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July 2015

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The journal of The Hong Kong
Institute of Chartered Secretaries

香港特許秘書公會會刊



Question time

ACRU 2015 review

New Companies Ordinance
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About The Hong Kong Institute of Chartered Secretaries

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 over 5,800 members and 3,200 students.

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Membership statistics update

As of 10 June 2015, the Institute's membership statistics were as follows:

Students: 3,161

Graduates: 460

Associates: 4,987

Fellows: 528

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July 2015

CSj, the journal of The Hong Kong Institute of Chartered Secretaries, is published 12 times a year by Ninehills Media and is sent to members and students of The Hong Kong Institute of Chartered Secretaries and to certain senior executives in the public and private sectors.

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Circulation: 9,100

Annual subscription: HK\$2600 (US\$340)

To subscribe call: (852) 3796 3060 or

email: enquiries@ninehillsmedia.com

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ISSN 1023-4128

Contents

Cover Stories

Why disclosure matters – ACRU 2015 review: part one 06

Regulators at the Institute's latest Annual Corporate and Regulatory Update seminar reaffirmed the key importance that they attach to companies' disclosure standards.

Compliance update – ACRU 2015 review: part two 12

CSJ highlights the major compliance issues raised at this year's Annual Corporate and Regulatory Update seminar, held on 3 June 2015.

In Profile

Shared capitalism? 18

Broad-based employee share plans are increasingly popular in Hong Kong and Mainland China. Our profile candidate this month, Seth Bohart, Managing Director, Computershare Plan Managers Asia, looks at where this trend may take us in the years ahead.

In Focus

Engaging with human rights 24

A new report from CSR Asia warns companies that they may be indirectly involved in human rights infringement cases unknowingly through their supply chains. Richard Welford, Chairman, CSR Asia, recommends proper due diligence for businesses that want to be involved in proactive human rights programmes.

Competition Ordinance: final preparations 28

Three years after its enactment, full implementation of Hong Kong's Competition Ordinance is expected towards the end of this year. Mark Jephcott, Adelaide Luke and Lisa Geary at Herbert Smith Freehills Hong Kong, urge businesses to audit their existing agreements and practices for compliance with the Ordinance.

Technical Update

Cross-border supervision: new SFC proposals 32

Hong Kong's Securities and Futures Commission (SFC) proposes to amend the Securities and Futures Ordinance to boost the level of supervisory assistance the SFC can provide to overseas regulators.

HKICS News

President's Message 04

Institute News 36

Student News 44





Our Institute makes a very distinctive contribution to the global debate on corporate governance and corporate secretarial practice. I would characterise our contribution as being, above all else, highly practical. Our members are on the frontline when it comes to dealing with corporate governance and compliance challenges, so our priority is to promote best practice guidelines that will help our members carry out their functions with a high level of professionalism and efficiency.

This approach is nowhere more clearly evident than in our Annual Corporate and Regulatory Update (ACRU) seminar. It is no coincidence that this forum has quickly evolved into the most popular event in our CPD calendar. ACRU was launched in 1999 as a forum for a two-way dialogue with regulators. Since then, not only has the regulatory environment become more complex – raising the importance for market participants to stay up to date with regulatory thinking – but also, Hong Kong's regulatory philosophy has changed. Regulators are more prepared to listen to the market, raising the importance for them of events like ACRU which enable them to get direct feedback from market participants.

Last month, the 16th ACRU seminar was held at the Convention and Exhibition

ACRU 2015

Centre and drew a record high attendance of 1,600 participants. Attendees at this year's event were not only members of the HKICS – in fact 26% of them were non-members (up from 23% last year) and, once again, they came from diverse backgrounds including listed company directors and senior management. This demonstrates that the reputation of this event is growing outside as well as inside the corporate secretarial community in Hong Kong.

This month's journal gives you an armchair tour of the event. The central theme to emerge from this year's ACRU was the key importance that regulators attach to companies' disclosure standards. The importance of meaningful corporate disclosure lies at the heart of the regulatory system in operation in Hong Kong. The main priority for regulators in a disclosure-based regulatory system is to ensure that investors have the information they need to accurately assess what it is they are buying into. Many of the legislative and regulatory reforms introduced over the last few years have been concerned with ensuring good standards of transparency in companies listed on the Hong Kong stock market.

These include the implementation of a statutory regime for the disclosure of inside information in 2013 and new disclosure requirements brought in by the new Companies Ordinance in March 2014 – notably the business review requirement which is Hong Kong's first mandatory requirement for companies to report on their environmental, social and governance (ESG) policies and performance. To ensure a level playing

field for overseas and locally domiciled companies, these new Companies Ordinance disclosure requirements have been broadly matched by similar requirements in the Listing Rules.

The first cover story this month (pages 6–11) looks at the key issues companies need to consider to comply with the spirit and the letter of these disclosure requirements. Our second cover story (pages 12–17) looks at other major compliance issues raised at the seminar, such as compliance with the new Companies Ordinance and Hong Kong's Takeovers regime. As with previous ACRU events, the speakers received a flood of questions at the end of each session and there was not sufficient time in the Q&A sessions to answer them all. We will therefore be collating these questions and the regulators' answers to them will be posted in this journal at a later date.

It only remains for me to thank the attendees, sponsors, supporting organisations and, of course, the speakers who put so much effort into making ACRU 2015 a success. Thanks should also go to our professional development committee and secretariat for successfully organising and managing this excellent forum. I look forward to next year's ACRU as another step forward in the evolution of this flagship event.

Maurice Ngai FCIS FCS(PE)

2015年公司规管最新发展研讨会

公会在全球有关公司治理和公司秘书实务的讨论中有着杰出贡献。我认为公会卓越的贡献是着眼务实性。公会会员在面对公司治理和合规方面的挑战时站在最前线，因此公会的首要任务是推出最佳实务指引，协助会员以高度专业水平和极高效率执行职务。

这个取向，在公会一年一度的公司规管最新发展研讨会(ACRU)中清楚可见。这项活动自然已成为公会持续专业发展活动日程中最受欢迎的盛事。ACRU会议于1999年首办以来一直作为与监管机构双向沟通的途径。近年来，规管环境日趋复杂，使市场参与者必须更了解监管者的思维；同时，香港的监管理念也有改变，更多聆听市场声音，因此更重视ACRU这类会议，让他们直接取得市场参与者的回应。

第16届ACRU于上月在香港会议展览中心举行，共有1,600人参加，创历史新高，盛况空前。今年的参加者不限于公会会员，当中有26%为非会员（较去年的23%为高），并且来自不同背景，包括上市公司董事及高层管理人员。由此可见，ACRU的声誉，在香港公司秘书界内外均稳步提升。

本期概括介绍研讨会的内容。今届ACRU的中心主题，是监管机构十分重视公司的披露水平。公司作出有意义的披露，是香港现行监管制度的核心。在以披露为本的监管制度中，监管机构的首要任务是确保投资者可得到所需资料，以准确评估自己所作的投资。近年推出的多项法例和规例的改革，皆为了确保香港上市公司维持良好的透明度。

这些改革包括在2013年实施有关内幕消息的法定披露制度，以及由2014年3月起生效的新《公司条例》中的新披露要求，其中特别值得注意的是有关拟备业务审视的要求；这是香港首次强制规定公司报告环境、社会与管治方面的政策及表现。为使海外和本地注册的公司有公平的竞争环境，《上市规则》也有类似规定，配合新《公司条例》的披露要求。

本期的首个封面故事（第6至11页），探讨公司为遵守这些披露规定的精神和具体条文而须考虑的重要课题。第二个封面故事（第12至17页）探讨研讨会中提出的其他主要合规课题，例如遵守新《公司条例》以及香港的收购制度。和以往ACRU会议的情况相

近，每节的讲者在提问环节中收到大量提问，难以当场一一回覆。我们将整理有关提问及监管机构的回覆，日后在本刊发表。

2015年ACRU会议圆满结束。我谨向各参加者、赞助机构和支持机构致谢；当然更感谢各位讲者悉心讲解，使研讨会举办成功。公会专业发展委员会和秘书处有效统筹和管理是次盛会，我亦向他们致谢。期望ACRU这个旗舰盛事继续演进，明年再创高峰。



魏伟峰博士



Why disclosure matters

ACRU 2015 review: part one

Regulators at the Institute's latest Annual Corporate and Regulatory Update seminar reaffirmed the key importance that they attach to companies' disclosure standards.



Hong Kong operates a disclosure-based regulatory regime. Under this model, the regulatory framework seeks to ensure that companies make full disclosure of their affairs so that investors can make informed investment decisions. This article addresses some of the key disclosure challenges highlighted by the Institute's latest Annual Corporate and Regulatory Update (ACRU) seminar.

The business review disclosure requirements

Probably the biggest disclosure challenge facing listed issuers in Hong Kong at the moment is compliance with the business review requirement of the new Companies Ordinance. 'The key requirement is for the business review and I would like to emphasise that this is the major change,' said Steve Ong, Senior Vice-President, Head of Accounting Affairs, Listing Department, Hong Kong Exchanges and Clearing Ltd (HKEx), in his Session 1 presentation.

Under Section 388 of the new Companies Ordinance, companies, unless exempted, need to include a business review in the directors' report section of their corporate reports. The requisite contents of the business review are set out in Schedule 5 of the law, and must include a number of environmental, social and governance areas, such as the company's environmental policies and performance, and the company's key relationships with its employees, customers and suppliers and others that have a significant impact on the company.

Depending on their year-end, Hong Kong-incorporated companies that do not fall within the reporting exemption will have to produce their first business review before the end of this year.

Perhaps not surprisingly therefore, this issue received a lot of attention at this year's ACRU seminar.

Creating a level playing field

Since the Companies Ordinance only applies to Hong Kong-incorporated issuers, there was a danger that Hong Kong-domiciled companies would be subject to tougher disclosure requirements than those incorporated in other jurisdictions. To avoid this disparity, HKEx has proposed broadly similar disclosure requirements in Appendix 16 of the Listing Rules to bring them in line with the new Companies Ordinance and Hong Kong Financial Reporting Standards.

Mr Ong said that the goal of this exercise was 'to ensure a level playing field'. Updating the Listing Rules to mandate the same level of disclosure seeks to ensure that all listed companies in Hong Kong, irrespective of their domicile, are subject to the same disclosure rules.

He acknowledged that some aspects of the new disclosure requirements – in particular the requirement for companies to give an indication of likely future developments in its business – may be a challenge for some companies, but referred participants to the guidance issued by the Hong Kong Institute of Certified Public Accountants (HKICPA) in this area. The HKICPA has issued its *Accounting Bulletin 5: Guidance for the Preparation and Presentation of a Business Review under the Hong Kong Companies Ordinance Cap 622*, which gives guiding principles for the preparation and presentation of the business review.

He also made the point that many companies are already disclosing the

information included in the business review requirement. 'Many top-tier companies in Hong Kong already do this well. I am involved with a number of disclosure awards in Hong Kong and, through the years, I have read increasingly excellent annual reports by listed companies. We don't expect everything to be perfect in December 2015. Corporate reporting is an evolution, if you are improving year by year that is key,' Mr Ong said.

He also urged companies not to think of the business review requirement as a compliance burden, but to bear in mind the benefits of the exercise. 'Compliance with these new disclosure requirements should not be a tick-box exercise, the requirements are an opportunity for

Highlights

- if the information required by Appendix 16 of the Listing Rules has been disclosed in the company's business review, no additional disclosure is required
- issuers conducting equity fundraising need to clearly disclose their intended use of the proceeds at the time of the fundraising and report back to shareholders on how these proceeds were actually used in their annual reports
- Hong Kong's disclosure requirements are not just designed to generate more disclosure, but to ensure better quality disclosure



“
I have always been of the opinion that company secretaries have an important role to play – you are the guardian of the board of directors
”

Steve Ong, Senior Vice-President, Head of Accounting Affairs, Listing Department, Hong Kong Exchanges and Clearing Ltd

companies to improve their corporate governance,' he said.

He pointed out that company secretaries will have a key role to play in ensuring compliance with the new disclosure requirements – in particular ensuring that this issue gets the attention it needs from the finance team and the board. 'I have always been of the opinion that company secretaries have an important role to play – you are the guardian of the board of directors and a lot of CFOs don't sit on the board,' he said.

The danger of duplication

One concern of the market regarding the new business review requirement and the matching requirements in the Listing Rules, is the danger that companies will have to duplicate information in different parts of their annual reports. Questions raised at the ACRU seminar indicate that there is a degree of confusion in the market as to which section of the annual report should include the mandated

disclosures. Many of these disclosures are typically included in the management discussion and analysis (MD&A), or the chairman's statement sections of listed issuers' reports. These include:

- particulars of any important events affecting the issuer which have occurred since the end of the financial year
- a description of the issuers' principal risks and uncertainties, and
- an indication of likely future developments in its business.

