported data breaches in both 2021 and 2022.

Common causes of data breaches

Data breaches can be caused by technical vulnerabilities or human blunders. In this article, I would like to focus on the technical risks, among which weak user passwords, phishing, unpatched vulnerabilities, outdated operating systems and software applications, and the implantation of malicious software represent some of the more common causes of data breach incidents.

From the incidents handled by my Office, we note that phishing and unpatched vulnerabilities are the two most common causes of data breaches. Our observation in this regard is in line with the statistics recently published by Hong Kong Computer Emergency Response Team Coordination Centre (the Centre) in

Highlights

- cyberattacks that target personal data for malicious purposes have been on the rise and have become one of the leading concerns for most businesses
- weak user passwords, phishing, unpatched vulnerabilities, and outdated operating systems and software applications represent some of the more common causes of data breach incidents
- governance professionals are well placed to advise the board on data governance and security issues, and to supervise, and advise on, the handling of data breach incidents

the Hong Kong Security Watch Report (Q3 2022). According to the report, phishing was the prime cause of the security incidents handled by the Centre (accounting for 65.3% of the cases) in the third quarter of 2022.

At least four investigation reports published by my Office in recent years reflect the same phenomenon. In three reports (including one relating to the case of the airline carrier mentioned above), we concluded that the major factor, or one of the major factors, attributing to the data breach incident was the data user's failure to identify a known unpatched information security vulnerability and take reasonably practicable steps to safeguard the security of its server or database, which left a loophole for unauthorised access. In another case relating to the intrusion into the email system of a media company, it was found that one of the possible causes of attacks to the email system was that the relevant user passwords had been leaked to hackers through phishing attacks.

Relevant requirements under the PDPO

Data Protection Principle (DPP) 4(1) of Schedule 1 to the PDPO requires a data user to take all practicable steps to ensure that any personal data held by the data user is protected against unauthorised or accidental access, processing, erasure, loss or use, having particular regard to:

- the kind of data and the harm that could result if any of those things should occur
- the physical location where the data is stored

- any security measures incorporated (whether by automated means or otherwise) into any equipment in which the data is stored
- any measures taken for ensuring the integrity, prudence and competence of persons having access to the data, and
- any measures taken for ensuring the secure transmission of the data.

It is noteworthy that DPP 4(1) imposes a positive duty on a data user to safeguard the security of personal data by taking all practicable steps. Whether a data user would be considered to have taken all reasonably practicable steps would be assessed on a case-by-case basis.

PCPD's guidance on data security measures

Against this background, and as concerns about data security have reached an all-time high, it is desirable that some practical recommendations on data security measures be provided for data users in Hong Kong to facilitate their understanding of and compliance with the relevant requirements under the PDPO. It is in this light that my Office published the Guidance Note on Data Security Measures for Information and Communications Technology (the Guidance).

The Guidance provides recommendations on the six key areas outlined below.

1. Data governance and organisational measures

The Guidance recommends data users to devise clear policies and procedures on data governance and data security, covering the following aspects:

- the respective roles and responsibilities of staff in maintaining the information and communications technology (ICT) systems
- data security risk assessments
- the access of data in and export of data from ICT systems
- the outsourcing of data processing and data security work
- the handling of data security incidents, including an incident response plan and reporting mechanism, and
- the destruction of data that is no longer necessary for the original purposes of collection or related purposes.

Aside from devising the above policies and procedures, it is also important to optimise the deployment of manpower responsible for data governance. In this regard, the Guidance recommends that suitable personnel in a leadership role, such as a Chief Information Officer, a Chief Privacy Officer or an equivalent person, should be appointed to bear responsibility for personal data security. The number, seniority and technical competence of the staff members allocated for data security should also be proportional to the nature, scale,

complexity and data security risk of the data processing activities.

Furthermore, sufficient training should be provided for staff members at induction and regularly thereafter to ensure their familiarity with the requirements under the PDPO and the data user's data security policies and procedures.

2. Risk assessments

Data users are recommended to conduct risk assessments on data security for new systems and applications before launch, as well as periodically thereafter pursuant to established policy and procedures.

For small- and medium-sized enterprises that may not have the relevant expertise, they should consider engaging third-party specialists to conduct security risk assessments.

The results of risk assessments should be regularly reported to senior management and any security risks identified in risk assessments should be addressed promptly.

3. Technical and operational security measures

The Guidance recommends that, based on the nature, scale and complexity of the ICT and data processing activities, as well as the results of risk assessments, a data user should put in place adequate and effective security measures to safeguard the information and communications systems and personal data in its control or possession.

A list of recommended technical and operational measures is provided in the Guidance for data users' reference.



“ data security will likely take centre stage in the years to come ”

The measures fall under eight major categories:

1. security of computer networks
2. database management
3. access control
4. firewalls and anti-malware software
5. protection of online applications
6. encryption of data
7. prevention of unauthorised disclosure of data through emails or during file transfers, and
8. backup of data and timely destruction or anonymisation of unnecessary data.

4. Data processor management

It is increasingly common for data users to engage contractors as

data processors for processing personal data. A case in point includes providers of cloud and data analytics services.

Given that the PDPO imposes a positive duty on data users to ensure that contractual or other means are adopted to safeguard the security of personal data transferred to data processors, the Guidance recommends a list of actions which data users may take before and when engaging a data processor. These actions include:

- implementing policies and procedures to ensure that only competent and reliable data processors will be engaged
- conducting assessment to ensure that only necessary personal data is transferred to the data processor
- clearly stipulating in the data processing contract the security

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governance professionals will increasingly need to grapple with data security issues in their daily work and provide pertinent advice to the board on data governance and security issues
 ”

measures that must be taken by the data processor

- requiring the data processor to immediately notify all data security incidents, and
- conducting field audits to ensure compliance with the data processing contract by the data processor and imposing consequences for breach of contract.

5. Remedial actions in the event of data security incidents

Timely and effective remedial actions taken by a data user after the occurrence of a data security incident will help reduce the risks of unauthorised or accidental access, processing or use of the personal data affected, thereby reducing the harm that may be caused to the affected organisations or individuals.

The Guidance offers examples of common remedial actions that a data user may take in the event of a data security incident. These actions include:

- where practicable, immediately stopping the affected ICT systems and disconnecting them from the internet and other systems of the data user

- immediately changing the passwords or ceasing the access rights of the users suspected to have caused or contributed to the data security incident
- immediately changing system configurations in order to control access to the affected ICT systems
- notifying the affected individuals without undue delay and providing them with suggestions on possible actions for self-protection
- notifying my Office and other law enforcement agencies or regulators (where applicable) without undue delay
- fixing the security weaknesses in a timely manner, and
- where practicable and to the extent that it does not affect future forensic analysis, scanning the ICT systems for any other unknown security vulnerabilities.

Furthermore, a data user should take into consideration lessons learnt from a data security incident to review and strengthen its overall data governance and data security measures.

6. Monitoring, evaluation and improvement

A data user may commission an independent task force (for example an internal or external audit team) to monitor the compliance with the data security policy and periodically evaluate the effectiveness of the data security measures. Improvement actions should be taken for non-compliant practices and ineffective measures.

