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January 2017

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The journal of The Hong Kong
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The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, as well as the development of the profession of the Chartered Secretary in Hong Kong and throughout Mainland China. 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. HKICS is a founder member of the Corporate Secretaries International Association (CSIA) which was established in March 2010 in Geneva, Switzerland to give a global voice to corporate secretaries and governance professionals. HKICS has over 5,800 members and 3,200 students.

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Contents

Cover Story

Board building 06

CSJ looks at some best practice recommendations on board governance, their possible applications in the local business environment of Hong Kong and the company secretary's role in boosting the effectiveness of boards.

In Profile

An independent view 12

This month's In Profile candidate, Anthony Fan, President of the Hong Kong Independent Non-Executive Directors Association, gives us an introduction to the world of the professional independent non-executive director.

In Focus

Embracing the new GRI standards 16

Tony Wong, Founder and GRI Nominated Trainer, Alaya Consulting Ltd, argues that the new Global Reporting Initiative Sustainability Reporting Standards launched in October 2016 provide a user-friendly structure for Hong Kong companies of all sizes to start or continue their journey in sustainability reporting.

Mergers and acquisitions: new guidance 22

A new HKICS guidance note seeks to bring some clarity to the complex due diligence required to successfully manage merger and acquisition transactions, and to highlight the role the company secretary can play in the process.

Mainland Report

Our mission, our road ahead 24

A dinner was held in Beijing in November 2016 to celebrate the 20th anniversary of the establishment of The Hong Kong Institute of Chartered Secretaries (HKICS) Representative Office in Beijing. On behalf of HKICS Council, HKICS President Ivan Tam FCIS FCS, gave a speech at the anniversary dinner looking back at the Institute's development and accomplishments in Mainland China.

秉承使命 共创未來 30

香港特許秘書公會（公會）於2016年11月於北京舉行晚宴，慶祝北京代表處成立20週年。公會會長譚國榮代表公會理事會在晚宴上致辭，回顧公會在內地發展的歷程。

Technical Update

Dawn raids 34

Sherman Yan, Dominic Wai and Eutonia Chen, ONC Lawyers, give an overview of the dawn raid and investigative powers of the Independent Commission Against Corruption, Securities and Futures Commission and Competition Commission, and practical tips on dealing with them.



Chinese New Year greetings!

HKICS News

President's Message 04

Institute News 38

Student News 47



Gearing up for 2017

I was honoured to be re-elected as your president at the Council meeting following our AGM last month. I would like to take this opportunity to welcome Gillian Meller and Professor Alan Au to our new Council line-up. I look forward to working with Council, the secretariat and all of our members to address the challenges and opportunities of the year ahead.

We cannot be sure what lies ahead of us in 2017, but there can be little doubt that the pace of change will not be slowing down any time soon and we as governance professionals need to be in the forefront of adapting to the changing landscape. This is not an easy task. We need to be not only well informed about a wide range of emerging risks and opportunities, but we also need to be able to work with the board to ensure that these issues are effectively addressed. What regulatory changes will impact our business operations? How will emerging technologies impact our business model? How will changing stakeholder expectations impact our licence to operate?

It is very timely, therefore, that our journal this month addresses the role of the company secretary in ensuring the effectiveness of the board function. Board support is arguably the company secretarial service most critical to the success of the organisations we work for. Without effective direction from the

organisation's governing body, there is little chance of the enterprise navigating the highly competitive and fast-changing environment in which businesses operate today. Put simply, directors need to be in a position to constructively challenge management on the strategic challenges and opportunities facing the organisation.

One of the things which emerged from our Corporate Governance Conference in September last year, is just how often this basic function of the board gets buried under all the routine matters which boards need to attend to. This is one area where a good company secretary really proves his or her worth – keeping track of where the board is spending its time and ensuring that board meetings are better designed to ensure that the key issues are given sufficient time and energy to produce the best results.

Another key issue for us in terms of our board support work is getting the right balance between providing too much or too little information when we prepare the board pack or when facilitating director induction and training. This is clearly a tough call. To avoid overloading directors with too much information, there is always the temptation to limit ourselves to only information directly relevant to the matter in hand. This can, however, mean that key issues get neglected or ignored.

Guidelines issued by the Corporate Secretaries International Association (CSIA) in April last year emphasise the need to keep directors informed about the wider context in which they operate. The guidelines – *The Ten Practical Guidelines to Improving Board Communication* (available

on the CSIA website: www.csiaorg.com) – urge corporate secretaries to include information that could be of value to the board in respect of current decisions, future risks and industry developments. 'This proactive action is probably one of the most meaningful and value-adding steps you can take from a strategic support perspective in enabling and assisting the board,' the guidelines state.

Before I go, I would also like to highlight this month's In Profile interview which complements the cover story by looking at the special relationship between the company secretary and independent non-executive directors. Our In Profile candidate this month, Anthony Fan, President of the Hong Kong Independent Non-Executive Directors Association, highlights the important role of the company secretary in providing a bridge between the independent members of the board and the executives.

So, I leave you to another interesting edition of CSj and I wish you all the very best for the Year of the Rooster!

A handwritten signature in black ink, appearing to read 'Ivan Tam', with a stylized flourish at the end.

Ivan Tam FCIS FCS

准备就绪 迎接2017

上月会员周年大会后的理事会会议中，本人很荣幸获重选为会长。我谨藉此机会欢迎马琳小姐及区启明教授加入理事会，期望与理事会、秘书处及全体会员并肩合作，迎接来年的挑战与机遇。

2017年前路如何，目前尚未可知，但毫无疑问，改变的步伐不会慢下来；作为管治专业人员，我们必须站在前线，适应各种变化。这项工作并不容易，我们不仅要清楚掌握多方面的风险与机遇，也要与董事会共同合作，确保这些事宜得到有效处理。哪些法规变更会影响我们的业务运作？科技发展会如何左右我们的营运模式？持份者期望改变又会如何影响我们的营运？

本期月刊探讨公司秘书在确保董事会有效运作方面所担当的角色正合时宜。在公司秘书提供的众多服务当中，支援董事会相信是最重要的一项，与我们所服务机构的营运成败攸关。若缺乏管治团体的有效指引，企业便难以驾驭今天竞争激烈和变化万千的营商环境。简而言之，在机构面对策略性挑战与机遇时，董事应要向管理层提出建设性的质询。

在去年9月公会举办的公司治理研讨会中曾提出的一点就是，这项董事会的基本功能往往被董事会日常需要处理的例行工作所掩盖。这正是良好的公司秘书印证其价值的一个范畴：留意董事会如何运用时间，确保董事会会议编排得宜，分配充足时间与精力处理重要事项，以达致最佳效果。

另一个在支援董事会工作方面的重点则是，在为董事准备背景资料套或安排入职培训及培训课程时，须注意提供适量资料，不宜过多或过少。这显然是艰难的工作。为免提供过量资料对董事造成负担，我们往往倾向只提供与当前事务直接相关的资料；然而，这样一来，便可能忽略了一些重要事项。

公司秘书国际联合会于去年4月曾发出指引，强调有需要让董事知悉机构所处的大环境。该指引题为《加强董事会沟通的10项实务指引》（可于公司秘书国际联合会网站www.csia.org.com下载），促请公司秘书提供可能有助董事会议决当前事项、了解未来风险与行业发展的资料。指引指出：「从策略性支援的角度看，这个主动的行为，可以说是最有意义、最能

为董事会增值的一步，协助董事会发挥其功能。」

最后，我想特别介绍本月份的人物专访，文章探讨公司秘书与独立非执行董事的独特关系，作为封面故事的补充。是次接受我们访问的是香港独立非执行董事协会会长范仁达，他重点介绍公司秘书作为董事会独立成员与行政人员之间的重要桥梁角色。

请大家细阅本期的文章。祝大家鸡年进步，万事胜意！



谭国荣先生 FCIS FCS



Board building

Improving the effectiveness of your board

CSj looks at some best practice recommendations on board governance, their possible applications in the local business environment of Hong Kong and the company secretary's role in boosting the effectiveness of boards.