Mr Ong acknowledged that 'a lot of you are already doing this very well in your MD&A sections, and so will already be in compliance with the new rules.' He added that HKEx is flexible on this issue. 'As long as the information is in there, we are fine. We will not dictate to the market the way to present information required under Appendix 16. The intention

of the amendment to Appendix 16 is to allow flexibility for issuers such that they are allowed to have any method of presentation that is suitable to their individual needs,' he said.

In her Session 3 presentation, Karen Ho, Deputy Principal Solicitor, Companies Registry, made it clear that the new Companies Ordinance requires Hong Kong-incorporated issuers to include the business review in the directors' report section of their annual reports. Mr Ong confirmed that, if the information required in Appendix 16.32 and recommended in Appendix 16.52 has been disclosed in a business review in the directors' report, no additional disclosure is required.

Disclosure scorecard

Speakers from HKEx and the Securities and Futures Commission (SFC) attending this year's ACRU seminar highlighted both disclosure success stories and areas for improvement that have come to their attention.

In her Session 1 presentation, Dion Wong, Senior Vice-President, Compliance and Monitoring, Listing Department, HKEx, highlighted the findings of the latest HKEx review of listed companies' annual reports – the HKEx *Annual Report Review Programme 2014*. She noted that the latest review saw an overall improvement in the disclosure standards of listed issuers and a reduction in cases involving possible material breaches of the Listing Rules. Moreover, she said there was evidence that issuers have considered guidance provided by HKEx via its annual reports reviews and follow-up process. However, she also highlighted areas where corporate disclosures could be improved.

Intended use of equity fundraising proceeds

Ms Wong emphasised that issuers engaged in equity fundraising need to clearly disclose their intended use of the proceeds at the time of the fundraising and report back to shareholders on how these proceeds were actually used in their annual reports.

The 2014 annual report review found that 40% of issuers provided specific details about their proposed use of the proceeds in corporate announcements, and 59% of issuers provided updates on the application of funds raised in their annual reports. While these figures were an improvement on the figures for 2013 – about 20% of issuers disclosed this information in 2013 – Ms Wong said that this is still an area requiring improvement. She urged listed issuers to:

- clearly disclose the reasons for the fundraising and the intended use of proceeds at time of fundraising, and
- provide meaningful updates in

annual reports on the actual use of proceeds, including details of the application and a breakdown of how the funds were allocated among different uses.

Reliance on key customers

Another area of weakness in listed issuers' disclosures highlighted by both HKEx and the SFC was the level of disclosure relating to key customers and their relationship with the issuer. In Session 2 of the seminar, Michael Duignan, Senior Director, Corporate Finance Division, SFC, acknowledged that in some cases customers may not wish to be identified by name in listed issuers' reports, but companies that withhold this information from the public domain cannot then make allusions to those 'undisclosed' customers

in investor briefings. 'If a customer says it doesn't want to be named, fair enough, but your chairman cannot then tell investors at a briefing about a big customer that can't be named but whose logo is an apple with a bite out of it,' he said.

Repeat disclosures

Both HKEx and the SFC also highlighted the dangers of making repeat disclosures. In particular, there is a danger of misleading the market where issuers make a restatement in a corporate announcement of information already available in the prospectus. Mr Duignan recommended issuers read the advice given on this issue in the latest edition of the SFC's *Corporate Regulation Newsletter*. The newsletter advises companies who feel that they need to make an announcement

ACRU 2015: speaker line-up

Session 1: Hong Kong Exchanges and Clearing Ltd

- Dion Wong, Senior Vice-President, Compliance and Monitoring, Listing Department
- Steve Ong, Senior Vice-President, Head of Accounting Affairs, Listing Department

Session 2: Securities and Futures Commission

- Michael Duignan, Senior Director, Corporate Finance Division
- Gail Humphryes, Senior Director, Corporate Finance Division

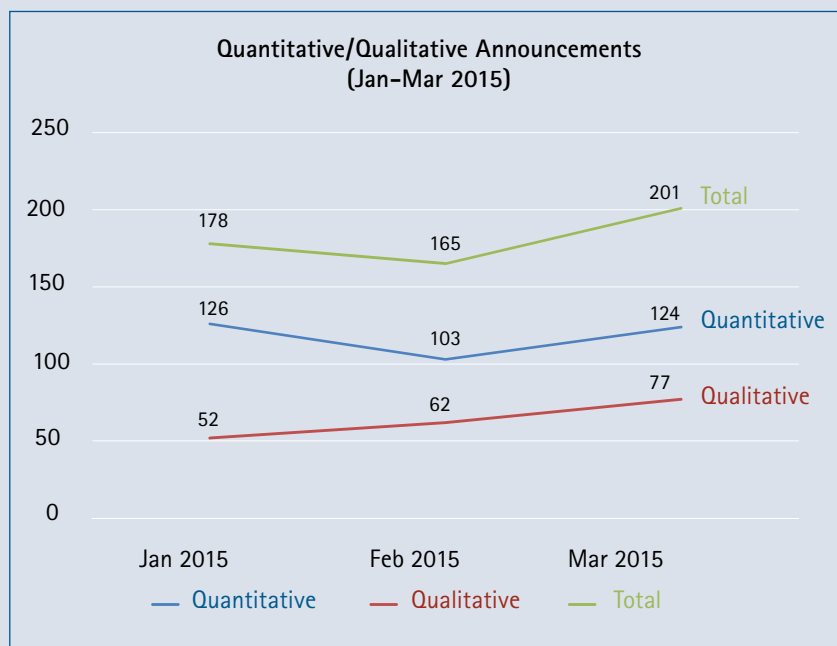
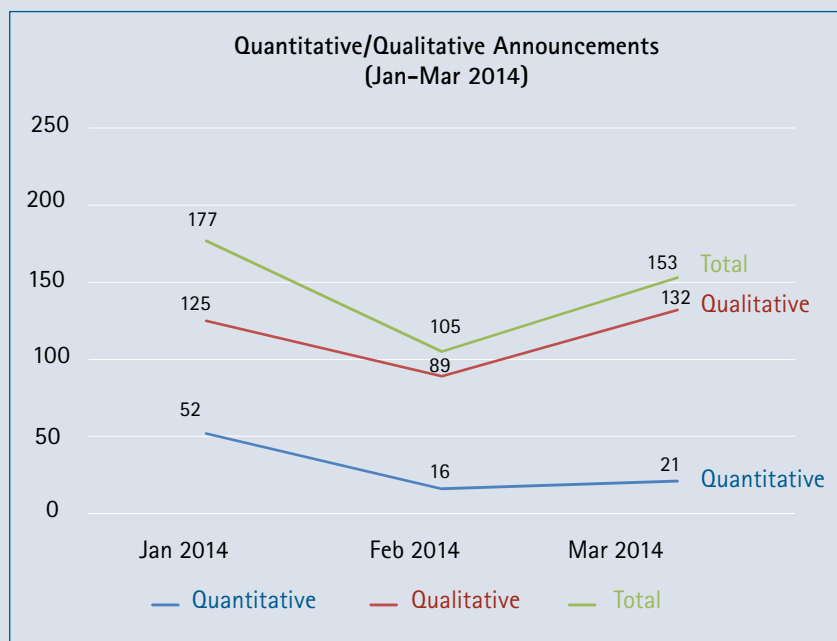
Session 3: Companies Registry

- Karen Ho, Deputy Principal Solicitor
- Hilda Chang, Deputy Registry Manager
- Wendy Ma, Deputy Registry Manager

Session 4: Hong Kong Monetary Authority

- Dr Martin Sprenger, Head, Policy Research and Development

Figure 1: Increase in quantitative data in corporate announcements



Source: Securities and Futures Commission

“
our emphasis is on disclosure, but it goes beyond that – the objective is to have more meaningful disclosure
”

Michael Duignan, Senior Director, Corporate Finance Division, Securities and Futures Commission

about matters previously disclosed to clarify the extent to which the information in the announcement differs from previously disclosed information.


Quality disclosure

One issue which the SFC has been promoting for some time is the need for companies to provide figures in their profit alerts and warnings. Last year, the SFC issued guidance warning against the use of vague terms to describe changes in projected profit, such as 'a significant increase', 'a material increase', 'an increase', 'a certain increase', or 'record a profit as compared to a loss'.

In his ACRU presentation, Mr Duignan said that there is evidence that more companies are providing more quantitative data in their profit alerts. Figure 1 shows that the number of 'quantitative' corporate announcements being made in Hong Kong has increased when compared with the figures for last year.

Mr Duignan emphasised that the purpose of Hong Kong's disclosure requirements is not just to generate more disclosure, but to ensure better quality disclosure.



'Our emphasis is on disclosure, but it goes beyond that – the objective is to have more meaningful disclosure,' he said. 

The Institute's 16th Annual Corporate and Regulatory Update seminar took place on 3 June 2015. More photos of the event are available on the HKICS website: www.hkics.org.hk. The second cover story this month covers other major compliance issues covered by this year's ACRU.

The HKEx 'Annual Report Review Programme 2014', together with previous review reports, is available on the HKEx website: www.hkex.com.hk. The SFC 'Corporate Regulation Newsletter' is available on the SFC website: www.sfc.hk.

Electronic filing

Over the last decade, the Companies Registry has been transitioning from paper-based services to electronic services. A milestone was reached in March this year when it launched its full-scale electronic filing service. Wendy Ma, Deputy Registry Manager, Companies Registry, gave ACRU participants an update on what this means for Registry users.

In brief, Registry users may now submit all forms specified under the new Companies Ordinance (Cap 622) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32) and related documents to the Registrar of Companies for registration through the e-Registry,

round the clock. One question in the Q&A session concluding Session 3 of the ACRU seminar, was whether the Companies Registry would adopt mandatory e-filing in the future. Ms Ma said that the Registry has no plans to make e-filing mandatory.

The new frontier in this gradual widening of the Registry's electronic services is to make these services available via mobile devices. Ms Ma explained that company searches are already possible via a mobile device. The Company Search Mobile Service (CSMS) was released in June 2012 for searches on Company Name, Document Index and Company Particulars. The service was enhanced in December



Wendy Ma, Deputy Registry Manager, Companies Registry

2014 to include searches on Directors Index and Disqualification Orders Index. Further enhancements for providing all other services under the Cyber Search Centre (except screen prints and online tutorials) is under way, and aims to be ready in early 2016.



Compliance update

ACRU 2015 review: part two

The Institute's Annual Corporate and Regulatory Update (ACRU) seminar is one of the few forums in Hong Kong where regulators and market participants can engage in a direct dialogue about regulatory compliance. This year's ACRU, held on 3 June 2015, drew a record attendance of 1,600 participants. CSj highlights the major compliance issues raised at the seminar.

Last month, 1,600 participants together with representatives of Hong Kong's major regulatory bodies gathered in Hall 5 of the Convention and Exhibition Centre to discuss the changing regulatory landscape in Hong Kong. This event, the 16th Annual Corporate and Regulatory Update (ACRU) seminar organised by the Hong Kong Institute of Chartered Secretaries, comes at a very opportune moment for regulators and compliance professionals. In particular, over the last year since the previous ACRU, the market has been adapting to the new requirements brought in by the new Companies Ordinance. As you might expect, these requirements featured strongly in the ACRU 2015 discussions.

The seminar featured four sessions:

- In Session 1, two speakers from Hong Kong Exchanges and Clearing Ltd (HKEx) discussed corporate disclosure and the regulation of listed issuers.
- In Session 2, three speakers from the Securities and Futures Commission (SFC) discussed

corporate disclosure, compliance with Hong Kong's Takeovers regime and the SFC's recently released *Principles of Responsible Ownership*.

- In Session 3, three speakers from the Companies Registry discussed compliance with the new Companies Ordinance, the filing requirements of the new Companies Ordinance and the launch of the Companies Registry's full-scale electronic filing service.
- In Session 4, a speaker from the Hong Kong Monetary Authority (HKMA) discussed the government's

proposed resolution regime for financial institutions in Hong Kong.

The first cover story in this month's journal looks in detail at the corporate disclosure recommendations of this year's ACRU; this article will cover the other major compliance issues raised at the seminar.

The new Companies Ordinance

Compliance with the new Companies Ordinance, implemented in March 2014, remains at the top of most companies' compliance agendas in Hong Kong. Ms Karen Ho, Deputy Principal Solicitor, Companies Registry, addressed

Highlights

- companies are free to create their own bespoke Articles of Association if they wish; alternatively they can choose to adopt the Model Articles prescribed by the new Companies Ordinance in their entirety or with amendments
- companies may wish to review their Articles of Association to ensure that they will be able to take advantage of some of the new business facilitation measures brought in by the new Companies Ordinance
- Hong Kong regulators need extra powers to intervene if any systemically important financial institution is nearing collapse

some of the compliance issues causing most concern.

