



July 2023

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The journal of the Hong Kong
Chartered Governance Institute
香港公司治理公會會刊

ACRU 2023 review

Regulatory collaboration
Climate disclosure
Board diversity



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HKCGI



2021
April Chan
FCG HKFCG
Past President and
Chairman of Technical
Consultation Panel,
HKCGI



2020
Ada Chung
FCG HKFCG
Privacy Commissioner
for Personal Data



2019
Edith Shih
FCG(CS, CGP)
HKFCG(CS, CGP)(PE)
Past International
President, CGI; Past
President, HKCGI;
Executive Director and
Company Secretary,
CK Hutchison
Holdings Ltd



2018
Peter Greenwood
FCG HKFCG
Former HKCGI
Representative to
CGI Council



2017
Natalia Seng
FCG HKFCG
Past President,
HKCGI



2016
Gordon Jones
BBS FCG HKFCG
Former Registrar of
Companies



2015
Anthony Rogers
GBS QC JP FCG HKFCG
Former Vice-President
of the Court of Appeal
of Hong Kong



2014
Neil McNamara
FCG HKFCG
Past President,
HKCGI



2013
Edwin Ing
FCG HKFCG
Past President,
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2012
John Brewer
Past Chairman,
The Association of the
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Secretaries and
Administrators in
Hong Kong



2011
Duffy Wong
BBS JP FCG HKFCG
Past Chairman,
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of the Institute of
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2010
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The Hong Kong Chartered Governance Institute Prize will be awarded to a member or members who have made significant contributions to the Institute, and the Chartered Secretary and Chartered Governance Profession over a substantial period. Awardees are bestowed with the highest honour – recognition by their professional peers.

For details, please visit www.hkcg.org.hk or contact Melani Au: 2830 6007, or email: member@hkcg.org.hk

July 2023

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Good governance comes with membership

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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ACRU 2023

Readers of this journal will be very familiar with our Institute's Annual Corporate and Regulatory Update (ACRU). In almost two and half decades (the forum was launched in 1999), ACRU has earned itself an invaluable place at the heart of our professional development work.

On the evidence of our latest ACRU, held in hybrid mode on 9 June 2023, the ACRU success story shows no sign of slowing down. Our 24th ACRU set a new attendance record, with 2,200 attendees in person and online, and attracted an impressive lineup of speakers from six regulatory bodies in Hong Kong.

I am glad of this opportunity to express my thanks, and the thanks of our Institute, to everyone who contributed to this year's forum. ACRU represents a unique collaboration between many different parties – some highly visible and others working behind the scenes.

Thanks should of course go to the representatives of our regulatory bodies and the government, who are the main attraction of the event, but also to our senior members and Secretariat officers who took on the all-important roles of chairing and compering the sessions. I would also like to thank our sponsors for their generosity in funding the event and

our superb Secretariat staff for their hard work ensuring that the event ran smoothly.

Our CGj ACRU reviews provide summations of what was discussed and I leave you to the excellent tour of this year's event over the following pages. Before I conclude though, I would like to highlight another article in this month's edition. This month's In Focus article reviews a new HKCGI research paper, published in collaboration with KPMG China in May 2023, addressing the very timely topic of board diversity.

Our Institute has been promoting the benefits of improved diversity, equity and inclusion (DEI) for over a decade and I encourage you to read our latest initiative in this space: The Transformative Power of Diversity – Regulatory and Practical Considerations for Boards (the Report). This joint HKCGI/KPMG Report, available from the Thought Leadership/ Research Papers section of our website (www.hkcgi.org.hk), provides useful recommendations for companies seeking to raise their game in this area of governance.

One of the key messages that I would like to highlight here is that taking a compliance approach to diversity misses the point. Diversity is not only about having a good diversity

profile – in terms of having a good representation of different genders, ages, ethnicities and expertise. This is of course a necessary first step, but the other two components of DEI are just as important. This is also about having an equitable and inclusive culture, and adopting such a culture helps not only in corporate decision-making, but also in improving a company's relationship with key stakeholders.

We still have a long journey ahead of us in Hong Kong if we want to achieve optimum levels of DEI, but the recent ban on single gender boards, alongside other initiatives highlighted in this month's In Focus article, are having an impact. Rest assured that our Institute will continue to promote the benefits for organisations, commercial and non-commercial, of adopting diverse, equitable and inclusive cultures.

Ernest Lee FCG HKFCG(PE)

2023年度企业规管最新发展研讨会

本刊的读者应该非常了解公会的年度企业规管最新发展研讨会。该研讨会于1999年第一次召开，近25年来在专业的专业发展工作方面发挥了十分重要的作用。

公会的第24届年度企业规管最新发展研讨会于2023年6月9日通过混合方式举办，延续并超越了以往的成功。该研讨会参会人数创新高，逾2,200人线上或线下参会，来自香港6个监管机构的重量级演讲嘉宾在本次研讨会上发表了精彩演讲。

借此机会，本人希望向为本次研讨会的圆满成功做出贡献的每一位人士表达本人以及公会的诚挚谢意！本次研讨会是一次幕后与前台各方充分合作的完美杰作。我们十分感谢来自监管与政府机构的演讲嘉宾，他们是本次研讨会核心与亮点，同时，我们也十分感谢公会的资深会员以及秘书处的员工们，他们承担了研讨会主持以及单元主席的重要角色。我们也要感谢赞助商对活动的慷慨资助以及我们出色的秘书处工作人员，他们的辛勤工作确保了研讨会的顺利进行。公会的CGJ会刊评论文章对于本次研讨会所讨论的议题进行了总结，您可在之后的相关页面参阅相关精彩讨论。最后，本人想要着重介绍一下本月的另

一篇文章，本月会刊的 'In Focus' (焦点) 专栏文章回顾了公会最近与毕马威中国合作于2023年5月发布的一篇研究报告，该报告探讨了一个当下颇受关注的议题 - 董事会多元化。

公会十多年来一直致力于倡导促进多元化、公平和包容(DEI)的益处。本人建议您阅读公会在这个领域的最新报告：多元化的变革力量 -- 董事会的监管和实践考虑。这份公会与毕马威中国合作的联合报告可在公会网站 (www.hkcgj.org.hk)的思想引领/研究报告栏目中找到，它为寻求在这一领域提高治理水平的公司提供了有用的建议。

本人在此想要特别强调的一点是，对多元化仅采取遵从的方式毫无意义。多元化不仅是指拥有一个良好的多元化的组织架构 -- 在不同性别、年龄、种族和专业知识方面有良好的代表性。这当然是必要的第一步，但DEI的其他两个组成部分也同样重要 -- 组织也需要拥有一种公平和包容的文化，拥有这样的文化不仅有助于公司决策，而且有助于改善公司与主要利益相关者的关系。

在香港，如果想达到最佳的DEI水平，我们还有很长的路要走，但最近对单一性别董事会的禁令，以及本月焦点

文章中强调的其他举措，正在对促进DEI产生积极影响。因此，公会将继续致力于倡导商业和非商业组织拥有多元化、公平和包容性文化的益处。



李俊豪先生 FCG HKFCG(PE)

Good governance: a collaborative effort

ACRU 2023 review – part one



The benefits of closer regulatory collaboration in combating corporate fraud and misconduct was one of the key themes discussed at the Institute's 24th Annual Corporate and Regulatory Update (ACRU), held in hybrid mode on 9 June 2023.

The Institute's ACRU forum, probably the best known of the Institute's CPD offerings, is an excellent way for companies and the governance professionals advising them to stay up to date with all the latest enforcement trends and strategies in Hong Kong. This article highlights one of the central themes to emerge from this year's ACRU – the way regulators and law enforcement agencies have been able to raise the effectiveness of their investigations and enforcement efforts by means of much closer collaboration.

Collaboration in listing enforcement

The central theme of ACRU 2023 was particularly in evidence with regards to the listing enforcement strategies of Hong Kong Exchanges and Clearing Ltd (HKEX) and the Securities and Futures Commission (SFC). In a departure from previous ACRUs, speakers from the SFC and HKEX jointly presented the first two sessions of the forum.

Jon Witts, Head of Enforcement, Listing Division, HKEX, emphasised that Hong Kong has been well served over the years by its enforcement framework. Under this framework the SFC is the principal regulator of Hong Kong's securities and futures markets, while HKEX operates as the frontline regulator of the companies listed on The Stock Exchange of Hong Kong, a wholly owned subsidiary of HKEX.

Mr Witts acknowledged that, under this structure, there is some overlap

between the two regulators, but he argued that overlap is certainly preferable to leaving gaps. Moreover, he pointed out that handling any potential overlaps has been one of the drivers of the closer collaboration between the two regulators.

Nevertheless, market participants are often unaware of the extent of the collaboration between the SFC and HKEX. Mr Witts made a point of reminding ACRU participants that the regulators share information and collaborate with a view to maximising the deterrence effect of their enforcement activities.

'It's great that we have the opportunity to present as we are in this format today. I'd like you to take this visual away, seeing us speaking side by side, and remember that if you're interacting with one of us there's a good chance that the other one knows about it,' he said.

One of the key advantages of this collaboration is that the appropriate

enforcement tools can be applied in different cases. The SFC's enforcement toolbox includes criminal prosecution, civil actions and actions before the Market Misconduct Tribunal (MMT). There are cases, however, where the disciplinary sanctions available to HKEX – such as Director Unsuitability Statements and Prejudicial to the Interests of Investors Statements – may offer a more appropriate regulatory outcome.

Mr Witts emphasised that this is very 'healthy' for Hong Kong as malpractice can take many different forms, from serious criminal activity to inadvertent Listing Rule breaches resulting from inadequate internal controls. 'If you've got two toolboxes in your shed, you don't want them to contain exactly the same tools – you want to have the right tool for each job and that's a classic example of how we can help each other. This collaboration is great for us, it's great for you and it's great for Hong Kong,' he said.

Highlights

- the theme of regulatory collaboration was visually apparent at ACRU 2023 as speakers from HKEX and the SFC jointly presented the first two sessions
- one of the key advantages of this collaboration is that the regulators can ensure that appropriate enforcement tools are applied to different cases
- good governance is not something that follows necessarily from good rules and active regulators – it is a collaborative effort involving many different stakeholders

“
if you've got two toolboxes in your shed, you don't want them to contain exactly the same tools – you want to have the right tool for each job
 ”

Jon Witts, Head of Enforcement, Listing Division, HKEX



Mr Witts was followed to the podium by Kenneth Luk, Senior Director, Enforcement Division, SFC, who also emphasised the importance of closer regulatory collaboration in tackling corporate misconduct and enhancing market quality.

