

# CSj

March 2013

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The journal of The Hong Kong  
Institute of Chartered Secretaries

香港特許秘書公會會刊



## A new conversation

Rethinking  
shareholder  
engagement

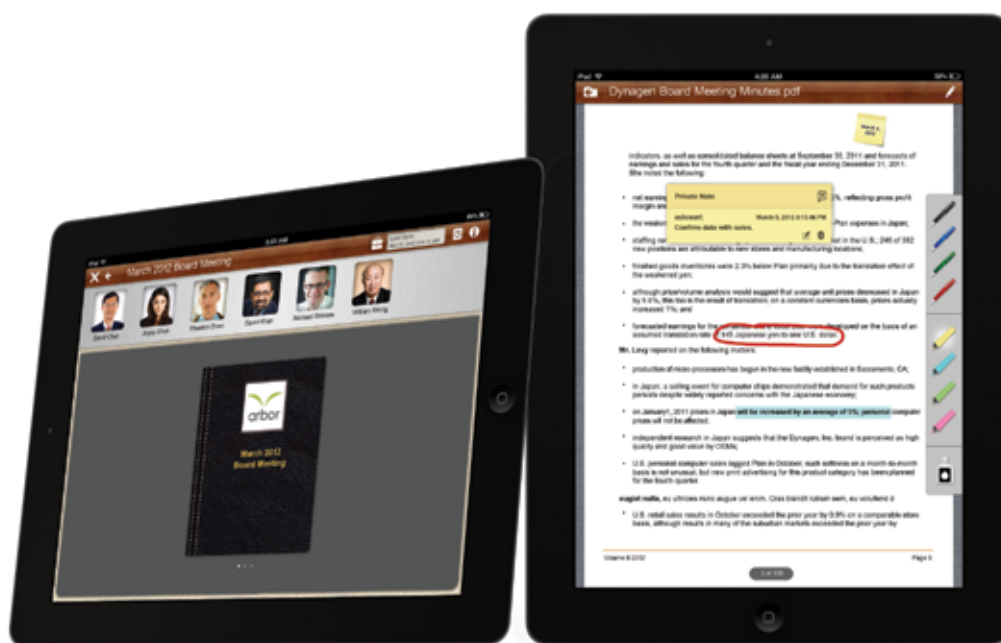
AGM management  
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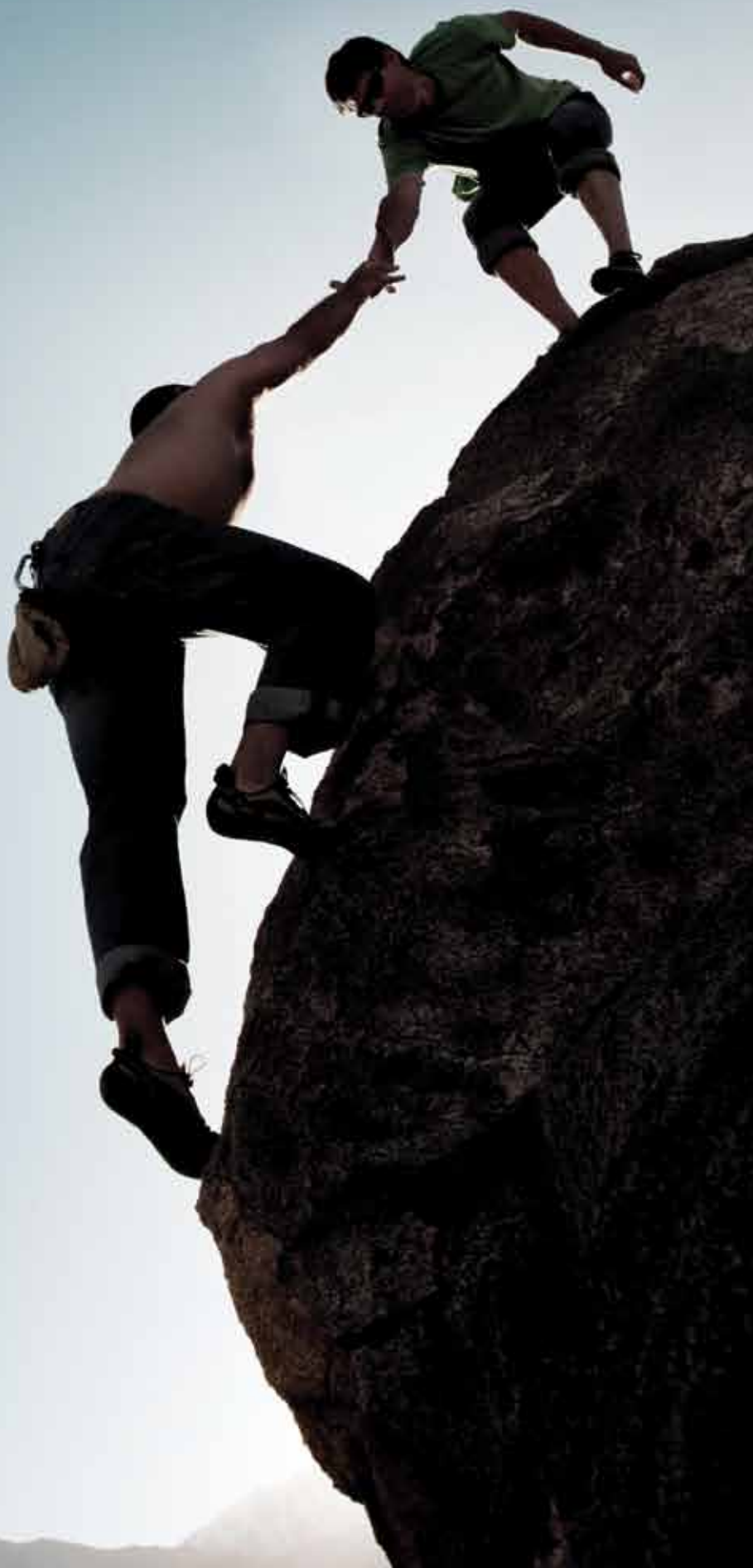
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## Good governance comes with membership

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

The HKICS was first established in 1949 as an association of Hong Kong members of the Institute of Chartered Secretaries and Administrators (ICSA) of London. It became a branch of ICSA in 1990 before gaining local status in 1994, and today has more than 5,700 members and approximately 3,200 students.

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### Membership statistics update

As of 20 February 2013, the Institute's membership statistics were as follows:

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## March 2013

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# Contents

## Cover Stories

### Preparing for your AGM 08

Lucy Newcombe, Corporate Communications Director at Computershare, takes you through the key planning steps for AGMs to be held in Hong Kong and mainland China, and provides a look at best practice both locally and around the globe, focusing in particular on the developments that can enhance your meeting and support better shareholder engagement.

### A new conversation 14

Few would dispute the need for an ongoing and active dialogue between those investing in a business as owners, and those tasked with running it. However, 'ongoing' and 'active' do not always apply to the conversation companies have with their shareholders. *CSj* looks at some new global and local initiatives to boost shareholder engagement.

## Corporate Governance

### Public governance 20

In the second and final part of his article on public governance, Gordon Jones *FCIS FCS*, author and Hong Kong's former Registrar of Companies, turns his attention to the governance of not-for-profit entities and public bodies.

## Mainland Report

### Induction of directors: a board secretary perspective 26

The HKICS launched its Regional Board Secretary Panels (RBSPs) in 2010 as a forum for training and professional networking among board secretaries in mainland China. The latest RBSP meeting was held in January this year in Hong Kong and focused on the induction of directors.

### 启导董事 责无旁贷 30

香港公司秘书公会于2010年开始举办董事会秘书圆桌会议，为中国内地董事会秘书提供培训，并让他们作专业交流。最近一次圆桌会议，今年1月份在香港举行，主题是启导董事。

## HKICS News

### President's Message 04

### Institute News 32

### Student News 44

## Ask the Expert 07

Your technical questions answered.

## Bulletin Board 47

News items and regulatory changes of relevance to members.





# The future of the AGM

As many company secretaries in Hong Kong are gearing up for this year's AGM season, this edition of CSj is devoted to the AGM within the wider context of shareholder engagement. In the first cover story (see pages 8–13) Lucy Newcombe, Corporate Communications Director at Computershare, looks at the key planning steps for AGMs to be held in Hong Kong and mainland China, and some of the technological developments which have put the future of the AGM under a spotlight.

What, after all, is the AGM actually for? In most jurisdictions around the world, companies are now required to disclose significant company information on a continuous, real-time basis to shareholders, so is there really a need for an expensive, large-scale AGM to present the annual results? Moreover, as companies' shareholder bases continue to expand across geographical borders, is it time for AGMs to 'go virtual'? Opening up AGMs to virtual participants would certainly improve access to such meetings, but there are many technical and regulatory issues which would need to be considered. How would questions from shareholders be handled and what would be the procedures for shareholders to vote remotely?

Virtual participation by shareholders in AGMs can't legally happen in Hong Kong as yet, but there are many who argue, Lucy Newcombe among them, that it is only a matter of time before virtual meetings, or at least 'hybrid' meetings (where participants

in the physical meeting are joined by participants online) become the norm.

Any discussion on the future of the AGM inevitably leads to the wider issues involved in shareholder engagement and these are explored in this month's second cover story (see pages 14–18). The term 'shareholder engagement' seems to put the onus very firmly on the company to engage shareholders in company matters, but I was pleased to see that the article seeks to redress this rather one-sided approach by looking at shareholder engagement in the context of its sister concept 'investor stewardship'.

Shareholders clearly have a role to play and this should not just be limited to electing directors at the AGM. They are the ultimate beneficiaries and overseers of the businesses in which they invest. Hong Kong has very little in the way of guidance to investors on the meaning of stewardship, although the Securities and Futures Commission is currently engaged in a soft consultation on ways to remedy this. Would Hong Kong benefit from an investor stewardship code along the lines of the code launched in 2010 in the UK?

The UK code was aimed at institutional investors and institutions now play an increasingly significant part in the Hong Kong market. According to the most recent surveys by Hong Kong Exchanges and Clearing, overseas institutional investors are the largest contributor to Hong Kong's

market turnover. Among local investors, institutional investors and retail investors each account for about 20 per cent of the total turnover. In this context, some guidance on issues such as proxy voting policies, disclosure of voting activities, and monitoring and engaging with companies on matters such as strategy, performance, risk, capital structure and corporate governance, may need to be considered.

With our own AGM behind us, our Council held its annual strategy meeting in early February to deliberate on the Institute's key initiatives for this year. A frank and candid exchange of views took place. The unanimous consensus was that a particular focus should be placed this year on reviewing the Institute's organisational structure and consolidating the Institute. For it is only when the Institute has the correct organisational structure in place and a solid foundation has been laid, that it will be in a position to initiate and achieve its longer-term strategic objectives. I very much look forward to your support as we journey down this road together.

A handwritten signature in black ink, appearing to read 'Edith Shih'. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Edith Shih FCIS FCS(PE)

# 周年股东大会的未来发展

香港一众公司秘书密锣紧鼓，筹备今年的周年股东大会之际，本刊今期从股东参与的较广阔层面，集中探讨周年股东大会这课题。在第一个封面故事中（见第8至13页），Computershare 企业传讯总监 Lucy Newcombe 阐述筹备香港和中国内地公司周年股东大会的主要步骤，以及影响周年股东大会日后发展的一些新科技。

周年股东大会实际上有什么作用？既然全球大部份司法权区均要求公司持续地实时向股东披露重要的公司资料，究竟是否真正有需要耗费金钱举办大型的周年股东大会，发布年度业绩？此外，公司股东日趋国际化，周年股东大会是否应容许透过互联网举行？让股东透过互联网参加周年股东大会，固然可为股东带来方便，但须考虑许多技术上和规管上的事宜。应如何处理股东提出的问题？股东在互联网上投票，又应依循什么程序？

香港法律尚不容许股东透过互联网参加周年股东大会，但许多人认为虚拟会议或混合模式的会议（即同时让股东透过互联网参与现场举行的会议），早晚会成为常规。Lucy Newcombe 也有同感。

有关周年股东大会未来发展的讨论，无可避免会涉及股东参与层面的较广泛议题，今期第二个封面故事（见第14至17页）对此有所探讨。「股东参与」这用词，意味着公司有责任让股东参与公司事务，但我喜见这篇文章纠正这略嫌偏颇的看法，同时从投资者监督的角度探讨这课题。

很明显，股东可以参与公司事务，这不限于在周年股东大会选任董事。股东是投资业务的最终受益人和监督者。有关投资者监督公司这课题，香港给予投资者的指引不多，证券及期货事务监察委员会现正就如何补救这方面的不足进行非正式谘询。英国在2010年颁布投资者监督守则，类似的守则能否让香港受惠？

英国的守则以机构投资者为对象，而在香港市场，机构投资者的参与也日渐增加。香港证券交易及结算所最近的调查显示，香港市场的交投量中，海外机构投资者的交易占最大比重。本地投资者当中，机构投资者和散户各占总成交量约两成。在此情况下，可能须考虑就多个范畴发出指引，例如委派代表投票的政策、投票情况的披露，以及就策略、业绩、风险、股本结

构和公司治理等方面监察和参与公司事务等。

公会的周年股东大会也刚结束，理事会在二月初举行了一年一度的策略集思会，商讨公会今年的主要活动。理事们坦诚地交换意见，并一致同意今年应重点检讨公会的组织架构，予以整合。有了恰当的组织架构、坚实的基础，公会才可以提出和实现长远的策略目标。我热切期望各位会员给予支持，一起为公会开创新里程。



施熙德

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# Ask the Expert

If you would like to ask our experts a question, please contact CSj Editor  
Kieran Colvert: [kieran@ninehillsmidia.com](mailto:kieran@ninehillsmidia.com)

**Q:** *Can an issuer make changes to an e-prospectus during the offer period, and if so, does it have to revise and print the paper prospectus? Also, does the issuer have to suspend the offer pending the correction and what is the procedure for the suspension? Does an electronic prospectus have to be identical to the paper prospectus, and can our website contain information additional to the prospectus information?*

**A:** The questions relating to an IPO or prospectus do not have a definitive answer as every public offer is different. However, here are some insights based on our IPO experience in the Hong Kong market.

In November 2010, Hong Kong Exchanges and Clearing (HKEx) and the Securities and Futures Commission (SFC) published their joint consultation conclusions on mixed media offers (MMOs), and in February 2011, HKEx published a document introducing the new regulatory regime relating to MMOs.\*

Effective from 1 February 2011, issuers can distribute paper application forms not accompanied by a paper prospectus, but with an electronic version available online. Often, paper prospectuses are also displayed and distributed at designated locations such as receiving bank branches. The contents of the electronic and the paper prospectus should be identical, including any changes. Terms and conditions, including the listing timetable, published in a prospectus cannot be changed unless and until an announcement and appropriate steps have been cleared with the regulators. Therefore an issuer cannot 'suspend' a public offer *per se*.