Abolition of the Memorandum of Association

The new Companies Ordinance abolishes the requirement to have a Memorandum of Association as a constitutional document of a local company. A company incorporated in Hong Kong under the new law is only required to have Articles of Association. Under the new Companies Ordinance, the information that was required to be contained in the Memorandum is now set out in the Articles of Association.

One area of doubt concerns whether a company formed and registered under the old Companies Ordinance needs to make changes to its constitutional documents as a result of the abolition of the Memorandum. Ms Ho clarified that this is not necessary. Provisions in the new Companies Ordinance mean that a condition of the Memorandum is deemed to be a provision of the Articles. Moreover, all references to the Memorandum in any other ordinances or documents are deemed to be references to the Articles. Similarly, following the abolition of par value, any conditions in a company's Memorandum setting out authorised share capital and the par value of shares is regarded as deleted.

Model Articles of Association

Another subject which featured in ACRU participants' questions was the application of the new Model Articles prescribed by the new Companies Ordinance. Participants were not clear which companies these Articles apply to and whether companies have to formally adopt these Articles.

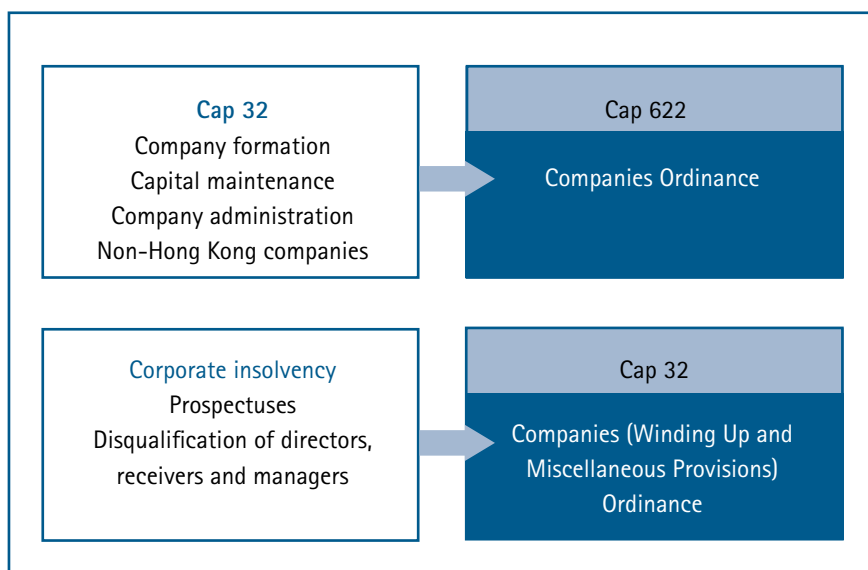
Ms Ho explained that the Model Articles replace Table A and Table C in the First Schedule to the old Companies Ordinance. They will apply by default to companies incorporated under the new Companies Ordinance if no additional Articles are filed by the company, or, even if filed, in so far as the registered articles do not exclude or modify the Model Articles. She emphasised that companies are free to create their own bespoke Articles if they wish; alternatively they can choose to adopt the Model Articles in their entirety or with amendments.

Ms Ho also clarified that the Model Articles do not apply by default to companies incorporated under the old Companies Ordinance. She explained that there is no obligation for such companies to amend their Articles to include the Model Articles, but they may wish to review their Articles to ensure that they will be able to take advantage of some of the new business facilitation measures

brought in by the new Companies Ordinance, for example the provisions on financial assistance for the acquisition of shares, the non-court based reduction of capital and capitalisation of profits under the new no par regime.

If companies do wish to modify their Articles, they will be required to follow the appropriate legal procedures, which involve the passing of a special resolution. Ms Hilda Chang, Deputy Registry Manager, Companies Registry, explained the filing requirements for any alteration of companies' Articles of Association. Her Session 3 presentation also updated attendees on a number of other issues relating to the filing of documents with the Companies Registry. The Companies Registry has specified 83 forms for use under the new Companies Ordinance, and nine forms for use under Cap 32 – which has become the Companies (Winding Up and Miscellaneous Provisions) Ordinance (see Figure 1).

Figure 1: Reorganisation of the old Companies Ordinance



Source: Companies Registry



“
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Gail Humphries, Senior Director,
Corporate Finance, SFC

Takeovers regime update

In Hong Kong, takeovers, mergers, privatisations and share buy-backs are regulated under the Codes on Takeovers and Mergers and Share Buy-Backs. Gail Humphries, Senior Director, Corporate Finance, SFC, heads the Takeovers Executive at the SFC and she took the opportunity of her ACRU presentation to explain what the Takeovers Executive does and what it doesn't do. Starting with the latter, she clarified that the team does not make judgements about the commercial merits of takeover offers – this is best left to shareholders, she said. Primarily, the team undertakes the investigation of takeovers, mergers and share buy-backs and monitors related dealings in connection with the Codes.

The Takeovers Executive is also available for consultation and to give rulings on all matters to which the Takeover

Codes apply. 'If in doubt, consult us,' Ms Humphries said. She went on to discuss compliance issues relating to Hong Kong's takeovers regime.

Ms Humphries emphasised that issuers involved in activities caught by the Takeovers Codes have an obligation to file all relevant documents with the Takeovers Executive for comment prior to release. The definition of 'document', she explained, is very wide – this includes: 'any announcement, advertisement or document issued or published by any party to an offer, or possible offer, in connection with such offer or possible offer'. The only exceptions are documents which are required to be put on display for inspection under Notes 1 and 2 to Rule 8 of the Takeovers Code, and Post-Vet announcements. A list of Post-Vet announcements is available on the SFC website.

This filing requirement includes an announcement that a company is in talks for a possible takeover. Ms Humphries drew this point to the attention of the company secretaries in the audience. 'If you make such an announcement without contacting us first, it will be embarrassing since you will have to explain to your directors why you did that,' she said.

She also clarified that there is no obligation to announce that talks have commenced as long as the talks are kept confidential. 'If you don't want to make a talks announcement, the most critical thing is to keep the talks a secret,' she said. If the talks qualify as inside information as defined in the Securities and Futures Ordinance, however, or if there are unusual movements in the share price of the relevant companies indicating that knowledge of the talks has leaked to the market, an announcement must be made.

Finally, Ms Humphries recommended relevant parties read the SFC's Practice Note 20 (available on the SFC website: www.sfc.hk), which collates the SFC's relevant practice recommendations. 'Once we have issued a practice note we're not very impressed if you don't follow it,' she said.

Regulation of listed issuers

In addition to addressing compliance with Hong Kong's disclosure requirements (covered in this month's first cover story), Dion Wong, Senior Vice-President, Compliance and Monitoring, Listing Department, HKEx, also highlighted a number of general compliance problem areas identified by HKEx.

One area of concern is the possible abuse of placings of warrants under general

mandate. There has been an increase in the number of such placings in recent years where their commercial rationale was questionable. Ms Wong highlighted the fact that, where warrants are not properly priced, they can result in an unfair dilution of shareholders' interests. 'Warrants may be placed under general mandate only if the issuer can demonstrate that the warrants are issued at, or approximately at, their fair value,' she said. She added that directors are obliged to demonstrate that the warrant issue price represents fair value.

Financial regulation in Hong Kong

If a major financial institution went down tomorrow, what would be the consequences for Hong Kong? The HKMA took the opportunity of this year's ACRU

seminar to brief participants on the current initiative to establish a resolution regime for financial institutions in Hong Kong. In his Session 4 presentation, Dr Martin Sprenger, Head of Policy Research and Development at the HKMA, pointed out that the collapse of Lehmann Brothers in 2008 led to shock waves in financial markets around the world, including Hong Kong. Governments used vast sums of public money to rescue financial institutions during the ensuing global financial crisis.

Does Hong Kong need a resolution regime for financial institutions?

One good thing to come from this collapse, however, was a renewed political will to establish the regulatory infrastructure needed to avoid financial instability while protecting taxpayers should a systemically important financial institution fail in the future. This led to the Financial Stability Board (FSB) publishing its *Key Attributes of Effective Resolution Regimes for Financial Institutions* in 2011.

Figure 2 shows that financial regulators in Hong Kong have very few of the powers identified by the FSB as being a necessary part of an effective resolution regime. Dr Sprenger warned that Hong Kong would therefore be vulnerable if a systemically important financial institution were to fail. He argued that providing regulators with the full set of resolution options and powers in accordance with the FSB recommendations is necessary, not only to protect financial stability in Hong Kong, but also to ensure that Hong Kong has the ability to cooperate internationally in resolutions. Some 29 out of the 30 global systemically important banks, and eight out of the nine global systemically important insurers are present in Hong

Figure 2: Powers of Hong Kong financial regulators

Key powers needed	Available?
Override shareholders' rights	No
Transfer/sale of assets and liabilities	Assets only
Run a bridge institution	No
Run an asset management vehicle	Yes
Bail-in*	No
Temporary operation of an institution	Yes
Resolution of non-regulated financial holding company	No
Resolution of non-regulated operational entities	No
Temporary stay on early termination rights	No

*An officially mandated creditor-financed recapitalisation

Source: HKMA

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Dr Martin Sprenger, Head, Policy Research
and Development, HKMA



Kong. If one of these institutions went down, Hong Kong would need to work with other jurisdictions to deal with the fallout.

Dr Sprenger also pointed out that Hong Kong is a relatively small jurisdiction, so the value of these major financial institutions is proportionally greater than in larger jurisdictions when measured against Hong Kong's GDP. He also pointed out that Hong Kong lags behind other FSB-member jurisdictions in implementing an effective resolution regime.


The proposed resolution regime for Hong Kong

The government and financial regulators in Hong Kong have already put out two consultations (in January 2014 and January 2015) proposing the legislative changes required to establish a resolution regime in Hong Kong. 'The majority of responses are supportive and the need for a resolution regime for financial institutions is widely accepted in Hong Kong,' Dr Sprenger said.

The proposals envisage giving powers to three 'resolution authorities' – the HKMA, the SFC and the Office of the Commissioner for Insurance. They would step in if a systemically important financial institution is, or is expected to become, non-viable with no reasonable prospect that private sector action could be taken to recover the situation. They will manage the resolution process to ensure the continuity of critical financial services and to ensure the general stability and working of the financial system.

Exactly how they will go about achieving those ends is still in doubt. Depending on the circumstances, the resolution authorities might transfer the institution to a commercial purchaser or, as a temporary arrangement, to a 'bridge' institution. It is also proposed that the regime should support resolution by means of an officially mandated creditor-financed recapitalisation (commonly known as a bail-in). The current model also includes a temporary public

ownership option, for use as a last resort if other options will not protect financial stability adequately.

There are plans for a third consultation paper before the proposed legislative bill can be drafted. The government hopes to introduce the proposed Bill into LegCo in Q4 2015. 

The Institute's 16th Annual Corporate and Regulatory Update seminar took place on 3 June 2015. More photos of the event are available on the HKICS website: www.hkics.org.hk.

More information about the government's proposed resolution regime for Hong Kong is available on the websites of the Financial Services and Treasury Bureau: www.fstb.gov.hk; the Hong Kong Monetary Authority: www.hkma.gov.hk; and the Securities and Futures Commission: www.sfc.hk.



Shared capitalism?

Broad-based employee share plans are increasingly popular in Hong Kong and Mainland China. Our profile candidate this month, Seth Bohart, Managing Director, Computershare Plan Managers Asia, looks at where this trend may take us in the years ahead.

Thanks for giving us this interview, can we start by discussing the benefits of employee ownership, both for employees and companies?

'I think when you are looking at the benefits of share plans you need to bear in mind that you have to find the right share plan for the right participants. That will maximise the impact of the share plan, not only for the employees but also for the employers. There is no one share plan that will fit everybody. In this region five to 10 years ago, people were giving options to everybody, but that wasn't achieving what they set out to achieve.

We look at two different types of share plans. You've got the non-contributory type, which includes stock options and restricted share awards – these are typically targeted towards executives. The other type of share plan is what we call the contributory type. This is more of a broad-based plan where everybody – from the tea lady all the way up to the CEO – is eligible to participate. Employees can elect whether they want to participate and then an amount is deducted from their salary on a regular basis – this can be monthly, quarterly, bi-annually, etc. The incentive there will be that the company either provides a matching component, so for every dollar the employee puts in the company matches that, or it gives the employee a discount on the share price.