‘The collaboration with HKEX is important in addressing the issue of corporate misconduct and protecting the investing public, and we have been discussing ways to strengthen our collaboration. The two enforcement teams will have more frequent and in-depth discussions of ongoing cases. We will share our evidence and findings much earlier than before with a view to achieving quicker enforcement outcomes,’ he said.

He added that HKEX’s disciplinary sanctions have become all the more relevant following their recent upgrading. In July 2021, HKEX gained a wider range of sanctions that can be imposed against a wider range of individuals. ‘Disciplinary action taken by HKEX can effectively protect the investing public, sending strong

messages to the market to deter future breaches and change market behaviours,’ Mr Luk said.

One very significant difference between the two regulators’ enforcement capacities is that HKEX can take disciplinary action without going to the courts or the MMT. This disciplinary framework, Mr Luk said, offers the best of both worlds. Enforcement outcomes and remedies in the more serious cases can be obtained by the SFC commencing legal proceedings, while other corporate misconduct cases can be appropriately and effectively dealt with by HKEX. This provides the fairness of due process on the one hand, but also the option for faster regulatory and law enforcement outcomes and remedies on the other, he pointed out.

Collaboration with other regulatory and law enforcement bodies

The trend towards closer regulatory collaboration has also been a feature beyond the listed sector regulators. Mr Luk emphasised, for example, that the SFC works closely with law enforcement bodies, including the police and the

Independent Commission Against Corruption (ICAC).

He pointed out that, while the SFC has some very effective investigation powers, such as the power to require a person to attend an interview and answer all relevant questions, it doesn’t have the power of arrest. In cases involving serious criminal conduct, collaboration with the police or the ICAC may therefore enhance the prospect of criminal prosecution and provide the greatest deterrence.

An example of this is where the SFC uncovers evidence that company loans are effectively a means of syphoning money and/or assets away from the company. Such cases indicate very serious criminal conduct and fall under the remit of the police and the ICAC. The SFC will typically therefore make referrals to these bodies and collaborate closely with them in investigating such cases.

In addition, both HKEX and the SFC have been strengthening their collaboration with the newly created

Accounting and Financial Reporting Council (AFRC). Patrick Yu, Senior Vice-President, Listed Issuer Regulation, Listing Division, HKEX, and Ben Lo, Vice-President, Accounting Affairs, Listing Division, HKEX, focused their presentations on a number of issues where all three regulators have a common interest. These include:

- the roles and responsibilities of audit committees
- inadequate disclosures relating to the resignation of auditors, and
- the effectiveness of companies' internal controls.

Mr Luk pointed out that many of the corporate misconduct cases the SFC investigates are first discovered by listed companies' auditors. 'Auditors play a very important role in exposing irregularities in these companies and we're working very closely with the AFRC and exchanging information relating to cases of common interest,' he said.

Governance stakeholders – a call to action

Good governance is not something that follows necessarily from good rules and active regulators. In his ACRU presentation, Dr Kelvin Wong SBS JP, Chairman, AFRC, highlighted the fact that governance is a collaborative effort involving many different stakeholders. Some of these are well known – directors, external and internal auditors and company secretaries, for example, but the list actually includes a much wider group of market participants, including shareholders, banks, rating agencies and analysts.

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“
 you can imagine the exponential effect of combining the SFC, HKEX and AFRC’s powers – you can’t afford to be reckless as a director
 ”

Dr Kelvin Wong SBS JP, Chairman, AFRC



This theme was evident in the title of Dr Wong’s presentation – From Tango to Contra Dance: the Corporate Governance Mosaic and Financial Reporting Quality. Good governance is not a tango involving only two

partners, he explained, but a contra dance involving multiple dancers.

He also spoke of the work of the AFRC, launched in 2022 in an important reordering of Hong Kong’s

regulatory infrastructure. The AFRC is in charge of upholding financial reporting quality in Hong Kong and has the power to investigate and sanction accounting irregularities. Dr Wong urged the directors in the audience, as well as those advising board members, to be aware of this important change to Hong Kong’s regulatory framework.

‘Before the launch of the AFRC, there was a missing part. Now we have a regulator in charge of financial reporting. Our strategic intent is to regulate the accounting profession by upholding the audit quality, so as to ensure the accounting profession will have a long-term sustainable development. That is our mission statement and that is our strategic intent,’ Dr Wong said.

Internal collaboration: investigation and enforcement

In addition to the theme of collaboration between regulators, ACRU 2023 also looked at the collaboration that goes on internally within Hong Kong’s regulatory bodies. Bonnie Chow, Associate Director, Corporate Finance Division, SFC, for example, gave some insights into the relationship between the SFC’s investigation and enforcement teams.

Ms Chow’s team is the SFC’s Post-IPO team. Formerly known as the Corporate Regulation team, it was established around 10 years ago and is responsible for monitoring the conduct of listed companies. Where cases assessed by the team require further investigation, they are referred to the SFC’s enforcement teams. Ms Chow emphasised, however, that generating cases for investigation is not the main goal of her team – that is to improve corporate governance and enhance the quality of disclosures and announcements.

To this end, the Post-IPO team will sometimes recommend supplemental announcements by listed companies where previous disclosures have been unclear, insufficient or potentially misleading. Ms Chow reminded ACRU participants that listed companies are required to provide clear, concise and meaningful information and she urged those involved in corporate disclosure to ask themselves – ‘What would investors in my company expect to know?’

He added that the AFRC will be working closely with other financial regulators like SFC and HKEX, as well as with the ICAC. ‘You can imagine the exponential effect of combining the SFC, HKEX and AFRC’s powers – you can’t afford to be reckless as a director,’ he said.

This message, he pointed out, also has a particular relevance for members of HKCGI. ‘You are in a very important position because you are working so closely with the board chairman and other board members. You are no longer in charge of just company secretarial duties, but are responsible for corporate governance as the board’s adviser,’ he said. 🗣️

The Institute’s 24th Annual Corporate and Regulatory Update was held in hybrid mode on 9 June 2023.

Corporate Governance Paper Competition and Presentation Awards 2023

Saturday 16 September 2023
10.00am - 1.00pm

The annual Corporate Governance Paper Competition and Presentation Awards organised by the Institute aims to promote the importance of good governance among local undergraduates. This is a great opportunity for students to learn about teamwork and to research, write and present their thoughts on a selected theme. The topic this year entices applicants to evaluate the question – ‘Climate change disclosures – is the world too focused on this topic?’

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Key trends to watch

ACRU 2023 review – part two



This second and final part of the CGj review of ACRU 2023 highlights the key trends that should be on the watch list of companies and governance professionals in the year ahead.

The Institute's ACRU 2023 provided a unique opportunity to hear from the six regulators participating in this year's forum on the issues at the top of the governance agenda in Hong Kong. There was no shortage of issues to discuss and this article highlights the key takeaways from the day's discussions.

Hong Kong's evolving ESG regime

1. International developments

Hong Kong's evolving ESG regime, in particular the proposed mandatory requirement for climate disclosures, was jointly addressed by speakers from the Securities and Futures Commission (SFC) and Hong Kong Exchanges and Clearing Ltd (HKEX). Michael Duignan, Executive Director, Corporate Finance Division, SFC, launched this discussion, updating ACRU participants on the developments that have been driving tougher ESG performance and reporting requirements globally.

The most significant development in this space has been the move towards harmonised global standards for sustainability disclosures. Companies around the world are currently using a plethora of different standards for their reporting on climate and sustainability issues. Indeed, the Task Force on Climate-related Financial Disclosures (TCFD) estimates that there are over 400 different standards in use and it produced the first prototype – in the form of the TCFD Recommendations – of a harmonised global baseline for sustainability disclosures.

In November 2021, a new standard-setting body – the International Sustainability Standards Board (ISSB) – was launched. It has subsequently released exposure drafts of its proposed standards, building on the TCFD Recommendations, and the finalised standards are expected to be published imminently.

Regulators in Hong Kong have announced their commitment to align Hong Kong's local regulatory regime with the ISSB standards and Mr Duignan highlighted some of the key requirements companies in Hong Kong should be preparing for. These include a requirement for companies to disclose their Scope 3 greenhouse gas (GHG) emissions, and to use climate-related scenario analysis in their reporting.

Mr Duignan also reminded ACRU participants that ESG and sustainability should not be regarded solely as a compliance issue. 'If you treat this like

a compliance exercise, you'll produce useless information,' he said.

He also strongly urged companies to get assurance for the metrics and targets disclosed. He pointed out that investors and other stakeholders are looking for reliable data, rather than lofty rhetoric. Indeed, greenwashing is increasingly recognised as a serious compliance and reputational risk for companies. A company announcing that it plans to be carbon neutral by 2025 might think it is sending the right message to stakeholders, Mr Duignan said, but issuing such a statement alone, without actually disclosing how the company intends to go about achieving carbon neutrality, is likely to send exactly the opposite message.

'Now, I plan to be a multi-billionaire by next year,' Mr Duignan quipped. 'But if I tell you that that involves me winning every lottery being held in every country in the world over the next 12 months, you can make your

Highlights

- one of the key governance themes of ACRU 2023 was the crucial importance of building and maintaining effective internal controls
- technology continues to improve the efficiency of regulatory investigations and the rise in enforcement activity shows no sign of slowing down in Hong Kong
- the latest HKEX proposals regarding the climate-related disclosure requirements of the Listing Rules should not be treated as a compliance exercise – companies should focus on the significant benefits to be gained from improved ESG performance and reporting

Tips for Issuers



Source: HKEX

own judgement as to how likely that outcome is going to be.'

2. What will this mean for companies in Hong Kong?

Kelly Lee, Senior Vice-President, Policy and Secretariat Services, Listing Division, HKEX, focused her presentation on HKEX's latest initiative to align Hong Kong's ESG regulatory regime with the international standards discussed above. Currently, the climate-related disclosure requirements of the Listing Rules are on a 'comply or explain' basis, but a public consultation just released by HKEX proposes to make them mandatory. Moreover, HKEX is proposing additional requirements to align with ISSB standards.

Like Mr Duignan, Ms Lee emphasised that this exercise should not be about compliance alone. Compliance with the rules is a basic minimum, but the focus should be on the significant benefits to

be gained from better transparency in ESG and sustainability matters.

'This is not about compliance – it is about communication. This is about how you tell your investors, your stakeholders and the market about your company and its operations, about the risks that you're facing and your actions in response to those risks,' she said.