Application monies should be returned to applicants if a public offer is postponed or does not proceed. Applicants are deemed to be refunded unless they re-confirm their applications if there is a change to the listing date disclosed in the prospectus.

If an issuer wants to make changes to an e-prospectus during the offer period, the sponsor (on behalf of the issuer) will need to consult with the listing division of the Stock Exchange. Agreed changes may be disclosed by (i) a supplemental prospectus (both electronic and paper version), or (ii) a clarification announcement, or (iii) any other ways required by the regulators.

Here are some examples from our experience:

1. An issuer inadvertently omitted an item in the accountants' report section: the issuer was required to publish a clarification announcement on its and the HKExnews website.

## Computershare

2. An issuer decided to reduce the size of the global offering. They were required to:
  - a. issue an announcement disclosing that the company intended to alter the terms of the global offering
  - b. issue a supplemental prospectus (both electronic and paper form), setting out the new information including the new listing timetable
  - c. issue a confirmation form for applicants to re-confirm their application, and
  - d. make an announcement on the supplemental prospectus and the changes in the listing timetable.

This illustrates that actions are decided on a case-by-case basis by the regulators.

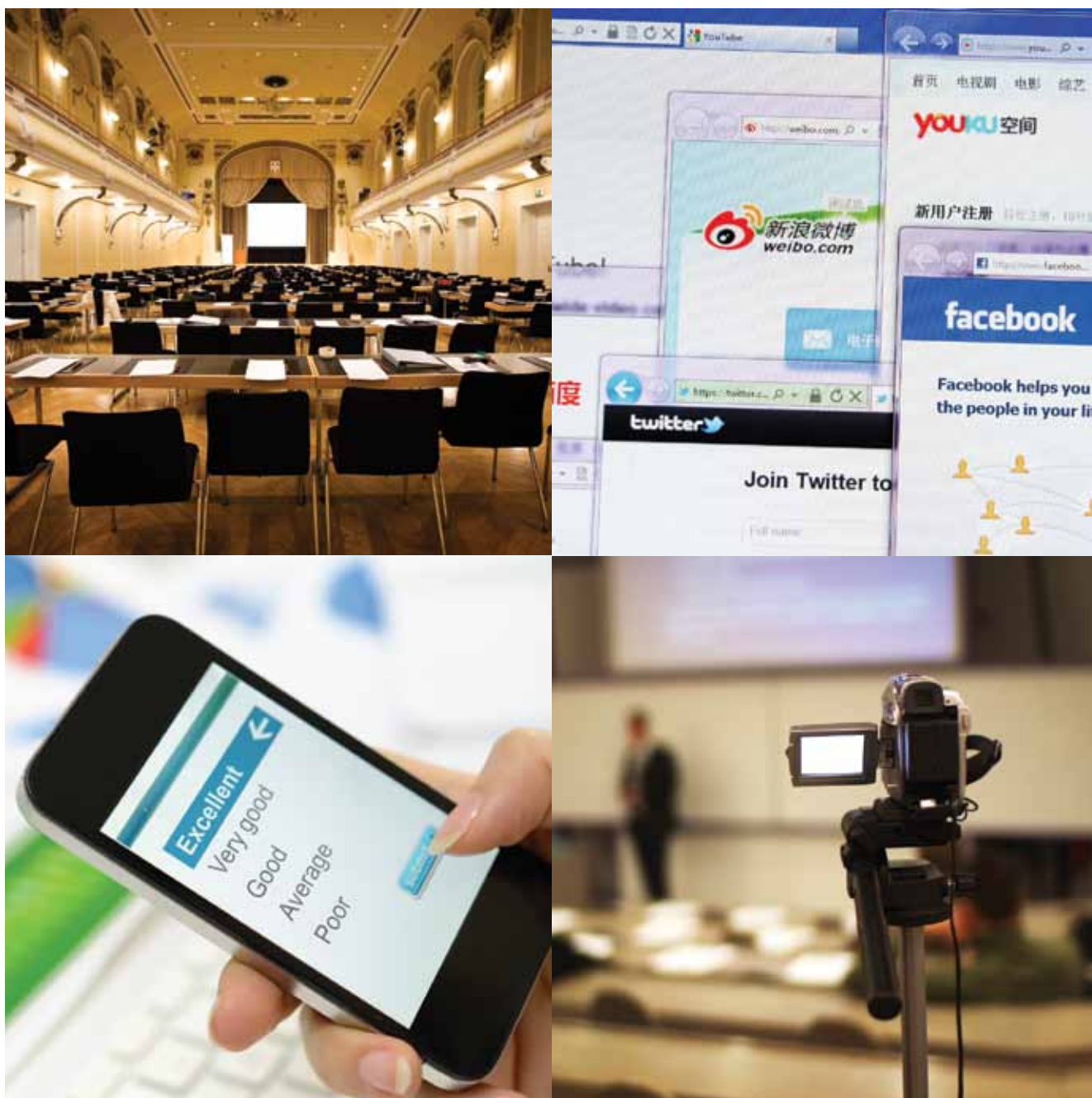
An e-prospectus is normally uploaded to both the HKExnews website and the issuer's website. If the issuer adopts the White Form eIPO application channel, the White Form eIPO service provider will also host the e-prospectus on its website. The issuer's website contains a lot of other information and the e-prospectus should be clearly displayed under one section of the website. Remember, an applicant is advised only to rely on information in your prospectus and will not take anything else on your website into account. If you have changed the prospectus while the offer is open, make sure it is linked from the home page so that everyone has the opportunity to view it and cannot claim that they have been disadvantaged in any way.

\*Both documents are available on the HKEx website [www.hkex.com.hk](http://www.hkex.com.hk) at the following links:

Joint Consultation Conclusions: [www.hkex.com.hk/eng/newsconsult/mktconsult/Documents/jcp200804cc.pdf](http://www.hkex.com.hk/eng/newsconsult/mktconsult/Documents/jcp200804cc.pdf)

HKEx clarification on MMOs: [www.hkex.com.hk/eng/rulesreg/listrules/listpresent/documents/mmo\\_201102.pdf](http://www.hkex.com.hk/eng/rulesreg/listrules/listpresent/documents/mmo_201102.pdf)

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# Preparing for your AGM

Lucy Newcombe, Corporate Communications Director at Computershare, takes you through the key planning steps for AGMs to be held in Hong Kong and mainland China, and provides a look at best practice both locally and around the globe, focusing in particular on the developments that can enhance your meeting and support better shareholder engagement.

One consequence of the global financial crisis has been an increased focus on investors as stewards of companies and the constructive role they should be playing in corporate governance. Across Hong Kong and China, last year's 44% upsurge in attendance highlights the renewed interest investors have in the companies they invest in as shareholders and the potential for this to result in more searching questions being asked at your AGM.

Examples in other markets in 2012 back this up – in the UK, passing resolutions at general meetings is no longer the simple box-ticking exercise it has been historically, particularly when it comes to remuneration. The global financial crisis has challenged corporate infrastructures and made shareholders more readily concerned with the business processes of the companies in which they invest, resulting in several UK CEOs vacating their posts last AGM season. In both Australia and the US, significant legislative changes to shareholder input on remuneration were enacted, making it much easier for shareholders to have an influence on this sensitive topic. Many countries have enforced, or will be moving to enforce, poll voting for all resolutions at AGMs.

For some companies the AGM has historically been regarded as a matter of compliance with statutory rules and as a result planning consisted only of very basic steps. However, in the current climate where companies should be looking to strengthen engagement with shareholders, there is little room for compromise. Companies need to effectively engage with their shareholders in respect of key business decisions and assess the impact on their meeting. With changing technology (including

the ever increasing role of social media), rules, market practice and legislation, it is crucial that companies are abreast of changes to ensure general meetings meet the requirements of both their own corporate strategy as well as shareholder sentiment and expectations.

The message is simple – it pays to be prepared.

#### Meeting logistics

With more than 1,000 AGMs taking place in Hong Kong and mainland China in a short space of time, it pays to book your venue well in advance if you're not using your own office. For the larger venues, it can be a case of being prepared to adjust the dates for your AGM to ensure you get the location of your choice. Globally, a key feedback point from shareholders is that they often don't feel an AGM location is 'central enough' and is catered more for the convenience of the company than its shareholders. Addressing this should not be too much of a challenge in Hong Kong, but for companies located in mainland China, it's worth looking at your shareholder demographics and if you actively want investors to attend, deciding

where is the optimum location to hold your meeting. In China, you also have the option of adding a virtual component to your meeting if you cannot find a physical location that will suit the majority of shareholders.

The time of the meeting should also be given careful consideration. Allowing your shareholders enough time to reach your chosen venue means you need to consider peak travelling times and public transport links when making your choice.

Making sure you've got great signage directing shareholders to your venue is important – there's no point in them wandering around outside trying to find you when you need them to be inside voting.

Finally, spare a thought for companies like Deutsche Telekom in Germany – with around 5,000 shareholders typically attending their AGM, their venue choices are limited and must be booked years in advance to ensure availability!

*Tip: For large meetings, to save administration time and ensure*

#### Highlights

- book your venue well in advance and time the meeting to allow shareholders to reach your chosen venue
- ensure you communicate key shareholder information efficiently – using electronic communications channels is recommended
- do your research – identify your shareholder base and monitor shareholder views, particularly on social media
- brief the chairman in advance where contentious issues are to be discussed at the meeting

*transparency in voting, consider using wireless voting technologies to allow your shareholders to cast votes. 34% of the FTSE 100 now use wireless voting technologies at their AGMs.*

### **Virtual attendance**

With the April 2012 addition of new notes to Paragraph 1(c) in the Corporate Governance Code (Appendix 14 of the Hong Kong Listing Rules) which requires mandatory disclosure of directors' attendance at board and general meetings, it is now possible for directors of Hong Kong listed companies to attend by electronic means: '1(c) attendance of each director, by name, at the board and general meetings; Notes: 1 Subject to the issuer's constitutional documents and the law and regulations of its place of incorporation, attendance by a director at a meeting by electronic means such as telephonic or videoconferencing may be counted as physical attendance.'

While board members are now expressly permitted virtual attendance at Hong Kong AGMs, which is similar to provisions in other countries including the US, UK and Australia, shareholders in Hong Kong are not yet able to take advantage of this option. This is different to mainland China where there is provision for shareholders to attend meetings virtually.

Articles 20 and 21 of Chapter 4 in the Annual General Meeting Rules of The People's Republic of China states that 'Meetings should be held at a place and a time convenient to the largest possible number of shareholders to attend. Issuers should consider the use of technology (for example webcast and video conference) to maximise shareholder participation. They should clearly explain whether or not shareholders attending the general

meeting by webcast at a remote site are allowed to vote and if so, how. They should not change the venue or the time of a general meeting without giving sufficient notice to shareholders.'

In the US, experiences of virtual meetings are shifting opinions and perceptions of the physical shareholder meeting, with a limited number of companies favouring the former in place of the latter. However, this approach should be carefully considered specifically with your shareholder base in mind. Some US companies have shown a strong desire to hold meetings solely online in order to reduce cost and to make the meeting more accessible to shareholders who are unable to attend in person. However, in the majority of cases this method has garnered strong objections from shareholders and companies have subsequently opted instead for a 'hybrid' format – a physical meeting for those shareholders who wish to attend in person, supported by a 'virtual' or online presence.

A characteristic of the internationalisation of securities investment is that increasing numbers of companies have overseas investors. One of the potential consequences of this is the need to facilitate their participation at general meetings. For instance, companies in the UK with overseas investors, branch registers or dual-listings are increasingly looking to use satellite and internet technology to link video feeds of the attending board and shareholders between the sites.

In Australia, virtual attendance at meetings is not expressly permitted under company law, but neither is it forbidden – so several companies have chosen to make express provision for it in their constitutional documents.

### **A&H meetings**

The meetings of A-share and H-share companies have different requirements than meetings for Hong Kong listed companies. One of the key differences is that shareholders have to be verified and registered for voting before the chairman announces the registered number of voters – which normally happens right at the start of the meeting. Therefore, those who arrive late to the meeting cannot register to vote – unlike in Hong Kong listed company meetings, where they can carry on registering to vote up until the point that the vote actually starts. This catches some shareholders by surprise – particularly if they have been used to only attending the meetings of Hong Kong listed companies.

*Tip: Specifically for this kind of meeting, consider arranging a small meeting room for late shareholders arriving after the participant number is announced by the host.*

### **Board preparations and legal obligations**

Ensuring that your board members, and in particular the chairman, are well-prepared for the AGM is crucial. It is important to consider in advance how you will manage the order of business. Significant emphasis should be placed on the chairman's script which caters not only for the expected business, but also the possibility of requests to amend resolutions, deal with points of order or emergency situations – however unlikely. The script should also define how the chairman approaches shareholder questions. Your registrar will be able to advise you on how other companies approach this if you are newly listed or unsure as to the best practice.

*Tip: Increasingly, boards are adopting electronic portals viewed via tablet for all*

*of their documentation – making it easier and quicker for revisions to take place and be distributed effectively.*

Across Hong Kong and mainland China this year, companies have had to address the requirement to comply with new Main Board Listing Rule 3.10A that independent non-executive directors (INEDs) are to form at least one third of the board. Companies had to comply with this requirement by December 2012 – and whilst PRC listed entities will have had to call an EGM if they needed to elect a new INED, Hong Kong, Cayman Islands and Bermuda listed companies have the ability for the board to elect a new director without an EGM. However, if a new INED was appointed in this fashion, the office is only valid until the next AGM and companies will subsequently need to ratify this appointment by requiring the new INED to stand for re-election at the 2013 AGM.

Another change that companies, including those with meetings held outside Hong Kong, need to factor into this AGM season is the revision in April 2012 to the Corporate Governance Code (E.1.2) requiring Hong Kong listed companies to ensure that their external auditor attends the AGM to answer any questions that may be forthcoming about the conduct of the audit; the preparation and content of the auditors' report; as well as the accounting policies and auditor independence. Previously, whilst auditors would be scheduled to attend Hong Kong-based AGMs, cost and time factors were often cited as a reason for them not attending meetings in the PRC or overseas.

#### **Shareholder communications**

It is crucial as part of AGM planning, and in order to meet statutory requirements



and best practice for corporate governance, to manage your mailing effectively and allow shareholders ample notice in order to participate. Checking the specific requirements according to your listing location, types of shareholders and articles is crucial as this varies from company to company.