Role of governance professionals

Given the rapid evolution of the means, forms and complexity of cyberattacks, and the heightened expectation of society as regards individuals' personal data privacy, data security will likely take centre stage in the years to come. Indeed, governance professionals will increasingly need to grapple with data security issues in their daily work and provide pertinent advice to the board on data governance and security issues. Governance professionals are also very well placed to supervise, and advise on, the handling of data breach incidents by organisations. I hope that the Guidance and the information pamphlet will serve as a ready reference for governance professionals in the performance of their roles in this regard.

Ada Chung Lai-ling FCG HKFCG

Privacy Commissioner for Personal Data, Hong Kong

The Guidance, supplemented by case studies and infographic illustrations, is available in hard copy and can be downloaded from the Resources Centre/Publications section of the PCPD website: www.pcpd.org.hk.

CGj

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Hong Kong Stock Exchange: 2022 Analysis of ESG Practice Disclosure





Frank Bi, Melody He and Li Jiang, Partners, Ashurst, summarise the Exchange's recent analysis of 400 listed companies' ESG reports and provide a clear overview of the most pertinent recommendations made in relation to ESG disclosure and reporting.

The Stock Exchange of Hong Kong Ltd (the Exchange) published its 2022 Analysis of ESG Practice Disclosure on 25 November 2022 (the Report). It sets out the Exchange's findings regarding compliance by listed companies with the Environmental, Social and Governance (ESG) Reporting Guide contained in Appendix 27 to the Hong Kong Listing Rules (the ESG Reporting Guide), particularly in relation to the amendments that apply to ESG reports for financial years commencing on or after 1 July 2020 (the 2020 Amendments).

The Exchange analysed ESG reports published by 400 issuers across a range of different industries. Their ESG reports relate to financial years that ended in 2021 and 2022.

Generally speaking, the Exchange noted that compliance with the 2020 Amendments is quite high.

However, it is important to note that the Exchange has made a large number of detailed recommendations in the Report, which are set out below. Although some of these recommendations are not new, it serves as a reminder of some important disclosure topics. Listed companies are also reminded that for financial years commencing on or after 1 January 2022, ESG reports should be published at the same time as annual reports.

Board governance of ESG issues 2020 Amendments

The 2020 Amendments require all issuers to disclose a board statement

Highlights

- the Hong Kong Stock Exchange has recently published its analysis of compliance by listed companies with ESG reporting requirements, particularly in relation to the amendments applicable to the financial years commencing on or after 1 July 2020
- the analysis also sets out a large number of detailed recommendations that serve as a useful and timely reminder of some important disclosure topics
- in particular, issuers are advised to familiarise themselves with the proposed new climate standards under the International Sustainability Standards Board, as the Exchange is planning to further enhance climate disclosure requirements in Hong Kong to mirror international developments

regarding (i) its oversight of ESG issues, (ii) its ESG management approach and strategy (including the process to evaluate, prioritise and manage material ESG-related issues), and (iii) how the board reviews progress made against ESG-related targets, with an explanation of how it relates to the issuer’s business.

Exchange’s recommendations

In relation to (ii) above, the issuer should disclose information enabling readers to understand the process, such as elaborating on the:

- relevant expertise or skills of the board, or the designated committee or management level positions, for effective oversight of ESG matters
- interaction between the board and the designated committee or the management-level positions, including the frequency and form of reporting to the board
- frequency of the board’s discussion on ESG issues
- internal and external resources, and expertise available for the ESG management process, and
- alignment of ESG governance with an issuer’s business strategy.

In relation to (iii) above, the discussion on the approach of how the board reviews progress may include the following:

- measurement system or industry benchmark adopted for progress assessment

- process for data collection and verification, and
- comparison with the historical data and how the baseline is selected.

In addition, issuers should provide the results of the review, especially for targets set for different timeframes.

- If targets are not achieved, issuers should disclose the reasons, the board’s discussion or assessment of what could be done to achieve the targets and whether the target should be adjusted.
- If the progress is satisfactory, the issuer may include information on whether the trend can be maintained or whether it will be affected in the future (and if so, why and what could be done about it).

Climate change

2020 Amendments

The 2020 Amendments require all listed companies, on a ‘comply or explain’ basis, to:

- i. **climate-related scenario analysis:** consider significant climate-related issues which have impacted, or may impact, the listed company and how it could mitigate such issues
- ii. **environmental targets:** develop targets and plans in respect of reduction of emission and waste, and improving efficiency in energy and water use, and
- iii. **greenhouse gas emissions:** disclose Scope 1 and Scope 2 greenhouse gas emissions.

Exchange’s recommendations

1. Climate-related scenario analysis

- A climate-related scenario analysis is recommended by climate reporting frameworks to analyse a company’s resilience of its strategy to climate change.
- Issuers will need to set the Scope and boundary to confirm the scenarios (which are hypothetical pathways of development) to be adopted. It is critical that the scope and boundaries represent the issuer’s material business operations.
- Issuers may refer to and adapt publicly available scenarios to reflect their situation. Issuers are also recommended to develop at least two scenarios for comparison.
- Issuers should then identify physical and transitional risk parameters that are material to their operations, and collect relevant data to evaluate their impacts under different scenarios.

Please also refer to the Exchange’s Guidance on Climate Disclosures for further information.

2. Environmental targets

- The Exchange recommends listed companies to set quantitative targets where feasible (even though targets may be numerical figures or directional/forward-looking statements). This is because quantitative targets are often requested by climate reporting frameworks or investors.

“
the Exchange noted that compliance with the 2020 Amendments is quite high
”



- Directional statements may be relevant when new climate-related initiatives are being launched, or in the absence of a baseline from past performance. However, listed companies should start collecting and disclosing numerical data as soon as possible.
- If certain metrics are irrelevant or immaterial, listed companies should give a detailed explanation of the analysis and refer to the materiality assessment where relevant.

3. Greenhouse gas emissions

- The ESG Reporting Guide envisages that listed companies should disclose separate Scope 1 and Scope 2 greenhouse gas emissions, which is in line with international recommendations (however, some listed companies disclosed a total figure for both Scope 1 and Scope 2 greenhouse gas emissions).
- Scope 3 greenhouse gas emissions occur in the value chain of the company (that is, emissions

from upstream and downstream activities), which can provide investors with a better picture of the listed company's carbon footprint.

- Although the ESG Reporting Guide does not currently require Scope 3 greenhouse gas emissions to be reported, listed companies should consider reporting as soon as practicable (as this is contemplated under the new International Sustainability Standards Board (ISSB) recommendations).
- As the calculation of Scope 3 greenhouse gas emissions is quite complex, the Exchange suggests that issuers calculate and report their data by:
 - identifying the scope and types of emissions in, and the categories of significant upstream or downstream activities along, the value chain to be included in the reporting based on a materiality assessment

- determining a feasible and effective method to collect and verify emission data
- applying appropriate calculation methods to quantify emissions from different activities, and
- consistently disclosing emission figures with reference to reporting frameworks.

- Further guidance regarding the reporting of Scope 3 greenhouse gas emissions can be found in paragraph 44 of the Report.

Future developments

- The Exchange is reviewing the ESG Reporting Guide and plans to enhance climate disclosure requirements to mirror international developments.
- Although the ISSB climate standards have not been adopted in Hong Kong yet, listed companies should familiarise themselves with the climate disclosure requirements under the ISSB climate standards, and identify gaps in internal policies and practices.