She also reminded listeners that the HKEX ESG Academy (available on the HKEX website: www.hkex.com.hk) is a good resource for companies and governance professionals on ESG issues. She also offered a summary of her tips for listed companies in their ESG journeys (See Tips for Issuers).

These tips included a reminder of the need to stay tuned to the latest ESG developments. 'Developments in the ESG space are moving really quickly and everyone is learning, including the regulators. So you have to stay

tuned to the latest developments and identify any gaps with your internal policies and practices, and to assess whether any further upgrades are necessary,' Ms Lee said.

Key governance takeaways

ACRU 2023 provided regulators with an opportunity to give guidance on how companies can upgrade their governance standards. As with previous ACRU forums, one of the key governance themes was the crucial importance of building and maintaining effective internal controls.

'Company directors have the responsibility to put in place an effective internal control system to ensure compliance with applicable legal and regulatory requirements, and to prevent, detect and correct any corporate fraud or misconduct,' said Kenneth Luk, Senior Director, Enforcement Division, SFC.

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**Kelly Lee, Senior Vice-President,
Policy and Secretariat Services,
Listing Division, HKEX**

He added that without the right culture, even the best internal control system can fail. ‘Good corporate governance starts from the top and the board of directors needs to emphasise ethical values and integrity. It needs to foster a culture of honesty and zero tolerance for fraudulent behaviour,’ he said.

Both HKEX and SFC speakers also took the opportunity of ACRU 2023 to remind listeners that enforcement activity has been on the rise for some time in Hong Kong and shows no sign of slowing down. The number of director sanctions HKEX has been issuing, for example, has continued at a high level over the last year. On average, about three directors are sanctioned each week in Hong Kong.

‘In our investigations, we work out who is responsible for breaches of the Listing Rules and this ties in with outcomes,’ said Jon Witts, Head of Enforcement, Listing Division, HKEX. ‘For me, the outcomes against people are far more important than the outcomes against companies because it’s people that drive change,’ he said.



Moreover, technology continues to improve the efficiency of regulatory investigations. Mr Luk pointed out, for example, that the SFC has its automated process for obtaining and analysing bank records up and running. Local banks are already submitting bank statements to the SFC via its proprietary online e-submission platform. These bank statements are then converted into structured data using AI.

Last year, the SFC also rolled out the last phase of its project to develop a tool that will automatically identify certain predefined suspicious fund flow patterns – helping investigators to analyse movements of funds much more quickly than before.

Corporate law and practice

In the afternoon session of ACRU 2023, three speakers from the Companies Registry (CR) highlighted recent developments in corporate law and practice. The first speaker, Mandy Lam, Senior Solicitor (Legal Services), Companies Registry, discussed Hong Kong’s new statutory regime for holding general meetings.

With effect from 28 April this year (2023), the Hong Kong Companies Ordinance (CO) and Companies (Model Articles) Notice were amended to facilitate the holding of general meetings by using virtual meeting technology (VMT). Ms Lam pointed out that the use of VMT has significant advantages, particularly in terms of improving shareholder access to general meetings. She added that many jurisdictions around the world have introduced legislation allowing companies to hold fully virtual or hybrid general meetings.

She highlighted the key amendments to the CO that enable companies to hold general meetings by using VMT unless their Articles of Association expressly precludes its use, or require such meetings to be held at a physical location. She urged ACRU participants to consult the Guidance Note issued by the CR – Good Practice on Holding Virtual or Hybrid General Meetings – to familiarise themselves with Hong Kong’s new meetings regime.

Wren Wu, Deputy Registry Manager (Development), Companies Registry, was the second speaker in the CR session. He addressed, among other things, the implementation of the new Unique Business Identifier (UBI) regime, and the CR's latest IT upgrade – the revamp of the Integrated Companies Registry Information System (ICRIS).

With implementation of the UBI regime, legal entities can be uniquely identified with a unique number in different types of transaction. UBIs have been adopted in many other jurisdictions to reduce possible

identification errors, facilitate data sharing and reduce administrative burdens. For the legal entities in Hong Kong, the Business Registration Number (that is, the first eight digits of the Business Certificate number) assigned by the Business Registration Office of the Inland Revenue Department will be adopted as the UBI. To sustain Hong Kong's leading position as an international financial centre, the CR undertakes to implement UBIs for entities under its administration in two phases. Phase One was implemented for Limited Partnership Funds (LPFs) with effect from 1 November 2021. Phase Two,

which will cover limited companies and other types of entities, will be implemented simultaneously with the launch of the Registry's revamped ICRIS on 27 December 2023.

Mr Wu also highlighted the design features of the revamped ICRIS, which will replace all existing CR information systems. His colleague, Fanny Lam, Deputy Registry Manager (Public Search), Companies Registry, gave further details on the new search services and the new services under Phase 3 of the New Inspection Regime that will become available on the launch of the revamped ICRIS. [CGI](#)

Promoting Hong Kong: recent government initiatives

The afternoon session of ACRU 2023 concluded with two speakers who updated participants on the many government initiatives to boost Hong Kong's competitiveness as an international financial centre.

Developing Hong Kong as a FinTech hub

'As a financial centre, Hong Kong cannot afford to lose sight of FinTech development,' said Joseph Chan JP, Under Secretary for Financial Services and the Treasury, the HKSAR Government. Mr Chan was the first of two government speakers to address ACRU 2023 and he focused his presentation on the crucial role that FinTech will play in Hong Kong's future.

'The development of FinTech is going to replace or displace many

traditional products and services, but in return it will create a lot of new products and services. So if we want to protect our market share, or even grow our market share further, we have to do FinTech right,' he said.

Mr Chan outlined some of the measures the government has implemented to develop FinTech in Hong Kong. Its FinTech Proof-of-Concept Subsidy Scheme, for example, aims to encourage financial institutions to partner with FinTech companies in developing innovative financial services products. 'We hope these subsidies will provide the resources for companies to test new ideas that will eventually be put to commercial use,' Mr Chan said.

Mr Chan also mentioned the launch of Hong Kong's new licensing

regime for Virtual Asset Service Providers (VASPs) as a step forward in ensuring that VASPs are subject to appropriate supervision. The regime, which was implemented in June 2023, imposes capital adequacy requirements on VASPs and requires them to put measures in place to avoid a conflict of interests, such as segregating client assets and trading activities from their own. They are also required to submit their annual reports to the SFC, which has been established as the relevant regulator with the authority to investigate any suspicious activities on VASP trading platforms.

'We believe that by putting in place a very comprehensive regulatory regime we can help develop the virtual asset business

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Good corporate governance starts from the top and the board of directors needs to emphasise ethical values and integrity. It needs to foster a culture of honesty and zero tolerance for fraudulent behaviour.
 ”

**Kenneth Luk, Senior Director,
 Enforcement Division, SFC**



in a responsible and sustainable manner. This will also boost investors' confidence in this sector as well,' Mr Chan said.

Hong Kong's evolving tax regime

The second government speaker to address ACRU 2023 was Benjamin Chan Sze-wai JP, Deputy Commissioner of Inland Revenue (Technical), Inland Revenue Department. He addressed another issue that Hong Kong cannot afford to ignore if it wants to continue to thrive as an IFC in the years ahead – taxation.

'As you may well be aware, tax issues have become increasingly high on the government agenda,' Mr Chan said. He focused his presentation on how Hong Kong's tax regime is evolving in response to international

tax reform initiatives. In particular, he updated ACRU participants on the new foreign-sourced income exemption (FSIE) regime. On 1 January this year (2023), the Inland Revenue (Amendment) (Taxation on Specified Foreign-sourced Income) Ordinance 2022 came into operation, whereby specified foreign-sourced income received in Hong Kong by multinational enterprise (MNE) entities will be regarded as arising in or derived from Hong Kong and chargeable to profits tax.

This reform was a response to the EU placing Hong Kong on its watchlist of non-cooperative jurisdictions for tax purposes. The FSIE regime seeks to address the EU's concerns that MNE entities without substantial economic substance in Hong Kong would exploit Hong Kong's territorial tax system

to achieve 'double non-taxation' of specified foreign-sourced income. Mr Chan also discussed the Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Ordinance 2023, which came into operation on 19 May 2023 to provide profits tax concessions for eligible family-owned investment holding vehicles (FIHVs) managed by eligible single family offices in Hong Kong (the Family Office regime). The Family Office regime is intended to create a competitive environment for global family offices to set up in Hong Kong. The concessionary profits tax rate for the assessable profits of an FIHV earned from qualifying transactions and incidental transactions for a year of assessment commencing on or after 1 April 2022 is 0%. [CGJ](#)

Improving the diversity of Hong Kong boards

CGj reviews a new HKCGI research paper, published in collaboration with KPMG China in May 2023, addressing key challenges and practical considerations for organisations seeking to improve the diversity of their boards.



Hong Kong lags behind many other developed jurisdictions when it comes to board diversity. This goes beyond gender of course – ethnicity, age, expertise, experience, skill sets and knowledge are all very relevant aspects to be considered – but gender diversity is a highly visible aspect and is therefore a good indicator of how far companies, and indeed jurisdictions, have progressed in embracing the benefits of greater diversity. According to Hong Kong Exchanges and Clearing Ltd (HKEX) data, 16.8% of directors of listed companies in Hong Kong are female. This compares with the global average of 30% female participation on boards.

Improving the diversity of the boards of Hong Kong listed issuers has been a focus of HKCGI work for over a decade. Working alongside and in partnership with other advocates of improved diversity, equity and inclusion (DEI) in Hong Kong, the Institute has been broadening awareness of the benefits of good DEI policies and practices.

The Institute's latest initiative is a research paper, published in collaboration with KPMG China – The Transformative Power of Diversity – Regulatory and Practical Considerations for Boards (the Report). It provides useful recommendations for companies seeking to improve their performance and reporting in this area.

The case for improved diversity

The benefits of having more diverse, but also more inclusive, boards are more widely recognised today. A diverse board ensures that different

perspectives are explored in board discussions, leading to more informed business decisions and better management of risk.

Regulatory regimes around the world, including in Hong Kong, have been tightening the rules in this space, but there is a limit to how far regulations can encourage the adoption of a DEI culture. The rules can focus on whether organisations have a good diversity profile – for example having a good representation of different genders, ages, ethnicities and expertise among directors – but the other two components of DEI are just as important. To really get the benefits of greater diversity, organisations need to consider how far their culture is equitable, in terms of ensuring the fair treatment of all individuals, and inclusive, in terms of listening to and encouraging diverse viewpoints.