*Tip: For A-share and H-share listings, make sure you have looked carefully at your form design in order to make it as simple as possible for shareholders to ascertain what they are being asked to do. Distinguishing the share types from each other is a good idea as it is not uncommon for shareholders to confuse the two types of shares.*

Communicating key shareholder information via email (in Hong Kong) or via the company's website and appointed public media (Hong Kong and PRC) means that shareholders will receive information more quickly than via traditional postal methods and even those who have perhaps forgotten to update their address details will have access to company information. In addition, it is a more environmentally friendly route of communication. Since the implementation of the 2006 Companies Act in the UK, around 70% of the FTSE 350 companies have adopted electronic communications

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it's inevitable that virtual meetings will become a possibility for Hong Kong companies as well as those in the PRC  
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channels as best practice, 'deeming' shareholders to have consented to receive electronic communication unless they have specifically requested otherwise.

#### **Market and register intelligence**

Ahead of your AGM it is important to be aware of both the nature of your shareholder base and how your company is perceived by key stakeholders. In mainland China, the list of registered shareholders is very transparent. In Hong Kong a bit more time is required to get to know the wider market and your register, as well as any custody nominees or large employee trust holdings, in order to anticipate any contentious issues.

For a large retail organisation, keeping abreast of your customer complaints can prove beneficial in the event that these customers, who may also be shareholders, choose to voice their complaints at your AGM. The chairman can be briefed in advance in order to deal with the question effectively if posed at the meeting.

If you are proposing a potentially contentious resolution, you can increase your readiness for your AGM, reduce uncertainty around the voting process and maximise your opportunity to engage with shareholders by implementing a robust shareholder identification and, if

## “ the message is simple – it pays to be prepared ”

necessary, a proxy solicitation programme. Understanding who owns how many shares and their basic opinions about your business is a vital first step to understanding how they may vote on a particular resolution. Validating your resolutions against the policies of the different proxy advisors, including ISS and Glass Lewis, will also provide valuable insight into how the votes may be cast as a large proportion of institutions rely on the recommendation of proxy advisors when it comes to voting.

In terms of expressing their views about your company, with the surge in popularity of social media, forums and blogs, there is no need for shareholders to wait until the AGM to air their opinions. In fact the very nature of social media means that vast online communities

can be created with a common goal: to challenge your company and its business strategy. Globally, activists have been known to use social media as a tool so successfully that it has resulted in the resignation of board members and the influencing of corporate actions.

Monitoring social media activity (across platforms such as Twitter, Weibo, Facebook, Renren, Youtube and YouKu) now needs to be on your AGM 'to do' list. It is vital in order to gauge public and shareholder perception which leaves you well placed to anticipate any activist activity in the lead up to, and on the day of, your meeting. The content on these sites can help you prepare responses to questions that may be posed during the meeting, or indeed plan a proactive campaign if necessary.

Social media is not only becoming a tool of choice for activist groups, it has also made journalists of members of the public, including shareholders, who are able to send updates and create 'news' during AGMs using their smartphone. Whilst there is little companies can do to combat this, being aware of and preparing

for likely contentious topics and the wider industry commentary is vital to minimise any risk of negative publicity before, during and after your AGM.

### Looking ahead

The high degree of focus and attention being given to the role of shareholders and the manner in which they engage with companies means that the world of the AGM is likely to be in a state of flux over the medium to long term. The Australian government is running an enquiry into the future of the AGM and shareholder engagement with the intention of planning for the future (more information is available at [www.camac.gov.au](http://www.camac.gov.au), under 'Publications, Current Discussion Papers'). Various regions are considering following the example of the US and Australia and increasing legislation on remuneration votes. Russia is introducing the option for video-meetings.

Locally, we think it's inevitable that virtual meetings will become a possibility for Hong Kong companies as well as those in the PRC, and that attendance will continue to rise in the next few years. The challenge for companies is to turn that attendance into meaningful contributions from shareholders that help to improve corporate governance, whilst ensuring that the AGM is the best possible experience for both the company and shareholder.

### Lucy Newcombe

*Corporate Communications  
Director at Computershare*

*Lucy Newcombe is currently based in Hong Kong. You can find her on LinkedIn or via Twitter – @lucyjayneN*

## Rule changes 2012/ 2013

- directors may now attend AGMs by electronic means (see Notes to Paragraph I(c), Corporate Governance Code)
- independent non-executive directors (INEDs) must form at least one third of the board – where a new INED has been appointed without an EGM to comply with this requirement, he/ she will need to stand for re-election at the 2013 AGM (see new Main Board Listing Rule 3.10A)
- the external auditor must attend the AGM, including where the meeting is held outside Hong Kong (see E.1.2, Corporate Governance Code)

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*- Richard YEE, DBA graduate (2012-13)*

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## A new conversation

Few would dispute the need for an ongoing and active dialogue between those investing in a business as owners, and those tasked with running it. However, 'ongoing' and 'active' do not always apply to the conversation companies have with their shareholders. *CSj* looks at some new global and local initiatives to boost shareholder engagement.



As the AGM season gets underway in Hong Kong, it is perhaps a good time to step back for a moment and ask what is the point of it all? As the primary forum for shareholder engagement, the AGM might seem to have an unassailable place in the corporate calendar, but technological developments have presented many alternatives to fulfill the primary functions of the AGM and there has been no shortage of suggestions for better ways to engage shareholders.

One positive benefit of the debate about the purpose and future of the AGM has been a renewed attention to the role shareholders should actually play in corporate governance. Clearly, as the OECD *Principles of Corporate Governance* puts it, companies 'cannot be managed by shareholder referendum'. In fast moving and ever changing markets, a company's management must be able to take business decisions rapidly and it would be entirely impractical to expect shareholders to get involved in operational decisions.

But shareholders do have a role to play and globally there has been a renewed focus on the concept of investor 'stewardship'. In 2010, for example, the UK brought out its Stewardship Code which emphasises that for investors, stewardship is more than just voting at the AGM. Shareholders stand at the top of the accountability chain of command. Directors hold managers accountable and shareholders hold the board accountable for the fulfillment of its responsibilities. Ideally, therefore, shareholders should be monitoring and engaging with companies on matters such as strategy, performance, risk, capital structure, and corporate governance. 'Engagement is purposeful dialogue with companies on these matters as well as on issues that are

the immediate subject of votes at general meetings', the Code states.

This, then, is the theory, but how do shareholders actually interact with companies? In the retail section of the market, shareholders tend to be passive passengers in the corporate vehicle. A relatively small proportion of shareholders generally turn up at a company's AGM and some of these may chiefly be interested in the sandwiches and the handouts. Moreover, there has been a general trend towards short-term investing. The average period of owning shares in a listed company has been steadily declining over recent years, exacerbated by the increasing use of high speed electronic trading.

In this context the prospects for the concept of investor stewardship catching on do not look great. But there is, of course, another segment of the investor market which in some jurisdictions, notably the US, has changed the game entirely – the institutional investors. The UK's Stewardship Code is targeted at institutional investors since these organisations have the resources and the motivation to engage with their investee

companies to ensure the financial security of their investments.

### Is this relevant for Hong Kong?

The issue of shareholder engagement, which is an aspect of investor stewardship, is certainly not new to Hong Kong, though it has generally been approached in terms of the responsibilities of listed companies to engage investors rather than the other way around.

The Corporate Governance Code for example states that 'the board should endeavour to maintain an ongoing dialogue with shareholders and in particular, use annual general meetings or other general meetings to communicate with shareholders and encourage their participation' (Code E.1). The Code also requires the chairman of the board to ensure that 'appropriate steps are taken to provide effective communication with shareholders and that views of shareholders are communicated to the board as a whole' (Code A.2.8), and for non-executive directors to 'attend general meetings and develop a balanced understanding of the views of shareholders' (Code A.5.7).

## Highlights

- shareholder engagement should not be a once-a-year issue in the build-up to the AGM
- poor communication between a company and its shareholders can lead to problems escalating, particularly in the era of social media
- company secretaries can be powerful advocates for a proactive engagement plan to ensure an effective dialogue with shareholders



“ a relatively small proportion of shareholders generally turn up at a company’s AGM – and some of these may chiefly be interested in the sandwiches and the handouts ”

Hong Kong currently has no official guideline on investors' responsibilities – is this a weakness in our regulatory regime? Would Hong Kong gain any benefit from new guidelines on shareholder engagement and wider investor stewardship? Some commentators have questioned whether these concepts are really relevant in Hong Kong since shareholder passivity is not generally a problem in dominantly-held companies. The majority of Hong Kong companies are family-owned or dominated by a single or small number of majority shareholders. These shareholders are typically highly engaged in the running of the business. In most cases they sit on the board, or, where they are not formally so appointed, the directors are mindful of their interests.

In this scenario, while 'shareholder engagement' may be a non-issue, 'investor stewardship' is still highly relevant. Moreover, like most jurisdictions, Hong Kong has been evolving towards a more diversely held market, and, just as significantly, institutional investors are the

largest contributor to Hong Kong's market turnover. These developments have raised many issues which led to the creation of the UK's Stewardship Code.

Institutional investors typically hold shares on behalf of a great number of investors and they owe a fiduciary duty to such beneficiaries to ensure the financial security of their investments. Issues such as their policies on proxy voting, how well they communicate with the shareholders for whom they act and what interaction they have with the companies in their portfolio, are as relevant in Hong Kong as they are in the UK. A stewardship code could set out best practice standards on these issues. The principles of the UK Stewardship Code, for example, state that institutional investors should:

- publicly disclose their policy on how they will discharge their stewardship responsibilities
- have a robust policy on managing conflicts of interest in relation to

stewardship which should be publicly disclosed

- monitor their investee companies
- establish clear guidelines on when and how they will escalate their stewardship activities
- be willing to act collectively with other investors where appropriate
- have a clear policy on voting and disclosure of voting activity, and
- report periodically on their stewardship and voting activities between companies and investors in a steward position.

While Hong Kong may not be ready for the full gamut of the UK's Stewardship Code, it could pick and choose some of the Code's provisions relating to shareholder engagement, and apply them to asset managers, owners and related services providers.

### What does this mean for company secretaries?

Company secretaries are often the primary point of contact for investors and are tasked with keeping in touch with shareholder views and concerns. Company secretaries could therefore be powerful advocates should it be deemed appropriate to have a proactive engagement plan to ensure an effective dialogue with shareholders. A recent paper by the Australian government's Corporations and Markets Advisory Committee (see [www.camac.gov.au](http://www.camac.gov.au), under 'Publications, Current Discussion Papers') suggests that such an engagement plan should identify:

- **dialogue areas** – including matters concerning corporate strategy and key business opportunities, corporate governance, board composition and director appointments as well as executive remuneration
- **dialogue processes** – including various forms of face-to-face contact as well as written communications, and
- **dialogue responsibilities** – being allocated to specified board members, or the board collectively, depending upon the dialogue area.

### The meaning of dialogue

The UK's Stewardship Code emphasises that dialogue between companies and their shareholders must be just that – a two-way conversation. 'In publicly listed companies responsibility for stewardship is shared,' the Code states. 'The primary responsibility rests with the board of the company, which oversees the actions of its management. Investors in the company also play an important role in holding the

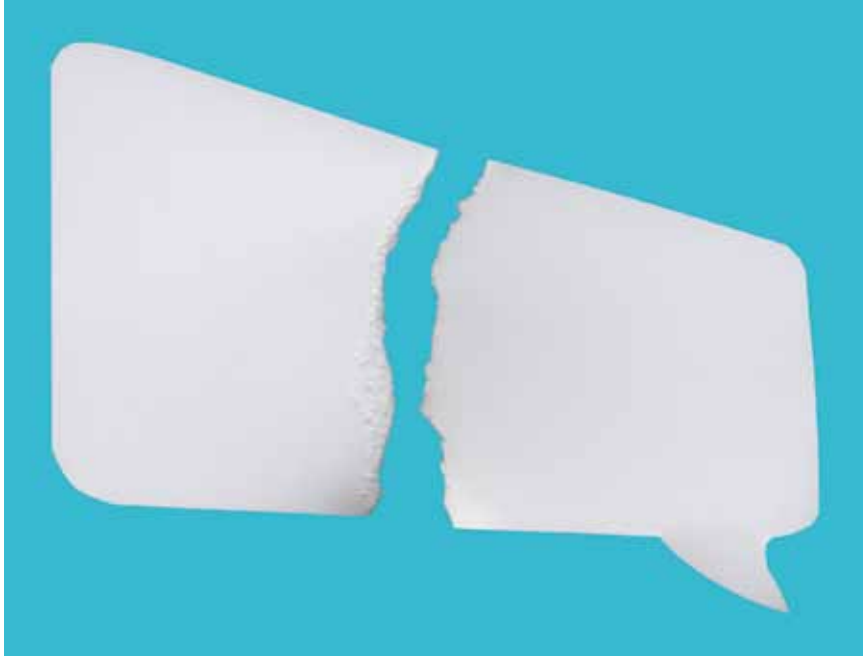
## Rules of engagement

In 2011, a group of six institutional investors came together in the UK to clarify what 'investor stewardship' should mean. The working group of these six investors asked the Institute of Chartered Secretaries and Administrators (ICSA) to form a steering group led by Sir John Egan to consult the market on this issue. The ICSA subsequently brought out a consultation paper in October 2012 (*Improving engagement practices between companies and institutional investors*) and the consultation ended in November 2012.

The consultation paper stresses that shareholder engagement should not be a once-a-year issue in the build-up to the AGM. 'Ideally companies should engage on issues that could become controversial at the AGM well before the proxy materials are published' the paper states.

The paper identifies four challenges relating to both the quality and the quantity of current stewardship practices in the UK.

1. **Quality of meetings** – companies want meetings that are more purposeful and effective and give a deeper account of the company; more access to investors; more in-depth discussion; better joint handling of issues that reach the media; and better feedback on investors' views when meetings are over. Companies also said they were frustrated by investors who presented a divided face on company performance and governance issues.
2. **Quality of information** – there is a lack of information about the stewardship approaches of different asset managers, and a lack of comparability to help asset owners make informed decisions.
3. **Resource limitations** – the resources for stewardship are limited and the investment community is not making best use of those resources. Index investors are a vital part of the market and often have the desire and the capability to be stewards, but companies sometimes dismiss them as unimportant.
4. **Critical mass** – for the sake of beneficiaries and companies, the investment community needs to build a critical mass of stewardship investors – investors who are capable of engaging companies in constructive dialogue and holding their boards accountable to shareowners.