Board governance – how complicated can it be? Get your directors together, serve them coffee and let them get on with the business of deciding the future of the enterprise. If only it was that simple. As readers of this journal well know, getting the right people on your board and creating the right environment for effective decision making is a tricky business. The more you look into the details of board governance, the more complex the picture becomes. Are your directors adequately informed about the issues they are discussing? Are the personal dynamics on the board conducive to a good debate? Is there effective communication between the board and management? Do you have the right balance of independent directors and executives?

Fortunately, boards have been around for long enough for a fairly comprehensive body of board governance recommendations to have built up. This article will take a look at some of the salient recommendations and test their application in the local environment in Hong Kong. In addition, it will also take a look at the role of the company secretary in building an effective board. The ultimate responsibility for ensuring that the board is functioning effectively lies with the chairman. However, assisting the chairman, company secretaries have an integral role to play in board governance, both through their board support services and by virtue of their unique perspective as the only non-director who sits on the board.

Understanding the remit

This might seem like a very obvious point to begin with, but, as the former board 'doctor' Gregg Li pointed out in his article series in this journal 'Boardroom

pathology: six lessons in self-treatment' (CSj, February 2010), there are a surprising number of boards that don't really understand the purpose of having a board. 'Such boards often follow the letter of the law on board practice and conduct themselves as dictated by their lawyers. Meetings and discussion items become a ritual and, while the legal requirements for board practice may be met, one really wonders whether the board has any life at all,' Mr Li wrote.

Even where boards know and understand their remit, the principle function of the board – formulating strategy and addressing risk – can still get buried under the routine matters that directors need to attend to. The approval of the previous minutes and a discussion of 'matters arising' are of course important, but frequently board meetings start with these matters and, if the discussion gets bogged down in the details, when the board finally turns to the critical areas for discussion and decision making, spirits are flagging and time is running out.

Company secretaries can assist the chairman to address the lack of focus discussed above. This could involve tracking where the board spends most of its time, ensuring that strategy and risk are on the agenda and ensuring that adequate discussion time is given to them.

Getting the right talent

Another critical point for board governance is the question of how to find the talent you need. Nicholas Charles Allen, Chairman of Link Asset Management Ltd, which manages Link REIT, the largest real estate investment trust in Asia, points out that a good recruitment process needs to look beyond the candidates' CVs. A candidate's suitability for a board position will be measured against a set of criteria including, but not limited to:

- industry knowledge or ability to acquire that knowledge
- independence
- personal and professional integrity
- communication skills and the ability to work harmoniously with fellow directors and management, and
- demonstrated and recognised knowledge, experience and competence in business, including financial literacy.

The candidate is also expected to know how to analyse information, think strategically, and review and challenge management in order to make informed decisions. 'Before the recruitment process, we would first do a skill-set analysis, and

Highlights

- strategy and risk should be on the board's agenda and adequate discussion time should be given to them
- a good recruitment process needs to look beyond the candidates' CVs
- issues such as board diversity and chair/CEO duality need to be seen in the context of the local culture and demographics in Hong Kong

then go out and look for someone who fits these characteristics. Of course we have people who are very experienced in the property sector, but we also have members who have plentiful experience in law, accountancy and investor relations,' Mr Allen says.

He adds, however, that recruiting independent non-executive directors (INEDs) often presents a challenge in Hong Kong due to the relatively small pool of INED talent. 'I think Hong Kong has a relatively small pool of potential INEDs. Although headhunters know the people well and they know how to find them, everybody knows each other in Hong Kong. I personally would like to see more high-calibre people join that pool. It sometimes needs a bit of hard work to find the people that we want,' he says.

The increased responsibilities and liabilities of the director's role, however, are making many potential INEDs think twice about going into professional directorship. Eric Yeung, a Partner within PwC's Risk Assurance practice, confirms that tighter regulations, together with greater public scrutiny and shareholder activism, is driving higher expectations of the directors role. 'An area where director responsibilities are greater relates to the oversight of the company's risk management and internal control systems,' he notes. He adds that directors should familiarise themselves with the relevant regulations and engage in continuing professional development in order to 'up their game' in terms of boosting their effectiveness.

'Meanwhile, issuers should also invest more in director training. This could keep directors abreast of the latest regulatory changes, while helping them understand

trends and issues that concern the company's business and industry,' Mr Yeung says.

Ensuring board diversity

The recruitment process is further complicated by the need to ensure that the board has a diverse mix of skills and backgrounds. This is principally about guarding against the 'groupthink' syndrome, which is a risk if the board is composed of like-minded individuals who have similar ages, backgrounds and experience. Board diversity can also provide a company with indirect benefits, such as positively impacting a company's reputation, and a company's ability to recruit and retain talent. From a management perspective, diverse board members may help infuse diversity across its corporate culture and signal to employees the company's commitment to diversity.

Since 2013, Hong Kong's Corporate Governance Code (see 'What does the code say?' below) has required listed companies to have, and report on, a policy on board diversity. Mr Yeung also points out that Principle 3.1 of the International Corporate Governance Network Global Governance Principles states that the composition of the board should reflect a sufficient mix of individuals with relevant knowledge, independence, competence, industry experience and diversity of perspectives to generate effective challenge, discussion and objective decision-making.

Dr Kelvin Wong, Executive Director and Deputy Managing Director of COSCO Pacific Ltd, believes that this issue needs to be seen in the context of the local culture and demographics in Hong Kong. In this context, he says that diversity

should not be narrowly limited to address race, gender or nationality. 'The suitability of a director should be judged on his or her skill set, integrity, professionalism and passion regardless of gender, race or national origin. It makes little sense to set the ratio of male or female members on the board purely for the sake of having a more diversified board,' he says.

For INEDs in particular, there are many characteristics to consider beyond their professional skills, he adds. 'The mindset of being warm at heart, cool in mind is far more important than whether the candidate is a man or woman, Chinese or Indian. That said, any candidate, regardless of his or her racial or ethnic affiliation, should deserve an equal opportunity.'