Moreover, adopting a DEI culture helps build a more positive corporate image and helps to improve a company's relationship with key stakeholders. 'Increasingly, access to capital is linked to diversity. Major investors have exercised their voting rights to vote down proposals because companies

lack diversity. Diversity, therefore, has become a stakeholder-responsive governance issue,' the Report says.

Investors are not the only stakeholders taking an interest in companies' approaches to DEI. In a recent KPMG survey, 80% of customers reported that they prefer brands that are aligned with their social values. 'These findings suggest that organisations must closely examine their existing values and assumptions. Further, they emphasise that addressing ESG concerns, including diversity and inclusion, is no longer "nice to have" but rather a fundamental governance and risk management issue,' the Report states.

The push factors

In addition to the incentives discussed above, the current operating environment for listed companies includes many push factors for improved DEI. First among these, of course, is the rapidly evolving regulatory regime in Hong Kong. Regulatory compliance is a basic requirement for companies and the Report highlights a number of changes to Hong Kong's rules in relation to diversity. These include:

Highlights

- the Report recommends the use of a board matrix to identify diversity gaps to fill
- a compliance focus will miss the point – this is not about minimum disclosures under corporate governance reports but an essential part of overall business strategy
- in the years ahead companies can expect a further tightening of the regulations and increased stakeholder pressure to improve board diversity

- no single-gender boards are permitted for IPO listing applicants
- all existing 'single gender' board issuers need to appoint at least one director of a different gender by 31 December 2024
- all listed issuers need to have a diversity policy and boards need to review the implementation and effectiveness of these policies annually, and
- all listed issuers need to disclose and explain the company's gender ratio in the workforce (including senior management), the company's plans for setting measurable objectives on gender diversity and any foreseen challenges to achieve these objectives.

The Report comments that the need to include directors' gender information now reads 'male/female/non-binary/others'. This, it points out, is a step in the right direction to recognise broader DEI issues.

In addition to the above, HKEX has also been improving the transparency around listed issuers' diversity profiles. In April 2022, it launched a new repository (Board Diversity & Inclusion in Focus), available on its website, which publishes detailed data tracking the diversity performance of listed companies.

As mentioned above, investor expectations is another push factor companies should take into consideration. In this context, the

Report discusses the influence that proxy advisers now have on diversity issues.

'Proxy advisers are influential and many investors listen to them,' it points out. 'Specific directors, including the nomination committee chair, could face criticism if they do not have a diversity plan or proposal in place. Sometimes the net can get cast even wider with votes against other resolutions. This is a potent tool that proxy advisers and investors use against directors that don't align with their values. As such, there is a need for companies to consider how to strengthen stakeholder communications. Enhancing stakeholder communication on diversity issues is an essential aspect of investor relations.'

Practical suggestions

The Institute's latest research Report, in keeping with the remit for such reports, focuses on providing practical suggestions on how organisations can best achieve the benefits of greater diversity. Indeed, the starting point for the Report was the need to provide answers to questions on board diversity raised during a recent HKCGI/KPMG seminar on this topic.

1. The role of training

As with any transformative change, one of the key challenges for organisations seeking to benefit from greater diversity will be changing the mindsets of individuals throughout the corporate structure. The Report points out that training and knowledge sharing will be an important part of achieving this. Boardroom training, for example, should highlight the key local and international trends relevant to diversity.

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a diverse board ensures that different perspectives are explored in board discussions, leading to more informed business decisions and better management of risk
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'Companies should try to share the current trends regarding diversity, including where international and local regulations are heading, what investors are looking at and what the company's peers are doing. The key is to get this discussion on the board agenda,' the Report says.

2. Expanding the talent pool

A key first step for many organisations will be expanding their talent pool to include candidates who might formerly have been considered to be outside the profile of a typical director.

This point is made by one of the Report's contributing authors, Edith Shih FCG(CS, CGP) HKFCG(CS, CGP) (PE), Past International President, Honorary Adviser to Council and Institute Past President, and Executive Director and Company Secretary, CK Hutchison Holdings Ltd. She points out that organisations can benefit from widening their recruitment net to include potential directors who have worked across various sectors and job types and who are gender, age and ethnically diverse.

‘It is normal for listed issuers to look for accountants, lawyers or bankers to create diversity,’ she says. ‘But how about if we look farther out – what about sales and marketing experts, academics and scientists? Diversity means thinking outside the box to enable companies to expand beyond their traditional horizons.’

3. Using a board matrix

Another practical suggestion made by the Report is to use a board matrix to identify diversity gaps to fill. It points out that this simple tool can improve the efficiency of organisations’ diversity planning.

‘The names of the directors and their corresponding personal details, along with contributions to committees, skills and expertise, are checked off on the board matrix. The company can then holistically consider if there are any gaps (unchecked boxes) and seek to fill them with suitable board candidates. The parameters could be tweaked to suit the requirements of the particular listed issuer. For example, different issuers may have various committees requiring special skills and expertise, which can be built into the board matrix,’ the Report says.

4. What numerical targets and timelines should companies be aiming for?

The Listing Rules in Hong Kong currently require issuers to set numerical targets and timelines for gender diversity, but no indication is given of what might be deemed appropriate. One participant at the HKCGI/KPMG seminar that launched the Report asked what specific

numerical targets and timelines issuers should be aiming for.

The Report points out that, if issuers are starting from zero, their target should be appointing their first female director. It adds, however, that issuers shouldn’t stop there. In one recent example cited by the Report, a prominent female director was the only woman on a board and found it difficult to get her perspectives across. This became easier as more female board members were appointed.

‘Thus, it is ideal to progress from ending a single-gender board to having more than one woman on the board, eventually reaching the target of 30% or more,’ the Report says.

What lies ahead?

Both the pull and push factors driving better corporate diversity continue to exert influence in boardrooms around the world. Companies in Hong Kong can expect a further tightening of the regulations intended to increase board diversity in the years ahead. In the Report, Katherine Ng, Head of Listing, HKEX, says ‘There is still much more work to be done. ‘We are committed to driving change through our regulatory efforts, as well as through ongoing market education and advocacy.’

As mentioned above, regulators are not the only stakeholders companies should be considering, however. Board diversity issues continue to attract the attention of shareholders, employees and customers, and companies that fail to address diversity issues do so at their own peril.

‘The key message should be that governance topics such as diversity are no longer “nice to have” and not about minimum disclosures under corporate governance reports. Instead, they are essential to the overall business strategy,’ the Report says. 📄

The Transformative Power of Diversity – Regulatory and Practical Considerations for Boards is available on the HKCGI website (www.hkcg.org.hk) under Thought Leadership/Research Papers.

Credits

The Institute is grateful to Andrew Weir, MBE JP, Senior Partner, Hong Kong (SAR) and Vice-Chairman, KPMG China, together with his team, and Edith Shih FCG(CS, CGP) HKFCG(CS, CGP) (PE), Past International President, Honorary Adviser to Council and Institute Past President, and Executive Director and Company Secretary, CK Hutchison Holdings Ltd, for their contributions to the Report. The Institute also thanks Ernest Lee FCG HKFCG(PE), Institute President; Katherine Ng, Head of Listing, Hong Kong Exchanges and Clearing Ltd; and Alva Lee, Partner, Head of Governance, Risk & Compliance Services, Hong Kong, KPMG China. Ellie Pang FCG HKFCG(PE), Institute Chief Executive; and Mohan Datwani FCG HKFCG(PE), Institute Deputy Chief Executive, assisted in drafting the Report.

Proposed UK 'failure to prevent fraud' offence: what do you need to do now?



Andrew Reeves, Partner, Annie Birch, Senior Associate, Claudia Van Gruisen, Senior Associate, and Thomas Hubbard, Senior Associate, Norton Rose Fulbright (London), examine a proposed new 'failure to prevent fraud' offence in the UK and discuss its potential impact, as well as how organisations can prepare themselves.

The UK Government intends to introduce a new 'failure to prevent fraud' offence as an amendment to its Economic Crime and Corporate Transparency Bill. On 11 April 2023, the Home Office published a fact sheet, which was updated on 20 June 2023, and tabled an amendment to introduce the failure to prevent fraud offence, which is supported by the Serious Fraud Office and the Crown Prosecution Service. The new offence is likely to come into force by the end of 2024 and will form part of broader reforms of UK corporate criminal liability that also include proposed changes to replace the 'directing mind and will' test for corporate criminal liability with a new 'senior managers' test which, if introduced, could make prosecuting organisations for criminal offences much easier more generally. Recent proposed amendments have also introduced a 'failure to prevent money laundering offence', although it remains to be seen whether this will be included in the final legislation.

Coupled with the renewed focus of the Serious Fraud Office, Financial Conduct Authority (FCA) and other authorities on the prevention of fraud, this will significantly shift the landscape for organisations carrying on a business in the UK, in a similar way to the impact of the UK Bribery Act (the UKBA) more than a decade ago. In particular, it will shift the focus from organisations as victims of fraud (inward fraud) to make it easier for

organisations to be prosecuted for fraud committed by employees or third parties that the organisation benefits from (outward fraud). It will also require many organisations to make significant changes to fraud compliance programmes in order to prevent a wide range of fraud offences.

What is the offence going to look like?

The new offence will make an organisation liable if it fails to prevent a specified fraud offence (see details below) from being committed where: (i) an employee or agent commits the fraud; and (ii) the fraud is intended to benefit the organisation or a person to whom services are provided on behalf of the organisation.

Importantly, the offence will have a defence of 'reasonable procedures' to prevent fraud. This means it will

effectively require organisations to review and enhance their anti-fraud systems and controls to cover fraud committed for their benefit by employees or agents, although the government has stated that there may be circumstances where it is reasonable for an organisation to have no fraud prevention procedures in place.

Who will the offence apply to?

The offence was initially drafted to apply to all 'large organisations', with such a threshold being met where an organisation satisfied two or more of the following conditions in the financial year preceding the year of the offence: (i) more than 250 employees; (ii) more than £36 million turnover; and/or (iii) total assets of more than £18 million. However, recently agreed amendments have resulted in this requirement being

Highlights

- a new offence of 'failure to prevent fraud' is likely to come into force by the end of 2024 and will form part of broader reforms of UK corporate criminal liability
- this will significantly shift the landscape for organisations carrying on a business in the UK, making it easier for them to be prosecuted for fraud committed by employees or third parties that the organisation benefits from
- a broad range of conduct could be captured under the proposed offence, including dishonest sales practices, false accounting, hiding important information from consumers or investors and dishonest financial market practices

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the new offence will also apply to organisations and employees who are based overseas where an employee or agent commits a fraud offence under UK law or which targets UK victims
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removed, meaning that the offence is likely to apply to all organisations, regardless of their size.