From a company's perspective, it is really about retention – bringing in good talent and differentiating yourself. In Mainland China and Hong Kong, companies are seeing a 15–20% staff turnover per year and I think HR departments are looking for something that will help them retain staff. Awarding a cash bonus is big in Hong Kong, but the day after you have given a cash bonus people can walk out the door with everything you have invested in them. With share awards there is a vesting schedule and the benefits are deferred over time.

But share plans are often not only "time based", they are also "performance based", meaning that the individual has to achieve performance targets. That helps align their interests with the interests of the company. There is a new trend for large global issuers – Ernst & Young has recently done a local study about this – where the incentive for share plans is not so much retention and attraction but motivation – motivating behaviours by aligning the interests of shareholders. In this region I don't think we are there yet, I think we are still at the retention phase, but in the next few years it is likely that we will be moving towards that.

The London School of Economics has done a few studies in the last several years, about the benefits of employee share ownership and its effect on employee behaviours. The studies show that employees stay longer, they work longer hours, they take less sick leave, they are more likely to do something about poor performance and they are more interested in the company's financial success. So when you get employees to see themselves as shareholders, that drives better performance and that is the key benefit for the employer.'

Do you think employee ownership could be the beginnings of a new ownership model – one where the interests of the company, shareholders and employees are better aligned?

'I think the key thing is that it depends on the company, the industry and it depends on getting the right plan design. I don't want to make too grandiose a claim for employee ownership, but I think the evidence for the benefits are categorical and irrefutable. And it makes sense logically – it's human nature.

But the benefits also depend on good communication with your employees. In this region, we have seen companies investing a lot of money in designing and funding share plans and getting legal advice, but failing to communicate with their employees effectively when the plan goes live. That is something we see especially in this region where some of these plans are relatively new. So companies need to engage employees, not only at the enrolment stage but throughout the share plan, making sure that employees are aware of the benefits of the plan.'

Do you know of any examples here in Hong Kong or Mainland China of fully employee-owned firms?

Highlights

- employee ownership can potentially improve productivity by aligning the interests of the company, shareholders and employees
- the number of companies offering share plans in Hong Kong and Mainland China, and the number of participants in those plans, is increasing
- getting the right share plan design is essential and this will depend a lot on the specific circumstances of each company

'There are some big technology companies, Huawei for example, that are heavily employee-owned. Of course, once you've gone public, you can't be fully employee-owned.'

Do you think that employee ownership is particularly appropriate for technology companies?

'Yes – employee ownership originated with start-up technology firms in Silicon Valley.'

Which is where you originated?

'Yes, it was. One of the reasons that those firms used equity compensation was that there wasn't enough cash flow when they were starting out, so instead of giving employees a salary they gave them shares. This meant that if the company did well, everybody shared the benefits. So people were willing to work in technology companies for that type of compensation structure and it worked well for a lot of people, and it worked really well for some people.'

So the technology companies were at the forefront of equity compensation, but now we are seeing some of the banks here doing huge plans, as well as insurance companies and restaurants doing some very lucrative general share plans.'

So are share plans really taking off in Hong Kong and Mainland China?

'Very much so. I made my first trip here in 2005 and since then the business has really grown. Now the reasons for that are a combination of things. As I mentioned, HR people are looking for ways to motivate and reward employees, but another reason is that some of the local companies have acquired overseas companies with existing share plans – an example of that is Lenovo acquiring Motorola and IBM. They therefore acquired employees who had experience of share plans and they wanted to do something similar.'

There was also better clarity in the Chinese regulations as well. When we started this business no one knew how to move money in and out of China. The other big grey area was how share plans would be taxed in China. Since then, from 2005 to 2007, both of those areas were clarified. The government brought in specific requirements for employee share plans in China regarding how money could be moved and how the plans would be taxed.'

Since those grey areas have been addressed, we have seen the numbers of companies offering share plans increase, and we

have also seen the number of participants in those plans increase – they are becoming broader and broader. When we first started, we'd see stock option plans with 20 or so executives, but now we are seeing plans involving 5,000 people.'

I think there is also a lot of competitive pressure driving this. So when a market leader starts to offer a very broad plan, everybody else has to think about what they are going to do to stay competitive in the market. Are they going to go on just offering cash?'

What about the risks? What happens, for example, when the share price goes down or, worst case scenario, the company itself goes down? Employees would then lose not only their jobs but also their savings held in company shares?

'I think that goes back to getting the right plan design. You need to find the right mix of shares and cash. One way to protect against the risks, particularly for low-level staff, is to set a minimum and maximum number of shares employees can purchase. This is so they don't bury all of their assets in shares. But bear in mind that, if the company is matching a dollar for every dollar the employee contributes, which is the case in Computershare's plan up to approximately A\$3,000, you would have to lose 50% of the share price to start losing money.'

Is Computershare's share plan popular with employees in Hong Kong and Mainland China?

'Yes, we have had a very high take-up. We rolled our plan out in Mainland China this year and we had a 90% take-up. Generally, if you get a 20–30% take-up globally, that's pretty good. But in China the levels of take-up are generally higher, we have been getting a 50–60% take-up with our client plans in Mainland China.'

Why do you think that is?

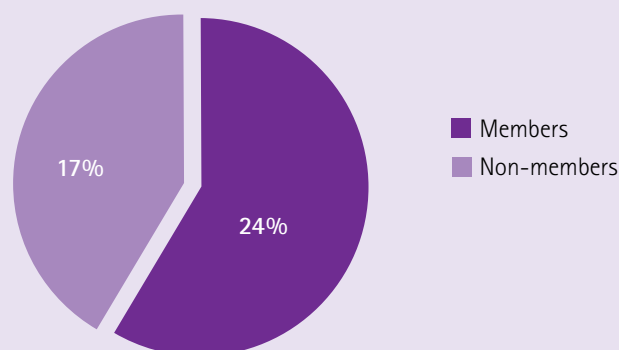
'I think it's a few things. The Chinese are pretty savvy investors. They realise that the plan we are offering has a relatively low risk. I think the other part of it is that this is potentially the first time that they have been able to purchase overseas shares. It is difficult to purchase overseas shares in China.'

The demand is so high that we often check with our employees that they really want to buy such a high number of shares. We have minimums and maximums for the number of shares employees can purchase based on their salary, but in China the salary relative to share price can be a little bit skewed. Shares in

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Overtime

24% of members of Computershare's employee share plan do at least 10 hours overtime a week, compared with 17% of non-members



Source: Computershare – Share Plan Survey

Baidu right now, for example, are around US\$225 each – that's a significant price for a share relative to the compensation employees are getting!

The number of shareholders who vote at AGMs in Hong Kong and Mainland China has been decreasing – do you think employee ownership can help reverse that trend?

'Share plans are unlikely to reverse the general voting trends, but I can guarantee that, on average, a shareholder who is an employee is more likely to vote than a regular retail shareholder. If you are an employee participating in a share plan, you are an employee and a shareholder. From a common sense standpoint, such employees would be much more likely to participate in the voting process – they are closer to the company and have an extra incentive to influence company decisions.'

Do you think that over time employee ownership could change the culture of companies?

'Giving employees collectively more of a say and getting them more involved in the company could have a big influence on companies, particularly where share plans are broad based.'

Could it also have a wider impact – even changing the way capitalism operates and is perceived?

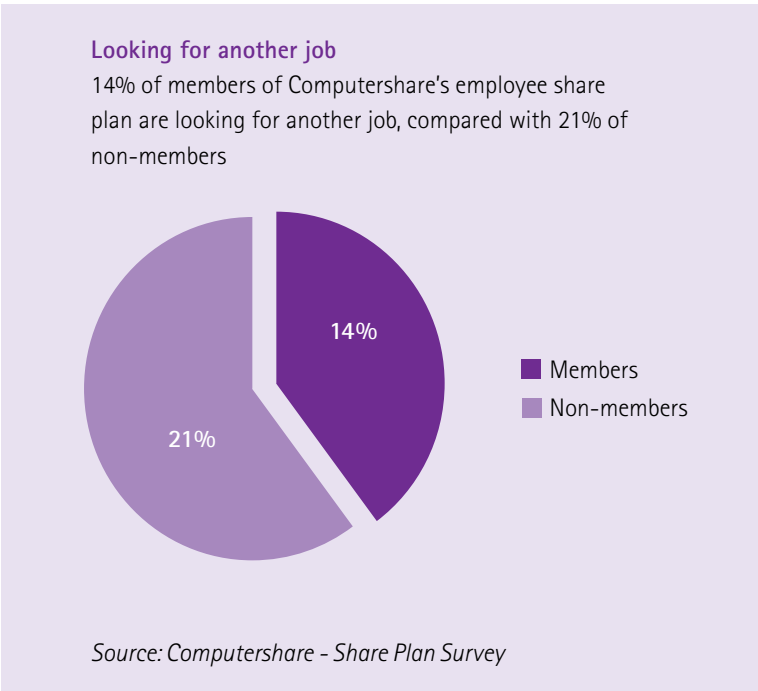
'In our consultations with regulators in China they have commented that, in some ways, this is inherently communism – employees get to share in the growth of the company. We have joked that we are teaching communism to the communists, but yes, the nature of share plans is closer to that ideology. Companies in China, particularly state-owned companies, often prefer to give a share award as part of compensation rather than just cash.'

The changes we have seen in the last 10 years since we started this business have been remarkable and it is still exponentially accelerating. There are so many changes going on right now. I think if increasing numbers of big Hang Seng Index companies introduce broad-based share plans that will have a big influence on the market.'

What advice would you give to a company secretary of a company that is interested in getting started with this? How should a company secretary be pitching this to directors?

'To get their attention I think you are going to want to talk about the trends in the market place locally – who is doing share plans and what type of plans they have. You would also want to talk about the increased use of share plans and the reasons for that. I think the board and executive teams are going to want evidence of the things we've talked about, in particular how it would

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impact the company and whether it would be worth the investment.

It is also important to emphasise that there is no cookie-cutter template for how to do a share plan that is going to work for everybody in the same way – it has to be individualised at the company level. You have to ask what you are trying to accomplish – is it better employee motivation, or do you want to be equivalent to competitors in the market? What does your employee population look like? What types of incentives are they currently getting?’

Do you often work with corporate secretaries on this?

‘Yes we do. The corporate secretary is often responsible for the share issuance process and the voting aspects. Share plans touch almost every department, but the departments most involved are usually those of the corporate secretary, HR, finance and legal!’

Could we turn to your own story – as we mentioned earlier, you started your career in Silicon Valley?

‘Yes. I was working in the late 1990s with a technology company in San Francisco. We sold software to companies to manage their own share plans internally and then we started offering outsource services. That company was acquired by

Computershare in 2003. I was running the West Coast business, but I wanted to go international. So the plan was for me to do six months in Australia, then another six months in the UK and then come back to the US with global experience.

Within days of arriving in Australia, in December 2004, the Chairman of Computershare and my boss in Australia discussed the opportunities in Hong Kong and Mainland China. I had a background in business development so they sent me up here in January 2005 to take a look at the market. It was my first trip. At that point I would talk to whoever would listen to me – investment bankers, accountants, lawyers, share registry clients. Almost everybody said that it was going to be a difficult market.

But we built up the business. We started in Sydney since share plan expertise didn't really exist here. We hired a young graduate from the University of Sydney and trained him from the ground up with the promise that if the business took off we would move him to Hong Kong and Mainland China. Now we have about 70 people in Beijing, Shanghai and Hong Kong, and the business is growing rapidly. We have 140–145 clients and very little client turnover. In hindsight, it was a lot to do with good timing. We were really the first to the market for what we do! CSj



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Engaging with human rights

A new report from CSR Asia warns companies that they may be indirectly involved in human rights infringement cases unknowingly through their supply chains. Richard Welford, Chairman, CSR Asia, recommends proper due diligence for businesses that want to be involved in proactive human rights programmes.

A new report from CSR Asia – *Engaging Business on Human Rights: Issues for Responsible and Inclusive Value Chains* – outlines some of the human rights risks that are facing businesses which operate global value chains. It highlights, in particular, growing concerns about various forms of modern-day slavery that are often found deep down the supply chains of companies where traditional audits rarely reach. Here the challenges facing the private sector are enormous and the reputational and legal risks growing. But the report stresses that single businesses acting alone cannot deal with the problems and that cooperation with other businesses and other stakeholders is vital. Through a series of interviews with expert stakeholders the report outlines the issues that face businesses, the opportunities for responsible and inclusive business practices and some of the barriers to addressing human rights concerns.