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”

board to account for the fulfillment of its responsibilities.’

Moreover, the Code explicitly recognises that the comply or explain system (the enforcement mechanism used by both the UK’s and Hong Kong’s corporate governance codes) relies on investors playing their part in corporate governance. The system only works if there is a real possibility that shareholders will take action where companies fall below the expected standard. The Stewardship Code is aimed at assisting institutional investors to ‘better to exercise their stewardship responsibilities, which in turn gives force to the comply or explain system’, the Code states. In the UK, therefore, the corporate governance and stewardship codes are seen as two complementary halves of a whole. The Corporate Governance Code identifies the principles that underlie an effective board and the Stewardship Code sets out the principles of effective stewardship by

investors. One without the other is only half the story.

In practice, however, working out the right level of dialogue between companies and their shareholders will not always be easy. It is worth bearing in mind that, in law, the shareholders’ role is fairly restricted. Shareholders have various information rights and the right to participate in the AGM or other shareholder meetings. They can, with the statutory threshold, initiate an extraordinary general meeting. They may also propose or vote on resolutions within their powers. In some jurisdictions they can also initiate derivative proceedings on behalf of a company.

Despite their limited official role many investors in the US, and increasingly in other jurisdictions, have been able to use their equity stake to put significant pressure on management. These activist investors have various and sometimes conflicting interests. Large union-affiliated

pension funds may be interested in upholding labour standards, other groups might be interested in human rights or environmental concerns. Sometimes these groups can become dogged harassers of corporate boards and executives.

Thus, while poor communication between a company and its shareholders can lead to problems escalating, particularly in the era of social media, directors need to assess whether it is in the company’s best interests to act on specific investor concerns. When implemented effectively, however, a direct dialogue between the company and shareholders can play an important role in communicating the company’s strategy and vision to the company’s owners, and, in turn, can ensure that the company understands investor concerns. ☒

*Thanks to Mohan Datwani, Director, Technical and Research, HKICS, for his help in the preparation of this article.*



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## Public governance

In the second and final part of his article on public governance, Gordon Jones *FCIS FCS*, author and Hong Kong's former Registrar of Companies, turns his attention to the governance of not-for-profit entities and public bodies.

Initially, the corporate governance debate focused on public companies, in particular listed companies, because of the need for such companies to improve their accountability and transparency, consequential to a number of high-profile scandals involving these companies. However, as corporate governance affects all entities formed to provide products and services, there is a danger that its application to other corporate or quasi-corporate entities, particularly not-for-profit entities and public bodies, is either forgotten or given a lower priority.

These entities tend to be either companies limited by guarantee or statutory bodies, providing public services, in many cases receiving a government subvention. In recent years, the concept of corporate governance has extended from the private to the public sector as a direct consequence of the desire for greater efficiency and economy in the deployment of public resources, and higher expectations regarding accountability and transparency in this sector.

#### Governance control mechanisms in public corporations

Increasingly, a large number of public services in Hong Kong, like elsewhere in the world, are not directly delivered by the government, operating through the civil service and departments, but through 'quasi autonomous non-governmental organisations' (quangos). These usually take the form of statutory organisations or government-controlled and subsidised corporations which assume a number of the features of a genuine commercial entity, for example they have directors and are expected to operate 'commercially'. These entities are not, however, subject to the discipline of shareholder investment and the capital markets which are the

main drivers of corporate governance in companies limited by share capital, particularly public listed companies. Furthermore, those entities receiving a government subvention have the protection of a continuous financial 'cushion' courtesy of the public purse, and poor and inadequate governance will not have the same consequences as in the case of, for example, a public listed company.

It is difficult, if not impossible, and would not be appropriate, to adopt a 'one-size-fits-all' approach towards corporate governance in the public sector, given the fact that public sector bodies vary considerably in size and operate in different statutory, regulatory and managerial frameworks. Nevertheless, certain fundamental principles are common to all such entities. In this respect, a study by the International Federation of Accountants (IFAC) provided a comprehensive international benchmark for public-sector governance.

The IFAC study noted that 'public-sector entities have to satisfy a complex range of political, economic and social objectives, which subject them to a different set of external constraints. They are also subject to forms of accountability to

various stakeholders, which are different to those that a company in the private sector has to its shareholders, customers etc'. The stakeholders in public-sector entities may be many and varied, 'each with a legitimate interest in public-sector entities, but not necessarily with any "ownership rights"' (see *Governance in the public sector: a governing body perspective*, International Federation of Accountants, August 2001).

The levels of corporate governance of such entities should be at least as good as, if not better than, say, a major public company, particularly given that, in many cases, they are discharging important public services and receiving not inconsiderable amounts of public-sector subsidy and subvention, both direct and indirect. The promotion of good corporate governance in such entities, therefore, poses particular challenges. Given the absence of the external pressures of shareholder and market disciplines which exist in the cases of commercial companies, much will depend on external pressures from other sources. In the public sector, specific user groups, those directly responsible for funding, for example the government and the public at large from which public resources ultimately derive, assume a greater importance as

### Highlights

- not-for-profit entities and public bodies are not subject to the market discipline which has been the main driver of corporate governance in the commercial sector
- the government needs to adequately monitor the governance of not-for-profit entities and public bodies, in particular, the use of funds by subvented bodies
- there is an urgent need for a system to regulate charities and enhance their transparency

stakeholders. However, the pivotal role of the governing board and the core issues of accountability are as relevant to the public sector as they are to the private sector. In this respect, accountability for the use and stewardship of public funds and assets (including direct subventions and designated streams of public revenue, and other benefits, such as free or concessionary land grants and nominal rents) is a particularly important concept in public governance.

### Not-for-profit entities and public bodies in Hong Kong

Not-for-profit entities and public bodies in Hong Kong can be classified under four main categories:

1. limited liability companies formed and registered under the Companies Ordinance (CO), which are generally companies limited by guarantee (a number of these are registered under section 21 of the Companies Ordinance which gives them special dispensation not to use the word 'limited' in the company name)
2. organisations formed under the Societies Ordinance
3. entities registered under specific specialist ordinances, for example the Trade Unions Ordinance, the Cooperative Societies Ordinance, the Registered Trustees Incorporated Ordinance, etc, and
4. entities formed under their own specific ordinances, for example over 40 special incorporation ordinances for educational, religious and charitable bodies such as the English Schools Foundation, and major statutory bodies for example the

Securities and Futures Commission, the Trade Development Council, the Consumer Council, the Hong Kong Tourism Board, the Hong Kong Productivity Council, etc.

These entities vary enormously in terms of size and complexity ranging from major statutory bodies with massive budgets to very small sporting clubs and religious bodies constituted as companies limited by guarantee. Furthermore, they are organisations responsible for delivering an even wider spectrum of activities and services including agricultural promotion, arts and culture, consumer protection, educational, housing management, labour, medical and health, political parties, private clubs, professional organisations, religious worship, social welfare promotion, securities regulation, sports promotion, tourist promotion, trade promotion, etc. These entities can also be further subdivided into those which receive a government subvention and those which have charitable status. In corporate governance terms, those entities which receive a public subvention and/ or have charitable status have a greater public interest dimension than those which do not, and should be given priority in any future governance reforms.

This sheer diversity of responsibilities also means that most policy bureaus in the government are responsible in some way for the policy and funding (where necessary) of these entities, in particular statutory public bodies. The diversity of policy responsibility also means that there will also be variations in the attention and priority given by the different policy bureaus to the corporate governance standards of these entities, particularly as the bureaus have many competing claims on their time and resources. As

an inevitable consequence, the corporate governance of public bodies will tend to impress itself on the attention of a bureau's senior management only if and when problems emerge resulting in adverse publicity. This is a particularly important issue given the critically important role played by the government in the governance of public bodies both as a key stakeholder and, in many cases, the ultimate provider of financial support.

Responsibility for the governance of not-for-profit entities which are not statutory bodies is also very fragmented. The Companies Registry is responsible for guarantee companies formed under the Companies Ordinance and registered incorporated trustees formed under the Registered Trustees Incorporated Ordinance; the Hong Kong Police is responsible for societies formed under the Societies Ordinance; the Labour Department is responsible for trade unions formed under the Trades Unions Ordinance; and the Agriculture and Fisheries Department is responsible for agricultural and fisheries co-operatives formed under the Cooperative Societies Ordinance. These five ordinances are all very different and, given the very different nature and functions of the entities formed and registered under them, impose very different standards and requirements. In addition, many not-for-profit entities and public bodies are not formed under any of these ordinances but have their own ordinances.

### Governance benchmarks

#### 1. Corporate governance for public bodies – a basic framework

Over the past decade, a significant number of studies of not-for-profit entities and public bodies have been taken by various organisations including,



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 [not-for-profit entities and public bodies]  
 should be at least as good as, if not  
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 ”

*inter alia*, the government's Central Policy Unit, Civic Exchange and the Social Welfare Department. However, there were no guidelines on how these bodies should implement good corporate governance practices until the HKICPA published *Corporate governance for public bodies – a basic framework* in May 2004. This framework arose from the HKICPA's experience in reviewing the financial reports of public entities within the not-for-profit category for the Institute's annual Best Corporate Governance Disclosure Awards. In the context of the awards competition, the judges noted the difficulty of assessing the public sector/ not-for-profit organisations category because of the absence of corporate governance benchmarks and generally-accepted standards in the public sector. One of the reasons for the lack of benchmarks was that corporate governance in the public sector has generally received less attention than that in the private sector.

The HKICPA guide attempts to provide a basic framework for public-sector corporate governance by outlining common principles that are applicable to most categories of public-sector organisations, and by recommending good corporate governance practices. However, it stressed that not all of the guide's recommendations would be applicable

to all organisations, particularly very small organisations that did not operate through a traditional governing board structure. Conversely, at the other end of the spectrum, large complex organisations would need to build upon the outline contained in the guide in order to achieve an effective and sufficiently extensive corporate governance system.

## 2. Practical guide to corporate governance for subvented organisations

The HKICPA guide was supplemented in 2010 by the *Practical guide to corporate governance for subvented organisations* published by the government's Efficiency Unit. This covers much the same topics as the HKICPA guide but expounds on these topics in greater detail, with examples drawn from various subvented organisations and comments by the Director of Audit on deficiencies in the corporate governance arrangements in various subvented organisations.

The Efficiency Unit guide is aimed at board members and senior executives of subvented organisations, that is, those that receive recurrent subventions from the government to cover part or all of their operational expenses. Nevertheless, those organisations that receive capital grants or non-cash concessions, one-off subventions, and companies in which government holds shares are

also encouraged to refer to the best practices promulgated in the guide. As such, it covers a narrower category of organisations than the HKICPA guide.

The Efficiency Unit guide points out that, in the past few years, the Director of Audit has conducted a number of reviews on subvented organisations. As a result of these reviews, varying degrees of inadequacies, as fundamental as the absence of basic accounting practices, in their corporate governance systems, processes and practices have been found in all cases. Examples of these inadequacies include:

- **board structure/ composition** – poor composition and mix of board membership and too many board members; the post of chairperson and chief executive officer were filled by the same person; reappointing board members with low attendance rates
- **board operation and effectiveness** – lack of guidelines on meeting proceedings; lack of records on votes taken at board/ committee meetings; late submission of papers to board/ committee members
- **strategy, planning and monitoring** – not preparing strategic plans in a timely manner; no annual business plan; lack of budgetary control requirements and processes
- **transparency and disclosure** – non-disclosure of performance measures; no periodic reviews of performance measures; lack of outcome indicators
- **risk management and compliance** – non-compliance with rules on

management of investments; requirements for submitting annual reports to oversight agencies not followed; reporting errors in the organisation's annual accounts, for example ineligible expenditure claims, spending limits exceeded, and

- **corporate citizenship** – not providing community services in the organisation's area of expertise; register of directors' interests not available for public inspection; no declaration of interests by board members.

#### Regulation of charities

A significant number of not-for-profit entities with a significant public and social service dimension are charities. In recent years, a number of executives in the charities sector have called for the better regulation of this sector after a public opinion survey by the Hong Kong Council for Social Service (HKCSS) showed that a charity's reputation (91%) and transparency (86%) were the most important factors in determining respondents' intention to donate to a charity. However, out of the nearly 5,900 registered charities in Hong Kong, only 147 had made their accounts available to the HKCSS's 'Wise Giving' data base. While this is a very small sample, it appears that expenses for 11 of the organisations concerned accounted for 35% of their expenditure and, in the case of four, more than 50% of their expenditure.

On 16 June 2011, the Law Reform Commission's Charities Sub-committee published a consultation paper with 20 recommendations proposing that a wide ranging regulatory regime for charities should be introduced in Hong Kong and that a Charity Commission should be set

up as the regulatory body for charities (see The Law Reform Commission of Hong Kong Sub-Committee consultation paper on charities). The paper pointed out that the need for greater monitoring of charitable organisations has been widely discussed by the community in recent years, and there is growing public concern that a system should be put in place to both regulate charities and enhance their transparency. The public consultation on the Law Reform Commission's recommendations ended in October 2011. The government's response is awaited but, according to a report in the *South China Morning Post* dated 29 May 2012, the Department of Justice said that it would take six months to assess the report and decide what to do.

#### The Way Forward

It is clear that much still remains to be done in improving public governance in Hong Kong. However, it is also equally clear that this will not be easy given the fragmentation of policy/ executive responsibility within the government for these entities. Despite this, the broad outlines of a possible approach are discernible.

#### Appointments to advisory committees and public bodies

The government needs to significantly widen the pool of potential appointees to the boards of advisory committees and public bodies, irrespective of whether they are constituted as statutory organisations or not-for-profit companies. This will ensure that the views of as diverse a group of people as possible are reflected to the government for the purpose of policy formulation.

In parallel with this, the government needs to make the system of appointments to

these bodies much more transparent and comply as much as possible with its own 'six years' and 'six committees' rules regarding the maximum period of time for which a person can be appointed to an advisory committee or public body, and the number of advisory committees and statutory bodies on which they can serve. This will ensure regular infusions of new talent to the advisory process.

Finally, the government needs to undertake regular reviews of its guidelines regarding declarations of 'registrable interest' and 'conflicts of interest' in the case of appointees to advisory committees and public bodies to ensure that they are always fit for purpose. Quite separately from this, the government has to show that it is prepared to take appropriate action, as and when necessary, to deal with cases involving conflicts of interest, irrespective of the individuals involved.

#### Governance of public bodies

The Chief Secretary for Administration's Office (CSO), which has a key role in coordinating policy formulation and implementation, needs to take a much more proactive role in developing governance standards for public bodies as this frequently cuts across the boundaries between policy bureaux. It is also clear from the Director of Audit's reports mentioned above that, in a number of cases, the relevant policy bureau/ department did not adequately monitor the governance of these bodies, in particular, the use of funds by subvented bodies.