Although the exact jurisdictional scope remains unclear, the new offence will also apply to organisations and employees who are based overseas where an employee or agent commits a fraud offence under UK law or which targets UK victims. This appears to be slightly different from the jurisdictional scope of the UKBA (which focuses on organisations carrying on a business in the UK).

What types of fraud will this capture?

There has been continuing debate as to which types of fraud offence should be included in the new failure to prevent fraud offence. The proposed offence captures the fraud and false accounting offences that the government considers are most likely to be relevant to large corporations. These are:

- fraud by false representation (section 2, Fraud Act 2006)

- fraud by failing to disclose information (section 3, Fraud Act 2006)
- fraud by abuse of position (section 4, Fraud Act 2006)
- obtaining services dishonestly (section 11, Fraud Act 2006)
- participation in a fraudulent business (section 9, Fraud Act 2006)
- false statements by company directors (section 19, Theft Act 1968)
- false accounting (section 17, Theft Act 1968)
- fraudulent trading (section 993, Companies Act 2006), and
- cheating the public revenue (common law).

The types of conduct that could be caught are broad. Offences could arise out of warranties and representations

made in transaction documents, prospectuses, annual reports and insurance claims. Crucially, there would have to be dishonest intent for an offence to be committed. According to Home Office Guidance, conduct caught will include ‘dishonest sales practices, false accounting and hiding important information from consumers or investors’ and ‘dishonest practices in financial markets’.

The cheating the public revenue element of this new offence may also cross over with organisations’ existing obligations under the failure to prevent tax evasion offences introduced under the Criminal Finances Act 2017 and so it may be possible for organisations to build on existing procedures already in place in this regard.

Impact of the new offence

The ‘failure to prevent’ model will make it easier to prosecute organisations compared with the current position, in which an organisation will only be held liable for fraud where a ‘directing mind and will’ has been directly involved (although, as indicated above, there are proposals to lower the bar for this test to ‘senior managers’). In practice, it has been very difficult to attribute liability for fraud to organisations, particularly large global groups.

The move towards a failure to prevent offence will increase the likelihood of prosecutions against organisations. This includes an increased risk of private prosecutions being brought by individuals who are victims of fraud.

We also envisage an increase in the number of organisations entering into deferred prosecution agreements



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(DPAs) in relation to failure to prevent fraud, effectively settling the case without any formal requirement to admit criminal liability. Once the offence is in force, organisations that identify conduct covered by the new offence will have to consider carefully the risks and benefits of a DPA, particularly given the risk of parallel civil claims.

What do organisations need to do now?

The government has announced that it will produce specific guidance providing organisations with information about what reasonable procedures will look like in due course (akin to the UKBA adequate procedures guidance). Whilst the precise form that the guidance will take remains unclear, in our view this should be detailed and tailored to sectors, so as to highlight particular fraud risks that may be faced in each sector, and provide detailed examples of red flags. This will considerably assist organisations in conducting their risk assessments and tailoring their policies and procedures. The UK Government will also likely need to clarify how, for regulated firms, this will interact with existing required financial crime processes.

Pending guidance being published, and as a first step, organisations should consider whether any existing fraud risk assessment covers fraud committed by employees or third parties from which the organisation benefits (outward fraud) in sufficient detail, or otherwise needs to be revised. The risk assessment should be reviewed by reference to fraud issues the organisation and/or its peers have encountered. As highlighted above, there is a broad range of potentially complex offences covered and therefore risk assessments will need to be wide

“ organisations should consider whether any existing fraud risk assessment covers fraud committed by employees or third parties from which the organisation benefits (outward fraud) in sufficient detail, or otherwise needs to be revised ”



ranging and to incorporate input from a number of different functions within an organisation. Organisations should make sure that the individuals tasked with conducting a risk assessment and putting in place procedures have a sufficient understanding of the offences covered. It is therefore important that legal and compliance are closely involved to ensure the nuances of the offences are addressed, both in the risk assessment itself and in the policies and the procedures to implement them. Based on the results of their risk assessment, organisations should ensure that their anti-fraud policies, systems and controls manage the risks identified effectively, including:

- anti-fraud policies and procedures that mitigate outward fraud committed for the benefit of the organisation
- training, including tailored training for those in higher risk positions. Given the complexities, case studies will be really

important in policies and training to ensure individuals fully understand where offences may arise

- financial controls should be reinforced and tailored to ensure that any potential red flags are picked up and investigated, for which four-eye checks are required
- due diligence both in respect of transactions for clients and contracts (eg for suppliers), particularly on third-party agents given the offence will apply to the acts of agents acting on the organisation’s behalf. Where possible we would suggest integrating fraud due diligence with existing processes (for example anti-bribery and corruption due diligence processes already in place)
- ensuring contractual provisions cover outward fraud

- putting in place effective audit and monitoring processes in relation to fraud, and in particular for third parties. Medium- and high-risk third parties should be monitored more closely, and on a more regular basis. As for due diligence processes, we would recommend that fraud monitoring and review processes are built in to existing procedures, and
- ensuring regular internal review of systems and controls, and a clear tone from the top. Fraud should be an agenda item at board and senior management level to ensure this is prioritised and given the appropriate oversight.

Andrew Reeves, Partner, Annie Birch, Senior Associate, Claudia Van Gruisen, Senior Associate, and Thomas Hubbard, Senior Associate
Norton Rose Fulbright (London)

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Certificate for Module (The Hong Kong Chartered Governance Institute Examinations Preparatory Programme)



















This programme is endorsed by The Hong Kong Chartered Governance Institute (HKCGI). The aim is to develop students with the knowledge and skills necessary to write the professional examinations of the Chartered Governance Qualifying Programme (CGQP), which is recognized worldwide.

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Q&A on export of personal information under the Standard Contract: part 1



In the first of this two-part article, Connie Chen, Senior Counsel, and Maarten Roos, Managing Director, R&P China Lawyers, discuss the Mainland's latest legislation in relation to personal information protection, and give clear guidance on its implications and how to remain compliant with the relevant national laws and regulations.

The Measures on the Standard Contract for Outbound Transfer of Personal Information (the Measures) promulgated by the Cyberspace Administration of China (CAC) came into force on 1 June 2023. One day before, on 30 May 2023, the CAC issued the Filing Guidance for the Standard Contract for Personal Information Outbound Transfer (First Edition) (the Filing Guidance) with implementation guidance to the Measures.

This Q&A deals with some of the more common questions raised by small-scale data exporters based in China, including many foreign-invested companies in the business-to-business (B2B) segment, on the steps that they need to take to remain compliant with PRC laws.

We will be using 'outbound transfer' and 'export', as well as 'data' and 'information', interchangeably in the following.

Is the filing of the Standard Contract mandatory and what are the legal consequences for failing to do so?

Yes, the filing of a Standard Contract is mandatory under PRC laws. Article 7 of the Measures clearly stipulates that 'the personal information handler shall, within 10 working days after the Standard Contract enters into effect, apply for filing with the local provincial cyberspace administration'.

Article 12 of the Measures stipulates that 'any violation of the Measures

shall be punished in accordance with the Personal Information Protection Law of the People's Republic of China (PIPL), and other laws and regulations; where a crime is constituted, criminal responsibilities shall be investigated in accordance with the law'.

The legal consequences stipulated in the PIPL include ordering to make corrections, giving a warning, confiscating illegal gains, ordering the suspension or termination of applications that illegally handle personal information and, where the circumstances are serious, a fine of up to 5% of the previous year's turnover may be imposed on the company, while those directly in charge and other directly responsible persons may be fined up to RMB1 million (approximately US\$140,000). So, both the company and individuals could be subject to heavy penalties.

Highlights

- the Cyberspace Administration of China (CAC) has promulgated new legislation on the outbound transfer of personal information, effective from 1 June this year, and has provided guidance for filing the Standard Contract, which is mandatory for many personal information handlers
- failure to comply with the new measures is punishable under a number of Mainland laws and regulations, with both the company and responsible individuals being subject to penalties
- it seems most likely that the majority of Chinese subsidiaries of international companies will opt to file the Standard Contract, rather than completing a heavier certification process with a CAC-appointed body

Which personal information handlers are subject to filing of the Standard Contract for export of personal information?

Certain companies that export personal information overseas must complete a security assessment as per the Outbound Data Security Assessment Measures (Assessment Measures) and this must be filed with the CAC for approval. This applies when a data handler meets any of the following criteria:

- is a critical information infrastructure operator (CIIO)
- handles personal information of more than one million individuals
- has exported personal information of more than 100,000 individuals cumulatively since 1 January of the previous year, and

- has exported sensitive personal information of more than 10,000 individuals cumulatively since 1 January of the previous year.

For all other exporters of personal information, that is, those companies that process and export personal information on a small-scale, they can either complete a heavy certification process with a CAC-appointed body, or they will be governed by the Measures. Most Chinese subsidiaries of international

companies will undoubtedly opt to file the Standard Contract.

The contracting parties to the Standard Contract can only be a domestic personal information handler and a foreign recipient. Thus, a foreign entity that directly collects and processes personal information in Mainland China does not fall under the Measures. However, it may still fall under the Assessment Measures if it meets any of the above conditions.

If a personal information handler entrusts a third party to process personal information, how do we determine whether the Standard Contract shall be entered into and who are the contracting parties thereto?

The Standard Contract stipulates that the party to export personal information shall only be the personal information handler (the data controller), that is, the organisation or individual who independently decides the purpose and method of personal

Table 1: Some key scenarios

Scenario	Analysis	Contracting parties	Example
Chinese company entrusts a Chinese third-party agent to process personal information and transfer abroad	The Chinese company is the data controller of personal information; the Chinese third party is only a supporting agent; therefore, the Chinese company should enter into the Standard Contract, while the details of the Chinese agent should be included in Appendix I.	The Chinese company and the foreign recipient	The Chinese subsidiary of a foreign company uses a third-party payroll agent in China, which reports directly to the foreign company headquarters (the recipient) with monthly payroll details.
Chinese company entrusts a foreign third party to process personal information	Chinese company who acts as a data controller and exports personal information shall enter into the Standard Contract with its entrusted foreign third party (data importer).	The Chinese company and the foreign third party	A Chinese company hires a Singapore consultancy company to provide a coaching program for its employees in China.
A foreign entity entrusts a domestic entity to process personal information, including export of personal information	Since the domestic entity is not a personal information handler, the Standard Contract is not applicable.	–	A foreign company uses cloud services provided by a Chinese company to manage their database. The Chinese company transfers the data (back) from its server to the foreign company.