Social issues

2020 Amendments

The 2020 Amendments:

- upgraded the disclosure obligation of all social key performance indicators (KPIs) from a voluntary standard to a 'comply or explain' standard

“
listed companies are also reminded that for financial years commencing on or after 1 January 2022, ESG reports should be published at the same time as annual reports
 ”

- introduced new KPIs in respect of supply chain management, and
- introduced a new KPI regarding anti-corruption training provided to directors and staff.
- how suppliers are selected and how such factors promote green procurement, and
- measures for monitoring supply chain risks and green procurement practices.

Exchange’s recommendations

Supply chain

Hong Kong aims to achieve carbon neutrality before 2050. A company’s supply chain plays an important part in operating a sustainable business and transitioning Hong Kong to a low carbon economy.

Listed companies may consider disclosing the following matters in their ESG reports to enable stakeholders to understand their supply chain risk management:

- persons or teams responsible for managing supply chain sustainability and their duties
- process for identifying significant environmental and social risks along the supply chain, and how to assess the impact of such risks on the issuer’s business operations
- actions taken or to be taken to mitigate or address the environmental and social risks in the supply chain

Anti-corruption

Listed companies are reminded that they should include information on the scope and method of the anti-corruption training, the audience and the frequency of the training provided.

Please refer to Anti-Corruption Programme – A Guide for Listed Companies and Ethics Promotion Programme for Listed Companies, both published by the Independent Commission Against Corruption, for further information.

2020 Amendments

The 2020 Amendments:

- required listed companies to explain how they applied the reporting principles and the reporting boundaries set out in the ESG Reporting Guide
- encouraged listed companies to obtain independent assurance and enhanced disclosures if such assurance is obtained.

Exchange’s recommendations

Reporting principles

- Listed companies should provide details on how they applied the reporting principles – merely restating the principles is not considered compliance with the requirement.
- Disclosure of numerical figures on its own is not sufficient for investors to assess the company’s ESG performance – the ‘qualitative’ reporting principle requires listed companies to disclose the methods, standards and assumptions adopted in deriving quantitative metrics and targets.
- Listed companies should use consistent methods to allow for meaningful comparisons of ESG information over time. If there is no change to the methods or KPIs used, issuers should state so in their ESG report for transparency. Details of any changes to the methods or KPIs used, and the rationale behind that, or any other factors which may affect a meaningful comparison, should also be disclosed.

Reporting boundaries

- In addition to stating the boundaries of their ESG reports, listed companies should also describe how they arrived at such a decision. Setting an overall reporting boundary for the ESG report does not prevent issuers from adopting a different boundary for certain aspects or KPIs, as long as it is clearly stated in the ESG reports.

- If there are any changes in the reporting boundary, for example due to the acquisition or disposal of subsidiaries, issuers should specify the changes in the ESG reports.

Independent assurance

- Issuers may choose to obtain assurance for part(s) of the ESG reports or for certain data (eg greenhouse gas emissions), so long as the scope of assurance is clearly set out in the ESG reports.
- Although there is currently no globally accepted assurance

standards for ESG reports, listed companies may refer to the standards set out in (i) ISAE 3000, which is the standard for assurance over non-financial information issued by the International Auditing and Assurance Standards Board, or (ii) guidance issued by the Hong Kong Institute of Certified Public Accountants relating to assurance of ESG information.

Other matters

Issuers are reminded that ESG reports for the financial year commencing on or after 1 January 2022 should

be published at the same time as the annual report.

Please also refer to the Exchange's ESG Academy, which provides further guidance on ESG generally.

Frank Bi, Partner, Melody He, Partner, and Li Jiang, Partner
Ashurst

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The 2022 Analysis of ESG Practice Disclosure and the ESG Reporting Guide can both be found on the HKEX website: www.hkex.com.hk.

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A short guide to civil litigation procedure in Hong Kong

In the second and final part of their article, Evelyn Chan, Partner, and Adriel Wong, Associate, Gall, continue their general overview of Hong Kong's civil litigation process.

The first part of this article, published in last month's CGj, looked at the various courts in Hong Kong that preside over civil disputes and how such claims are commenced. This final part looks at the final stages of civil litigation in Hong Kong, such as the procedures for enforcing judgments.

1. What happens if I win at trial and the judgment is in my favour?

In many cases that will be the conclusion of the matter and, for example, where the judgment is in respect of a sum of money, the losing party pays the judgment sum to the winning party. However, unfortunately, this is not always the case, and the winning party (the judgment creditor) may need to enforce the judgment against the losing party (the judgment debtor). There are a number of potential methods of enforcing a judgment against the judgment debtor, including those set out below.

- If the judgment debtor is a company, the judgment creditor may issue a petition to wind up the judgment debtor. If the

judgment debtor is an individual, the judgment creditor may petition to declare the judgment debtor bankrupt.

- If the judgment debtor is a creditor to another person, for example a bank, the judgment creditor may commence garnishee proceedings where the third party would be obliged to pay the debt directly to the judgment creditor in satisfaction (or partial satisfaction, as the case may be) of the judgment.
- The judgment creditor may apply for the judgment debtor to be examined before the court regarding any debts owing to the judgment debtor and any assets owned by the judgment debtor.
- The judgment debtor may apply for a prohibition order which prohibits the judgment debtor from leaving Hong Kong.
- The judgment debtor can apply for a writ of *feri facias*, warrant of distress, or writ of possession

directing the bailiff to seize and sell the judgment debtor's goods and chattels to satisfy the judgment debt.

- If the judgment debtor does not have any cash but has assets, the judgment creditor may issue a charging order for securing the payment of any money owed under the judgment.

2. Can I enforce my Hong Kong judgment in other jurisdictions?

See question 4 in respect of the Mainland.

Judgments of the High Court, Court of Appeal and Court of Final Appeal can be enforced (a) in most common law jurisdictions, and (b) in a number of countries including Belgium, France, Germany, Italy, Austria, the Netherlands and Israel, due to international agreements and arrangements.

3. Can I enforce my foreign judgment in Hong Kong?

See question 4 in respect of the Mainland.





A foreign judgment can be enforced in Hong Kong under two methods, (1) under the Foreign Judgments (Reciprocal Enforcement) Ordinance (Cap 319A) (FJREO) and (2) under common law. Pursuant to the FJREO, an application can be made to the Hong Kong court to register a foreign judgment for the payment of debt obtained in the superior court of certain countries as specified in the FJREO. Once leave is granted, the foreign judgment can be enforced in the same way as a Hong Kong judgment. Under the Ordinance, there are 15 designated countries, namely Australia, Bermuda, Brunei, India, Malaysia, New Zealand, Singapore, Sri Lanka, Belgium, France, Germany, Italy, Austria, the Netherlands and Israel.

If the foreign judgment is not from a country listed under the FJREO and therefore cannot be registered, it can only be enforced under common law. In this case, the foreign judgment will form the basis of a cause of action and the judgment will be treated as a debt between the parties. To be enforceable at common law, there are the following requirements:

- the foreign judgment must be for a debt or a definite sum of money, and the defendant must have submitted to the jurisdiction of the foreign court
- the foreign judgment is final and conclusive
- the foreign judgment is not obtained by fraud and is obtained against the same defendant
- the foreign judgment is not contrary to Hong Kong rules of

public policy or notions of natural justice

- the foreign court had jurisdiction over the defendant according to Hong Kong rules, and
- an action in Hong Kong based on a foreign judgment must be brought within 12 years from the date on which the foreign judgment became enforceable.