Businesses that are committed to running their organisations in a responsible way and those interested in exploring how their value chains can be more inclusive will have an interest in ensuring that

human rights are protected. They will recognise that their own employment practices should protect human rights. But more difficult are human rights abuses that happen outside the organisation itself, and are to be found in the value chains of businesses and within their sphere of influence rather than direct control.

One of the biggest challenges for responsible and inclusive businesses is that many human rights violations happen deep down supply chains where auditors and inspectors rarely go. They are found in agriculture, fishing, mining and other primary industries where single companies have limited control over their supply chains. Abuses include child labour, forced labour, bonded labour and a range of abuses inflicted on vulnerable and marginalised groups that can collectively be considered as modern-day slavery.

Companies are often found to be indirectly involved in human rights infringement cases unknowingly through their supply chains. This is why a willingness to undergo proper due



diligence is crucial for businesses that want to be involved in proactive human rights programmes. Yet research shows few businesses have supplier codes of conduct that go beyond first-tier suppliers and lack specific requirements related to modern-day slavery and other human rights abuses throughout its supply chain.

With growing public attention and concern around recent media scandals about modern-day slavery, as well as more consumers asking questions about whether the products they buy are 'slave free' or not, responsible and inclusive businesses will prioritise human rights issues and risks that they could face along their value chains.

While problems associated with human rights abuses will not be solved easily, there needs to be greater transparency and collaboration within sectors and



between different industries, involving a wide range of stakeholders. Engaging widely on emerging best practices and finding effective ways to tackle human rights abuses will reduce reputational and legal risks to companies.

Companies committed to responsible and inclusive businesses will work towards eradicating human rights abuses in their value chains and work with other stakeholders to encourage the wider private sector to increase their involvement in human rights assessments.

The basic principles that define the scope of human rights impact assessments require that:

- companies should be as transparent as possible about their findings (balancing the benefits and constraints of disclosure)

- an assessment should be grounded in a human rights approach by ensuring the participation of relevant stakeholders involved in the process, with a particular emphasis on marginalised or vulnerable groups, and ensuring accountability, and

- the methodology should be practical and effective from a business perspective.

In order to address human rights risks along the value chain and tackle the risks associated with modern-day slavery, the CSR Asia report argues that companies

Highlights

- ignoring human rights risks is not an option because they can cause damage to brand, reputation and trust, and cause severe disruptions to value chain security and efficiency with implications for competitiveness
- companies should use human rights risk assessments to evaluate the issues along the whole value chain and how they can impact on sourcing, products, brands, reputation and legislative requirements
- research shows that few businesses have supplier codes of conduct that go beyond first-tier suppliers and lack specific requirements related to modern-day slavery and other human rights abuses throughout the supply chain

must consider what is feasible, what is possible and what is fair. An approach consistent with developing a responsible and inclusive value chain free from human rights abuses is the intended outcome. A strategy based on the following 10 elements is a good starting point.

1. Develop awareness within the organisation about human rights challenges, accepting that there is no easy solution to dealing with human rights violations deep down supply chains. Recognise that ignoring human rights risks is not an option

because they can cause damage to brand, reputation and trust, and cause severe disruptions to value chain security and efficiency with implications for competitiveness.

2. Use human rights risk assessments to evaluate the issues along the whole value chain and how they can impact on sourcing, products, brands, reputation and legislative requirements. As part of this, engage with a range of stakeholders to better understand the dynamics of the value chain and the reality of operations on the ground.

Ensure that any potential high-risk areas are monitored and engage with vulnerable and marginalised communities to tackle risks associated with exploitation.

3. Consider inclusive business approaches and work with smallholders, small businesses and cooperatives to ensure that they derive fair benefits from their outputs. Help to increase productivity and quality so that margins are enhanced and vulnerability to abuses reduced. Create initiatives that have the potential to increase



the economic empowerment of poor people and communities more widely, reducing the potential for exploitation.

4. Recognise that certain groups of people will be more vulnerable to human rights abuses and work towards recognising the root causes of such potential abuses. Vulnerable groups will include the poor, women, indigenous peoples, children, migrant workers, refugees, the disabled, ethnic minorities and the displaced. Work alongside communities to address vulnerabilities.
5. Make value chains as transparent as possible, highlighting the sources of raw materials and production methods. Make it clear

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that the company has a policy and commitment to eliminate all forms of modern-day slavery. Provide accessible, reliable and independent whistleblowing procedures so that human rights abuses can be reported. Establish grievance mechanisms for those who believe the company is not abiding by its commitments.

6. Engage with industry-wide initiatives that can begin to examine the root causes of human rights abuses and begin to work on common standards and initiatives to mitigate the risks associated with modern-day slavery. Work alongside other businesses to address real and potential value chain risks associated with human rights abuses, recognising that a safe and responsible relationship with suppliers is in the long-term interest of value chain security and competitiveness.
7. Partner with the NGO community where significant expertise on human rights issues exists and begin working on solutions dealing with the underlying causes of modern-day slavery (including poverty, discrimination, land rights, refugees and vulnerable groups). Engage with experts who understand different issues in different geographical locations and respect local cultures and traditions, whilst seeking to reduce human rights risks.
8. Develop even wider multi-stakeholder initiatives at the industry level to work towards solutions to human rights abuses along the value chain, whilst at the same time increasing benefits to the poor and protecting the environment.

Develop joint initiatives to develop responsible and inclusive value chains and consider links to industry standards, certification schemes and labels where appropriate. Consider interventions along the value chain that can reduce risks associated with human rights abuses and remediation for those who are found to have been exploited.

9. Focus on developing responsible products and traceability initiatives so that consumers and other stakeholders can have a good degree of assurance that the products that they buy are free from human rights abuses. Encourage consumers to be part of the fight against modern-day slavery through education initiatives, influencing their purchasing decisions.
10. Join in a broader global movement to protect the human rights of vulnerable people and advocate for more effective responses from governments and other regulatory agencies. Demonstrate to other parts of the private sector that there is a business case associated with engaging with human rights relating to risk reduction and potential competitiveness gains associated with value chain security.

Richard Welford, Chairman, CSR Asia

The CSR Asia report 'Engaging Business on Human Rights: Issues for Responsible and Inclusive Value Chains' is available from the insights section of the CSR Asia website: www.csr-asia.com.

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Competition Ordinance: final preparations

Three years after its enactment, full implementation of Hong Kong's Competition Ordinance is expected towards the end of this year. Mark Jephcott, Adelaide Luke and Lisa Geary at Herbert Smith Freehills Hong Kong, urge businesses to audit their existing agreements and practices for compliance with the new law.



On 14 June 2012, following lengthy debate, the Hong Kong Legislative Council (LegCo) approved the Hong Kong Competition Ordinance. Three years have now elapsed since the passing of the Competition Ordinance without implementation of its substantive provisions.

In the intervening period, the Hong Kong Competition Commission (HKCC), in conjunction with the Communications Authority, has been readying itself for full implementation. These preparations are now nearing completion and it is anticipated that the Competition Ordinance will finally come into full effect towards the end of 2015.

All signs are that, notwithstanding its prolonged gestation, the HKCC is preparing for active enforcement post-implementation. Businesses should therefore be taking steps to audit their existing agreements and practices for compliance with the new law, and ensure that business staff are aware of the latest competition developments.

Overview of key developments towards implementation

Appointments and international cooperation

In April 2013, several key staff members were installed at the HKCC with the appointment of Chairperson Anna Wu and 13 other HKCC members (drawn from various backgrounds including law, economics, consumer protection, financial services, commerce and industry). This was followed by the much anticipated appointment of Dr Stanley Wong as Chief Executive Officer in 2014. It is understood that the HKCC's case teams have been recruited from a range of overseas regulatory authorities and from private practice.

In December 2013, the HKCC joined the International Competition Network and it has expressed enthusiasm for sharing experiences and expertise with other competition authorities. Indications are, therefore, that the HKCC will be in a position to draw on internal and external experience of international best practices when fulfilling its functions.

Public engagement

During 2014, the HKCC conducted outreach and advocacy programmes with the aim of educating businesses and the general public about competition law and canvassing views on existing trade practices. This assisted the HKCC in formulating the draft guidelines on the Competition Ordinance that were published in October 2014. Since mid-2014, the HKCC has held over 130 briefings and meetings with a wide range of industry associations, professional bodies, chambers of commerce and SME representatives.

Draft guidelines

Following the substantial progress made in establishing the necessary administrative structures, the primary obstacle to implementation of the Competition Ordinance remained the need for the HKCC to draft and obtain LegCo approval for guidelines on the implementation of the Ordinance which it was required to produce under the Ordinance.

To that end, the HKCC published draft guidelines in October 2014 which were set out in six separate documents covering:

- Procedural matters: (i) complaints; (ii) investigations; and (iii) applications for exclusions and exemptions and block exemption orders; and

- substantive application of: (i) the First Conduct Rule (which governs agreements between undertakings); (ii) the Second Conduct Rule (relating to abuse of market power); and (iii) the Merger Rule.

In light of submissions received from a cross section of stakeholders on the draft guidelines during the consultation period, the HKCC provided additional guidance on a number of issues (including the exchange of commercially sensitive information, resale price maintenance and common types of joint ventures) in revised draft guidelines published on 30 March 2015. The revised draft guidelines were presented to LegCo on 27 April 2015 and finalised guidelines are expected to be issued shortly.

What should businesses expect before the full implementation of the Ordinance?

Further guidance

In addition to the finalised guidelines, the HKCC plans to release further policies and publications in the run-up to the full implementation of the Ordinance. The drafting of a memorandum of understanding between the HKCC and the Communication Authority is also well advanced.

Of particular relevance to businesses in Hong Kong will be the HKCC's statement of its enforcement priorities, which may provide some insight into the behaviours and sectors that could be subject to particular scrutiny by the HKCC. A leniency policy will also be released prior to full implementation. Given the importance of leniency policies in particular in encouraging parties to abandon their anti-competitive conduct, the publication of this guidance is awaited with interest.

The HKCC has not provided specific guidance for individual industry sectors in Hong Kong, on the basis that the guidelines are designed to be applicable across economic sectors. However, it has indicated that it will continue to meet with industry associations and chambers to offer assistance in relation to particular issues of concern, and to assist them with the drafting of their publications and compliance information.

Market studies and complaints

Although the HKCC has not yet commenced operations, it is already monitoring a number of areas and conducting research on certain issues. In April 2015, the HKCC confirmed that

Highlights

- businesses have had longer than they might have initially expected to adjust their practices to prepare for full implementation of the Competition Ordinance
- public pronouncements of the Hong Kong Competition Commission point towards active enforcement of the Competition Ordinance post-implementation
- businesses should be taking steps to audit their existing agreements and practices for compliance with the Competition Ordinance

it had commenced initial market studies into the retail fuel sector and the building maintenance sector, having received petitions from a number of quarters ahead of the implementation of the Ordinance. The HKCC has invited parties to continue to contact it with concerns regarding potentially anti-competitive practices. The HKCC plans to keep records of all information received with a view to future operations under the Ordinance.

Competition Tribunal – procedural rules

The Tribunal will serve as a specialist tribunal which will make determinations on liability and sanctions for competition law infringements, and as a forum for follow-on private damages actions. On 5 June 2015, the Hong Kong government gazetted the procedural and fees rules for the Competition Tribunal in the Hong Kong Government Gazette and on 10 June 2015 the rules were tabled in LegCo for negative vetting.

The enactment of these procedural and fees rules is a necessary precondition to the Tribunal coming into operation. LegCo approval for the procedural and fees rules may be forthcoming as early as mid-July 2015.

What should businesses not expect before full implementation of the Ordinance?

Substantial market power/market share thresholds

The HKCC has stated that it does not propose to set a market share threshold that would demonstrate the existence of 'substantial market power' under the Second Conduct Rule. In the view of the HKCC, a clear bright line would be extremely difficult to apply in certain Hong Kong markets which

are characterised by high degrees of concentration. Furthermore, the HKCC is of the view that market share alone does not determine whether an undertaking has substantial market power. It therefore plans to adopt a more economic approach, taking into account factors such as buyer power, ease of entry and expansion and supply-side substitutability.

Block exemptions

The HKCC has indicated that its focus is on preparation for full implementation of the Ordinance but that it will 'consider whether any preparatory work' can be done regarding block exemptions as part of this process. This indicates that businesses in sectors which have applied for block exemptions should not expect to receive a determination on their application before the Ordinance comes into force.

Implications for business

Three years after the passing of the Competition Ordinance, it is clear that businesses have had longer than they might have initially expected to adjust their practices to prepare for its full implementation.