“ the filing of a Standard Contract is mandatory under PRC laws ”

information processing and exports personal information. See Table 1: Some key scenarios.

What filing feedback could the CAC give upon review?

The filing results will be either Pass or Fail. Specifically, the relevant provincial cyberspace administration will issue a filing number to the

personal information handler if the filing passes, otherwise the personal information handler will receive a notice of unsuccessful filing and the reasons for this. Where the personal information handler is required to supplement materials, it shall do so for resubmission within 10 working days.

Is the filing of the Standard Contract subject to substantive review?

The relevant provincial cyberspace administration shall, within 15 working days upon receipt of the materials, complete examination of the materials and notify the personal information handler of the filing results. Although this procedure is

a ‘filing’, which would normally be subject to formal review only, there are only two possible results (Pass and Fail), and so it is very likely that the cyberspace administration will conduct a substantive review of the submitted filing materials.

Can any terms of the Standard Contract be modified?

In principle they cannot be modified. In February 2023, the CAC – when responding to reporters in a press conference – explained that the text of the Standard Contract cannot be modified. The contracting parties to the Standard Contract can agree to additional terms that do not conflict

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Choi Yue Suen	So Chun Cheong
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“
**the contracting parties
to the Standard
Contract can only be
a domestic personal
information handler and
a foreign recipient**
”



with the Standard Contract, which should be stipulated in Appendix II.

How do we understand the precedence of the Standard Contract and whether the terms regarding processing of personal information previously agreed automatically become invalid?

The Standard Contract shall prevail over any other legal documents signed by the parties thereto. However, the signing of the Standard Contract does not necessarily lead to the automatic invalidation of contracts previously signed; that is, subject to the specific terms and contents, terms that were previously agreed and which are not in conflict with the Standard Contract shall remain valid. The Standard Contract shall prevail in the case of conflict.

What should be the contract term for the Standard Contract?

The Measures do not set requirements on the validity period of the Standard Contract. While the filing procedure is not a condition to its effectiveness, our current understanding is that the term of the Standard Contract may be agreed by the parties at their discretion.

Our advice is to determine the contract term comprehensively with reference to the information type, the purpose of personal information export and the situation of the foreign recipient (such as the level of security measures provided thereby).

Under what circumstances shall the personal information handler and the foreign recipient reconduct a personal information protection impact assessment (PIA), supplement or re-sign the Standard Contract and conduct filing formalities?

Article 8 of the Measures establishes that under any of the following circumstances, the personal information handler shall reconduct the personal information PIA, supplement or re-sign the Standard Contract and reperform relevant filing formalities:

- where the purpose, scope, type, sensitivity, method, storage location of personal information to be exported or the foreign recipient’s purpose and method to process the personal information have changed, or the retention period of personal information has been extended

- where the rights and interests of personal information subjects may be affected by changes in the policies and regulations on personal information protection of the country or region where the foreign recipient is located, and
- any other circumstances that may affect the rights and interests of personal information subjects.

If a business has multiple branches or subsidiaries that are involved in personal information processing in Mainland China, how do we determine which entity shall sign the Standard Contract and submit it for filing?

The Measures are not clear on this point. However, on 2 June 2023, Beijing CAC issued the Relevant Instructions for the Filing Guidelines of Beijing for the Standard Contract for Personal Information Outbound Transfer, specifically pointing out that the filing entity shall be a legal entity, which is consistent with the contracting party of the Standard Contract. If several independent legal enterprises belong to the same group company, then this group company can file on behalf of its subsidiaries and branches. We expect that other provinces/cities will follow the same practice as Beijing.

Connie Chen, Senior Counsel, and Maarten Roos, Managing Director
R&P China Lawyers

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 June 2023

The authors can be contacted at:
chenyan@rplawyers.com and
roos@rplawyers.com.

HKCGI – 25 Years of Excellence

Please join us in celebrating the 25th anniversary of the following members of The Hong Kong Chartered Governance Institute.

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Wong Kwai Yu
Wong Man Wah, Debbie
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Yeung Kit Yee, Kitty
Yu Chung Sang



English High Court blocks derivative action against Shell's directors from climate-change activist shareholder



Gareth Thomas, Partner, Rachael Shek, Partner, Jojo Fan, Partner and Troy Song, Associate, Herbert Smith Freehills, overview the recent UK court ruling refusing permission for a minority shareholder to pursue a derivative action against the directors of a company in relation to addressing climate-change risks, and point out the likely implications of this decision for the Hong Kong courts.

Recently, we have seen a significant uptick in environmental, social and governance (ESG) litigations in different parts of the world. Along with this trend came attempts by activists to make use of judicial channels to hold companies accountable for their ESG-related management decisions.

In the recent English High Court case of *ClientEarth v Shell plc & Ors* [2023] EWHC 1137 (Ch), ClientEarth, as a minority shareholder holding 27 shares out of a total of over 7 billion shares in Shell, sought to bring a statutory derivative action against Shell's directors under the UK Companies Act 2006 (UK CA). ClientEarth alleged that Shell's directors had breached their statutory duties owed to Shell by failing, among others, to formulate a management strategy (Energy Transition Strategy) that sufficiently mitigates climate risk and to take steps to ensure that a former Dutch court order made against Shell pursuant to *Milieudefensie v Royal Dutch Shell plc* ECLI:NL:RBDHA:2021:5339 would be complied with (Dutch Court Order).

As a matter of common law, it is generally the company – and not its shareholders – that has standing to pursue in courts any cause of action available to it. Shareholder derivative actions therefore represent

a departure from this norm and can only be pursued with the court's permission in the UK. Similarly, in Hong Kong, statutory derivative actions require leave of the court, which will only be granted upon satisfying the court, among others, that there is a serious question to be tried and that the action appears to be in the interests of the company in question. The present decision arose from ClientEarth's application for such permission. The English High Court's reasons for refusing permission for ClientEarth's derivative action against Shell are summarised below.

While the ESG litigations stemming from shareholder activism have not been prevalent before the Hong Kong courts to date, the English decision is welcome news to the board and

management of companies with a presence in Hong Kong. The decision, in particular, clarifies that courts will be slow to usurp the role of directors by imposing absolute duties on them to make decisions in accordance with an ESG-friendly agenda. Given the obvious parallels between the Hong Kong and English regimes in respect of derivative actions and director's duties, we expect the Hong Kong courts to give substantive weight to this English decision, should similar issues arise.

ClientEarth had no prima facie case Section 261(2) of the UK CA requires that ClientEarth must show that it has a prima facie case in bringing a statutory shareholder derivative action. In its application, ClientEarth argued that in addition to the

Highlights

- the English High Court's reasons for refusing permission for ClientEarth's derivative action against Shell include that it had no prima facie case, as well as a consideration of whether the shareholder was acting in good faith in seeking to continue its claim
- the English court indicated its reluctance to interfere in companies' ESG-related management decisions
- as the formulation of director's duties under the Hong Kong and English regimes share substantive similarities, the decision of the English High Court would likely be of precedential and persuasive value to the Hong Kong courts

“
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 absolute duties on them
 to make decisions in
 accordance with an
 ESG-friendly agenda
 ”

statutory duties of directors to promote the success of the company, and to exercise reasonable care, skill and diligence as stipulated under the UK CA, Shell's directors further owed the company a number of 'incidental duties'.

Specifically, these incidental duties, according to ClientEarth, included the obligation to accord appropriate weight to climate risk, implement strategies that reasonably mitigate climate risk and reasonably ensure that Shell could meet its promised emission targets, as well as the Dutch Court Order.

The formulation of director's duties in Hong Kong bears much resemblance to that of the English regime, as directors in Hong Kong are also subject to duties to act in the interests of the company, as well as owe a statutory duty to exercise reasonable care, skill and diligence in their discharge of responsibilities. The English court's treatment of such alleged ESG-related incidental duties would therefore offer meaningful



insight into how the Hong Kong courts would approach the same question.

In finding that ClientEarth's application disclosed no prima facie case, the English High Court criticised ClientEarth for seeking to impose absolute duties on directors that cut across the general duty to have regard to a myriad of complex and competing considerations. In particular, the English High Court reiterated that management decisions made by the board of a company could not be appealed to courts of law. It was sufficient that the decision made by the board fell within the range of reasonable options that could be considered and taken by a reasonable board.

As such, the English court was reluctant to adjudicate on and interfere with management decisions taken by Shell's board. The court also held that the evidence put forth by ClientEarth was fundamentally lacking. ClientEarth failed to address whether, in balancing competing considerations and coming to the

relevant resolutions, the decisions by Shell's board were so wrongly made that they could not have fallen within the range of decisions that could have been taken by a reasonable board.

Derivative action brought for an ulterior purpose

In reaching its decision, the English High Court made reference to section 263(3) of the UK CA, requiring courts to consider whether the minority shareholder was pursuing the derivative action in good faith. The English High Court opined that where the primary purpose of bringing the statutory derivative action was for an ulterior motive in the form of advancing ClientEarth's own policy agenda, such a claim would not be regarded as being brought in good faith.

Our views

This decision offers welcome reassurance to companies and their directors that courts will be slow to allow activist shareholders with de minimis shareholdings to use derivative action as a vehicle to challenge management decisions made on ESG-related matters that were taken in good faith.

Notably, the formulation of director's duties under the Hong Kong and English regimes share substantive similarities, both being phrased as high-level and general duties to promote the interests of the company, and to exercise reasonable care, skill and diligence. As such, to the extent that the English High Court refused to impose any specific or absolute duties on directors with regard to climate risks because doing so would undercut these general and holistic duties of

directors, such reasoning would likely be of precedential and persuasive value to the Hong Kong courts.

Key takeaways

In summary, the key takeaways from this English High Court decision are as follows.

- The English High Court was reluctant to interfere in companies' ESG-related management decisions.
- The court ruled that there was no separate and absolute duty upon directors to formulate and implement strategies in a manner that would fully mitigate against ESG risks, especially when such a duty would be inconsistent with directors' duties to consider the interests of the company and its shareholders holistically. It was sufficient that the management decision taken fell within the range of options that could be taken by a reasonable board.
- Minority shareholders will be criticised for using derivative actions as a vehicle to challenge management decisions that they disagree with and to achieve their own collateral motives.
- This is welcome news to directors who may well be tasked with balancing a myriad of factors, of which ESG concerns only form part. This approach will likely offer persuasive value to the Hong Kong courts.