Once the foreign judgment has been registered under common law, it will be treated and enforced as a Hong Kong judgment.

4. Can I enforce my Hong Kong judgment in the Mainland and enforce my Mainland judgment in Hong Kong?

The enforcement of Mainland judgments is governed by the Mainland Judgments (Reciprocal Enforcement) Ordinance (Cap 597) (2006 Arrangement), which will be superseded by the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement)

Highlights

- Hong Kong judgments (of the High Court, Court of Appeal and Court of Final Appeal) can be enforced in most common law jurisdictions, and in a number of countries subject to international agreements and arrangements
- the Mainland Judgments in Civil and Commercial Matters (Reciprocal Enforcement Ordinance) (Cap 645) makes provision for mutual enforcement in Hong Kong and the Mainland of judgments in civil or commercial matters
- a Mareva injunction can be sought from the Court of First Instance, which will restrain a party from dealing with and removing assets out of Hong Kong, up to a certain value

Ordinance (Cap 645) (2019 Arrangement). The Ordinance makes provision for the mutual enforcement in Hong Kong and the Mainland of judgments in civil and commercial matters.

The 2019 Arrangement will only take effect in about six to seven months' time and will supersede the 2006 Arrangement. In the Mainland, the 2019 Arrangement will be implemented by way of judicial interpretation to be promulgated by the Supreme People's Court. In the meantime, the 2006 Arrangement will continue to apply for circumstances where there is an exclusive jurisdiction agreement in favour of the Mainland courts. Previously, only Mainland judgments for monetary claims with an exclusive jurisdiction could be enforced in Hong Kong. The 2019 Arrangement replaces the exclusive jurisdiction agreement requirement with a jurisdictional test whereby parties must show there is a connection with the Mainland. The requirement will be satisfied if one of the conditions under the 2019 Arrangement is satisfied, such as:

- a. the defendant's place of residence was in the Mainland
- b. the defendant's representative office, branch, office, place of business or other establishment was in the Mainland
- c. the place of performance of the disputed contract was in the Mainland, or
- d. the parties agreed in writing to submit to the jurisdiction (whether exclusive or non-exclusive) of the

Mainland courts, and if the places of residence of all the parties were in Hong Kong, together with evidence that there was a connection between the dispute and the Mainland (such as the place of performance was in the Mainland, the contract was signed in the Mainland or the subject matter was situated in the Mainland).

Additionally, the 2019 Arrangement has now expanded the scope to the various civil and commercial matters allowed under the scheme, but there are still certain matters such as debt restructuring, personal bankruptcy, and certain matrimonial and family matters that are excluded. This is because there are existing arrangements between Hong Kong and the Mainland that apply to judgments concerning those matters. Now, both monetary and non-monetary judgments can be enforced.

To register a Mainland judgment in a civil or commercial matter, a judgment creditor may apply to the Court of First Instance to register the judgment if the following requirements are met:

- the judgment was given on or after the commencement of the 2019 Arrangement
- the judgment must be from a designated court under the Ordinance (that is, the Supreme People's Court, the High People's Court, the Intermediate People's Court or Primary People's Courts)
- the default has not been made good as at the date of the application

- the judgment must order the payment of a sum of money (not being a sum payable in respect of taxes, fines or penalties), and
- a default in complying with the requirement occurred within two years before the date of the application.

To register a Hong Kong judgment for recognition and enforcement in the Mainland, the Ordinance provides that (a) a judgment creditor can apply to the relevant specified Hong Kong court for a certified copy of the Hong Kong judgment; and (b) when issuing a certified copy of the Hong Kong judgment, the specified Hong Kong court must also issue a certificate certifying that the judgment is given in a civil or commercial matter and is effective in Hong Kong. Further rules regarding the procedure of enforcing and recognising a Hong Kong judgment will be set out in the Rules made by the Chief Judge of the High Court of Hong Kong.

5. Does the winner recover their legal expenses/other costs?

Whilst costs (for example, solicitor's and barrister's fees) can be awarded at any stage of the proceedings, usually costs are awarded to the winner at the conclusion of the matter. Note, however, that, the winning party will generally only recover between 40% to 60% of the actual costs incurred after taxation as a matter of reality. The remainder will be borne by the litigant. There is a chance that you may have to bear the legal costs of your opponent if you do not prevail.

“ usually costs are awarded to the winner at the conclusion of the matter... [but] the winning party will generally only recover between 40% to 60% of the actual costs incurred after taxation ”



6. What if the plaintiff ordinarily resides outside Hong Kong – are there any mechanisms to ensure that I will receive the costs awarded to me if I win?

In these circumstances, the defendant can apply to court during the course of the proceedings to require the plaintiff to provide security for costs. For these purposes, the court will consider:

- the plaintiff’s prospects of success
- whether the defendant has an arguable defence to the plaintiff’s claim
- whether an order for security for costs would stifle the plaintiff’s claim
- whether the plaintiff has any assets in the jurisdiction
- the plaintiff’s impecuniosity, and

- whether there was any delay in making the application for the security for costs (generally speaking, the closer to trial the greater the prejudice that will be caused to the plaintiff).

If the application is successful, the plaintiff will be required to pay into court a sum representing the amount of costs the defendant may recover in the event that the defendant wins.

7. I am concerned that the other party will hide or dissipate their assets before I am able to secure judgment against them. Is there anything I can do?

In these circumstances, a Mareva injunction can be sought from the Court of First Instance, which will restrain a party from dealing with and removing assets out of Hong Kong, up to a certain value. The court can also grant a worldwide Mareva injunction which, covers assets inside and outside

Hong Kong. As it is often imperative that the other party is not ‘tipped off’ to the application, a Mareva injunction is usually obtained ex parte, or without notice to the other party. When applying for a Mareva injunction, the court will generally need to be satisfied that:

- the applicant has a good arguable case on the merits
- there is a real risk that the defendant will dissipate assets
- it is just and convenient to grant the Mareva injunction, and
- the other party has assets in (or, in the case of a worldwide Mareva, outside) Hong Kong.

Evelyn Chan, Partner, and Adriel Wong, Associate
Gall

Sharing is (not always) caring

Gabriela Kennedy, Partner, and Joshua Woo, Registered Foreign Lawyer (Singapore), Mayer Brown, highlight the legal pitfalls to avoid when engaging in sharing personal data across group companies in Hong Kong.



An investigation report into a data breach involving EC Healthcare published by the Hong Kong Office of the Privacy Commissioner for Personal Data (PCPD) on 14 November 2022 highlights the need for organisations to ensure that any use of personal data is limited to purposes notified at the time of collection, or a directly related purpose.

Any organisation obtaining personal data from another data user, particularly in the course of a merger and/or acquisition, should obtain prior explicit consent from data subjects for any cross-brand transfers or uses of personal data that go beyond purposes notified to them at the time of collection.

Background

EC Healthcare is a Hong Kong-listed company (2138.HK) offering one-stop, non-hospital medical health care services in Asia, including medical, aesthetics and wellness services. It owns a number of businesses operating under 39 brands, 28 of which have adopted an integrated internal system (System).

These 28 brands include Primecare Paediatrics Wellness Centre (Primecare), DR REBORN, New York Medical Group (NYMG) and re:HEALTH.

The System contained personal information of around 1.08 million members, including their names, membership numbers, partial telephone numbers, vaccination and medical check-up records, and past purchase records.