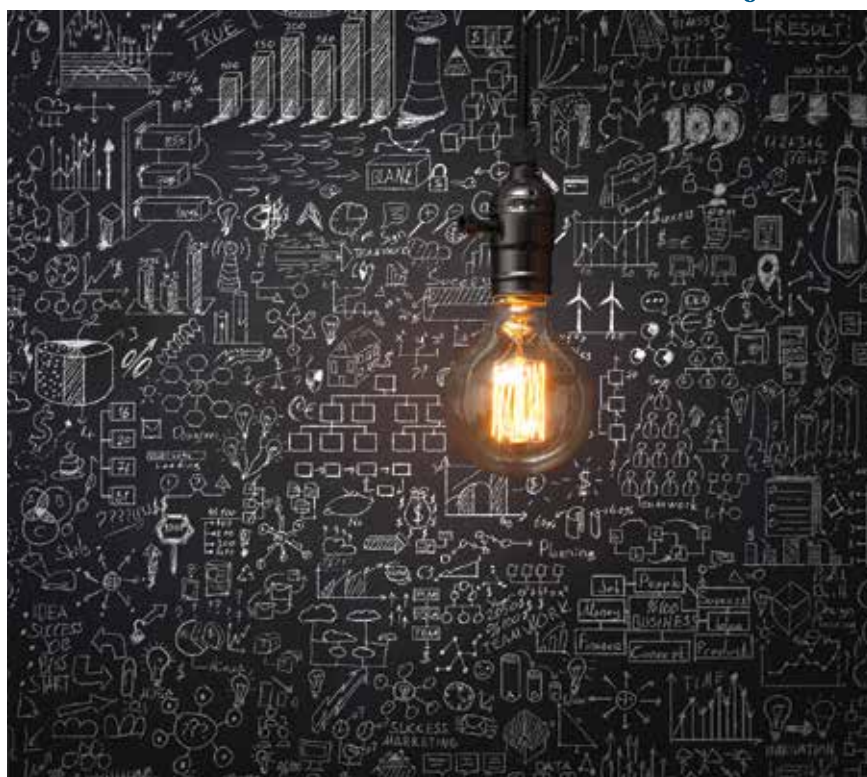
Dr Wong adds that another issue here is the need to foster the right environment for debate and decision-making on the board. This might call for a degree of tact and diplomacy on the part of the directors. In a conservative, family-controlled business in which the founder as chairman takes a more assertive, magisterial style, for example, the independent directors have to find the right tone in discussions – providing unbiased opinions but doing so in a non-confrontational manner.

'From my perspective, board diversity means composing the board of unique skills, backgrounds, experiences, perceptions, attitudes and philosophies in order to create a more capable governance,' he says.

Keeping directors informed

Board governance best practice lays great emphasis on the need to keep directors well informed. Hong Kong's Corporate

“
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 ”



Governance Code (Code Provision A.6.1) requires, on a comply-or-explain basis, every newly appointed director to receive a comprehensive, formal and tailored induction on appointment. At Link REIT newly recruited directors are given a two-day induction, arranged by the company secretary, to acquire the knowledge and information needed in order to have a proper understanding of the company's operations and businesses as well as their responsibilities.

'Visits will also be arranged for the new directors to visit our properties and meet other executives or heads of business lines in order to understand what we're doing. These visits and meetings are important to supplement their skills. As part of ongoing director training, we also encourage directors to attend seminars and conferences to keep them aware of what's going on within the industry,' Mr Allen says.

Environmental, social and governance data is now a key focus for stakeholders and has become equally important. Accuracy and relevance are the key.

While induction is clearly key, best practice in board governance also requires companies to consider the other end of the life cycle, namely, ensuring term limits on directors. Link REIT has clear guidelines as to the desired length of service of non-executive directors. Having a fixed tenure for non-executive directors helps the nomination committee plan ahead to ensure that the recruitment process goes smoothly.

Chairman and CEO duality

Another board governance area where Hong Kong practice does not always follow international best practice, is the recommendation for the chair and CEO roles to be performed by separate individuals. Hong Kong's Corporate Governance Code includes a Code Provision (A.2.1) calling for a separation of the roles of the chairman and chief executive, but this has the lowest compliance rate of any provision in the code.

Hong Kong is by no means alone in this respect, having a single individual performing both roles is not uncommon in the US, though listed companies, in

particular banks, in the US are increasingly under pressure to split the roles. Wells Fargo has recently changed its boardroom rules to require the roles of CEO and chairman be kept separate. JPMorgan Chase is also under pressure to split the roles. About a third of shareholders in Wall Street bank voted at its last two annual meetings that it should do so.

The rationale behind this best practice recommendation is that the CEO and chair play distinctive but complementary roles to each other and there is a need to ensure that there is a balance of power and authority so that no individual has unfettered powers of decision and control. Where a CEO is also the chair there is the danger he or she will have too much control of the board and this will reduce its effectiveness in monitoring management.

Eric Yeung ascribes the low compliance rate with the Code Provision on chair/CEO duality to the fact that many listed companies in Hong Kong have a family-dominated shareholder base. 'Typically the dominant shareholder, usually the founder of the business, feels more confident in

“ board governance best practice lays great emphasis on the need to keep directors well informed ”

setting the strategy for the company, he says. He adds that, in some cases, having the same person in both the chairman and CEO roles can provide strong, consistent leadership, thereby enabling more effective planning and better execution of long-term strategies.

'There's no absolute right or wrong for CEO duality', Dr Wong says. 'In some industries that have a fast-changing competitive landscape or frequent regulatory changes, having a unity of command at the head of the company allows it to make faster, more consistent decisions. This also allows the company to send a reassuring message to shareholders.'

Board evaluation

Finally, board governance best practice also calls for regular appraisals of how the board is performing. Hong Kong's Corporate Governance Code recommends that the board should conduct a regular evaluation of its performance (Recommended Best Practice B.1.9). A regular, formal board evaluation process enables the board and management to identify potential areas for improvement in the way the board operates. If an experienced external party is appointed to conduct the board evaluation, the company also benefits from an objective assessment of board performance and can benchmark that performance against companies in comparable industries and markets.

However, having a formal board evaluation process is still relatively rare in Hong Kong. The latest Spencer Stuart Board Index (see *2015 Hong Kong Board Index* at: www.spencerstuart.com) suggests that only 21% of Hang Seng Composite LargeCap Index (HSLI) 88 companies have performed a board evaluation and only a handful of these companies have used external parties in the process.

This is another area where the company secretary can play a facilitative role. Ensuring, for example, that the board is aware of the trends relating to board evaluation and that the board discusses what form of board evaluation might be appropriate in their individual circumstances.

Jimmy Chow, Journalist, and Kieran Colvert, Editor, CSj

What does the code say?

Many of the best practice recommendations in board governance discussed in this article are included, either on a voluntary basis or subject to comply or explain, in Hong Kong's Corporate Governance Code.

The board's remit

Principle A.1. An issuer should be headed by an effective board which should assume responsibility for its leadership and control, and be collectively responsible for promoting its success by directing and supervising its affairs. In doing so, directors should take decisions objectively in the best interests of the company.