Gareth Thomas, Partner, Rachael Shek, Partner, Jojo Fan, Partner and Troy Song, Associate

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Seminars: May 2023

10 May Suspension and resumption of trading: practical considerations & case studies



Chair: Mohan Datwani FCG HKFCG(PE), Institute Deputy Chief Executive

Speakers: Christina Lee, Partner, Brian Wong, Partner and Victoria Lloyd, Partner, Baker McKenzie

12 May Startups in Hong Kong & challenges of governance enhancement



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

Speakers: Gilbert Tam, Co-Founder & Chief Operating Officer, DGBY Advisors; Cermain Cheung, Consultant, Oldham, Li & Nie; and Vincent Pang, Managing Partner, AVISTA Group

16 May China-sourced dividends: practical considerations from the PRC tax and the Hong Kong FSIE regime perspectives



Chair: Eric Chan FCG HKFCG(PE), Chief Consultant, Reachtop Consulting Ltd

Speakers: Carol Lam, Director, Tax, and Paul Wong, Senior Manager, Tax, BDO

18 May Corporate governance challenges in selecting auditors and setting audit fees: insights from AFRC, listed companies and auditors



Chair: Ernest Lee FCG HKFCG(PE), Institute President and Technical Partner, Deloitte China

Speakers: Mary Leung, Head of Policy, Registration and Oversight, and Tracy Chan, Director of Policy, Registration and Oversight, AFRC; Peter Kung, Adjunct Professor, The Chinese University of Hong Kong; Johnson Kong, Lead Investment Stewardship Analyst, Hong Kong, BlackRock; and Polly Wong FCG HKFCG(PE), Company Secretary and Group Financial Controller, Dynamic Holdings Ltd

25 May Company secretarial practical training series: connected transactions – practice and application

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

31 May CSP training series: how to serve the board better (session four: ways of acting as the board's communicator)



Chair: Kitty Liu FCG HKFCG, Institute Professional Development Committee member, and Company Secretarial Consultant, Law Department of the Hong Kong office, AIA International Ltd

Speaker: Patricia Hui FCG HKFCG

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: (852) 2830 6011, or email: cpd@hkcgj.org.hk.

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
24 July 2023	4.00pm–5.30pm	Virtual asset trading platforms – overview of the SFC's rules & regulations	1.5
26 July 2023	4.00pm–5.30pm	Anti-money laundering/counter financing of terrorism (AML/CFT) measures – local regulatory updates with discussion on control measures	1.5
31 July 2023	4.00pm–5.30pm	Cross-border employment and HR matters: FAQs + updates	1.5
7 August 2023	6.45pm–8.15pm	Achieving efficiency in unprecedented times – practical tips in liquidating inactive companies	1.5

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

Membership

Recognition of senior members

Senior members currently enjoy a concessionary rate on the annual subscription (Senior rate). This applies to members who have reached the age of 70 or above before the beginning of the financial year (1 July) and is granted to eligible members automatically without prior application. In order to show the Institute's appreciation and to encourage a greater participation in the Institute's functions amongst senior members, enrolment fees for the following events and seminars will be waived for senior members:

- membership events (except for the Annual Dinner and any other events as may be decided by the Membership Committee), and
- ECPD seminars (except for the Annual Corporate and Regulatory Update and the Corporate Governance Conference).

For enquiries, please contact the Membership Section: (852) 2881 6177, or email: member@hkcgj.org.hk.

Membership/graduateship renewal for the financial year 2023/2024

The renewal notice, together with the debit note for the financial year 2023/2024, was sent to all members and graduates by email at the beginning of July 2023 to the email address registered with the Institute. Members and graduates should settle the payment as soon as possible, but no later than Saturday 30 September 2023.

All members and graduates are highly encouraged to pay their annual subscription directly online. Please ensure that you settle your annual subscription by the deadline, as failure to do so will constitute grounds for membership or graduateship removal.

For enquiries, please contact the Membership Section: (852) 2881 6177, or email: member@hkcgj.org.hk.

Membership (continued)

New Associates

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

Au Man Yu	Fan Shuk Man	Lee Ka Man	Tong Kwing Fai
Chan Kai Kwong	Han Qing	Lee Wai Yan	Tsang Chak Yuk
Chan Lok Yee, Joyce	Ho Pui Yan	Leung Wai Chun, Alison	Tse Cheuk Pan
Chan Sung Nok, Roy	Hu Wanying	Li Shun	Wong Chi Kong
Chan Yin Kwan	Ko Tsz Shan	Li Sining	Wong Keith Shing Cheung
Cheng Anthony Kwok Bo	Kwok Ying Kit	Li Tian	Wu Naijia
Cheng Wai Kin	Lai Mei Kuen	Li Ting	Yau Man Ka
Cheung Gigi Yee Ming	Lai Sik Lap	Li Yuet	Yau Pui Yan
Cheung Hok Shing	Lai Yuen Kin	Lo Tsz Yuk	Yip Nga Mei
Cheung Hon Fai	Lam Ka Man	Ng Ka Lee	Yip Nga Sze
Cheung Ling, Giselle	Lau Pui Sheung	Ng Wai Yu	Yuen Hiu Chu
Ching Cho Miu	Lau Yee Yan	Sham Tsz Wing	
Choy Pui Man	Law Hong Kwan	Sze Hau Ling	
Fan Oi Ling	Lee Cheuk Lam, Victor	Tang Ka Long	

New graduates

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

Chan Man Ying	He Jiaqi	Mei Zhe
Chen Tingchan	Li Hang	Tang Yun
Cheng Yan	Li Xiaohui	Tsou Pei Wan
Diao Shaolong	Li Yi	Zhang Lu
Fan Chonglan	Lo Hoi Kwan	

Membership activities: May 2023

13 May

Adult Cardiopulmonary Resuscitation Certificate Course (ACPR)



Forthcoming membership activities

Date	Time	Event
4 August 2023	7.00pm–9.00pm	Craft beer tasting workshop
19 August 2023	2.00pm–5.00pm	Experience workshop: Hong Kong sign language

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

Advocacy

Congratulations!

With effect from 7 July 2023, The Stock Exchange of Hong Kong Ltd (the Exchange), a wholly owned subsidiary of Hong Kong Exchanges and Clearing Ltd

(HKEX), has appointed Ernest CH Lee FCG HKFCG(PE), Institute President, and Technical Partner, Deloitte China, as a member of the Listing Committee.



The following are Institute Fellows who currently serve as members of the Exchange's Listing Committee and the Listing Review Committee:

Listing Committee

- Gillian Meller FCG HKFCG(PE), Institute Immediate Past President, Representative of the Institute on CGI Council; Legal and Governance Director, MTR Corporation Ltd

Listing Review Committee

- Teresa Ko BBS JP FCG HKFCG, Senior Partner, Hong Kong and China Chairman, Freshfields Bruckhaus Deringer; Co-Vice Chair, IFRS Foundation
- Eirene Yeung FCG HKFCG, Executive Committee Member & Company Secretary, CK Asset Holdings Ltd
- Benita Yu FCG HKFCG, Senior Partner, Slaughter and May

In addition, the Financial Secretary has appointed Mr Lee as Convenor of the Financial Reporting Review Panel (FRRP) of the Accounting and Financial Reporting Council (AFRC) for a term of three years, from 16 July 2023 to 15 July 2026.

The Transformative Power of Diversity: Regulatory and Practical Considerations for Boards

To encourage gender diversity, Hong Kong Exchanges and Clearing Ltd (HKEX) intends to do away with single-gender boards by 2024. However, additional work must be done to align with the emerging global trend of a minimum of 30% women on boards and to satisfy the growing expectations for stakeholder diversity.



The Institute, together with KPMG China, published a report in May on The Transformative Power of Diversity: Regulatory and Practical Considerations for Boards, which discusses major issues and offers helpful recommendations for enhancing board diversity, as well as for putting diversity, equity and inclusion (DEI) goals into practice. In addition, the document provides recommended practices for successful deployment, along with a skills matrix.

HKBU Scholarship and Financial Aid Donor Appreciation Reception

Institute Chief Executive Ellie Pang FCG HKFCG(PE) attended the Hong Kong Baptist University (HKBU) Scholarship and Financial Aid Donor Appreciation Reception on 19 May 2023, at which she presented the HKCGI Foundation scholarships and subject prizes.



Advocacy (continued)

HKCGI Foundation Scholarships and Subject Prizes

In fiscal 2022, The Hong Kong Chartered Governance Institute Foundation Ltd (the Foundation) sponsored 25 subject prizes for students of collaborative courses and relevant degree programmes, as well as 19 scholarships to local universities, listed below in alphabetical order.

- City University of Hong Kong
- Hong Kong Baptist University
- Hong Kong Metropolitan University
- Hong Kong Shue Yan University
- Lingnan University
- The Chinese University of Hong Kong
- The Hang Seng University of Hong Kong
- The Hong Kong Polytechnic University

- The Hong Kong University of Science and Technology

- The University of Hong Kong

Congratulations to all the awardees.

The Institute would like to thank the Qualifications (previously Education) Committee Chairman, Vice-Chairman and members who attended the

universities' appreciation receptions or scholarship ceremonies on behalf of the Foundation:

- CK Low FCG HKFCG
- Matthew Young FCG HKFCG(PE)
- Daniel Chow FCG HKFCG(PE)
- May Yip ACG HKACG



Academic Cocktail Reception

On 1 June 2023, the Institute hosted its annual Academic Cocktail Reception to reinforce links with local universities, higher education institutions and their academic representatives. This partnership helps the Institute shape its thought leadership and promotes governance as a career choice for students. Among the more than 70 attendees were Institute President Ernest Lee FCG HKFCG(PE) and Institute Qualifications (previously Education) Committee Chairman CK Low FCG HKFCG, both of whom thanked all the guests, including for their support of the Institute's dual Chartered Secretary and Chartered Governance Professional qualification.



Restructuring of the Education Committee

One of the key objectives of the Institute's work is to be 'ahead of the curve' by cultivating the next generation of governance professionals through promoting the dual qualification of Chartered Secretary and Chartered Governance Professional, as well as the Chartered Governance Qualifying Programme (CGQP). Launched in January 2020, and with accreditation from CGI's Professional Standards Committee, the CGQP has been implemented smoothly.

Effective from 1 July 2023, the Education Committee has been renamed the Qualifications Committee to enhance the future development of the qualifying programmes that lead to membership of the Institute, as well as of quality assurance matters.

The Qualifications Committee is responsible for advising the Council on, and monitoring all aspects of, the CGQP and other qualification programmes that lead to membership of the Institute and CGI. The Secretariat's Education and Examinations Section follows the restructuring and has accordingly been renamed the Qualifications and Assessments Section.

Stay tuned for more information on the Institute's qualifying programmes and quality assurance updates.