The HKCC has consistently emphasised that businesses should use the delayed implementation of the Competition

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businesses should use the delayed implementation of the Competition Ordinance as an opportunity to bring to an end arrangements which potentially infringe the Ordinance

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Ordinance as an opportunity to bring to an end arrangements which potentially infringe the Ordinance. It should be recalled that in the UK the Office of Fair Trading imposed fines for conduct which ended less than a month after the implementation of relevant sections of the Competition Act 1998 and there is no reason why the HKCC could not take similar enforcement action. Indeed, public pronouncements of the HKCC and the commencement of initial market studies prior to full implementation of the Ordinance point towards active enforcement by the HKCC post-implementation.

Therefore, for those businesses which have not yet done so, the prospect of the Competition Ordinance coming into force in the near future should serve as a timely reminder to review and, if necessary, amend practices to ensure compliance with competition law.

Mark Jephcott, Partner and Head of Competition – Asia; Adelaide Luke, Registered Foreign Lawyer; and Lisa Geary, Legal Manager

Herbert Smith Freehills Hong Kong

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Cross-border supervision: new SFC proposals

Hong Kong's Securities and Futures Commission (SFC) proposes to amend the Securities and Futures Ordinance to boost the level of supervisory assistance the SFC can provide to overseas regulators.

Over recent decades, international cooperation among national regulatory bodies has strengthened in response to a number of different trends, most obviously the increasingly cross-border nature of regulated entities. This process has been led by supranational bodies such as the Financial Stability Board (FSB) and the International Organisation of Securities Commissions (IOSCO).

This month's second cover story, for example, reports on the efforts of the FSB to establish global principles for how national regulatory authorities can cooperate in resolutions of systemically important financial institutions (see page 16). In 2010, IOSCO issued its *Principles Regarding Cross-Border Supervisory Cooperation* (IOSCO Report), which includes a set of principles to assist securities regulators to develop and maintain supervisory cooperation arrangements. The IOSCO Report establishes the principle that authorities should share information to assist each other in fulfilling their respective supervisory and oversight responsibilities for regulated entities operating across borders.

These global trends have very significant implications for Hong Kong where so many listed companies are part of international groups or incorporated overseas. The Securities and Futures Commission (SFC) is already actively engaged in cross-border regulatory cooperation. It has entered into bilateral memoranda of understanding (MOUs) with overseas regulators and participates in IOSCO – for example, it has signed up to the IOSCO 'Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information'.

There is, however, a limitation to how far the SFC can cooperate in supervisory activities with overseas regulators. It can share information in its possession with overseas regulators, but it is not able to exercise its supervisory powers to obtain information for the purposes of assisting an overseas regulator in non-enforcement related matters where a licensed corporation (or its group company) is also regulated by that overseas regulator. The current SFC proposals aim to fill this gap.

The SFC proposals

Under the existing Securities and Futures

Ordinance (Cap 571) (SFO), the sections relating to the provision of assistance by the SFC to overseas regulators are:

- Section 186 (which regulates incoming requests, by setting out, amongst other things, the types of overseas regulators the SFC may assist, the types of requests it may accept, the conditions for accepting a request and the investigatory and other enforcement powers that it may exercise if a request is accepted), and
- Section 378(3)(g)(i) (which regulates outgoing provision of non-public information).

Under these provisions, the SFC may assist overseas regulators by providing non-public information essentially in two ways:

1. for enforcement purposes only: the SFC may assist to obtain information





pursuant to Section 186 by exercising its relevant enforcement powers (for example, to investigate under Sections 182 and 183), and disclose the same to an overseas regulator through the gateway under Section 378(3)(g)(i), and

2. for enforcement or non-enforcement purposes: if the requested information is already in the possession of the SFC at the time of the request, the SFC may disclose it to an overseas regulator through the gateway under Section 378(3)(g)(i).

As a result, while the SFC may obtain information for its own supervisory purposes under Section 180, there are currently no provisions under the SFO that explicitly enable the SFC to exercise its supervisory powers to obtain information for the purposes of assisting overseas regulators in non-enforcement related matters. The SFC therefore proposes that

Sections 180 (in respect of supervisory powers of the SFC) and 186 (in respect of assistance that may be provided by the SFC to overseas regulators) of the SFO be amended so that a narrow form of supervisory assistance could be provided upon request to overseas regulators.

The market response

On 19 December 2014, the SFC issued a public consultation on its proposals

– *Consultation Paper on Proposed Amendments to the Securities and Futures Ordinance for Providing Assistance to Overseas Regulators in Certain Situations*. The consultation ended in mid-January 2015 and the SFC published its consultation conclusions last month (5 June 2015).

The majority of respondents agreed with the overall objectives of the proposals, including that it is important for global

Highlights

Upgrading the level of supervisory assistance the SFC can provide to overseas regulators will:

- boost the SFC's ability to enter into international supervisory cooperation arrangements
- adhere better to international regulatory standards, and
- secure access for Hong Kong licensed corporations to certain overseas markets which are only open to jurisdictions that are parties to supervisory cooperation arrangements.

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the proposed amendments will only give the SFC a discretion to provide supervisory assistance to an overseas regulator and will not impose an obligation to do so
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regulators to maintain supervisory cooperation in the regulation of financial corporations,¹ the SFC states in its consultation conclusions.

The SFC argues that the amendments to the SFO will enable it to have a more effective and comprehensive supervision of licensed corporations which operate in multiple jurisdictions by being able to engage regulators outside Hong Kong to enter into international supervisory cooperation arrangements including MOUs, adhere better to international regulatory standards and, in certain cases, secure access for Hong Kong licensed corporations to certain overseas markets which are only open to jurisdictions that are parties to supervisory cooperation arrangements. For instance, supervisory cooperation arrangements are required under the Alternative Investment Fund Managers Directive for SFC-licensed asset managers to access the European Union market.

To mitigate against the risks that information provided by the SFC to an overseas regulator may be abused, safeguards have been built into the proposed supervisory assistance measures. The SFC emphasises that such information

is not intended to be used for enforcement purposes. The proposed amendments to the SFO therefore require an overseas regulator in all cases to undertake in writing that it will not use the information in any proceedings unless an additional request for investigatory assistance is made in accordance with the SFO.

‘Therefore, in the event that such information (for example, an answer to a question about a document or record) disclosed an apparent breach of the regulatory regime administered by the overseas regulator, and it wished to use the information in proceedings against the person from whom it had been obtained, then the overseas regulator must request enforcement assistance from the SFC under Section 186(1) of the SFO. In these circumstances, the usual protections would apply such as the privilege against self-incrimination which is already provided for in the SFO,’ the SFC states in its consultation conclusions.

Moreover, the proposals only relate to Hong Kong licensed corporations which are regulated overseas and/or have group companies regulated overseas. As such, the proposals will not affect domestic Hong Kong licensed corporations where

neither they nor their group companies are regulated by overseas regulators. Further, the proposed amendments will only give the SFC a discretion to provide supervisory assistance to an overseas regulator and will not impose an obligation to do so.

In response to concerns raised during the consultation, the SFC proposes an additional requirement that the regulator outside Hong Kong would need to confirm that it has not been and will not be able to obtain the requested information by any other reasonable means and it is unable to ascertain the specified supervisory matters fully without the information sought. This is designed to guard against the new measures being used for unwarranted, trivial or ‘fishing’ requests from regulators outside Hong Kong. ^{CSj}

The ‘Consultation Paper on Proposed Amendments to the Securities and Futures Ordinance for Providing Assistance to Overseas Regulators in Certain Situations’ (December 2014), together with the Consultation Conclusions (June 2015), are available on the SFC website: www.sfc.hk.



行政人員文憑/證書《中國企業管理》 Executive Diploma / Executive Certificate in PRC Corporate Administration

*學生亦可報讀個別學科單元

行政人員文憑《中國企業管理》有四個單元，學員只要成功完成單元一至單元四，並在持續評估中的個案分析取得合格成績，將獲發行政人員文憑《中國企業管理》。學生如成功完成單元一(中國公司行政)及其他任何一個單元，並在持續評估中的個案分析取得合格成績，將獲發行政人員證書《中國企業管理》。具體如下：

單元一 中國公司行政 Corporate Administration in PRC

單元三 中國稅務 Taxation in PRC

單元二 中國公司治理 Corporate Governance in PRC

單元四 中國公司法律 Corporate Law in PRC

行政人員文憑《中國公司治理》 Executive Diploma in PRC Corporate Governance

*學生亦可報讀個別學科單元

學生如成功完成核心單元一至三及任何一個非核心單元(即四或五)，並在持續評估中的個案分析取得合格成績，將獲發行政人員文憑《中國公司治理》。具體如下：

核心單元：(必須全部修讀)

單元一 中國董事會秘書實務 Corporate Secretaryship in PRC

非核心單元：(可選單元四或五)

單元二 中國公司治理 Corporate Governance in PRC

單元四 中國稅務 Taxation in PRC

單元三 中國公司行政 Corporate Administration in PRC

單元五 中國公司法律 Corporate Law in PRC

中國公司法律

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上課時間及地點	每單元課程為期兩週 授課時間：4堂，每堂6小時，共24小時 上課時間：週六14:00 - 17:00及18:00 - 21:00、週日10:00 - 13:00及14:00 - 17:00 授課地點：港島區其中一所教學中心
授課日期	2015年8月1日、8月2日、8月8日及8月9日
每單元課程學費	港幣3,850元

* 學生如報讀個別單元，成功完成該學科單元，並在持續評估中的個案分析取得合格成績，出席率達75%或以上，可獲發修讀證明書。

課程查詢

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每個單元課程出席率達75%或以上之香港特許秘書公會會員，可以獲得18個ECPD學分，但有關實際可帶往下一年之ECPD學分詳情，請個別與公會聯絡。

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香港大學專業進修學院乃非牟利機構。

Professional Development

Seminars: May 2015

11 May
Execution and proof of
company documents for
overseas use under the
new Companies
Ordinance, Cap 622



*Chair: Ernest Lee FCIS FCS, Professional Development
Committee Member, HKICS, and Partner, Assurance,
Professional Practice, Ernst & Young*
*Speaker: Samuel Li, Solicitor, Notary Public & Owner of Samuel Li
& Co, Solicitors & Notaries*

14 May
Managing legal risk



*Chair: Susan Lo FCIS FCS(PE), Professional Development
Committee Member, HKICS, and Executive Director,
Director of Corporate Services and Head of Learning &
Development, Tricor Services Ltd*
Speaker: Paul Westover, Partner, Stephenson Harwood

15 May
Joint seminar: Independent directors and
controlling shareholders around the world



Chair: Professor CK Low FCIS FCS, Associate Professor in Corporate Law, CUHK Business School
*Speakers: Professor Marilena Filippelli, Assistant Professor of Business Law, School of Economics and
Management, Free University of Bozen/Bolzano, Italy; Paul Chow FCIS FCS, Chairman of Hong Kong
Cyberport Management; Professor CK Low FCIS FCS, Associate Professor in Corporate Law, CUHK
Business School; and Dr Kelvin Wong, Immediate Past Chairman, Hong Kong Institute of Directors*

18 May
Strategic move to address
IT risks in the mobility
environment



*Chair: Richard Law FCIS FCS, Principal Consultant, Robinson's
Legal Training Ltd*
Speaker: Dr Ricci Leong, Partner, TS IT Advisory Services Ltd

21 May
Cybersecurity and the
evolving role of the board



Chair: Samantha Suen FCIS FCS(PE), Chief Executive, HKICS
*Speakers: Al Percival, Managing Director, Asia Pacific, Diligent
Corporation, and Alan Lee, Executive Director, Advisory
Services, Ernst & Young*

ECPD

Forthcoming seminars

Date	Time	Topic	ECPD points
16 July 2015	6.45pm – 8.15pm	Common tax disputes between taxpayers and the Inland Revenue Department in the evolving tax and accounting environment	1.5
20 July 2015	6.45pm – 8.15pm	Corporate governance and developments in risk management and internal control (re-run)	1.5
24 July 2015	12.30pm – 2pm	The Contracts (Rights of Third Parties) Ordinance – what you need to know, an overview and panel discussion	1.5
18 Aug 2015	6.45pm – 8.45pm	The Listing Rules – recent reforms (connected transactions and risk management)	2
25 Aug 2015	6.45pm – 8.45pm	Five completely ignored differences between Hong Kong and PRC company law	2

For details of forthcoming seminars, please visit the ECPD section of the Institute's website: www.hkics.org.hk.

MCPD requirements

Members are reminded to observe the MCPD deadlines set out below.

CPD year	Members who qualified between	MCPD or ECPD points required	Point accumulation deadline	Declaration deadline
2014/2015	1 January 2000 - 31 July 2014	15 (at least 3 ECPD points)	31 July 2015	15 August 2015
2015/2016	1 January 1995 - 31 July 2015	15 (at least 3 ECPD points)	31 July 2016	15 August 2016

MCPD requirement to extend to graduates

Effective from 1 August 2015, all graduates are required to comply with the Institute's MCPD requirements.