The board should regularly review the contribution required from directors to perform their responsibilities to the issuer, and whether they are spending sufficient time performing them.

Induction of directors

Code Provision A.6.1. Every newly appointed director of an issuer should receive a comprehensive, formal and tailored induction on appointment. Subsequently he should receive any briefing and professional development

necessary, to ensure that he has a proper understanding of the issuer's operations and business and is fully aware of his responsibilities under statute and common law, the listing rules, legal and other regulatory requirements and the issuer's business and governance policies.

Board diversity

Code Provision A.5.6. The nomination committee (or the board) should have a policy concerning diversity of board members, and should disclose the policy or a summary of the policy in the corporate governance report.

Chairman and CEO duality

Code Provision A.2.1. The roles of chairman and chief executive should be separate and should not be performed by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established and set out in writing.

Board evaluation

Recommended Best Practice B.1.9. The board should conduct a regular evaluation of its performance.

Corporate Governance Roundtable

13 March 2017

Kowloon Shangri-La Hotel

Distinguished speakers

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Keynote speaker



Mr Ashley Alder, JP
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Mr Jamie Allen
Founding Secretary
General,
Asian Corporate
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Mr David Graham
Chief Regulatory Officer
and Head of Listing,
Hong Kong Exchanges
and Clearing Limited



Mr Mark McKeown
Group General Manager and
Chief Risk Officer,
Asia Pacific Region, HSBC

(Names listed in no particular order)

Conference Highlights :

- Update on Corporate Governance Reforms
- Strategies in implementing corporate governance initiatives
- Panama Papers and corporate transparency
- Effective board leadership
- Managing risks in a changing environment

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An independent view

Many corporate governance systems around the world have put increasing reliance on the role of the independent director, but what is it like to perform this role? What makes a good independent director? What is the relationship between the company secretary and independent directors? This month's In Profile candidate, Anthony Fan, President of the Hong Kong Independent Non-Executive Directors Association, gives us an introduction to the world of the professional independent non-executive director.



Thanks for giving us this interview. Could we start by discussing the Hong Kong Independent Non-Executive Directors Association (HKiNEDA) – when and why was it established?

'In the second half of 2014, a number of independent non-executive directors (INEDs) in Hong Kong got together to address the increasing expectations of the INED role. From our viewpoint, achieving better corporate governance requires many different parties – including regulators, listed companies, investors, the management of public companies and the whole community – to work hand-in-hand together. A group of credible, high-reputation INEDs cannot single-handedly improve corporate governance. Even regulators putting out very strict rules cannot guarantee good corporate governance, it doesn't work that way.

We felt therefore that there was a need for INEDs to have a window to communicate with other parties, including the regulators, the media and investors. We wanted to communicate the INED viewpoint on relevant issues, and particularly to address the high expectations of our role. So that was why we established HKiNEDA.

In March 2015, we formally registered the association with the Companies Registry, and last October we had the inauguration ceremony. I think we are approaching 400 members now. So it is really quite a well-established community and a good representative body for INEDs in Hong Kong!

You mentioned that the expectations of INEDs can be too high and there has been an increasing reliance on independent directors, both globally and in Hong Kong. What do you think INEDs can achieve in terms of improving corporate governance?

'Having independent directors is a good practice and this practice has been proven to work in developed capital markets. Hong Kong is probably one of the pioneers in this area in Asia, I would say. If I remember correctly, it brought in the practice in 1993, so it was one of the early adopters of this practice in Asia.

But this is an evolving issue. If the community is still developing and you suddenly set a very high standard for corporate governance, then you risk discouraging some very qualified INEDs from taking up the role. They may feel that the reward does not justify the responsibility. We want to encourage more professional directors to join our community and take up

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if more public companies are willing to hire professionals to become their independent directors, rather than their school mates or relatives, that will be a big step forward for corporate governance
”

positions as professional INEDs; we don't want the controlling shareholders to ask their primary school classmates to become INEDs on their board – that doesn't help corporate governance.

So the reward and responsibility have to be better matched. Currently there are huge discrepancies in the compensation for INEDs – some companies are just paying them to be very passive independent directors. So the HKiNEDA is trying to build up a talent pool of professional independent directors and establish a channel for companies to source their independent directors in a professional manner, rather than through their personal connections.'

So HKiNEDA provides a channel to link businesses with potential INEDs?

'That is one of the functions of HKiNEDA. Qualified INED candidates upload their CVs to our "talent pool" database, which has become a popular way for public companies to find independent directors. We don't charge anything – this is purely a service for our members.'

Highlights

- the rewards and responsibilities of independent non-executive directors have to be better matched
- a good company secretary is a bridge helping independent directors to communicate with the entire company
- independent directors should participate more actively in the hiring and compensation of the company secretary

Is HKiNEDA also involved in providing training to INEDs?

'We are planning to introduce an induction course for INEDs. Currently there is no requirement for INEDs to have any professional qualifications. This is true of all directors – pretty much anybody can be a company director as long as he or she doesn't have a criminal record. So many individuals who take up INED positions have professional experience in how to grow a company but very little knowledge about corporate governance. Our induction course will be designed to help these first-time independent directors, giving them a good orientation on how to perform their duties.

There aren't any text books or courses to teach you how to become a good independent director and that knowledge belongs to a relatively small group of people. Business schools teach you about finance, marketing and human resources, but they don't teach you how to become a good director. Our course would give new INEDs the chance to hear from very experienced INEDs about their practical experience of the INED role.'

Do you think there should be a formal professional qualification requirement for directors?

'Our goal at this stage is to promote professional independent directors – that's already a big step. If more and more public companies are willing to hire professionals to become their independent directors, rather than their school mates or relatives, that will already be a big step forward for corporate governance.'

In Taiwan and Mainland China it is relatively common to have both independent directors on the primary board and a supervisory board – do you think there is a danger of duplication in this arrangement?

'Both Taiwan and China have this legacy in their company law structure. Taiwan is currently carrying out a major reform of its company law so we will have to see which way that goes, but the regulators there have been promoting independent directors quite aggressively. Recently, for example, they introduced a regulation that public companies need to have at least three independent directors on the board.

I do have experience of working for companies with a two-tier board and I think, where you have independent directors as well as a supervisory board, regulators tend to put more focus on the independent directors rather than the supervisory board. If you look at the functionality of the supervisory board, it acts very much like the audit committee of a single-tier board. But the

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I work very closely with company secretaries and a capable company secretary really helps INEDs to perform their duties
”

terms of reference of the audit committee are very clear, whereas the functionality of the supervisory board is more *ad hoc*. If they spot something strange or of particular interest, they would raise the issue. The audit committee, on the other hand, has a set agenda which they need to fulfil throughout the year.'

In 2012 the HKICS issued a research report which promoted the need for boards to look more widely in the talent pool to fill board vacancies in the interests of board diversity – do you think boards in Hong Kong and the region would benefit from greater diversity?