#### Governance of subvented public bodies

The very fact that the government has not inconsiderable control over such bodies by virtue of the public subvention ensures that the government has the ability and leverage to implement reforms

## What went wrong?

In recent years, the Director of Audit's reports and newspaper investigations have revealed a significant number of governance failures among statutory and subvented bodies in Hong Kong. Some of these cases are outlined below.

**Equal Opportunities Commission.** In March 2009, the Director of Audit revealed that the then Chairman of the Equal Opportunities Commission had spent excessively on hospitality and had accepted an inappropriate degree of hospitality while on overseas trips.

**Privacy Commission.** In October 2009, the Director of Audit revealed that the Privacy Commission was renting 58% more office space than it was entitled to, costing tax payers an extra HK\$143,500 per month.

**Productivity Council.** The same report also highlighted the payment of unauthorised cash allowances for housing benefits to senior staff of the Productivity Council – including the then Executive Director. Also up to 9,000 computers, audio-visual items and pieces of laboratory equipment worth more than \$57 million were missing from the Council's various inventory checks.

**Hong Kong Polytechnic University.** In 2009, the university sold depreciated stocks, derivatives and bonds during the global credit crisis losing about HK\$504 million which was equivalent to almost a third of its total tuition income for that year. In addition, it was noted that 97 staff earned more than \$1.8 million, with the highest-paid earning \$4.65 million to \$4.8 million.

**Direct Subsidy Schools.** Eight schools in the government's Direct Subsidy Scheme were found to have underestimated their reserves by 100% when applying for fee rises in 2008/ 2009. Also, 22 schools had failed to set aside the required 10% of their tuition fees for scholarships or other assistance schemes.

**Employees Retraining Board.** In November 2011, the Director of Audit revealed that the Employees Retraining Board's Memorandum of Administrative Arrangements with the government and strategic plan had not been updated since 2001 and November 2003 respectively. It had also failed to submit budgets from 2008 to 2011 to the Finance and Administration Committee.

- put in place an appropriate framework for monitoring the compliance of these bodies with the guide without undermining the autonomy of these bodies to manage their own affairs
- take greater care in appointing appropriate people to the boards and councils of these bodies and monitoring their performance, and
- actively monitor expenditure by subvented bodies and take appropriate action as and when this proves necessary.

### Governance of non-subvented public bodies

The CSO and the Efficiency Unit should also consider developing similar guidance on governance for not-for-profit entities and public bodies which do not receive a public subvention, particularly if those bodies are responsible for discharging public services. The HKICPA guide could provide guidance in this respect.

### Reform of charity law and establishment of a Charity Commission

Further reform in this area will be dependent on the government's response to the Law Reform Commission's recommendations. Assuming that a Charity Ordinance is drafted and a Charity Commission established in Hong Kong, it would be necessary to consider regulatory responsibility for those charities which are also subvented bodies to ensure that there is no regulatory overlap and disputes between the Charity Commission and the relevant policy bureaux.

### Gordon Jones FCIS FCS

*Author and former Registrar of Companies, Hong Kong*

if necessary, as illustrated by some of the case studies outlined in the box above. As a last resort, the government can always reduce or, *in extremis*, even remove the subvention. In view of this, the CSO, which is responsible for, *inter alia*, the Efficiency

Unit, should require policy bureaux to:

- ensure that the statutory and subvented bodies which fall under their policy purview follow the Efficiency Unit's guide

# Induction of directors: a board secretary perspective



The HKICS launched its Regional Board Secretary Panels (RBSPs) in 2010 as a forum for training and professional networking among board secretaries in mainland China. The latest RBSP meeting was held in January this year in Hong Kong and focused on the induction of directors.

Good corporate governance is not easy to achieve. This has become more widely recognised in recent years, as has the indispensable role of the board secretary in promoting good governance. Indeed, companies have come to increasingly rely on board secretaries in a wide range of corporate governance areas: they are responsible for information disclosure and compliance matters, establishing effective internal controls and the induction of directors (particularly independent directors) to familiarise them with the operations of the company and their responsibilities.

The latest of the Institute's Regional Board Secretary Panel meetings was held in January this year in Hong Kong on

the theme of the induction of directors and board governance. The meeting attracted some 20 senior managers from well known enterprises in mainland China and Hong Kong. There was a lively exchange of views on the headline topic of the meeting as well as other current issues of concern to board secretaries. The meeting was chaired by HKICS Vice-President Dr Maurice Ngai. Dr Gao Wei, Board Secretary of SinoTrans Ltd and HKICS Council member, together with Mr Wang Wensheng, Board Secretary of China Petroleum & Chemical Corporation (Sinopec), gave the keynote speeches and shared their experience during the meeting. Mohan Datwani provided the technical support.

## Induction of directors

In his presentation, Dr Gao Wei examined the key duties of directors of listed companies and the important task of inducing directors effectively. The induction of directors is a crucial part of a board secretary's duties since it is essential for the proper functioning of the board that directors understand their responsibilities under the law and are familiar with the company's business. This knowledge and awareness are precursors to effective communication among board members.

Dr Gao pointed out that the induction should start before the relevant directors' terms of appointment, and should begin with an overview of relevant rules



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and regulations. The induction should explain the internal control procedures of the listed company and major issues of compliance, including notifiable transactions, connected transactions, the Code on Takeovers and Mergers and business related matters. However, the induction is only the beginning of the process and board secretaries should arrange continuing professional development (CPD) training for directors after their appointment. He noted that many of the CPD seminars organised by the HKICS are suitable for directors.

Regarding the content of the induction programme, Dr Gao suggested that issues such as the basic duties and functions of directors, types of directors and committees, listing rules, disclosure of interests and insider dealing should be included. He noted, however, that directors need to consider more than black letter law. Under the common law, a company director cannot simply act

according to his own will, his acts must be reasonable. Dr Gao pointed out that directors also have a fiduciary duty to act honestly for an appropriate purpose in the interests of the company and avoid conflicts of interests. Directors must also participate actively in the affairs of the listed company and cannot disclaim responsibility on the grounds of absence from meetings, non-participation in the

decision-making process or the existence of alternate directors.

#### Good governance and the board secretary

Mr Wang Wensheng of Sinopec stressed in his presentation that the board of directors is the link between the owners and the managers of the company, playing a pivotal role in the functioning of the governance structure of the company and is the key to corporate governance. Good corporate governance is the cornerstone of the healthy development of a company, regulating the relations between the company and its stakeholders, including shareholders, through appropriate systems or mechanisms which facilitate decisions and protect the interests of relevant parties.

Citing the example of the internal governance system of Sinopec, he explained the importance of setting up effective internal systems including internal controls, the work of independent directors, information disclosure, investor relations, registration of persons who have knowledge of inside information, as well as securities trading requirements in respect of directors, supervisors, senior managers and employees.

### Highlights

- it is essential for the proper functioning of the board that directors understand their responsibilities under the law and are familiar with the company's business
- the induction is only the beginning of the process and board secretaries should arrange CPD training for directors after their appointment
- directors cannot disclaim responsibility on the grounds of absence from meetings, non-participation in the decision-making process or the existence of alternate directors

“  
**the work of the board secretary is not simply to remind directors what they should not do, board secretaries should also try to propose solutions and help to chart the best course for the company in its future development**  
 ”

Mr Wang said that Sinopec is listed in China, Hong Kong, the UK and the US and to meet the disclosure requirements of these different jurisdictions, the company adopts a principle to abide by the strictest of the disclosure rules it is subject to. Greater transparency can foster trust among investors and members of the public, protect the lawful rights and interests of the company, shareholders (especially minority shareholders) and creditors, and allow the capital market to reflect the true value of the company. He added that the board secretary gives essential support to directors in the fulfilment of their duties. The board secretary maintains communication with directors, keeps track of the latest rules and regulations, and ensures adequate participation by independent directors.

Representatives of companies in mainland China and Hong Kong present at the meeting also participated actively in the discussion of current issues of concern, including:

- internal information flow and monitoring
- directors' liability
- organisation of visits and

programmes to familiarise independent directors with the operations of the company

- requirements for the appointment of independent directors, and
- the benefits of independent directors to the board.

Mr Li Zhidong, Board Secretary of Guangzhou Shipyard International, explained that training of directors in his company comprises formal training sessions conducted by the Hong Kong Stock Exchange, Shanghai Stock Exchange or the China Securities Regulatory Commission, as well as briefings on new rules given by specially engaged legal counsels, which gives directors an independent perspective. He also stressed that the importance attached by management to corporate governance is particularly essential. Guangzhou Shipyard International has three board secretaries dedicated to the supervisory board, the executive board and the company as a whole.

Mr Cai Wei, Vice-President and Board Secretary of Dongfeng Automobile, said that, apart from the usual induction programme for directors, his company has

set up relevant systems and established specialist groups under the board of directors' office to take care of matters including audit, internal control and investor relations. They are required to feed daily information of the company to independent directors and answer their enquiries, providing support to directors on various fronts to ensure that they are well informed and perform their duties properly.

#### Swapping notes

Ms Huang Huilan, Company Secretary and Deputy General Manager of the Investor Relations Department of China Mobile, expressed the view that board secretaries of mainland companies listed in Hong Kong are currently facing more challenges than company secretaries of local companies listed in Hong Kong. It is essential that company secretaries from the two markets share their experiences and discuss relevant practices, she added.

Mr Wang Weimin, Director of Listing in Asia of the Standard Chartered Group and Company Secretary of Standard Chartered Bank (Hong Kong) Ltd, said that sharing between company secretaries in Hong Kong and board secretaries in mainland China is instrumental to a better understanding of the operating environment, compliance requirements and best practices in the mainland, and enhancing the standard of the Hong Kong company secretary in overseeing business operations in the mainland.

Dr Maurice Ngai, Vice-President of HKICS, said that diversity of independent directors would greatly help the company. At various stages of development of the company's business, independent directors with different backgrounds and expertise can be appointed to support the strategic development of the company.



Dr Gao Wei said that independent non-executive directors must meet the criteria of independence, which includes not holding more than one percent of the shares of the listed company and restricting business dealings with the company to avoid conflicts of interests. Since the adoption of Main Board Listing Rule 3.10A in Hong Kong, independent non-executive directors are now required to form at least one third of the board. Moreover, the chairman of the board must meet non-executive directors at least once a year. Shareholders' approval is required for the appointment of an independent non-executive director for over nine years.

When appointed, directors have to sign an undertaking with the Stock Exchange to the effect that they will comply with the Listing Rules, and comply to the best of their ability with all applicable laws, regulations and codes, including the Code on Takeovers and Mergers, the Code on Share Repurchases and the Securities and Futures Ordinance. Directors will also confirm that the listed company will comply with all relevant rules.

At the meeting, Dr Gao mentioned that directors must disclose dealings in the securities, structured products and derivatives of the listed company; the interests of their family; the companies that they control; as well as interests in trust. Directors must also bear in mind

that according to the Model Code for Securities Transactions by Directors of Listed Issuers, they cannot deal in any securities of the listed company during the period of 30 days immediately preceding the publication date of the company's quarterly results and half-year results, and 60 days immediately preceding the publication date of the company's annual results.

Dr Gao pointed out that there are in general six categories of market misconduct in Hong Kong, namely: insider dealing; false trading; price rigging; prohibited disclosure of information; disclosure of false or misleading information; and stock market manipulation.

There has been an increasing focus on insider dealing in Hong Kong. The Securities and Futures Commission may initiate civil proceedings, referring such cases to the Market Misconduct Tribunal, or it may refer them to the Department of Justice for prosecution. Directors are persons connected with a listed issuer. If a director is in possession of unpublished inside information and deals in securities of the company, or counsels or procures another to deal in securities of the company, this will constitute insider dealing.

Regarding the duties of the board secretary, Mr Wang Wensheng of Sinopec

said that the board secretary assists the board of directors in strengthening the governance mechanism of the company, takes charge of communication with securities regulatory authorities, assists the board in mapping out the capital market development strategy of the company, and is responsible for managing information disclosure, investor relations and shareholding matters.

He considered that the work of the board secretary is both a science and an art. It is a 'ruler' to measure the level of compliance of the decision-making process in the board and at shareholders' meetings. It is also a bridge, fostering effective communication between independent directors and the company, between the company and the regulatory authorities, and between the company and investors. In sum, the work of the board secretary is not simply to remind directors what they should not do, board secretaries should also try to propose solutions and help to chart the best course for the company in its future development.