Professional Development (continued)

关联交易与内幕交易管控

为配合境内外上市公司合规及更好的把握关联交易与内幕交易管控的需要，香港特许秘书公会（公会）于5月27至29日在上海举办“第三十七期联席成员强化持续专业发展讲座”，讲座的主题是“关联交易与内幕交易管控”。来自中国证监会、上海证券交易所以及相关专业机构、上市公司的代表分别介绍了最新情况，总体来看，沪港通推出后对上市公司规范运作提出了更高要求，而最先获得国际专业资格的人才将成为领先者。有上市公司人士以“十年心得”为题指出，面对内幕信息，上市公司相关负责人应守法合规，按程序和制度办事，具有良好的职业道德和职业操守。

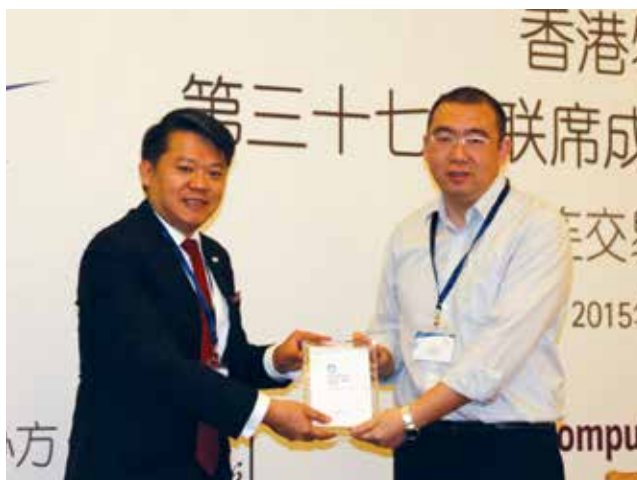
最先获得国际专业资格将成为领先者

此次讲座内容丰富，包括最新并购与重大资产重组法规解读及实务操作注意事项、沪港通下的内幕交易管控与信息披露、董监高及董秘的内幕交易管控职责与义务及违规处罚、关联交易、企业管制守则之风险管理及内部监控系统规管要求与披露、香港上市公司治理新挑战、企业风险管理及内部监控经验分享案例介绍、内幕知情人管理、传媒管控与虚假市场应对实务案例分享、关联交易与内幕交易管控分组讨论等。

公会会长魏伟峰博士在致辞中表示，目前国家正在全面落实依法治国的基本方略，大力推进简政放权、转变政府职能，让市场在资源配置中发挥决定性作用；同时，国家鼓励“走出去”，逐步实施人民币国际化，稳步推进证券市场的对外开放及鼓励资本市场创新。在此背景下，市场主体与中介组织的作用将会变得越来越重要。特别是在目前沪港开通、深港通开通在即，股票发行注册制加快推出，四个自贸区建设总体方案发布的形势下，董秘个人，以及整个行业正面临新的机遇和挑战。因为，构建自律式的公司治理新秩序，提升企业市场主体的自治能力与水平，必须要有具国际视野的公司治理专才，来承载放松管制下的公司治理职能与历史使命，应对各种创新所提出的新的治理课题。相信这将有力地推动董秘的专业化发展进程。董秘是公司治理的核心，对于公司自律与治理的成败具有关键作用。魏博士认为，随着内地的国际化发展，董秘专业与国际接轨指日可待，最先获取国际专业资格的人将是领先者。

沪港通对上市公司规范运作提出更高要求

上海证券交易所（上交所）市场监察部副总监范志鹏就《沪港通信息披露与内幕交易防控》的主题进行了演讲，他介绍，沪港通下信息披露有了一些新变化，总体上来看沪港通并不改变沪港交易所的现有信息披露制度及监管权限，两



上海证券交易所市场监察部副总监范志鹏

地上市公司仍受其上市地法律和业务规则约束。而上交所及四家报社的指定网站则是沪港通公司信息披露指定网站。此外，沪港通要求按照名义持有人定期报告前十大股东信息，其中境外投资者是权益变动的信息披露义务人，香港结算豁免权益变动披露义务。他还提示应关注“境内外交易日期的差异”对上市公司安排信息披露的影响。

“沪港通对境内上市公司规范运作提出了更高要求”，他表示，上市公司信息披露应由合规性为主，转为合规性和有效性并重；由全面性为主，转为全面性和简明性并重；由法定性为主，转为法定性和自愿性并重。

中国证监会上市公司监管部监管三处处长王长河则介绍了《并购重组最新监管政策》，他表示，自2013年10月8日以来并购重组审核分道制开始实施，至2014年11月22日，快速/豁免审核2单，正常审核205单，审慎审核61单。下一步，证监会将视实施进展情况，不断完善分道制审核方案，根据有关部门确定的推进兼并重组重点行业，动态调整支持的行业类型。此外，并购重组的审核机制也从原来的前置审批改为并联审批，上市公司可在股东大会通过后同时向证监会和相关部委报送并购重组行政许可申请。他还透露了下一步改革的方向，包括取消发行股份的行政许可，借壳上市随注册制下放到交易所以及强化事中、事后监管。

十年心得：面对内幕交易应守法合规

香港中央证券登记有限公司副总监杜悦介绍了员工股份激



中国证监会上市公司监管部监管三处处长王长河

励计划发展趋势，在香港员工股份激励计划采用呈现上升趋势，其中购股权计划的上市公司在2012年为7家，2013年为6家，2014年增长到16家；而限制性股份奖励计划实施的公司，在2012年是13家，2013年是20家，2014年增长到了35家。她指出，限制性股份奖励计划是大势所趋，体现在六大优点：一是对员工有价值，二是更适合于业务发展成熟的公司推行，三是公司可在市场购入自身股票，四是对每股盈利的稀释影响极微，五是繁复的股东审核程序相对较少，六是具现行的执行及管理模式。

海通新能源股权投资基金管理公司董事长金晓斌曾多年担任海通证券董秘，他从实践角度分享了内幕知情人管理与虚假市场应对实务。他比较了境内外对内幕信息定义，香港和境内都有列举，基本精神一致，但在重大的概念上，境内注重是否对公司证券交易价格有较大影响，香港则注重对投资者买入或卖出的决定的影响，而非着重于证券价格的波动。境内有量化指标，香港仅是原则性规定，没有量化的规定。对于多地上市公司，本着从严的原则确定内幕信息。他以“十年心得”为题，指出面对内幕信息上市公司相关负责人应守法合规，按程序和制度办事，具有良好的职业道德和职业操守。坚持信息披露零误差，降低信息不对称性、信披对股价的影响，而业绩、合规、激励和沟通是市值管理的四大要素，“投行是企业价值的培育者、分析师是企业价值的挖掘者、董秘是企业价值的维护者、沟通提升价值、创造价值”，他表示，董秘应与律师、会计师一样，成为独立、专业的职业经理人，以保证董秘的独立性和专业性。

Seminar review: 37th Affiliated Persons ECPD seminar in Shanghai

The Institute held its 37th Affiliated Persons (AP) ECPD seminars in Shanghai between 27 and 29 May 2015 on connected transactions and insider dealing regulation. The seminars attracted over 120 participants from H-share, A+H share, red-chip and A-share companies, as well as representatives of to-be-listed companies.

Institute President Dr Maurice Ngai FCIS FCS(PE) and Vice-President Dr Gao Wei FCIS FCS(PE) were chairmen of the seminars. Fan Zhipeng, Deputy Director, Market Supervision Department, Shanghai Stock Exchange, introduced the Shanghai-Hong Kong Stock Connect and spoke from a regulator's point of view on the challenges arising from the regulations on the disclosure of inside information and insider dealing prevention measures. Wang Changhe, Head of Division III, Listed Companies Supervision and Administration Department, the China Securities Regulatory Commission, introduced the latest regulatory policies on mergers and acquisitions. Other speakers shared insights on various topics related to the Listing Rules. The presentations were followed by group discussions.

The Institute thanks the speakers; seminar participants; the joint organiser Shinewing CPA; the sponsor Equity Group; as well as supporting organisations, namely Computershare Hong Kong Investor Services Ltd, KPMG and Herbert Smith Freehills, for supporting the event.



At the seminar

Membership

The Institute's fee structure 2015/2016

The subscription fees for members, graduates and students for the financial year 2015/2016, which will apply from 1 August 2015, are set out below. Members and graduates will receive a membership renewal notice and demand note in August 2015.

Members and graduates

	Amount (HK\$)
Annual subscription	
Fellows	2,510
Associates	2,150
Graduates (holding the status for less than 10 years, that is after 1 August 2005)	1,850
Graduates (holding the status for more than 10 years, that is from on or before 1 August 2005)	2,510
Retired or reduced rate (notes 1 and 2)	500
Hardship rate (note 3)	1
Election fees	
Fellows (note 4)	1,000
Associates	1,950
Graduate advancement fee	1,900
Re-election fees	
Fellows	3,200
Associates	2,650
Graduates	2,100
Other fees	
Membership card replacement	200
Certificate replacement	200
Membership confirmation	250
Transcript application	80 per copy

Affiliated Persons Programme

	Amount (HK\$)
Annual subscription or new application	2,510

Students

	Amount (HK\$)
Registration fee	1,250
Re-registration fee	1,450
Renewal fee	780
Late studentship registration administration charge (note 5)	600
Examination fee	1,100 per subject
Examination postponement fee	800 per subject
Examination appeal fee	2,100 per subject
Exemption fee	1,100 per subject
Exemption re-application administration charge (note 6)	650 per application
Transcript application	80 per copy
Examination technique workshop	500 per subject
HKICS study outline	350 per copy
ICSA study text	800 per copy
Study pack	470 per copy
CCA late registration charge	380 per month

Notes:

- Members are eligible to apply for the retired rate if they have:
 - attained the age of 55 on or before the beginning of the financial year (1 August) and have been a paid-up member of the Institute for at least 25 years (members who have reached the age of 60 may be exempted from the 25-year membership requirement at the discretion of the Membership Committee), and
 - retired from employment and are not contributing to the Mandatory Provident Fund Scheme.

All retired rate applications are subject to the final approval of the Institute's Membership Committee. Retired rate members are obliged to keep the Institute informed immediately of any change in circumstances which may affect their entitlement to the retired rate.

2. Members are eligible to apply for the reduced rate if they have:
 - been unemployed for a minimum of six months prior to their application
 - ceased to gain an income due to health reasons for a minimum of three months prior to their application, or
 - encountered circumstances which, in the judgement of the Membership Committee, warrant the reduced rate.

All reduced rate applications for the financial year 2015/2016 must be submitted to the Membership Section on or before Thursday 31 December 2015 and will be subject to the final approval of the Membership Committee.

3. Members are eligible to apply for the hardship rate if they have a serious illness or other circumstances which, in the judgement of the Membership Committee, warrant the hardship rate. All hardship rate applications for the financial year 2015/2016 must be submitted to the Membership Section on or before Thursday 31 December 2015 and will be subject to the final approval of the Membership Committee.
4. A special rate for fellow election at HK\$1,000 will remain valid during the financial year 2015/2016.
5. An administration charge is applied to late studentship registrations for taking the corresponding examinations in June and December.

Late studentship registration period	Examination diet
1-15 August 2015	December 2015
1-15 February 2016	June 2016

6. An administration charge for each exemption re-application will be applied to students who do not settle the exemption fee within the designated period of time following the approved exemption.

New graduates

Congratulations to our new graduates listed below.

Chui Ka Ling

Tsui Tsz Ying

New associates

Congratulations to our new associates listed below.

Chan Fung Mei	Lee Wing Yee
Chan Ho Ying, Maggie	Lee Ying Chi, Liza
Chan Wai Lan	Leong Hoi Yi
Chan Wan Ting	Leung Ching Yan
Chan Wing Yin, Jenny	Leung Siu Chi
Chan Yi Man	Li Sau Yi
Chen Ching Tim	Luk Chun Yin
Cheng Ka Wing	Luk Tak Lam
Cheng Lai Ning	Lun Ka Chun
Cheung Sze Nga	Poon Tsz Kwan
Chow Wan Shan	So Yui Ki, Karen
Chow Yee Tung	Wong Chow Sim
Chow Yuen Ki, Kate	Wong Hoi Fai
Chu Hop Ping	Wong Tak Chun
Fong Lai Yan	Wong Wah Man
Fung Kwok Lun, Eric	Wong Yik Han
Ho Choi Kuen	Wong Yu Sun
Ho Tsz Tat	Wong Yuen Sze
Hui Yuen Ling	Wong Yuen Yan
Hung Lai Shan	Wu Jinfeng
Ip Kwai Chun	Yan Hoi Ling, Jovian
Keung Kwan Yi	Yeung Wing Chong
Keung Yuen Fung	Yu Hok Sum
Ko Mei Ying	Yu Yan
Koo Mei Ling	Zhao Yanhui
Kwan Yuk Yin	
Kwok Shu Lam	
Kwong Man Chi, Cassy	
Lai Tin Yun, Janette	
Lam Kei Chun	
Lam Yuet King, Josephine	
Lau Hung Mei, May	
Lee Tsz Kin	

Membership (continued)

New fellows

The Institute would like to congratulate the fellows listed below elected in May 2015.