All frontline staff of the EC Healthcare brands could access the System and records of a particular client or member, and related family members, by inputting the client's phone number.

Complaints

On 10 June and 26 August 2021, the PCPD received two complaints about EC Healthcare companies (June Complaint and August Complaint).

The June Complaint related to a complainant who took her daughter to consult a doctor at Primecare clinic in June 2018. She gave the phone number of the daughter's grandmother as a contact. EC Healthcare subsequently acquired Primecare and integrated Primecare's client personal data into the System. In 2020, the grandmother, after visiting DR REBORN, received a text message from DR REBORN that included her granddaughter's name – which had only been provided to Primecare, not to DR REBORN.

The August Complaint related to a complainant who visited NYMG for

chiropractic treatments in March 2016. In a similar fact matrix, EC Healthcare subsequently acquired NYMG and integrated NYMG's client data into the System.

In July 2021, when the complainant contacted re:HEALTH to follow up on some complaints filed by his family members, he was addressed by his full name – despite never providing this full name to re:HEALTH. Staff from re:HEALTH were also able to access the complainant's record maintained with NYMG.

The PCPD investigation revealed that:

1. Primecare's collection of client personal data was only for the provision of medical services and was not explicitly evidenced in writing, and
2. NYMG had only informed its clients that personal data would be collected for the provision of treatments and dissemination of healthcare newsletters (together, the Original Purposes).

Highlights

- organisations need to ensure that any use of personal data is limited to purposes notified at the time of collection, or a directly related purpose
- any organisation obtaining personal data from another data user, particularly in the course of a merger and/or acquisition, should obtain prior explicit consent from data subjects for any cross-brand transfers, or uses of personal data that go beyond purposes notified to them at the time of collection
- listed companies should expect to be held to a higher standard in the event of an investigation, and assess and amend their internal data processing policies and procedures accordingly

“any uses of personal data subsequent to a merger and/or acquisition may require data subjects’ consent”

This collection was also carried out prior to EC Healthcare’s acquisition of Primecare and NYMG. Neither Primecare nor NYMG informed their clients about this acquisition. EC Healthcare failed to obtain relevant consent from pre-existing clients of Primecare and NYMG, whose personal data they added to the System after acquiring Primecare and NYMG.

PCPD findings

Subject to exemptions under Part 8 of the PDPO, Data Protection Principle 3 of the Personal Data (Privacy) Ordinance (Cap 486) (PDPO) stipulates that a data user shall not use personal data of a data subject for a new purpose, which is not:

- (a) the purpose notified at the time of collection, or
- (b) a purpose directly related to the original purpose for which the data was collected (see the definition of ‘new purpose’ at Data Protection Principle 3(4) of Schedule 1 of the PDPO), without prescribed consent from the data subject (see Data Protection Principle 3(1) of Schedule 1 of the PDPO). In the context of the PDPO, use includes the disclosure and transfer of personal data (See section 2 of the PDPO for the definition of ‘use’).

Note that while one of the exemptions in Part 8 of the PDPO allows the sharing and disclosure of personal data without data subjects’ consent in the context of a merger or acquisition, this is not a general exemption for mergers and acquisitions activities, but solely for the purpose of conducting due diligence. Data must be returned or destroyed as soon as practicable after the completion of such due diligence.

By failing to specify at the time of data collection that the data might be shared amongst group companies, or integrated into the System for access by frontline staff from other group companies, subsequent use of the data post-merger fell outside the Original Purposes.

While this could have been addressed by obtaining client consent for the use, disclosure and transfer of their data among EC Healthcare companies, failure to do so resulted in the PCPD concluding it contravened Data Protection Principle 3 of the PDPO.

Enforcement notice and recommendation

As a result of EC Healthcare’s breach of the PDPO, the PCPD issued an enforcement notice requiring it to take remedial action to prevent reoccurrence of the breach. In particular, EC Healthcare was required to:

1. cease and prohibit cross-brand sharing of client personal data and access by staff under different brands through the System, unless EC Healthcare had explicitly notified clients of such sharing and cross-brand access to personal data and obtained their consent

2. ensure prior express consent is obtained from clients for use of their data by group companies, or sharing of their personal data, before such data is integrated into the System in future
3. formulate written policies and guidelines to instruct staff on the permissible use of and access to clients’ personal data in the System, and proper execution of requirements (1) and (2), and
4. provide training to staff responsible for or involved in handling relevant personal data.

Under section 50 of the PDPO, where the PCPD considers there has been a contravention, it may direct data users to take remedial actions within a specified period of time. Failure to comply with such enforcement action may expose data users to criminal liability – a maximum fine of up to HK\$100,000 and imprisonment for two years.

Observations and takeaways

The PCPD investigation highlights multiple areas that data users need to keep in mind when collecting and using personal information.

The importance of record-keeping

The data from subjects of the two complaints had been collected years prior to the complaints, but there were no records of how the data was collected. This demonstrates the importance of record-keeping, because in the event of an investigation data users would need such records at hand to evidence their compliance with the PDPO (that is, to demonstrate

that adequate notification had been provided to subjects at the point of data collection). This is also helpful when data users conduct an audit and/or are required, in a merger situation, to demonstrate good data practices. Data users should therefore review their records retention policies and practices to ensure such records are adequately preserved.

Ensuring data users have relevant policies in place that are consistent with data use practices

In the case of the June Complaint, the data subject was not notified of the purpose of data collection, nor of the possibility of a transfer or the class of transferees. In the case of the August Complaint, the purpose of collection was narrowly stated and limited to the provision of medical treatment and marketing through newsletters. In both cases, no information relating to the potential classes of transferees were provided to their respective customers. Since the data subjects had not been notified, EC Health's subsequent consolidation of the personal information in the System contravened the PDPO.

Obtaining requisite consent from data subjects for any changes in the purposes/uses of personal data

In addition to the aforementioned deficiencies, there was also no notification to customers of the acquisition of other brands. In particular, customers were not informed of storage of their personal information in the System, nor that their personal data would be accessible by all staff of EC Healthcare (and not just the brand they initially provided their personal information to). The investigation report

therefore serves as a reminder that any uses of personal data subsequent to a merger and/or acquisition may require data subjects' consent, combined with proper and adequate notification of the purposes of data collection and the classes of transferees of the data, through a clearly drafted personal information collection statement.

The PCPD powers of investigation

In addition to conducting the investigation in writing, the PCPD also exercised its power to visit the office of EC Healthcare and conduct site inspections at two branches of its companies/brands. There have been few instances where such powers have been exercised and the disruption to business operations of a company in such cases cannot be overlooked. The legislation requires full and prompt cooperation with the PCPD investigations, failure of which amounts to a criminal offence.

Under section 50A of the PDPO, a contravention of an enforcement notice is an offence that would subject offenders to a maximum fine of HK\$50,000 and imprisonment of two years.

Higher standards expected for listed companies

The PCPD also expressed an expectation that as a listed company, EC Healthcare should have adopted a more sophisticated approach to its data practices. The explicit mention of listed companies by the PCPD serves as a good reminder to such companies, as well as large group companies with more extensive business operations, to expect to be held to a higher standard in the event of an investigation, and

assess and amend their internal data processing policies and procedures accordingly.