**Kenneth Ko**  
*Journalist*

*The Chinese text of this article follows overleaf.*

*The Regional Board Secretaries Panel meeting was held on 24 January 2013 in Hong Kong and coincided with this year's China Corporate and Regulatory Update which will be reviewed in next month's CSj.*

*The HKICS is currently updating its 'Guidance on Directors Induction'. The revised guide will be available shortly on the HKICS website.*

# 启导董事 责无旁贷

香港特许秘书公会于2010年开始举办董事会秘书圆桌会议，为中国内地董事会秘书提供培训，并让他们作专业交流。最近一次圆桌会议于今年1月份在香港举行，主题是启导董事。

**要**做好公司治理，绝不是一件容易的事。公司秘书（即董事会秘书）在促成良好企业管治过程中，扮演着不可或缺的角色，工作既繁且重，负责上市公司信息披露和合规合法的事务，还要建立内部控制制度，以及启导董事和独立董事，让他们清楚了解公司运作及其所承担的责任。

香港特许秘书公会最近在香港举办的主题为董事启导与董事会治理的「2013年公司秘书/董事会秘书圆桌会议」，吸引了约20位中港知名企业高级管理人员参与，大家热烈发言及讨论，就公司秘书工作与关心的议题交换意见。会议由香港特许秘书公会副会长魏伟峰博士主持，中国外运股份有限公司董事会秘书及香港特许秘书公会理事会成员高伟博士，及中国石油化工股份有限公司（中国石化）董事会秘书黄文生先生分别在圆桌会议上作了主题发言和经验分享。

## 启导董事

高伟博士在发言中探讨了上市公司董事的基本职责，以及公司如何有效地启导董事的工作。他指出，启导董事是董秘非常重要的工作。公司秘书要向董事会提供支持，确保董事了解所

承担的责任及遵循法律守则，并促进董事会成员间的信息沟通。

高伟博士说，董事启导应在董事任命前开始进行，为董事提供相关规则与规定的宏观介绍；董事任命后，公司秘书须为董事们安排持续专业培训，而香港特许秘书公会每年组织的100多次讲座均适合董事参加。有关董事启导的实践，他建议就董事基本职责、董事及委员会的类别、上市规则、权益披露及内幕交易等议题进行研讨。

在普通法中，公司董事不能简单地按照自己的意愿行事，必须行为合理。高伟先生指出，董事亦须尽信义义务（FIDUCIARY DUTY），为恰当目的并且诚实地以公司利益为前提行事，避免利益冲突。此外，董事须积极参与上市公司的事务，不能因未参加会议及声称未参加决策，或者指派替补董事而免除其责任。

## 董事会秘书与良好公司治理

中国石化的黄文生先生强调，董事会是公司所有者与管理者之间的纽带，对公司治理结构的运转起决定性作用，是公司治理的关键。良好的公司治理是公司健康发展的基石，通过制

度或机制来协调公司与股东等利益相关者之间的关系，以促进公司决策，维护各方利益。他以中国石化的内部治理制度为例，解释设立有效制度的重要性，以加强管理，处理不同事务，诸如内部控制、独立董事工作、信息披露、投资者关系工作、内幕信息知情人登记、以及董事、监事、高级管理人员和员工证券交易规定等。

黄文生先生说，中国石化是一家在中港英美四地上市的企业，为满足各地市场的信息披露要求，公司的原则是「从多不从少，从严不从宽」。高透明度的信息披露可以提高社会会众及投资者对公司的信任度，保护公司、股东和债权人，特别是中小股东的合法权益，使资本市场真实反映公司的价值。他又说，董秘为董事履职做好支撑，与董事保持充分沟通，跟踪最新监管规定，并保障独立董事充分参与。

与会的中港企业代表也踊跃发言，就关心的议题进一步讨论，包括内部信息流程和监控、董事的责任承担、组织独立董事考察和熟悉公司生产经营情况、聘任独立董事的要求以及他们对董事会产生的效益。广船国际公司秘书李志东先生介绍说，其公司董事





培训主要通过两方面，一是港交所、上交所或证监会的正式培训班，二是由专门聘请常年法律顾问讲解新的规则，这更有说服力；而公司管理层的重视尤其重要，为此公司同时设董事会秘书、公司秘书、监事会秘书，各司其董事会治理的规管职责。东风汽车副总裁兼董事会秘书蔡玮先生指出，除了常规的董事启导，公司制定了相关制度并在董事会办公室设有专门的审计、内控、投资者关系等专业小组，按规定向独立董事提供公司日常资讯并回答有关问题，多层次为董事提供支援，确保其知情并恰当履职。

### 交流经验

中国移动公司秘书兼投资者关系部副总经理黄蕙兰女士认为，担任内地在港上市公司的公司秘书较香港本地上市公司的公司秘书会面临很多新的挑战，两地同行交流分享有关经验，研讨相关实务问题非常有必要也很有意义。渣打集团亚洲区上市事务总监、渣打香港公司秘书王为民先生则指出，两地公司秘书/董事会秘书开展执业交流，有助于更好的了解内地营运环境、合规要求与最佳实践经验，提高香港公司秘书规管内地业务运营的合规水准。香港特许秘书公会副会长魏伟峰博士说，独立董事的多元化将对公司产生更大帮助，公司也可以根据业务发展情况，在不同阶段聘任不同背景及专长的独董，配合公司的战略发展。

高伟博士说，独立非执行董事必须满足独立性的要求，不能持有上市公司超过1%的股份，及受到与上市公司业务往来的限制，避免利益冲突。董事会成员中须至少有三份之一的独立非执行董事，董事会主席须每年与非执行董事们至少会面一次，而独立非执行董事任命超过9年者须获得股东的批准。

董事在获得任命时须向交易所签署承诺书，承诺其接受上市规则，并将尽

其所能遵守所有适用的规则与守则，包括《公司收购及合并守则》及《股份回购守则》，及《证券及期货条例》。同时，董事也须确保上市公司遵守规则。

高伟博士在会议上提到董事须就上市公司的证券、结构性产品、衍生产品的交易做出披露，涵盖董事的家族利益、配偶、未成年子女、拥有控制权的公司及信托利益等。董事还须了解根据《董事进行证券交易的标准守则》，他们不能在上市公司季报、半年报刊出前30天及公司年报刊出前60天的禁止买卖期内买卖其所属上市公司的任何证券。

高伟博士指出，香港股市一般有6种市场失当行为，包括内幕交易、虚假交易、价格操纵、披露关于受禁交易的信息、披露虚假或具误导性信息以诱使进行交易及市场操纵。内幕交易为最主要的市场失当行为，证券及期货事务监察委员会可以提起民事诉讼，交由市场失当行为审裁处处理，或者建议律政司进行刑事立案处理。董事是上市发行人的关连人士。如果董事利用未发布的内幕消息进行交易、纵使或促使另一人进行交易，该董事行为即构成内幕交易。

高伟博士又说，董事须对上市公司的战略与政策做出贡献，也应就股东所关注的事宜持平衡的态度。作为良好公司治理的一部分工作，公司秘书须

安排董事启导，向董事讲解上市公司的内控程序及合规方面的重要事宜，包括须予公布的交易、关连交易、收购合并守则及业务相关事宜。

有关董秘职责方面，中国石化的黄文生先生说，董秘在公司治理中协助董事会加强公司治理机制，管理与证券监管机构的沟通联络事务，协助董事会制定公司资本市场发展战略，并负责管理信息披露、投资者关系及股权事务。他认为，董秘工作既是科学，也是艺术。它就是一把「尺子」，协助并衡量董事会及股东大会决策事项的合法合规水平，它亦是一座桥梁，搭建独立董事与公司、公司与监管机构及公司与投资者之间有效联系的桥梁。总而言之，董秘不能简单地提醒董事某些事情不能做，还要致力提出「解决方案」的建议，帮助寻找公司在资本市场发展的最佳路径，为公司发展提供更大空间。

### 高锦坚 (记者)

*公司秘书/董事会秘书圆桌会议，2013年1月24日于香港金钟道95号统一中心统一会议中心举行，时间上与今年的中国企业规管最新发展研讨会会期吻合。研讨会的内容，将于下期报道。*

*公会现正更新有关启导董事的指引，新版指引短期内可于公会网站内刊物一栏浏览。*

## 摘要

- 董事必须了解所承担的责任及遵循法律守则，并熟悉公司业务，董事会才可有效运作
- 启导董事只是个开始，董事任命后，董事会秘书须为董事安排持续专业培训
- 董事不能因未参加会议及声称未参加决策，或者指派替补董事而免除其责任

## A review of seminars: January – February 2013

### 24 January 2013



*(From left to right) Gao Wei, Maurice Ngai, Jack Chow (Chair), Deng Hui, Edith Shih, Zhou Qinye, Lan Qi and Huang Wen Sheng*



*Edith Shih, HKICS President, delivering the opening speech*

### *China Corporate and Regulatory Update 2013*

The Institute's annual China Corporate and Regulatory Update (CCRU) conference was held on 24 January 2013, with over 30 board secretaries of H-share companies and company secretaries in Hong Kong attending. The Institute was honoured to welcome mainland regulators as speakers. The conference provided a forum for the discussion of current corporate governance and regulatory issues in mainland China. Speakers at this event were: Zhou Qinye, Past Deputy General Manager, The Shanghai Stock Exchange; Deng Hui, Senior Manager, The Shenzhen Stock Exchange; Lan Qi, Board Secretary, China Merchants Bank.

### 31 January 2013



*Susan Lo (Chair) and Paul Westover*

*From Susan Lo, Executive Director, Head of Learning & Development Department, Tricor Services Ltd, and chair of the seminar delivered by Paul Westover, Partner, Stephenson Harwood, on 'The Essential Guide to Joint Ventures – a review of the key features of joint ventures including the practical aspects of drafting and how to avoid common legal pitfalls (re-run)'.*

'Paul is a truly seasoned legal practitioner and adviser on joint ventures. He managed, in a short space of time, to walk the audience through the entire road map of planning, formulating and even terminating a joint venture in a practical and comprehensive manner. His coverage of a wide range of alternative terms for writing up a joint venture agreement was particularly useful!'

### 5 February 2013



Edwin Li, YT Soon (Chair) and Edmund Chan

From YT Soon FCIS FCS, Director, Corporate Services, Tricor Services Ltd, and chair of the seminar co-delivered by Edwin Li and Edmund Chan, Special Counsels, Corporate Group of Baker & McKenzie, on **'New laws on price-sensitive information'**.

'The new regulatory regime on the disclosure of inside information, effective 1 January 2013, is of great concern to many of our members. Edmund and Edwin, who are knowledgeable and have considerable insight into this subject, delivered a very informative, lively and practical presentation. They not only highlighted the provisions, features and implications of the new laws, but also shared with the audience many practical cases. The attendees undoubtedly enhanced their understanding of the areas covered.'

### 7 February 2013



Eddie Liou (Chair) and Bolivia Cheung

From Eddie Liou FCIS FCS(PE), Director, TMF Hong Kong Ltd, and chair of the seminar delivered by Bolivia Cheung, FCPA ACCA CPA, on **'Common structures and tax and foreign exchange problems of mainland China-based companies listed in Hong Kong'**.

'Bolivia delivered a well-organised and informative seminar. She walked the audience through different real-life cases giving her own comments and opinions on the issues raised. Attendees enjoyed the seminar and gained practical insights on the topic.'

### 18 February 2013



Richard Leung (Chair), Teresa Ma and Samantha Thompson

From Richard Leung, Barrister-at-Law, FCIS FCS, FCPA, Des Voeux Chambers, Former President of HKICS, and chair of the seminar co-delivered by Teresa Ma and Samantha Thompson, Corporate Partners, Linklaters Hong Kong, on **'Hong Kong's new Companies Ordinance'**.

'The HKICS is honoured to have seasoned speakers like Teresa Ma and Samantha Thompson from Linklaters to talk about Hong Kong's new Companies Ordinance (Cap 622) which is likely to become effective in 2014. Ten issues relating to the new regime for incorporation and meetings were highlighted by Ms Ma. The review of the important changes relating to directors, auditors and accounts, share capital transactions, and other notable changes in relation to the schemes of arrangement and charges given by Ms Thompson was very informative and illuminating. The seminar certainly helped the audience to have a better understanding of the new Companies Ordinance.'

## New Graduates

Chan Luen Luen  
 Chen Luan Bin, Bennett  
 Cheng Pui Ying  
 Cheung Man Kuk  
 Chiang Sheung Lin, Lily  
 Lam Suk Ming  
 Li Kwan Yee  
 Lo Tsz Ying  
 Tang So Him  
 Wong, Vivien  
 Yeung Bo Yee  
 Yeung Wing Sum  
 Yip Yuen Han

## Newly appointed company secretaries

The Institute would like to congratulate the following members on their appointments as company secretaries of listed companies:

Company secretary	Listed company	Date of appointment
So Ka Man <i>ACIS ACS</i>	Embry Holdings Ltd (stock code: 1388)	7 January 2013
Kwong Yin Ping, Yvonne <i>FCIS FCS</i>	China Tianrui Group Cement Company Ltd (stock code: 1252)	16 January 2013
Cheung Chung Yee, Fendi <i>ACIS ACS</i>	Quali-Smart Holdings Ltd (stock code: 1348)	23 January 2013
Mok Ming Wai <i>FCIS FCS</i>	Chinalco Mining Corporation International (stock code: 3668)	31 January 2013
Lam Suk Nga <i>ACIS ACS</i>	Singamas Container Holdings Ltd (stock code: 716)	2 February 2013

## Career opportunities – recruitment of Chief Executive

The Institute invites applications from high-caliber individuals for the position of Chief Executive. Details of the responsibilities and requirements of the position are posted on page 48 in this edition of *CSj*. Members who are interested in serving the Institute and enhancing the Chartered Secretary profession are invited to send a full resume to:

The President, HKICS, 3/F, Hong Kong Diamond Exchange Building, 8 Duddell Street, Central, Hong Kong, or by email to [recruit@hkics.org.hk](mailto:recruit@hkics.org.hk).

## Membership application deadlines

Members and Graduates are encouraged to advance their membership status once they have obtained sufficient relevant working experience. Fellowship and Associateship applications will be approved by Membership Committee on a regular basis. If you plan to apply, please note below the submission deadlines and the respective approval dates:

Submission deadlines	Approval dates
Saturday 9 March 2013	Early April 2013
Saturday 13 April 2013	Tuesday 7 May 2013
Saturday 22 June 2013	Tuesday 16 July 2013
Saturday 7 September 2013	Tuesday 8 October 2013
Tuesday 5 November 2013	Late November 2013

For details, please contact the Membership section at 2881 6177.

# ACRU 2013

Join the 14<sup>th</sup> Annual Corporate and Regulatory Update (ACRU) and obtain first hand information from key regulators on the latest corporate and regulatory developments.

Date: Friday, 31 May 2013

Sessions: Present by CR, HKEx, HKMA and SFC

Language: English

Venue: Hall 3B, Hong Kong Convention and Exhibition Centre, Wanchai,  
Hong Kong

Organiser:

The Hong Kong Institute of Chartered Secretaries

Co-sponsors:



For more information on ACRU 2013 and the profession of Chartered Secretary, please contact us at:

Tel: (852) 2881 6177

Email: [ecpd@hkics.org.hk](mailto:ecpd@hkics.org.hk)

Website: [www.hkics.org.hk](http://www.hkics.org.hk)



**CHARTERED  
SECRETARIES**  
特許秘書

More than meets the eye.  
潛能，超越所見。

## New Fellows

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As per Council's direction, the promotional campaign continues to increase the number of Fellows - the leaders of the profession. A further 17 new Fellows were elected in December 2012:



**Chan So Yuen, Zoe FCIS FCS**

Ms Chan is currently a Senior Associate Solicitor at Tsui & Co Solicitors, serving clients on litigation and general practice. As a UK and Hong Kong qualified solicitor, she has contributed law articles in professional journals and local newspapers. Ms Chan formerly worked as programme director in law at School of Professional and Continuing Education, The University of Hong Kong (HKU SPACE). After finishing her undergraduate study in law, Ms Chan has pursued further legal and corporate administration studies. She is an Associate of the Chartered Institute of Arbitrators.



**Chow Wing Yi, Winnie FCIS FCS**

Ms Chow is currently a Director of Investor Services at Tricor Services Ltd, providing IPO, share registration and investor services to listed companies in Hong Kong and overseas. She has been an executive committee member of the Federation of Share Registrars since 2004. Prior to joining Tricor, Ms Chow was a manager of Ernst & Young Hong Kong, providing company secretarial services to private and listed as well as local and offshore companies. Ms Chow graduated from City University of Hong Kong with a bachelor's degree in Accountancy.