Shi Shau Wah, Angelina FCIS FCS

Ms Shi is currently a Senior Manager of Investor Services at Tricor Services Ltd (Tricor). She has extensive experience in corporate secretarial and investor services practices, servicing 140 listed issuers. Her expertise in share registration practice extends from registrar services, IPOs and company restructuring to many other complex corporate actions undertaken by listed issuers. Prior to joining Tricor, Ms Shi was an Assistant Manager of Corporate Secretarial Services with Deloitte Touche Tohmatsu in Hong Kong. She holds a bachelor's degree in Economics from University of London.

Additional new fellow:

Chiu Yuk Ching, Juliana FCIS FCS, Company Secretary, Fubon Bank (Hong Kong) Ltd

Membership activities

'Young Group' Series – preparing for a successful career: what's next?

Following the success of last year's career workshop, the Institute organised another practical career workshop on 29 May 2015. Three specialist recruiters from Michael Page – Carolyn Woo, Marta Verderosa and Alexandre Tao – worked on interview skills and salary negotiation techniques with members. During the individual coaching session, the speakers discussed with members areas they could work on for further career advancement.



Individual coaching session



Institute Chief Executive Samantha Suen FCIS FCS(PE) and Registrar Louisa Lau FCIS FCS(PE), presenting souvenirs to Carolyn Woo, Marta Verderosa and Alexandre Tao

Membership card photo for 2015/2016

To update your membership card photo for 2015/2016, please email your digital photo (with a resolution of at least 300 dpi), together with your full name and membership number, to: member@hkics.org.hk, by Friday 31 July 2015.

The Hong Kong Institute of Chartered Secretaries Prize 2015

The HKICS prize is an award to honour a member or members who have made significant contributions to the Institute and the Chartered Secretarial profession over a substantial period.

Awardees are bestowed with the highest honour – recognition by their professional peers. Members are invited to submit nominations.

The nomination deadline is Wednesday 30 September 2015. Please visit the Institute's website: www.hkics.org.hk for more information. For enquiries, please contact Louisa Lau at: 2830 6008, or email to: member@hkics.org.hk.

Forthcoming membership activities

Date	Time	Topic
11 July 2015	10am – 12noon	Young Group Sports and Games Series – bowling
18 July 2015	9.30am – 11.45am	Community Service – dementia concern and visit
14 August 2015	6.45pm – 8.45pm	Young Group Talk Series – corporate governance: recent trends in Hong Kong and Mainland China
15, 22 and 29 August 2015	11am – 1pm	Young Group Sports and Games Series – badminton

Updates will be provided regularly via emails and at the Events section of the Institute's website: www.hkics.org.hk.

Means of receipt of CSj

The Institute would like to thank the members, graduates and students who have expressed their consent and support for our green initiative by switching from the print to the electronic version of CSj (eCSj). From August 2015 onwards, they will receive an email notification every month when eCSj is available on the Institute's website: www.hkics.org.hk.

Advocacy

Luncheon with Commissioner of Chinese Foreign Affairs Ministry in Hong Kong

The Hong Kong Coalition of Professional Services (HKCPS) organised a luncheon with Song Zhe, the Commissioner of the Ministry of Foreign Affairs in the Hong Kong Special Administrative Region on 21 May 2015. President Dr Maurice Ngai FCIS FCS(PE) and Immediate Past President Edith Shih FCIS FCS(PE) attended the luncheon together with representatives of other professional bodies under HKCPS.



HKICS attends Hong Kong SAR establishment anniversary reception

President Dr Maurice Ngai FCIS FCS(PE) attended a reception hosted by the Hong Kong Economic and Trade Office in Guangzhou of the Hong Kong government, in celebration of the 18th anniversary of the establishment of the Hong Kong Special Administrative Region on 1 July 2015. Guests from the Chinese provincial and municipal governments, Hong Kong non-government organisations and trade associations attended the event held in Guangzhou.

International Qualifying Scheme (IQS) examinations

December 2015 examination timetable

	Tuesday 1 December 2015	Wednesday 2 December 2015	Thursday 3 December 2015	Friday 4 December 2015
9.30am - 12.30pm	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
2pm - 5pm	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

Notes:

- Students may enrol between 1 and 30 September 2015.
- It is mandatory for students who sign up for the following examination subjects to purchase the respective study packs:
 - Hong Kong Corporate Law
 - Corporate Administration
 - Corporate Secretaryship
 - Corporate Governance

IQS information session

The Institute's IQS information sessions provide information on the IQS and the career prospects for Chartered Secretaries. At the upcoming session in July, Louisa Yuen FCIS FCS(PE) will share her work experience with attendees. Members and students are encouraged to recommend friends or colleagues who are interested in the Chartered Secretarial profession to attend this IQS information session.

Date:	Monday 20 July 2015
Time:	7pm – 8.30pm
Venue:	Joint Professional Centre, Unit 1, G/F, The Center, 99 Queen's Road Central, Hong Kong
Speaker:	Louisa Yuen FCIS FCS(PE) Joint Company Secretary of a leading global luxury fashion group

Studentship

'Passing the Torch' project – closing ceremony

The 'Passing the Torch – from values of business ethics and governance to actions project' has been completed successfully. A closing ceremony was held on 6 June 2015 at the Hong Kong University of Science and Technology (HKUST). President Dr Maurice Ngai FCIS FCS(PE); Education Committee Chairman Polly Wong FCIS FCS(PE); Chief Executive Samantha Suen FCIS FCS(PE); Registrar Louisa Lau FCIS FCS(PE); Education and Examinations Director Candy Wong; joined by Dr Dennis Chan and Dr Kelvin Mak from the HKUST Business School; attended the gathering. HKUST students were glad to gain insights on business ethics from practising veterans and pass on the knowledge to younger peers in secondary schools during their visits in May 2015. Dr Ngai, also Chairman of The Chartered Secretaries Foundation Ltd (CSFL), presented participation certificates and awarded honorariums to the three HKUST student groups in the project.



Group photo



HKUST Business School students sharing at the gathering



Outstanding students were given participation certificates by Dr Maurice Ngai on behalf of CSFL

HKU SPACE Open Day 2015

Chief Executive Samantha Suen FCIS FCS(PE) delivered a seminar on 'Corporate governance – recent trends in Hong Kong and China' at the HKU SPACE Open Day on 6 June 2015. She discussed with over 50 participants recent developments in corporate governance in Hong Kong and Mainland China, the career path of Chartered Secretaries and the role of company secretaries in raising corporate governance standards.



At the HKU SPACE Open Day 2015

Studentship (continued)

Chartered Secretaries scholarships and subject prizes

On 30 April 2015, Jerry Tong FCIS FCS, Education Committee member, attended the Hong Kong Shue Yan University (HKSYU) Annual Scholarship Award ceremony, and Candy Wong, Director, Education and Examinations, attended the Hong Kong Baptist University (HKBU) Scholarship & Bursary Donor's Tea Reception.

They presented Chartered Secretaries scholarships and subject prizes donated by the Chartered Secretaries Foundation Ltd to the awardees listed opposite.

	Recipient of Chartered Secretaries scholarship	Recipient of Chartered Secretaries subject prize
Hong Kong Shue Yan University	Cheung Siu Mei Year 2 BBA student Best student of BBA programme	Chan Yuen Ying Year 3 BBA student For the subject of 'Company Law'
	Siu Ka Ki Year 4 Law and Business student Best student of Bachelor of Commerce in Law and Business	Luk Tsz Chung Year 4 Law and Business student For the subject of 'Corporate Governance'
Hong Kong Baptist University	Au Yeung Yin Yi Year 3 BBA student Best student of BBA programme	



Jerry Tong presenting a scholarship award and subject prize to two HKSYU students



Candy Wong presenting a scholarship award to an HKBU student

HKICS seminar for Collaborative Courses students

The Institute organised a seminar for Master of Corporate Governance students at the Hong Kong Polytechnic University on 16 May 2015. Richard Law FCIS FCS, Principal Consultant of Robinson's Legal Training, presented an overview of integrated reporting to more than 40 students. The integrated reporting approach aims to communicate with stakeholders about how an organisation's strategy, governance, performance and prospects, in the context of its external environment, lead to the creation of value over time.



At the seminar

Student Ambassadors Programme – AGM visits

The Institute arranged for student ambassadors to attend the annual general meetings (AGMs) of three listed companies on 7, 12 and 28 May 2015. The Institute would like to thank the following listed companies for their generous support of the programme.

- CLP Holdings Ltd
- Sing Lee Software (Group) Ltd
- China Mobile Ltd



At the CLP Holdings Ltd AGM



At the Sing Lee Software (Group) Ltd AGM



At the China Mobile Ltd AGM

HKICS/HKU SPACE programme series: Corporate Law in PRC (new module)

The HKICS/HKU SPACE programme series in PRC corporate practices is offering a new module – 'Corporate Law in PRC'. Up to 18 HKICS ECPD points will be awarded to participants who attain 75% or more attendance.

For more information, please contact HKU SPACE at: 2867 8481, or email: prcprogramme@hkuspace.hku.hk.

Date:	1, 2, 8 and 9 August 2015 (Saturdays and Sundays)
Time:	Saturdays: 2pm – 5pm and 6pm – 9pm Sundays: 10am – 1pm and 2pm – 5pm
Venue:	HKU SPACE Learning Centre on Hong Kong Island (to be confirmed)
Speaker:	Professor Yang Jian (杨剑教授), Associate Professor, Law School of Shenzhen University (深圳大学法学院副教授)
Enrolment deadline:	Thursday 30 July 2015

Payment reminders

Studentship renewal

Students whose studentship expired in May 2015 are reminded to settle the renewal payment by Wednesday 22 July 2015.

Exemption fees

Students whose exemptions were approved via confirmation letter on 29 April 2015 are reminded to settle the exemption fee by Wednesday 29 July 2015.



BRS is recognized as a well established boutique-style executive search firm in Hong Kong. We have been providing executive search assignments for financial services sector since establishment.

Our consultants are seasoned professionals from banking and human resources sectors. They have profound knowledge and expertise in the financial services industry and accumulated solid experience in completing numerous top management recruitment assignments. Our core expertise is in placement of senior to middle level assignments in front-line, middle and back offices for Private Banking, Consumer Banking and Corporate Banking.

Company Secretary / Head of Company Secretarial Department

Our Client is a leading banking institution in Hong Kong and they are looking for a company secretarial professional.

Responsibilities

- Lead a team to manage daily company secretarial work of the banking group
- Organize board and committee meetings and minutes-taking
- Prepare and update corporate governance documents
- Ensure compliance with all relevant statutory and regulatory matters of and for the Group, including compliance with Banking Ordinance, Securities and Futures Ordinance and Listing Rules, etc.
- Provide advice and coordinate in preparation of the Bank's interim report, annual report and press announcement

Requirements

- Degree holder or above, and qualified member of ICSA or HKICS
- Minimum 15 years of working experience as a Company Secretary in banks, financial institutions and/or renowned and sizable listed companies.
- Familiar with Banking Ordinance, SFO, Company Ordinance, Listing Rules and other regulatory requirements
- Excellent communication and interpersonal skills
- Fluency in English, Cantonese and Putonghua

Interested parties please forward your CV in word format with current and expected salary to bettyeung@brshk.com with copy to info@brshk.com

[All applications will be treated strictly confidential and will be used for recruitment purpose only]

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

Each issue is distributed to over **9,000** members of HKICS, and read by approximately **20,000** individuals.

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Rewarding the Extraordinary



The Hong Kong Institute of Chartered Secretaries Prize 2015

Call for Nominations

The Hong Kong Institute of Chartered Secretaries Prize will be awarded to a member or members who have made significant contributions to the Institute and the Chartered Secretarial profession over a substantial period.

Awardees are bestowed with the highest honour – recognition by their professional peers. We urge you to submit your nominations now!

The nomination deadline is Wednesday, 30 September 2015.
Please visit www.hkics.org.hk or contact Louisa Lau at 2830 6008 or email to member@hkics.org.hk for details.

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