'Board diversity right now is probably paying too much attention to female directors. Board diversity should cover many things, including gender, age, length of service, types of directors, professional qualifications and areas of expertise. Getting the right balance between executive, non-executive and independent directors is also a consideration. Some companies have a majority of non-executive and independent directors on their board. Other companies just meet the minimum requirement, that is, having one-third of the board comprising independent directors. So this should be a board diversity issue for discussion.

Qualifications is another area which not too many people have paid attention to. You need various kinds of expertise and talents to grow a company. You might need to have someone with a legal or an accounting background, you might need to have someone with a financial background on the board. Let's say you are a mining company, you will probably want a director who knows about the safety issues in mining. If you are a food company, food safety is bound to be an issue. So there are many areas of knowledge which might be difficult to procure in the company. This goes back to your earlier question – how do you set the qualifications to become a director? Boards need various kinds of expertise and talents so just passing an examination won't necessarily make you a good director. Let the market decide who are good directors.'

David Webb, the shareholder activist and market commentator, has suggested that independent directors should be elected by minority shareholders to strengthen their independence – what's your view?

'Working as an INED, 80% to 90% of my time is spent working with the whole board, including the executive, non-executive and independent directors, to grow the business together. Only 10% to 20% of my time, such as where connected-party transactions are involved, is spent working independently. On these occasions I need to use my professional knowledge to make sure that the transaction is fair, not only to the minority or the major shareholders, but to all shareholders and benefits the company. This is how independent directors should position themselves. So if you let the minority shareholders elect independent directors, would this independent director in the future work for the minority shareholders only and not for the major shareholder? I don't think it should be that way.

Now, there are several relevant issues to discuss here. I know that in Taiwan minority shareholders can nominate independent directors, but you still need to go through a shareholders' meeting for voting. That is one area for discussion, another is the question of how to vote for directors. Hong Kong has adopted straight voting, whereas in Taiwan they use cumulative voting (see 'what is cumulative voting?' below) to elect directors, including independent directors. In my view cumulative voting basically divides the vote. It means that all parties are not working in harmony to grow the business – that is one of the major disadvantages of cumulative voting.'

What is cumulative voting?

Usually in director elections involving more than one opening on the board, shareholders cannot give more than one vote per share to any single nominee. For example, if the election is for four directors and you hold 500 shares you could give a maximum of 500 votes for each candidate. Under the cumulative voting system, you can cast your 2,000 votes (500 shares multiplied by the four board seats) for a single nominee, or in any other combination as you see fit. Cumulative voting is seen as strengthening the ability of minority shareholders to elect a director.

Do you think the role of the chairman and the chief executive should not be performed by the same person?

'That's the ideal situation, but currently over 50% of the listed companies in Hong Kong are family run and family owned. Moreover, the typical board size in Hong Kong is seven to nine people which is a relatively small board compared to mature markets. If you look at the HSBC board, for example, they have around 20 board members and a very sophisticated structure to make sure the board functions well. But in Asia, people want to save money, they want to make sure that the board of directors isn't a major financial burden on the company, so the board size is typically seven to nine people.

Now, by requirement, three of those directors need to be independent. So you have four people who are executive or non-executive directors. In this context, in many cases, the major shareholder and the family owner will take both the chairman and CEO roles to save money. But my view is that the ideal situation is to separate these two roles – that helps corporate governance.'

And presumably it helps independent directors to have an independent chairman?

'Well, in most cases in Hong Kong both the chairman and the CEO are executive, though I think the ideal situation is to have an independent chairman plus a full-time executive CEO.'

Can we talk about the relationship between INEDs the company secretary? Do you have a message for company secretaries in terms of their work with independent directors?

'That relationship is very important. I work very closely with company secretaries and a capable company secretary really helps INEDs to perform their duties. A good company secretary is a bridge helping independent directors to communicate with the entire company. Hopefully in the future, independent directors will participate more actively in the hiring and compensation of the company secretary. I think INEDs could have a role nominating and appointing the company secretary just as they currently do with the auditor.'

Anthony Fan was interviewed by Kieran Colvert, Editor, CSj.

The HKICS research report 'Diversity on the Boards of Hong Kong Main Board Listed Companies' (2012) is available on the Institute's website: www.hkics.org.hk.

Embracing the new GRI standards



Tony Wong, Founder and GRI Nominated Trainer, Alaya Consulting Ltd, argues that the new Global Reporting Initiative Sustainability Reporting Standards launched in October 2016 provide a user-friendly structure for Hong Kong companies of all sizes to start or continue their journey in sustainability reporting.

The Global Reporting Initiative (GRI) – the most widely used sustainability reporting standard for corporate and institutional reporting on an organisation's environmental, social and governance (ESG) impacts – launched its new, modular GRI Sustainability Reporting Standards (GRI standards) in October 2016. This new set of standards represents the latest effort of the GRI in promoting the world's commitment towards sustainable development, and features a clearer format and a new modular structure over the previous GRI fourth-generation guidelines (G4), on which it is fundamentally based. The G4 guidelines, currently the most commonly used sustainability reporting principles, will be phased out by 1 July 2018 to be permanently replaced by the new GRI standards.

Promoting sustainability reporting

Eric Hespeneide, GRI Interim Chief Executive, believes that 'the improved structure, format and presentation of GRI standards, will open up reporting to thousands of organisations that have not yet begun disclosing their broader economic, environmental and social impacts.'

The GRI was initially launched in 2000, aiming for a future where sustainability becomes an integrated part of an organisation's decision-making process. Over the years, the GRI framework has been continuously promoting international best practice in disclosing organisations' impacts on environmental

and social issues, and encouraging the transformation from financial-dominated business strategies towards sustainable thinking. According to research conducted by KPMG, 71% of the 4,100 companies surveyed in 2013 published individual sustainability reports, and among the world's largest 250 (G250), the reporting rate has been stable at 93% since 2011.

The direction of the traffic is clear – sustainability reporting is now a global standard business practice. Companies should no longer ask whether or not they should publish a sustainability report – they either continue to swim against the tide and drown or catch up with this big wave and thrive.

This global trend is also getting closer to the Hong Kong market as the Hong Kong Stock Exchange (the Exchange) increased reporting

obligations for companies in December 2015 by announcing stricter ESG disclosure requirements.

The Hong Kong market is clearly making efforts to follow global standards, but if we look at the real picture, Hong Kong companies are still one step behind this universal trend. The research issued by Alaya Consulting in October 2016 revealed that only 60 of the largest 200 companies (based on market capitalisation) listed on the Exchange published a separate sustainability report in the 2015 financial year, such a low percentage is not satisfactory compared with global practices. Many companies, especially smaller businesses, consider these reports time-consuming are sceptical about their return-on-investment, especially when they are still struggling to address business growth.

Highlights

- the G4 guidelines, currently the most commonly used sustainability reporting principles, will be phased out by 1 July 2018 to be permanently replaced by the new GRI standards
- the underlying goal of the new GRI standards is not to change the content, nor the key indicators, of the G4 guidelines, but to simplify the reporting process and to make it more straightforward to potentially millions of business worldwide
- applying the GRI standards makes sense for companies wishing to gain leadership in ESG reporting and to better align to other international reporting frameworks

Sustainability reporting isn't always easy. Like all worthwhile endeavours, it takes time, effort and the commitment of resources, but for those organisations that embrace sustainability reporting in good faith, the benefits always outweigh the costs. GRI has done its best to make reporting as straightforward as possible with the newly released GRI standards, enabling many more organisations, including small companies, to prepare their reports in a much easier way. For those companies still struggling with their first sustainability report, the GRI standards are surely a perfect starting point.