**Kan Siu Yim, Katie FCIS FCS**

Ms Kan is currently the Company Secretary of Stella International Holdings Ltd (stock code: 1836). She is responsible for providing company secretarial support and advising on regulatory compliance and corporate governance for the group. Ms Kan graduated from The University of Hong Kong with a bachelor's degree in Arts. She also holds a bachelor's degree in Law from University of London.



**Chow Yuk Yin, Ivy FCIS FCS**

Ms Chow is currently a Senior Manager - Corporate Services at Tricor Services Ltd. She has extensive experience in the field of corporate secretarial and regulatory compliance services, providing a full spectrum of company secretarial services for Hong Kong and offshore companies, focusing on local and multinational corporation clients in the financial services industry. Ms Chow holds a bachelor's degree in Business Studies from The Hong Kong Polytechnic University and is an Ordinary Member of the Hong Kong Securities and Investment Institute.



**Ho Wing Chi, Chris FCIS FCS**

Ms Ho is currently a Senior Manager of KCS Hong Kong Ltd, with extensive knowledge and experience in company management and compliance issues, corporate restructuring, development of trust and estate planning structures. Ms Ho previously worked in the corporate services division of a leading international audit firm where she was responsible for provision of corporate secretarial and compliance services to a portfolio of clients from different industries and jurisdictions. Ms Ho holds a bachelor's degree (honours) in Laws from University of London and a master's degree in Laws from City University of Hong Kong.



**Leung Ka Yin, Kevin FCIS FCS**

Mr Leung is currently a Director of Investor Services at Tricor Services Ltd. He has over 22 years of experience in the share registrar field servicing public listed companies in Hong Kong. Mr Leung oversees a team of professional staff providing share registration and investor services to a portfolio of listed companies and has also participated in numerous IPO projects. He also assists the Executive Director/ Practice Leader in the day-to-day operations of the Investor Services Division. Prior to joining Tricor in 2002, Mr Leung was a Senior Manager of Share Registration Services at Ernst & Young and Tengis Ltd in Hong Kong.



**Liza Murray *FCIS FCS***

Ms Murray is currently Special Counsel of Baker & McKenzie in Hong Kong. Her main areas of practice include mergers & acquisitions of private companies; corporate restructuring; post-acquisition integration; Hong Kong company law and compliance; and formation, administration and maintenance of corporate vehicles in Hong Kong. Ms Murray is also in charge of the Corporate Services Department of Baker & McKenzie which provides corporate services to Hong Kong incorporated companies and non-Hong Kong companies registered in Hong Kong. Ms Murray is admitted as a solicitor in Hong Kong, England and Wales, and is a member of The Law Society of Hong Kong. She holds a bachelor's degree in Law from University of London and a postgraduate certificate in Laws from The University of Hong Kong. She has been a member of the Institute's Professional Services Panel since 2010.



**Sze Mei Ming *FCIS FCS***

Ms Sze is currently the Company Secretary of Fosun International Ltd (stock code: 00656). She is in charge of the company's compliance work, including preparation of corporation publications, reporting on disclosure of interests, maintenance of overseas subsidiaries and co-ordination of ad hoc projects. Ms Sze holds a bachelor's degree in Arts from The University of Hong Kong, a bachelor's degree in laws from University of London and a master's degree in Chinese and Comparative Law from City University of Hong Kong.



**Wong Wai Lan, Grace *FCIS FCS***

Ms Wong is currently the Company Secretary and Deputy General Manager, Investor Relations Department of China Mobile Ltd (stock code: 941). She is responsible for overseeing the full range of company secretarial and investor relations functions for the company. Ms Wong holds a Master of Professional Accounting degree from The Hong Kong Polytechnic University and a master's degree in Business Administration from The Chinese University of Hong Kong.



**Sy Mei Ling, Maggie *FCIS FCS***

Ms Sy is currently the Director, Corporate Services at Andante Management Ltd. She oversees the client management and service operations in providing a full range of corporate services. Ms Sy has over 20 years of extensive experience in the corporate service industry and has worked for global corporate service providers and leading CPA firms. Ms Sy has managed diversified client portfolios of private and prestigious international corporate clients and specialises in business formation, corporate advisory, restructuring, dissolution, NGO/ charity registrations, regulatory compliance and Hong Kong visa applications.



**Wong Jan Yue, Regina *FCIS FCS(PE)***

Ms Wong is currently Director of Consolidated Secretaries Ltd and Senior Corporate Executive to the Governing Director of MB Lee & Co CPA Ltd. She has over 20 years of experience in corporate secretarial services including compliance for companies in local and offshore jurisdictions. Ms Wong assists in the group's assets acquisition, property management and human resources management. She has also taken up voluntary work serving as Deputy Managing Director of a Buddhist charitable entity and as Vice-Supervisor for the charity's schools. Ms Wong holds a bachelor's degree in Business Administration from The Chinese University of Hong Kong and a master's degree in Business Administration from University of Leicester.

Other new Fellows include:

**Chan Chiu Hung, Alex *FCIS FCS***

**Chan Yin Wah *FCIS FCS***

**Kwong Yin Ping, Yvonne *FCIS FCS***

**Luk Kit Yan *FCIS FCS***

**Ng Sze Wai, Kenneth *FCIS FCS***

**Wong Kin Yan, Vanessa *FCIS FCS***

In order to encourage highly qualified Associates to become Fellows, the Institute will continue to offer a special rate of HK\$1,000 for Fellowship election for 2012/13.

*Should you wish to apply, please refer to the Institute's website or contact the Membership section at 2881 6177.*

## Annual Dinner 2013

This year's annual dinner, held on 24 January at the Conrad Hong Kong, was attended by over 400 guests and members. It provided an excellent opportunity for members, practitioners, fellow professionals and regulators to meet and communicate in a relaxed social environment.

At the dinner, we were honoured to present a recorded video message from Dr An Qingsong, Secretary-General, China Association for Public Companies (CAPCO), on behalf of Mr Li Xiaoxue, Executive Vice-Chairman, CAPCO, in addition to a speech by Mr Gordon Jones *BBS FCIS FCS*, Former Registrar of Companies.

In Dr An's video, he expressed the view that close collaboration between CAPCO and the HKICS would contribute to the sound and stable development of capital markets in Hong Kong and mainland China.

Mr Jones indicated that 2013 would be a very demanding year for professionals involved in corporate governance, including Chartered Secretaries. He also noted that the HKICS has made enormous strides in professional development, and has established itself without doubt as one of the most important voices in Hong Kong's governance and regulatory scene.

During the dinner, the HKICS Prize 2012 winner was announced as Mr John Brewer *FCIS FCS*.

*More photos taken at the dinner and the full guest list are available on the Institute's website.*

### Guest list

Attending the dinner were 52 invited guests, 33 newly elected Fellows and two IQS subject prize winners:

#### Guest Speaker:

**Gordon Jones *BBS FCIS FCS***  
Former Registrar of Companies

#### Guests (in alphabetical order)

**Ashley Alder**  
Chief Executive Officer, Securities and Futures Commission

**John Brewer *FCIS FCS***  
Barrister-at-Law, Pacific Chambers and HKICS Prize Winner 2012

**Anne Carver**  
Part-time Teacher, Faculty of Law, The Chinese University of Hong Kong

**Professor Chan Ka Lok**  
Head of Finance Department, The Hong Kong University of Science & Technology

**Dr Samuel Chan**  
Associate Professor, School of Accounting and Finance, The Hong Kong Polytechnic University

**Professor Theodore TY Chen**  
Professor and Head, Department of Accounting, Hong Kong Shue Yan University

**Dr Peter Cheng**  
Associate Head, School of Accounting and Finance, The Hong Kong Polytechnic University

**Dr Andy Chiu**  
Associate Professor and Head of Department of Law & Business, Hong Kong Shue Yan University

**Susanna Chiu**  
President, Hong Kong Institute of Certified Public Accountants

**Professor Stella Cho**  
President, Hong Kong Institute of Accredited Accounting Technicians

**Paul Chow *FCIS FCS***

**Ir Prof Choy Kin Kuen**  
President, The Hong Kong Institution of Engineers

**Lawrence Chung**  
Deputy Executive Director, ICAC

**Mark Dickens**  
Head of Listing Division, Hong Kong Exchanges and Clearing Ltd

**Professor Fan Yiu Kwan**  
Executive Director, Hong Kong Council for Accreditation of Academic & Vocational Qualifications

**Charles Grieve**  
Senior Director, Corporate Finance Division, Securities and Futures Commission

**Mandy Ho**  
Programme Leader, Caritas Institute of Higher Education

**Sandy Ho**  
Director, CGA – Hong Kong

**Erika Hui**  
Commissioner for Narcotics, Narcotics Division, Security Bureau

**Albert Hung**  
Head, College of Business and Finance, HKU SPACE

**Tony Kam**  
Hon Treasurer, The Society of Chinese Accountants & Auditors

**Sr Stephen Lai**  
President, The Hong Kong Institute of Surveyors



**Dr Lubanski Lam**

Assistant Professor of Department of Business Administration, Hong Kong Shue Yan University

**KS Lau**

Chairman, Hong Kong Trustees' Association

**Dr Peter Lau**

Associate Dean & Programme Director, School of Business, Hong Kong Baptist University

**Peter Lee**

President, CPA Australia – Greater China

**Carrie Leung**

Chief Executive Officer, The Hong Kong Institute of Bankers

**Elsie Leung FCIS FCS**

Consultant, Lu, Lai & Li

**The Honourable Kenneth Leung**

Legislative Councillor (Accountancy), Hong Kong Special Administrative Region Legislative Council

**Peter Lim FCIS**

President, The Malaysian Institute of Chartered Secretaries and Administrators

**Craig Lindsay**

Chairman, Hong Kong Securities and Investment Institute

**Agnes Lo**

Associate Professor of Accountancy, Faculty of Business, Lingnan University

**Tommy Lo**

President, SME Global Alliance

**William Mak**

Chairman, Association of Chartered Certified Accountants HK

**Dr Arthur McInnis**

Professional Consultant, Faculty of Law, The Chinese University of Hong Kong

**Francis Mok**

President, Hong Kong Institute of Human Resource Management

**Dr Christina Ng**

Senior Teaching Consultant, The University of Hong Kong

**Anthony Rogers FCIS FCS**

Dr Peter Cookson Smith  
President, Hong Kong Institute of Planners

**Linda So**

General Manager, Federation of Hong Kong Industries

**Mark Steward**

Executive Director – Enforcement Division, Securities and Futures Commission

**Samantha Suen FCIS FCS**

Professor Christopher To  
Deputy Chairman, The Hong Kong Institute of Directors

**Ashley Tam**

Assistant Commissioner, Investigations, Inland Revenue Department

**Dr Tse Hung Hing**

President, The Hong Kong Medical Association

**Allen Wong**

Chief Executive – Greater China, CMA Australia (Hong Kong Branch)

**Huen Wong**

Chairman, Hong Kong International Arbitration Centre

**Tak Wong**

President, The Hong Kong Institute of Landscape Architects

**Wu Yuan**

Deputy Director, Coordination Department, Liaison Office of the Central People's Government in the Hong Kong SAR

**Selwyn Yu**

Vice Chairman, Hong Kong Bar Association

**Dr Susana Yuen**

Associate Professor, The Open University of Hong Kong

**Newly elected Fellows:**

Chan Shiu Kwong, Stephen

Chan So Yuen, Zoe

Chan Yan Yan, Jenny

Cheung Hak Yam

Chiong Lai Lai

Chow Wing Yi, Winnie

Chow Yuk Yin, Ivy

Choy Yee Man

Ho Wing Chi

Ho Wing Tsz, Wendy

Kam Mei Ha, Wendy

Professor Kim Jeong Bon

Lai Siu Kuen

Lam Kwai Ming

Lau Po Lai, Polly

Lee Ka Fai

Lee Ka Yan, Audrey

Lee Kam Hung, Ricky

Lee Mei Yi

Leung Ka Yin

Leung Sau Fung, Fanny

Mok Kam Wan

Liza Murray

Ng Sin Yee, Clare

Ng Sui Fan, Cathy

Ngai Kit Fong, Eva

Pong Kam Keung

Poon Chiu Kwok

Sze Mei Ming

Wong Jan Yue, Regina

Wong Ka Yan

Wong Wai Lan, Grace

Yuen Wing Yan, Winnie

**Prize winners:**

Cheang Yee Wah, Eva

Lam Yi Ching

## Annual Dinner 2013

### HKICS Prize Winner 2012 – Mr John Brewer



The annual HKICS Prize celebrates the achievements of leaders of the Chartered Secretary profession. The 2012 prize was awarded to HKICS Past President John Brewer *FCIS FCS*, who has played a pivotal role in building up the profession in Hong Kong during critical phases of its development.

John has been an active promoter of the Institute over the years and a pioneer in the following areas:

1. helping to set up HKICS with a local professional body identity in the early 1990s
2. making submissions to regulators and authorities in Hong Kong which set the benchmark of our technical submissions
3. launching '*Company Secretary*', the Institute's first journal
4. launching our Continuing Professional Development (CPD) programme
5. engaging Professor Bob Tricker in writing the Institute's first Research Report: '*The Company Secretary in Hong Kong's Listed Companies*', and
6. demonstrating the potential value of HKICS membership in developing China's economic and legal systems by bringing in Mr Yue Xiang, ex-Secretary General of the Legislative Affairs Commission of the Standing Committee of the National People's Congress in Beijing, as the first honorary Fellow member of HKICS.

John first joined the ICSA – Hong Kong Executive Committee in 1986. Over the past 20 years, he has served as President of the Institute; Chairman of Executive Committee; Member of China Committee, Corporate Governance Panel and Technical Committee as well as a Panel Judge of the Corporate Governance Paper Competition. John was a member of the ICSA Professional Standards Committee in the 1990s and provided unreserved support and assistance to the Institute during our many rounds of negotiation with the ICSA. He is currently Chairman of the Disciplinary Tribunal. All of these appointments only begin to scratch the surface of the tremendous contribution John has made in promoting the Institute and the Chartered Secretary profession.

## Annual Dinner 2013 - photo gallery



## Fellows-only benefits

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Please note the following exclusive benefits for Fellows:

### The Hong Kong IPO Guide 2013

This guide, published by LexisNexis and supported by various organisations including the Institute, has been released. A limited number of hard copies are available for collection at the Secretariat office on a first-come-first-served basis.

### Priority enrolment for Institute events

Fellows benefit from priority enrolment for Institute events with seat guarantee if registered at least ten clear working days prior to the date of the event.