Privacy Impact Assessment

The PCPD implied that EC Healthcare should have carried out a Privacy Impact Assessment (PIA) before implementing the System. While there is no requirement under the PDPO for data users to conduct a PIA, unlike under the General Data Protection Regulation in the European Union, this remark serves as a reminder to companies undergoing digital transformation projects to have privacy by design at front of mind when embarking on such projects.

Conclusion

Large conglomerates with multiple subsidiaries or companies operating multiple brands should heed this case and implement appropriate staff access management policies to avoid unnecessary cross-brand sharing of clients' personal data.

Where an internal system is deployed to manage clients' personal data collected by various subsidiaries or brands, data audit prior to implementation is a must – followed by a road map to obtain clients' consent for further uses of the data across group companies.

Gabriela Kennedy, Partner, and Joshua Woo, Registered Foreign Lawyer (Singapore)

Mayer Brown

The authors would like to thank Peggy Tsang, Trainee Solicitor at Mayer Brown, for her assistance with this article.

Professional Development

Seminars: December 2022

1 December

Company secretarial practical training series: change in directors, officers and other corporate positions – practice and application

Speaker: Ricky Lai FCG HKFCG(PE), Company Secretary, China Renewable Energy Investment Ltd

7 December

Practical sharing on handling transactions & related queries to reduce enforcement risk



Chair: Wendy Ho FCG HKFCG(PE), Institute Council member, Professional Development Committee Chairman and Professional Services Panel member, Mainland China Technical Consultation Panel member and AML/CFT Work Group member, and Executive Director, Corporate Services, Tricor Services Ltd

Speaker: Amy Yu, Partner, and Alvin So, Associate, Eversheds Sutherland

14 December

How to manage insider dealing



Chair: Polly Wong FCG HKFCG(PE), Institute Professional Development Committee member and Disciplinary Tribunal member, and Company Secretary and Group Financial Controller, Dynamic Holdings Ltd

Speaker: Donald Lai ACG HKACG, Solicitor, CPA

16 December

How should governance professionals be planning for new changes to BVI company law?



Chair: Edmond Chiu FCG HKFCG(PE), Institute Council member, Professional Services Panel Chairman, Professional Development Committee member, AML/CFT Work Group PSP Chairman, and Technical Consultation Panel – Wealth Management Interest Group Co-Chairman, Mainland China Technical Consultation Panel member, and Head of Corporate & Fund Services, Vistra Corporate Services (HK) Ltd

Speaker: Leon Mao, Head of Advisory and Managing Director, Vistra North Asia

ECPD Videos on Demand

Some of the Institute's previous ECPD seminars can now be viewed on its online platform – ECPD Videos on Demand.

Details of the Institute's ECPD Videos on Demand are available in the Professional Development section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact the Institute's Professional Development Section: 2830 6011, or email: cpd@hkcgj.org.hk.

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
16 February 2023	4.00pm–5.30pm	New share scheme regime	1.5
21 February 2023	6.45pm–8.15pm	New requirements of economic substance in Hong Kong: implications to company secretaries	1.5
22 February 2023	6.45pm–8.15pm	CSP training series: how to serve the board better (session two: board dynamics at meetings)	1.5
28 February 2023	6.45pm–8.15pm	How to manage name change exercises for PRC incorporated entities	1.5

For details of forthcoming seminars, please visit the Professional Development section of the Institute's website: www.hkcgj.org.hk.

Membership

New Fellows

The Institute would like to congratulate the following Fellows elected in November 2022.

Cheung Wing Suet FCG HKFCG

Ms Cheung is a Counsel at King & Wood Mallesons. She has a broad range of commercial and corporate finance practice, including privatisations, general offers, equity offerings, M&A, and regulatory and compliance matters. Ms Cheung holds a bachelor's degree in economics from the University of Hong Kong, and an LLM from the University of Hong Kong, as well as from the University of Southampton. She is a qualified lawyer in Hong Kong.

Gao Yuan FCG HKFCG

Ms Yuan is the Board Secretary and Company Secretary of Landsea Green Management (Stock Code: 106). She has more than 10 years of experience in investor relations and corporate governance. Ms Gao holds a bachelor's degree in public administration from the Central University of Finance and Economics and an MBA from

Peking University. She is also a certified management accountant of the Institute of Management Accountants.

Guo Hongxiao FCG HKFCG

Mr Guo is the Board Secretary of Nanjing Kingjee Holding (Group) Co Ltd. He leads the capital market business of the holding company and its subsidiaries. He has more than 10 years of experience in leading the company secretariat team, corporate governance, and financial and risk management, as well as investment management. He is a fellow member of the Association of Chartered Certified Accountants.

Ke Mingjie FCG HKFCG

Ms Ke is the Head of Offshore Corporate Services Department of BMI Consultants (Shenzhen) Ltd. She has over 10 years of experience in the company secretarial field, and specialises in regulatory compliance and corporate governance

practices for private companies in Hong Kong, as well as in mainstream offshore jurisdictions such as the British Virgin Islands, the Cayman Islands and Seychelles. Ms Ke holds a master's degree in corporate governance from Hong Kong Metropolitan University.

Lung Wai Lap, Samuel FCG HKFCG

Mr Lung is a Partner of Ernst & Young. He currently sits on EY's Financial Services Hong Kong Market Board, leading the financial crime compliance consulting practice. Prior to joining EY, he held senior management positions in various financial institutions, including as chief operating officer and deputy chief executive for Commerzbank AG Hong Kong Branch, and the head of AML and MLRO of Credit Suisse AG Hong Kong Branch, where he was responsible for managing governance, regulatory and financial crime compliance advisory services.

Membership (continued)

Mr Lung is a member of the Hong Kong Academy of Finance, the Deputy President of CPA Australia Greater China Division and a member of the Advisory Board for the Association of Blockchain Compliance Professionals.

Sin Ho Wai, David FCG HKFCG

Mr Sin is the Assistant Financial Controller of Lee's Pharmaceutical Holdings Ltd (Stock Code: 950). He is responsible for the corporate finance, accounting and company secretarial functions of the company, and works closely with the board of directors and board committees. Mr Sin obtained a bachelor's degree in accounting and taxation from Curtin University of Technology and a master's degree in corporate governance from The Hong Kong Polytechnic University. Mr Sin also holds professional qualifications as a fellow member of the Hong Kong Institute of Certified Public Accountants and CPA Australia. In addition, he is a member of the Chartered Institute of Management Accountants.

Tam Chun Wai, Edwin FCG HKFCG(PE)

Mr Tam is the Practising Partner of Noble Partners CPA Company. He is also the Company Secretary of Feiyang International Holdings Group Ltd (Stock Code: 1901), Vision International Holdings Ltd (Stock Code: 8107) and joint Company Secretary

of TL Natural Gas Holdings Ltd (Stock Code: 8536). Mr Tam has over 20 years of experience in accounting, auditing, treasury management, operational finance, capital market transactions, corporate governance and compliance. Mr Tam is a Fellow of the Hong Kong Institute of Certified Public Accountants and the Association of Chartered Certified Accountants.

Yuen Ka Fai FCG HKFCG

Mr Yuen is the Group General Counsel and Head of Compliance of CK Hutchison Holdings Ltd (Stock Code: 1). Mr Yuen was a Partner of Clifford Chance for four years and, before that, a partner of Woo Kwan Lee & Lo for 19 years. Mr Yuen holds an LLB from the University of Hong Kong. He is a member of the Takeovers and Mergers Panel and the Committee on Real Estate Investment Trusts of the SFC, and a member of the Company Law Committee of The Law Society of Hong Kong.