What is new in the GRI standards?

The underlying goal of the new GRI standards is not to change the content, nor the key indicators, of the G4 guidelines, but to simplify the reporting process and to make it more straightforward to potentially millions of business worldwide.

New modular structure and clearer formatting

The new structure aims at providing a single solution for all needs, from comprehensive reports to issue-specific topics. Under the new framework, organisations are required to report on three universal standards, namely:

1. **GRI 101 Foundation** – on the fundamental principles of the reporting standards
2. **GRI 102 General Disclosures** – addressing the contextual information about the reporting organisation and its reporting practices, and
3. **GRI 103 Management Approach** – disclosing the management system regarding material issues.

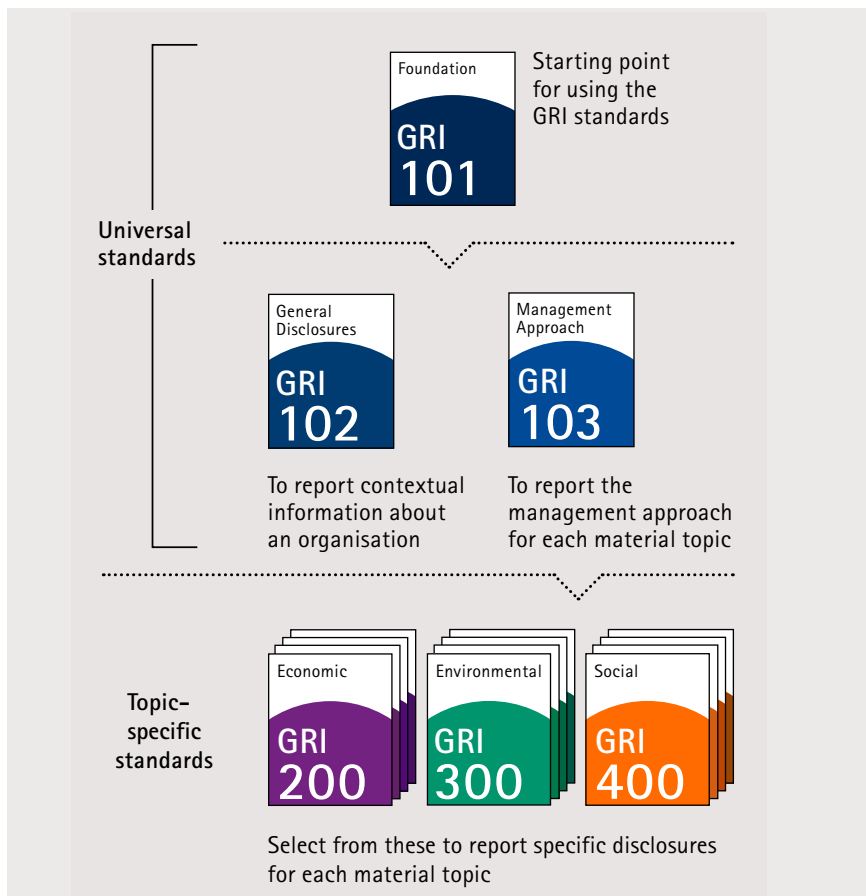
In addition to these standards, organisations can select to report on the 33 topic-specific ESG standards under the *GRI 200, 300, 400* series, such as anti-corruption, emissions, waste management or child labour, based on the material topics of their own selection. This new feature allows organisations to handpick disclosure topics which are most relevant and significant to the sustainability of their business, emphasising the materiality principle – that is, to only report on topics that matter to the stakeholders and the business itself.

Clearer instructions and terminology

To promote wider use of the GRI standards, clearer instructions and terminologies are applied. Within each standard, there is a clear distinction between reporting requirements (indicated by 'shall'), reporting recommendations ('should') and guidance, providing standards users with straightforward instructions on what they are expected to report and how they should report them.

Key concepts from G4 have also been clarified to improve understanding and application of the standards. Some G4 terminology has been

Overview of the GRI standards



“ companies should no longer ask whether or not they should publish a sustainability report – they either continue to swim against the tide and drown or catch up with this big wave and thrive ”



simplified, for example, 'disclosures on management approach' is now replaced by *'management approach disclosures'*; 'indicators' is now termed as *'disclosure'*, covering both qualitative and quantitative disclosures. In addition, some key concepts have been clarified to form a common language of sustainability reporting, such as *'impacts'*, *'topic boundary'* and *'employee/worker'*.

Moreover, previous G4 disclosures (including indicators) have new unique identifiers, based on the number of the standard, for example Disclosure G4-10 is now numbered as *102-8*, locating in *GRI 102: General Disclosures*; Indicator G4-EN15 is now *305-1*, locating in *GRI 305: Emissions*.

Facilitating future updates

The GRI standards were developed by the Global Sustainability Standards Board (GSSB), a fully independent standard-setting institute, with professional insights from a cross-section of global

society, including business, labour, government, investors, civil society, academia and sustainability practitioners. 'Collaborating across the public and private sector, we designed these standards to guide sustainability reporting for any company, in any industry, for decades to come,' Michael Nugent, Vice-Chair of the GSSB commented.

With this new modular structure, GSSB is able to update new report measurements on a continual basis, without requiring revisions to the entire set of standards, which means that the standards will be able to keep up with sustainability reporting developments, adapting to the ever-changing demands for new and improved disclosures.

This new set of standards would therefore best suit those companies who are concerned about long-term development, those who want to follow international best practice and those who are keen to show leadership in sustainability

reporting. The standards are designed to enable easy updating and further inclusions. Reports based on these standards can be modified so as to keep them relevant in the rapidly evolving sustainability reporting landscape.

Materiality matters

Sustainability reporting is a vital step to achieving a smart, sustainable growth that combines long-term business growth with environmental care and social justice. In order for the information to be meaningful and useful, it is crucial that companies should, and should only, report material topics that matter most to their business and stakeholders. Assessing materiality and forming a clear reporting boundary, thus, are essential to a sustainability report. Reporters should bear in mind that they should prioritise their topics and only focus on those that significantly affect their sustainable performance and stakeholders. The materiality matrix in the GRI standards is a very useful and efficient tool

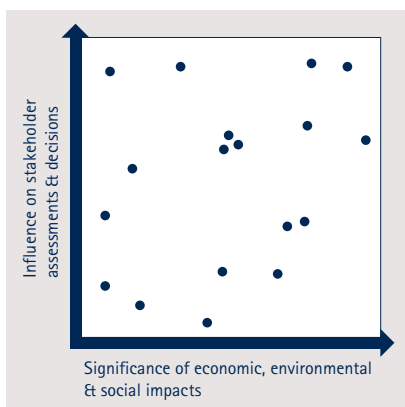
for companies conducting their first materiality assessment, and for those who are looking to revise and update their assessment process as well.