*For other upcoming Fellows-only benefits, please refer to the Institute's website, e-circulars or the next issue of CSj.*

## Mandatory CPD

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### MCPD programme in-house training policy update

With effect from 1 January 2013, course providers applying to contribute to in-house mandatory CPD training courses should send in their application form signed by a Fellow who is also a holder of the HKICS Practitioner's Endorsement (PE).

### Mandatory CPD requirements

Members who qualified between 1 January 2005 and 31 July 2011 are required to accumulate at least 15 mandatory continuing professional development (MCPD) or enhanced continuing professional development (ECPD) points by 31 July in each CPD year.

The Institute has randomly selected 129 members who qualified between 1 January 2005 and 31 July 2011 for audit checking for CPD compliance during 2011/2012. Up to February 2013, 111 (86%) have supplied the requested evidence.

Members who qualified between 1 August 2011 and 31 July 2012 are also subject to the MCPD requirement and are reminded that they need to accumulate at least 15 MCPD or ECPD points for this CPD year starting from 1 August 2012. Members who work in the corporate

secretarial (CS) sector and/ or for trust and company service providers (TCSPs) have to obtain at least three points out of the 15 required points from the Institute's own ECPD activities.

Members who do not work in the CS sector and/ or for TCSPs have the discretion to select the format and areas of MCPD learning activities that best suits them. These members are *not* required to obtain ECPD points from HKICS (but are encouraged to do so) nevertheless must obtain 15 MCPD points from suitable providers.

### Submission of declaration form

Once the MCPD requirement of 15 CPD points has been fulfilled during the 2012/13 CPD year (that is, 1 August 2012 to 31 July 2013), please fill in the Declaration Form (MCPD Form I) and submit it to the secretariat by fax (2881 5755) or by email (mcpd@hkics.org.hk) by 15 August 2013.

### Exemption from mandatory CPD requirements

Exemption from MCPD requirements is available to retired members and honorary members. Members in distress or with special grounds (such as suffering from

long-term illness or where it is impractical to attend or access CPD events) may also apply for exemption from MCPD to the Professional Development Committee and are subject to approval by the committee at its sole discretion.

### Enhanced CPD programme

The Institute cordially invites you to take part in our ECPD Programme, a professional training programme that best suits the needs of company secretaries of Hong Kong listed issuers who need to comply with the mandatory requirement of 15 CPD hours every year. The Institute launched its MCPD programme in August 2011 and, from January 2012, its requirement for Chartered Secretaries to accumulate at least 15 CPD points each year has been backed up by a similar requirement in Hong Kong's listing rules.

*More information on the Hong Kong Exchanges and Clearing (HKEx) requirements can be found in the consultation conclusions to the 'Review of the Corporate Governance Code and Associated Listing Rules' on the HKEx website ([www.hkex.com.hk](http://www.hkex.com.hk)). To learn more about Institute's ECPD Programme, please visit the Institute website ([www.hkics.org.hk](http://www.hkics.org.hk)).*

# A bird's eye view

Company secretaries need to be proficient in a wide range of practice areas. *CSj*, the journal of The Hong Kong Institute of Chartered Secretaries, is the only journal in Hong Kong dedicated to covering these areas, keeping readers informed of the latest developments in company secretarial practice while also providing an engaging and entertaining read. Topics covered regularly in the journal include:

- regulatory compliance
- corporate governance
- corporate reporting
- board support
- investor relations
- business ethics
- corporate social responsibility
- continuing professional development
- risk management, and
- internal controls



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Please contact:

Paul Davis on +852 2982 0559 or [paul@ninehillsmedia.com](mailto:paul@ninehillsmedia.com)

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*CSj*, the journal of The Hong Kong Institute of Chartered Secretaries ([www.hkics.org.hk](http://www.hkics.org.hk)), is published 12 times a year by Ninehills Media ([www.ninehillsmedia.com](http://www.ninehillsmedia.com)).



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## IQS examination timetable (May 2013)

	Tuesday 28 May 2013	Wednesday 29 May 2013	Thursday 30 May 2013	Friday 31 May 2013
09:30–12:30	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
14:00–17:00	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

### Examination enrolment

Examination enrolment for the May 2013 diet starts from 1 March and ends on 28 March 2013. The examination entry form is available for download on the Institute's website. Entries must be received by the Secretariat either by hand before 6pm on 28 March 2013 or by post with a post-mark on or before 28 March 2013. Late applications will not be accepted under any circumstances. To avoid postal errors or delays, candidates are recommended to submit their applications in person or by registered mail. No change can be made to the subject(s) and examination centre after the examination application has been submitted.

### HKICS examination technique workshops

These three-hour workshops covering the eight subjects which aim to improve students' examination techniques will commence in April 2013. The fee is HK\$400 per workshop. Students can download the enrolment form on the Institute's website.

CSj is the **only publication** dedicated to corporate governance in Hong Kong.

Each issue is distributed to over **8,500** members of HKICS, and read by approximately **20,000** individuals.

CSj is the most effective way to source your future **Corporate Secretarial** colleagues.

To advertise your vacancy in the Careers section, please contact Paul Davis: [paul@ninehillsmedia.com](mailto:paul@ninehillsmedia.com)

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## Examination results (December 2012)

### Subject prize winners and merit certificate awardees

The Institute is pleased to announce that the following students were awarded subject prizes (attaining the highest 'distinction' grade) and merit certificates (attaining a score of 65 or above) at the December 2012 examinations. Congratulations to all these students!

#### Pass rate

Subject	Pass rate
<b>Part One</b>	
Strategic and Operations Management	30%
Hong Kong Corporate Law	22%
Hong Kong Taxation	33%
Hong Kong Financial Accounting	62%
<b>Part Two</b>	
Corporate Governance	20%
Corporate Administration	35%
Corporate Secretaryship	23%
Corporate Financial Management	21%

#### Subject prize winners

Subject	Candidate
Hong Kong Corporate Law	Lam Hoi Kei
	Leung Pui Ying
Hong Kong Financial Accounting	Lam Chi Shan
Corporate Administration	Au Yeung Wing Man
	Chen Ching Tim
	Chung Wai Kwong, Anthony
	Lai Man Yee
	Leung Pui Man
	Pak Yuen Yu
	Yeung Hoi Ling

#### Merit certificate awardees

Subject	Candidate
Hong Kong Corporate Law	Kwong Fung Lin
	Lam Kei Chun
	Li Wing Man
	Tse Kit Yee
	Wong Man Wai
	Yu Man Kit
Hong Kong Taxation	Law Hiu Mei
	Wong Hing Wan
Hong Kong Financial Accounting	Chan Suk Wah
	Cheng Kwan Tsz
	Kwok Wing Sze
	Li Lok Yan, Katrina
	Tsang Hiu Pan
Corporate Administration	Chan Wai Fong
	Hui Kam To
	Lee Hoi Man
	Li Ka Kiu
	Sham Suk Ying
	Tang Oi Yi
	Tsang Wai Ho
	Wong Yik Han
	Xu Chao Ran
	Yu Yan
Corporate Governance	Chow Ka Yan
	Lee Hoi Man
Corporate Secretaryship	Li Wing Man
	Wong Lai Yin

## Professional Seminar at the Caritas Institute of Higher Education

On 25 January 2013, Jerry Tong *ACIS ACS*, Financial Controller and Company Secretary, Sing Lee Software (Group) Ltd, was invited to share with students his career development as a company secretary and talk about the prospects for the Chartered Secretary profession. Over 100 students attended the seminar.



*Jerry Tong discussing his career development at the seminar*

## Student Ambassadors Programme (SAP) – sharing with company secretaries

On 23 February 2013, the Institute invited two members, Robin Ching *FCIS FCS*, a retired senior company secretary of a blue chip listed company, and Jerry Tong *ACIS ACS*, Financial Controller and Company Secretary, Sing Lee Software (Group) Ltd, to share their working experiences as company secretaries with the student ambassadors. The seminar was well received.



*Sharing with the speakers*

## Upcoming activity

### New Students Orientation

Newly registered students (since September 2012) are welcome to attend the Institute's free New Students Orientation. It aims to give new students up-to-date information about the Institute and help them become more acquainted with the Institute. It also serves as a platform to meet with other students. Students can download the enrolment form on the Institute's website.

<b>Date</b>	Tuesday 19 March 2013
<b>Time</b>	19:00 – 20:30
<b>Venue</b>	Joint Professional Centre (JPC), Unit 1, G/F, The Center, 99 Queen's Road, Central
<b>Enrolment Deadline:</b>	Tuesday 12 March 2013 [on a first-come-first-served basis. Participants will receive an email confirmation]



## Privacy Ordinance update

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Part VIA of the Personal Data (Privacy) Ordinance (Cap 486) (PDPO), which sets out new requirements for businesses when collecting personal data from clients for direct marketing, will commence on 1 April 2013. Failure to comply may result in offences and civil liability. The Office of the Privacy Commissioner for Personal Data (PCPD), the independent statutory body set up to oversee the enforcement of the PDPO, has issued a Guidance Note intended to assist businesses to understand these requirements and how to comply.

*A copy of the Guidance Note is available on the PCPD website: [www.pcpd.org.hk](http://www.pcpd.org.hk). More information can also be found on page 6 in this edition of CSj.*

## Companies Registry update

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The Companies Registry issued an External Circular (No 1/2013) on 1 February 2013 to remind companies and their officers of the statutory requirements for reporting correct addresses in specified forms filed with the Companies Registry.

*The External Circular is available on the Companies Registry website: [www.cr.gov.hk](http://www.cr.gov.hk).*

## Trust Law (Amendment) Bill 2013

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The Trust Law (Amendment) Bill 2013 is currently being debated by the Legislative Council. The Bill seeks to facilitate effective administration of trusts through enhancing trustees' default powers. It proposes to amend two major ordinances of the trust law regime in Hong Kong, namely the Trustee Ordinance (Cap 29) and the Perpetuities and Accumulations Ordinance (Cap 257). These two ordinances have not been substantially reviewed or modified since their enactments in 1934 and 1970 respectively and some of their provisions are therefore outdated. Following a review of the ordinances, the government conducted public consultations in 2009 and 2012 respectively on the reform proposals. The government hopes that the Bill will bolster the competitiveness of Hong Kong's trust services industry.

## SFC – new location

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The Securities and Futures Commission has moved to the Cheung Kong Center. The new address is: 35/F, Cheung Kong Center, 2 Queen's Road Central, Hong Kong; and the new phone number is: (852) 2231 1222.

## Staying out of jail: a guide for non-executive directors

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The Institute of Chartered Secretaries and Administrators (ICSA) has issued a new Guidance Note – *Directors' duty to exercise care, skill and diligence* – designed to help non-executive directors avoid a range of penalties (from fines, through to disqualification and imprisonment) if they fail to carry out their various duties. The Guidance Note covers such issues as:

- taking responsibility for their own ongoing training and continuous development
- being prepared to provide independent oversight and constructive challenge
- insisting on receiving high-quality information
- making decisions objectively in the interests of the company, and
- avoiding conflicts of interest.

Prospective non-executive directors are also advised to undertake their own

due diligence before taking on the role, satisfying themselves that the company is one in which they can have confidence, and can make a strong and value-added contribution.

*The Guidance Note is available on the ICSA website: [www.icsaglobal.com](http://www.icsaglobal.com).*



**CHARTERED  
SECRETARIES**  
特許秘書

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

HKICS was first established in 1949 as an association of Hong Kong members of the Institute of Chartered Secretaries and Administrators (ICSA) of London. It became a branch of ICSA in 1990 before gaining local status in 1994 and today has more than 5,700 members and 3,300 students.

## Chief Executive

### Responsibilities:

1. To promote and uphold the professional image of HKICS as a professional body.
2. To promote HKICS to the full advantage of HKICS and its Membership.
3. To identify and prepare regular reports on strategic initiatives and to direct the necessary activities.
4. To remain constantly current and abreast of all legislation, rules, academic and business amendments, changes and rulings that may impact HKICS or affect the interests of its Membership, immediately or in the long term.
5. To assume leadership for the overall management of the Institute Secretariat and to oversee its effective operation and efficient execution of its duties and responsibilities including but not limited to maintaining effective internal controls and risk management of the Institute.
6. To canvass and/or maintain close contacts with relevant government regulators and other professional bodies.
7. To act as the key point of contact between HKICS and other affiliated bodies including the Institute of Chartered Secretaries and Administrators and other Divisions, Corporate Secretaries International Association and Hong Kong Coalition of Professional Services Limited and to support the work of such bodies in accordance with Council direction.
8. To support and contribute to the submissions of HKICS in response to soft and paper consultations of regulators and to lobby for or against such proposals as appropriate and in accordance with the needs and interests of HKICS.
9. To develop and nurture the Institute's professional relationship with relevant bodies in the PRC.
10. To develop and implement Institute activities and/or publications for raising revenue or otherwise.
11. To assist all Committees, Panels, Working Groups and The Chartered Secretaries Foundation Limited in the development of their policies and programmes, and to ensure that adequate Secretariat support is provided.
12. To assist in the development of existing publications and communication initiatives.
13. To identify suitable candidates among our membership as new additions to Members of Council or Committees or Panels.
14. To act on projects initiated by Council from time to time.

### Requirements:

- Chartered Secretary qualification or University degree holder in related field
- Minimum 15 years' professional and management experience in corporate governance, compliance and secretarial sectors
- In-depth knowledge in the fields of corporate governance, compliance and corporate secretaryship
- Proven record of excellent leadership and management skills
- Strong networking skills, working exposure to different kinds of entities and organisations as well as experience in driving organisational growth
- Good command of both written and spoken English and Putonghua

Membership of The Hong Kong Institute of Chartered Secretaries would be preferable.

We offer a five-day working week for this position and an attractive remuneration package. Interested parties should send their full resume and expected salary details to:

**The President, HKICS, 3/F, Hong Kong Diamond Exchange Building, 8 Duddell Street, Central, Hong Kong or by email to [recruit@hkics.org.hk](mailto:recruit@hkics.org.hk).**

*Personal data provided in the employment applications will be treated in strict confidence and used only for recruitment purpose by HKICS. All unsuccessful applications will be destroyed upon completion of the process.*

## Director CPD Training



### Capital Market Updates

#### Offshore Debt Issuing by Hong Kong Listco

Speakers: Professionals from UBS

Date : 17 April 2013 (19:00 – 20:30)

Venue : UBS AG, 52/F., Two IFC, Hong Kong

CPD Units : 1.5 hours

Participants : Directors, CFOs, Investment Managers

Enrollment Hotline: +852 3628 5777

Co-organised by



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