Congratulations on completing the Institute's ESG Reporting Certification Course

Congratulations! The Institute is excited to announce the successful completion of its first ESG Reporting Certification Course on 27 April 2023.

Attendees of the ESG Reporting Certification Course who have duly fulfilled the attendance requirements and have successfully passed a final assessment will obtain the certification and be accredited for two years, and will also:

- be permitted to use the post-nominal HKCGI Cert: ESG during the accreditation period, and
- have their names and post-nominals listed on the Institute's designated webpage for prospective employers and public searches.

Advocacy (continued)

The 69th Governance Professionals ECPD seminars

The Institute held its 69th Governance Professionals ECPD seminars from 17 to 19 May 2023 in Lijiang, Yunnan Province, under the theme of M&A and risk management. The event attracted over 120 participants, mainly comprising board secretaries and equivalent personnel, CFOs, directors, supervisors and other senior management from companies listed or to-be-listed in Hong Kong and/or the Mainland.

Institute Vice-President Dr Gao Wei FCG HKFCG (PE), Council member Tom Chau FCG HKFCG, and other senior professionals and governance practitioners shared their insights on following topics:

- M&A and restructuring regulations and directors' ongoing responsibilities
- M&A and restructuring regulations, and regulatory scrutiny for listed companies
- directors' continuing liability in transactions and analysis of recent penalty cases
- hotspots, opportunities and success factors in the Mainland's M&A market
- interpretation of the Institute's Guidelines on Connected Transaction Practices of Companies Listed in Hong Kong and the Mainland
- changes to D&O liability insurance in the post-epidemic era
- response strategies and practical solutions for ESG risks
- technical structure and risk prevention of M&A transactions
- case study: experience sharing on the capital operation practice in the process of Yankuang Energy Group Company Ltd's acquisition of Australian coal mining companies
- offshore investment filing compliance and case sharing, and
- group discussion: M&A compliance and risk management.

The Institute would like to express its sincere appreciation to all speakers and sponsors, as well as to all participants, for their generous support and participation.





Chartered Governance Qualifying Programme (CGQP)

June 2023 examination diet

Key dates	Description
Mid-August	Release of examination results
Mid-August	Release of examination papers, mark schemes and examiners' reports
Late August	Closing date for examination results review applications

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

For details about the CGQP examinations, 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 Qualifications and Assessments Section: (852) 2830 6010, or email: exam@hkcgj.org.hk.

Learning support

The Institute provides a variety of learning support services for students to assist them with preparing for the CGQP examinations.

HKU SPACE CGQP Examination Preparatory Programme – autumn 2023 intake

HKU SPACE has been endorsed by the Institute to organise the CGQP Examination Preparatory Programme, which helps students to prepare for the CGQP examinations. One assignment and one take-home mock examination will be provided to students. There are 36 contact hours for each module, except for Hong Kong Company Law, which has 45 contact hours. The autumn 2023 intake will commence in mid-August 2023.

For details, please contact HKU SPACE: (852) 2867 8485, or email: hkcgj@hkuspace.hku.hk.

Examination technique online workshops and student seminars

Video-recorded examination technique online workshops and student seminars are available for subscription to assist with preparing for the CGQP examinations.

For details, please visit the Online Learning Video Subscription page under the Learning Support subpage of the Studentship section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact the Qualifications and Assessments Section: (852) 2830 6010, or email: exam@hkcgj.org.hk.

Video-recorded Student Gatherings

Video-recorded Student Gatherings are available in the Student Gathering page under the Learning Support subpage of the Studentship section of the Institute's website: www.hkcgj.org.hk.

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

Student Gathering (2nd session): sharing from outstanding students in the CGQP examinations

Student Gathering (3rd session): preparing for and passing professional examinations – with flying colours!

Student Gathering (4th session): preparing for and passing professional examinations – Risk Management

Corporate Governance Paper Competition and Presentation Awards 2023

The annual Corporate Governance Paper Competition and Presentation Awards, organised by the Institute, is designed to foster appreciation of corporate governance among local undergraduates. The theme this year asks applicants to evaluate the question: 'Climate change disclosures – is the world too focused on this topic?'

Undergraduates of all disciplines in Hong Kong are eligible to enrol for the competition in teams of two to four members each. We are delighted to announce that, this year, 51 teams from the following 12 universities and a higher education institution (in alphabetical order) have registered.

- Caritas Institute of Higher Education
- City University of Hong Kong
- Hong Kong Baptist University
- Hong Kong Metropolitan University
- Hong Kong Shue Yan University
- Lingnan University
- The Chinese University of Hong Kong
- The Education University of Hong Kong
- The Hang Seng University of Hong Kong
- The Hong Kong Polytechnic University
- The Hong Kong University of Science and Technology
- The University of Hong Kong



The submitted papers will be reviewed by a team of 10 to 15 reviewers. The six finalist teams will present their papers on Saturday 16 September 2023 to compete for the Best Presentation Award and the Audience's Favourite Team Award.

For details of the competition, please visit the Corporate Governance Paper Competition and Presentation Awards page under the Student Promotion & Activities subpage of the News & Events section of the Institute's website: www.hkcgj.org.hk.

Studentship renewal for the financial year 2023/2024

The renewal notice for the financial year 2023/2024 was sent to all students to the email address registered with the Institute in early July 2023. Students should settle the payment as soon as possible, but no later than Saturday 30 September 2023.

All students are highly encouraged to pay their renewal fee directly online. Please ensure that you settle your renewal fee by the deadline, as failure to do so will result in the removal of studentship from the student register.

For enquiries, please contact the Studentship Registration Section: (852) 2881 6177, or email: student_reg@hkcgj.org.hk.

Chartered Governance Qualifying Programme (CGQP) (continued)

Studentship activities: May 2023

11 May
Governance
Professionals
Information
Session
(Cantonese
session)



16 May
Student
Ambassadors
Programme
2022/2023:
CV writing and
interview skills
training



Forthcoming studentship activities

Date	Time	Event
24 August 2023	1.00pm–2.00pm	Student Gathering (5th session) – start your journey to qualify as a governance professional
6 September 2023	7.00pm–8.00pm	Student Gathering (6th session) – sharing from outstanding students in the CGQP examinations
16 September 2023	10.00am–1.00pm	Corporate Governance Paper Competition and Presentation Awards 2023
26 September 2023	1.00pm–2.00pm	Governance Professionals Information Session (Cantonese session)

Notice

Featured job openings

Company name	Position
APF Partners Corporate Services	Company Secretarial Assistant
Blue Moon Group Ltd	Company Secretarial Assistant
Charltons	Company Secretary
Charltons	Company Secretarial Assistant
CK Asset Holdings Ltd	Manager, Company Secretarial Department (Ref :PSO-MCS)
Foxtrot Partner Ltd	Corporate Governance Assistant/Trainee
Hong Kong Red Cross	Manager (Governance Support)
The Hong Kong Chartered Governance Institute	Assistant Manager (Ref: EE2023-06)
The Hong Kong Chartered Governance Institute	Senior Officer/Officer, Marketing and Communications (Ref: MKT 2023-04)

For details of job openings, please visit the Job Openings for Governance Professionals section of the Institute's website: www.hkcgj.org.hk.

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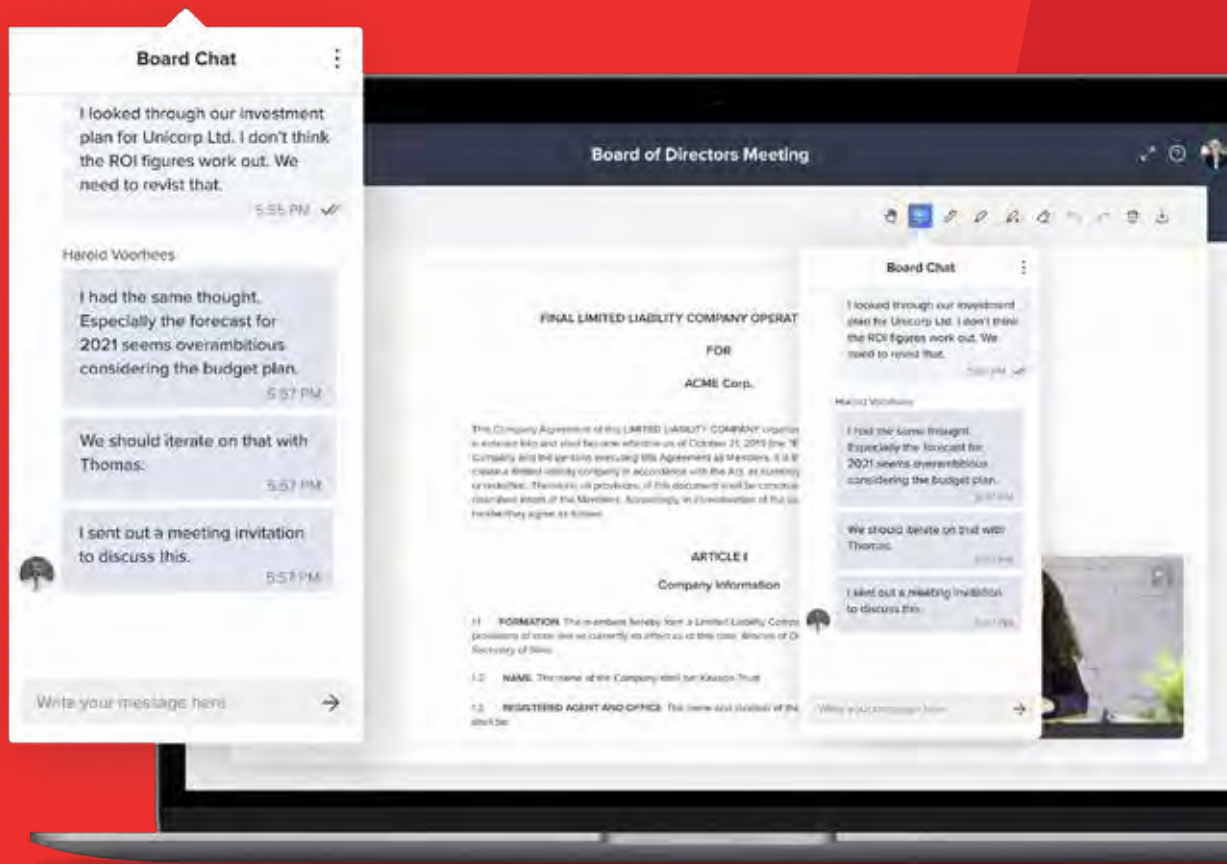
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