In the long term, materiality assessments also serve as a strategic business tool to spot possible improvements, by applying a sustainability lens to business development. A broad and inclusive materiality process with internal and external factors can deliver valuable benefits to the company above and beyond compliance with any sustainability reporting regulations.

The new GRI standards indicate a greater emphasis on this principle mainly in two ways – providing a modular structure and relocating the materiality principle. As mentioned above, the modular structure assists organisations to follow the materiality principle as it provides reporters with greater flexibility in selecting topics to report on, allowing organisations to determine what topics are material to their own business and stakeholders.

Additionally, the materiality principle is highlighted in the new GRI standards as it is relocated to the very beginning (*GRI 101*) of the standards, whereas in the previous

Materiality matrix, GRI standards



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G4 version, it was elaborated only in the fifth section. This change encourages reporters to define material topics before getting down to the report writing and concentrating on selected topics throughout the reporting process.

To further assist in defining material topics, an easy-to-use method for determining materiality and prioritising topics – the materiality matrix is also provided as a guidance to conduct a pre-report materiality assessment. This method strictly restricts materiality to those topics that reflect the organisation's significant ESG impacts and substantively influence stakeholders.

Aligning with global trends

Sustainability reporting has become a standard business practice the world over, and the latest version of the Exchange's listing rules and the release of its updated *ESG Reporting Guide* indicates the efforts the Hong Kong market has made to catch up with this development. But still, Hong Kong is lagging behind its peers on this global trend. Companies should no longer dwell on the question of whether or not to publish such reports, but to embrace the opportunities open up to them in leading and promoting sustainable business development. The more important

questions now are 'what should we report on' and 'how should we report it?'

The new GRI standards provides a perfect platform for Hong Kong companies of all sizes to start or continue their journey in sustainability reporting with an easy and user-friendly structure. Applying the GRI standards makes sense for companies wishing to gain leadership in ESG reporting and to better align to other international reporting frameworks.

Conclusion

We are now living in a world undergoing unprecedented environmental and social changes and action needs to be taken to ensure sustainable development. Publishing a sustainability report is not only a process by which a company can gather and analyse the information it needs to create long-term value and to be resilient in the constantly changing environment, but is also an essential way to convince stakeholders that the business has a truly sustainable future. It is high time that Hong Kong companies caught up with the global trend and show leadership in reporting using the latest GRI standards.

Tony Wong

Founder and GRI Nominated Trainer, Alaya Consulting Ltd

A bird's eye view

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

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



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Mergers and acquisitions: new guidance



A new HKICS guidance note seeks to bring some clarity to the complex due diligence required to successfully manage merger and acquisition transactions, and to highlight the role the company secretary can play in the process.

Mergers and acquisitions (M&A) are highly regulated corporate transactions and they are usually handled by a team of top executives, including the company secretary, and external advisers. A new guidance note published by The HKICS Takeovers, Mergers and Acquisitions Interest Group (see 'The HKICS Interest Groups' below) this month finds that many aspects of M&A transactions call upon the unique skills of the company secretary.

Regulatory compliance

M&A transactions are anything but routine corporate transactions. Depending of course on the scale of the transaction, they will typically involve complex negotiations

between the parties involved, as well as substantial areas of legal compliance which need to be professionally managed. During the M&A process, regulatory compliance will often be handled by specialist legal advisors, but when an M&A transaction is under consideration by the board, the company secretary will need to ensure directors are adequately informed about the regulatory compliance implications. The guidance note suggests that the board and management should consider the following.

- Are the records of the company (both statutory and financial) sufficiently clear and complete for the due diligence process?
- Are the board and management sufficiently aware of the M&A process and their responsibilities throughout?
- Is the company sufficiently aware of its obligations to third parties (for example shareholders of the company, banks, suppliers, customers) in terms of confidentiality, pre-emptive rights and change of control restrictions that may be relevant in an M&A transaction?
- Is the company subject to restrictions on merger control or other restrictions under any applicable competition law?

Facilitation and record keeping

The company secretary has substantial experience, in the context of their board support work, in facilitating board meetings, providing information and advice to the board and record keeping, and these skills are called upon during M&A transactions. 'The role of the company secretary will be to assist in the collation of documents, arranging meetings, and, importantly, providing advice and collating the paper trail for the board and management', the guidance note says.

Highlights

In the context of M&A transactions, company secretaries are responsible for:

- advising the board about the regulatory compliance implications
- ensuring that there is a proper paper trail as there could be regulatory and other issues that arise during or after the transaction, and
- assisting the board and management in the orderly dissemination of information, and, in particular, assisting with the disclosure of inside information as soon as practically possible.

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the role of the company secretary will be to assist in the collation of documents, arranging meetings, and, importantly, providing advice and collating the paper trail for the board and management
 ”

Company secretaries also have very specific duties regarding record keeping during an M&A transaction. 'The company secretary must ensure that there is a proper paper trail as there could be regulatory and other issues that arise during or after the transaction,' the guidance note points out.

Confidentiality

The guidance note devotes a lot of attention to the question of confidentiality. 'Once the board and management start to engage in discussion with other parties, both within and outside the company, all members of the board and management should be highly alert to confidentiality issues and proper measures should be put in place to maintain the confidentiality of information and documents relating to the potential M&A project,' the guidance note says.


The company secretary will typically have substantial experience in confidentiality protocols from their work ensuring compliance with disclosure requirements. The guidance note points out that the company secretary will usually be responsible for setting up a strong-room and to facilitate confidentiality internal controls.

'Failure to abide by such obligations and comply with the relevant requirements may have negative consequences. On the other hand, good management of confidential information will help ensure a smooth M&A deal which is beneficial to all parties involved. In this connection, the company secretary will have to assist the board and management in the orderly dissemination of information,' the guidance note states.

Inside information

A related area is the question of ensuring compliance with Hong Kong's inside information regime. 'The board and management should be aware of any inside information that may come into their possession during an M&A transaction, and the company secretary must help manage compliance and, where necessary, disclosure of the inside information as soon as practically possible,' the guidance states.

Under the Securities and Futures Ordinance (SFO), companies are obliged to disclose as soon as reasonably practical any relevant information which would be likely to materially affect the price of the listed securities. Persons who obtain inside information during an M&A transaction must also take precautions to avoid dealing in the relevant securities, or disclosing such information to other parties who may deal in the relevant securities, as such conduct may constitute insider dealing in contravention of the prohibitions under the SFO.

The Takeover Codes (which apply to both public companies in Hong Kong as well as companies with a primary listing of their equity securities in Hong Kong) and the listing rules also restrict dealings in a target company's securities in certain specified circumstances. 

Please contact Mohan Datwani FCIS FCS(PE), Senior Director and Head of Technical & Research, HKICS, if you have any suggestions about topics relevant to this Interest Group, or generally at: mohan.datwani@hkics.org.hk.