Chen Hao FCG HKFCG

Head of Board Office and Head of Investor Relations, Bosideng International Holdings Ltd (Stock Code: 3998)

Chen Xiuzhu FCG HKFCG

Board Secretary and General Manager of Capital Operations, E-Commodities Holdings Ltd (Stock Code: 1733)

Chiu Suk Ying FCG HKFCG

Associate Director, Country Garden Holdings Company Ltd (Stock Code: 2007)

Chow Man Ngan FCG HKFCG(PE)

Board Secretary, Sunshine Oilsands Ltd (Stock Code: 2012)

Hu Yi FCG HKFCG

Board Secretary and Company Secretary, Fu Shou Yuan International Group Ltd (Stock Code: 1448)

Lam Yu Hon FCG HKFCG

Chief Financial Officer and Company Secretary, 51 Credit Card Inc (Stock Code: 2051)

Law Chi Hung FCG HKFCG

Managing Director, CLG CPA Ltd

Luk Ting Fung FCG HKFCG

Chief Financial Officer, E-Teen Company Ltd

Ngai Ka Yan FCG HKFCG(PE)

Company Secretary, Xinchen China Power Holdings Ltd (Stock Code: 1148)

Wong Tsz Wan FCG HKFCG

Corporate Secretary, Our Hong Kong Foundation Ltd

Yiu Cheuk Shun, Alice FCG HKFCG

Assistant Company Secretarial Manager, Hutchison International Ltd

New graduates

The Institute would like to congratulate our new graduates listed below.

Chau Kwan Kit
Ho Pui Yan

Ho Sin Tung
Huang Xiling

Wong Sze Man
Yip Yuen Man

Membership activities: December 2022

7 and 14 December

Fun & Interest Group – Christmas wreath workshop



Forthcoming membership activities

Date	Time	Event
11 March 2023	2.00pm–6.00pm	Elementary first aid course
15 April 2023	9.30am–12.30pm	Zentangle in nature workshop

For details of forthcoming membership activities, please visit the Events section of the Institute's website: www.hkcg.org.hk.

Advocacy

Institute New Year luncheon

The Institute hosted a luncheon for all Council, Committee and Panel members at the JW Marriott Hotel Hong Kong on 6 January 2023. The luncheon provided the Institute with an opportunity to thank all those who have contributed to the Institute during the past year, as well as in the years to come.



Advocacy (continued)

HKCGI Annual Celebration 2023

The Institute's Annual Celebration 2023, under the theme Upping the Game, took place in the Garden Lounge of the Hong Kong Club, on 13 January 2023. The Institute would like to express its gratitude to our Guest of Honour, The Honourable Christopher Hui Ching-yu GBS JP, Secretary for Financial Services and the Treasury.

The Institute also awarded The Hong Kong Chartered Governance Institute Prize (HKCGI Prize) 2022 to Ms Suen Pui Yee Samantha FCG HKFCG at the Annual Celebration 2023, in recognition of her significant contributions to the Institute's development and representation of governance professionals over a substantial period.

Our Annual Celebration 2023 not only celebrates the Institute's accomplishments throughout the past year, it also offers the Institute and its supporters an opportunity to envisage other milestones to be achieved in the years to come.





HKCGI Chinese New Year Celebration 2023

Secretariat Chinese New Year Celebration

The Secretariat team in Hong Kong enjoyed a Chinese New Year celebration with the Institute President, Ernest Lee FCG HKFCG(PE), and Technical Partner, Deloitte China. The Institute would like to thank our President for his care and support for the Secretariat.



Beijing Representative Office

On 17 January 2023, the Institute's Beijing Representative Office organised a lunch gathering in Beijing, attended by Institute Vice-President Dr Gao Wei FCG HKFCG (PE), Council member and Mainland China Affairs Committee Vice-Chairman Kenny Luo FCG HKFCG(PE), and the Secretariat team to celebrate the Chinese New Year.



Advocacy (continued)

HKCGI Prize 2022

The Institute is delighted to announce that The Hong Kong Chartered Governance Institute Prize (HKCGI Prize) 2022 has been awarded to Ms Suen Pui Yee Samantha FCG HKFCG in recognition of her significant contributions to the Institute's development and representation of governance professionals over a substantial period of time. First presented in 2010, a Judging Panel comprising past presidents and current Council members determines the recipient of this award, which represents the highest honour of recognition by peers from the governance professional.

Suen Pui Yee Samantha FCG HKFCG: awardee of the HKCGI Prize 2022



Ms Suen was elected an Associate of the Institute in 1982. She became a Fellow of the Institute and The Institute

of Chartered Secretaries and Administrators (the predecessor of the Chartered Governance Institute (CGI)) in 1998. Ms Suen contributed significantly to various committees and panels, and eventually became a Council member for nine years, from 1996 to 2006. In 2003, she was elected as the Institute's President. Over the years, she had also represented the Institute under many external appointments and functions of government bureaus and academic institutions.

In 2013, Ms Suen, a passionate supporter of the Institute, rejoined the Institute as Chief Executive. She is credited for tirelessly promoting the Institute's work in the Mainland and reorganising Mainland operations in the process. Ms Suen also significantly expanded international collaborations. She was the Institute's representative

for day-to-day dealings with CGI. She also served on the council of Corporate Secretaries International Association Ltd, a transnational governance organisation representing the global voice of governance professionals, for over four years.

Another significant initiative of Ms Suen was arranging for the Institute to join the Asian Corporate Secretaries Network (ACSN) in 2016. The aim was to foster regional collaboration between Indonesia, Malaysia, Singapore and Thailand. Ms Suen helped ACSN arrange various regional conferences, and published survey reports and guidance notes, as well as significantly elevating governance business opportunities and access to the diverse marketplace for governance professionals.

Closer to home, other significant achievements made by Ms Suen during her tenure as Chief Executive include the following:

- facilitating the launch of prerecorded ECPD seminars with the Hong Kong Open University (now Hong Kong Metropolitan University) in 2014

- promoting the digitalisation of the Institute's database in 2015
- rolling out the Chartered Governance Professional designation, with a grant to eligible members in 2018, and
- implementing the new Chartered Governance Qualifying Programme in 2020.

At the outbreak of the pandemic in early 2020, Ms Suen also proactively facilitated the adoption of the Institute's online seminars and timely preventative measures for Secretariat staff and members to minimise infection risks. Her approach has always shown care and concern for governance professionals and her team.

Ms Suen retired from her role as Chief Executive in December 2020 and continues to contribute to the profession through teaching corporate governance courses at higher education institutions. She also serves as a Public Governance Interest Group member under the Institute's Technical Consultation Panel, and as a Special Entry Scheme Interview Panel member.

ESG Reporting – Regulatory Guidance on Avoiding Common Mistakes & Achieving Better Reporting (webinar)

In November 2022, Hong Kong Exchanges and Clearing Ltd (HKEX) published a review of 400 randomly selected listed issuers' ESG reports released in 2021/2022 (Review Report).

On 18 January 2023, the Institute organised a webinar titled ESG Reporting – Regulatory Guidance on Avoiding Common Mistakes & Achieving Better Reporting, with the aim of providing an in-depth understanding of ESG reporting from a regulatory perspective. Institute President, Ernest Lee FCG HKFCG(PE), and Technical Partner, Deloitte China chaired the webinar. Kelly Lee, Senior Vice-President, Policy and Secretariat Services, Listing Division, HKEX, explained the findings of the Review Report, with a focus on highlighting the common mistakes in ESG reporting, and sharing guidance on how to provide better reporting and imminent regulatory developments.



For more information, please visit the Institute's website at www.hkcgj.org.hk.

AFF 2023 – Accelerating Transformation: Impact • Inclusion • Innovation

The Asian Financial Forum (AFF) facilitates the exchange of insights and intelligence, as well as the exploration of business and investment opportunities for global leaders in government, finance and business.

Institute President, Ernest Lee FCG HKFCG(PE), and Technical Partner, Deloitte China; Institute Chief Executive, Ellie Pang FCG HKFCG(PE); Institute Deputy Chief Executive, Mohan Datwani FCG HKFCG(PE); and Edmond Chiu FCG HKFCG(PE), Institute Council member, and Head of Corporate & Fund Services, Vistra Corporate Services (HK) Ltd attended the AFF 2023, held under the theme Accelerating Transformation: Impact • Inclusion • Innovation, to show their support. The dialogue focused on the Greater Bay Area and Regional Comprehensive Economic Partnership opportunities, asset and wealth management, ESG and green finance, financial inclusion and more.

Governance Professional Mentorship Programme – closing of 2022 cum launch of 2023 programme

Since its inception in 2015, the Governance Professional Mentorship Programme has been a platform that facilitates exchange among governance professionals. On 16 January 2023, the Institute organised a mentorship ceremony to celebrate the closing of the 2022 programme and launch of 2023 programme.

Institute President, Ernest Lee FCG HKFCG(PE), and Technical Partner, Deloitte China welcomed all participants and expressed his appreciation for the Institute's mentors and mentees. Institute Chief Executive, Ellie Pang FCG HKFCG(PE) also provided updates on the Institute's latest affairs. In addition, mentors and mentees had the opportunity to network with each other.

For more information on Institute membership, please visit the *Become a Member* page under the Membership section of the Institute's website: www.hkcgj.org.hk.

Chartered Governance Qualifying Programme (CGQP)

November 2022 examination diet

The results of the November 2022 examination diet were released on 14 February 2023. Candidates can access their examination results from their accounts on the Institute's website. The examination papers, mark schemes and examiners' reports are also downloadable from the Login area of the Institute's website.

Candidates may apply for a review of their examination results by submitting a completed examination review application form, along with the review application fee of HK\$2,200 per module, to the Institute by 28 February 2023.

Key dates for the November 2022 examination diet

Date	Description
14 February 2023	Release of examination results
14 February 2023	Release of examination papers, mark schemes and examiners' reports
28 February 2023	Closing date for examination results review applications

Note: The Institute reserves the right to change the dates and details without prior notice.

For details, please visit the Examinations page under the Chartered Governance Qualifying Programme subpage of the Studentship section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact the Education and Examinations Section: 2830 6010, or email: exam@hkcgj.org.hk.

June 2023 examination diet timetable

The June 2023 examination diet of the CGQP is open for enrolment from 1 February to 27 March 2023. All examination enrolments must be made online via the Login area of the Institute's website.

Week one

Time	5 June Monday	6 June Tuesday	7 June Wednesday	8 June Thursday
9.15am–12.30pm*	Hong Kong Taxation	Hong Kong Company Law	Interpreting Financial and Accounting Information	Corporate Secretaryship and Compliance

Week two

Time	12 June Monday	13 June Tuesday	14 June Wednesday	15 June Thursday
9.15am–12.30pm*	Corporate Governance	Risk Management	Strategic Management	Boardroom Dynamics

* Including 15 minutes reading time (9.15am–9.30am).

The Institute reserves the right to change the dates and details without prior notice.

For enquiries, please contact the Education and Examinations Section: 2830 6010, or email: exam@hkcgj.org.hk.

Learning support CGQP examination technique workshops

The examination technique workshops for the CGQP June 2023 examinations will be held online between late March and late April 2023, and the workshops are set in two parts. In part one, students will attend a two-hour online workshop and receive one take-home mock examination paper. In part two, students who have attended and submitted their answers to the mock examination paper will receive feedback and further guidance. The enrolment period is from 1 February to 27 March 2023.

For details, please visit the News & Events section of the Institute's website: www.hkcgj.org.hk.

HKU SPACE CGQP Examination Preparatory Programme – spring 2023 intake

The spring 2023 intake of the HKU SPACE CGQP Examination Preparatory Programme will commence on 16 February 2023.

For details, please contact HKU SPACE: 2867 8485, or email: hkcgj@hkuspace.hku.hk.

Call for support: Student Ambassadors Programme summer internship 2023

The Institute's Student Ambassadors Programme 2022/2023 is designed to attract undergraduates to learn more about the Institute's dual qualification of Chartered Secretary and Chartered Governance Professional. The Institute

is inviting companies and organisations to offer summer internship positions to 85 student ambassadors this year.

The internship period is usually from June to August 2023, and there is flexibility for an intern period of up to a maximum of eight weeks.

If members are interested in offering summer internship positions and would like more details, please visit the News & Events section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact Shalom Li: 2830 6001, or email: shalom.li@hkcgj.org.hk.

Studentship activities: January 2023

9 January

**Student Ambassadors Programme 2022/2023:
Xiqu Centre guided tour**



18 January

**Student Gathering (1st session): getting started with the
CGQP examinations – from planning to success**



Chartered Governance Qualifying Programme (CGQP) (continued)

Forthcoming studentship activities

Date	Time	Event
22 February 2023	1.00pm–2.00pm	Student Ambassadors Programme 2022/2023: experience sharing on internship and workplace etiquette
15 March 2023	1.00pm–2.00pm	Student Gathering (2nd session): sharing from outstanding students in the CGQP examinations
25 March 2023	10.00am–1.00pm	The Career Paths of a Governance Professional 2023

Notice

New fee structure for studentship and related fees

The increment in studentship and related fees for registration, reregistration, examinations and exemptions took effect on 1 January 2023.

For details, please visit the *Fee Schedule* page of the *Studentship* section of the Institute's website: www.hkcgj.org.hk.

Update of the CGQP study materials and syllabus

The online study materials for the following CGQP modules have been updated:

- Boardroom Dynamics (Hong Kong supplement)
- Corporate Governance (Hong Kong supplement)

- Corporate Secretaryship and Compliance
- Risk Management (Hong Kong supplement)

The syllabus for the following CGQP modules has been updated. With effect from the June 2023 examination diet and onwards, the new syllabus will be incorporated into the following examinations:

- Hong Kong Company Law
- Hong Kong Taxation

For details, please visit the *Syllabus* page under the *Chartered Governance Qualifying Programme* subpage of the *Studentship* section of the Institute's website: www.hkcgj.org.hk.

Featured job openings

Company name	Position
CK Hutchison Holdings Ltd	Company Secretarial Officer

For details of job openings, please visit the *Jobs in Governance* section of the Institute's website: www.hkcgj.org.hk.

HKCGI ✓

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CS Practical Training Series:

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For more details, please check the Professional Development section of HKCGI website: www.hkcgi.org.hk

Enquiries: 2830 6011 / 2881 6177 / cpd@hkcgi.org.hk

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