The HKICS Interest Groups

The HKICS Takeovers, Mergers and Acquisitions Interest Group is one of seven groups set up last year under the Technical Consultation Panel to look into key areas of corporate governance and company secretarial practice with a view to producing guidance to HKICS members and the wider profession and community. The members of the Interest Group are: Michelle Hung FCIS FCS (Chairman), Member of Technical Consultation Panel, HKICS; Dr David Ng FCIS FCS; Henry Fung; Kevin Hoi; Lisa Chung; and Philip Pong.

The six other Interest Groups cover the following areas:

- company law
- competition law
- ethics, bribery and corruption
- public governance
- securities law and regulation, and
- technology.

Three Interest Group guidance notes (on public governance, technology and competition law) have already been published and are available from the Publications section of the Institute's website: www.hkics.org.hk. The next guidance note in this series, on company law, is scheduled to be published in early 2017.



Our mission, our road ahead

A dinner was held in Beijing in November 2016 to celebrate the 20th anniversary of the establishment of The Hong Kong Institute of Chartered Secretaries (HKICS) Representative Office in Beijing. On behalf of HKICS Council, HKICS President Ivan Tam FCIS FCS, gave a speech at the anniversary dinner looking back at the Institute's development and accomplishments in Mainland China.

Back in the 1990s, only a handful of companies from Mainland China were listed in Hong Kong. Today, over 60% of total market value of shares traded in Hong Kong are shares of Mainland Chinese companies. In addition, investors from both sides can invest in each other's market through the Mainland-Hong Kong Stock Connect mechanism. Whilst Hong Kong has grown to be one of the key international financial centres at a global level, HKICS is becoming the fastest-growing professional association for Chartered Secretaries, playing an increasingly prominent role in the development of global corporate governance practice and the company secretary profession.

HKICS traces its initial engagements with Mainland regulatory bodies back to the early 1990s, providing advisory services to the Mainland companies to be listed in Hong Kong with the confidence of its own prominent roles and accomplishments against the backdrop of China growth.

Since the establishment of its Beijing Representative Office, HKICS has been faithful to its own mission and committed to promoting sound corporate governance concepts, best governance practices and the growth of the Chartered Secretarial profession in the Chinese Mainland.

Effective cooperation

During the initial years of the Representative Office, HKICS primarily focused on engagements with regulators in the Mainland and collaborative efforts in providing training, whilst actively promoting the system and the value of the Hong Kong Chartered Secretarial profession, as well as assisting Mainland China in articulating the responsibilities and the professionalisation of board

secretaries. Today, HKICS has established close and regular engagement and visiting channels with, and received guidance and advice from, government agencies such as the China Securities Regulatory Commission (CSRC), State-owned Assets Supervision and Administration Commission, Ministry of Finance and Ministry of Commerce and self-governing professional associations such as the China Association for Public Companies (CAPCO).

Historical breakthroughs in promoting the profession

Eight years after the establishment of the Beijing Representative Office, HKICS launched its Affiliated Person (AP) programme in 2004 for the board secretaries of H-Share companies listed in Hong Kong. The AP programme has been providing tailor-made continuing professional development training to enhance the professional knowledge and practical skills of the H-share board secretaries, and to provide a platform for experience sharing and exchange. Meanwhile, HKICS organised annual corporate governance forums in the Mainland for three consecutive years after 2006, promoting sound corporate governance concepts and best practices. As of today, 41 sessions of the Institute's Enhanced Continuing Professional

Development (ECPD) programme have been held in the Mainland, attracting a total of 4,500 APs and their colleagues, as well as board members and senior executives of listed companies and other professionals. Over the years, the Institute has had a total of 371 Affiliated Persons and as of October 2016, the Institute has 172 Affiliated Persons (out of 236 H-Share companies listed in Hong Kong) on the register.

IQS examinations in the Mainland

HKICS established its first Mainland-based examination centre for the International Qualifying Scheme (IQS) in Beijing in 2007 and its second in Shanghai in 2015. Moreover, the inaugural Post-graduate Programme in Corporate Governance was launched in Shanghai through the collaboration with The Open University of Hong Kong. As of today, all qualification routes in Hong Kong have been made available in Mainland China. As of October 2016, the Institute has 162 Mainland-based registered students who will sit examinations, and 36 qualified Chartered Secretaries, as recognised by Hong Kong regulatory bodies and accredited internationally. Given the scarcity of qualified Chartered Secretaries in the Mainland, we are convinced that our Mainland-based channels will attract more and more Mainland applicants to get qualified as Chartered Secretaries,

Highlights

- HKICS traces its initial Mainland work back to the early 1990s, mainly providing advisory services to Mainland companies to be listed in Hong Kong
- HKICS will work in close collaboration with Mainland colleagues to establish the norms and rules for corporate governance professionals
- the Institute's long-term objective is corporate governance professionalisation

“ given the scarcity of qualified Chartered Secretaries in the Mainland, we are convinced that our Mainland-based channels will attract more and more Mainland applicants to get qualified as Chartered Secretaries, facilitating their career path towards company secretaryship at listed companies ”



facilitating their career path towards company secretaryship at listed companies.

Regional networks for board secretaries

In view of the sheer size of the Mainland, HKICS has established Regional Board Secretary Panels based in Beijing, Shanghai, Shenzhen and Guangzhou, Chongqing and Chengdu through the Affiliate Persons platform since 2009, based on the success of the Mainland-Hong Kong Board Secretary Leadership Forum. These Regional Board Secretary Panels discuss professional development and technical issues and matters of general concern in Hong Kong and in the Mainland with a view to compliance with regulatory requirements for listed companies. A total of 25 Regional Board Secretary Panel Roundtable sessions have been held as of October 2016, covering a wide range of topics, such as disclosure of inside information, connected transactions, risk management, amendment of mandatory provisions, and enhancing communications and experience sharing among APs in the same region.

Enhancing professionalism through empirical studies

Our Institute also plays a thought leadership

role in regulatory and governance-related matters. Since its 2008 publication of *A Comparative Study of Continuing Disclosure in Hong Kong and the Mainland*, HKICS has organised its APs to write up the *Guidelines on Practices of Inside Information Disclosure of A+H Companies* in 2013. More recently, the Institute prepared a special report in collaboration with CAPCO on the *Amendment of the Mandatory Provisions of the Articles of Association of Companies Seeking Listings Overseas* and submitted the report to the CSRC through CAPCO to facilitate regulatory amendments.

New prospect of full collaboration

HKICS has signed Memoranda of Understanding to collaborate strategically with the Shanghai and Shenzhen Stock Exchanges and the Insurance Association of China in multiple areas such as governance research, training and sharing of information, and the promotion of the professionalisation of board secretaryship in the Mainland.

We are very proud of the development of both HKICS and the company secretarial profession in the Mainland. On this 20th anniversary of our Beijing Representative

Office, we would like to express our deep appreciation of the guidance and support from all walks of life for our Institute's efforts in growing the company secretarial profession in the Mainland. This profession, which is at an initial stage in the Mainland, is embracing opportunities as well as challenges. Looking ahead, the Institute will further its efforts to facilitate the evolution and growth of our profession in close collaboration with our Mainland stakeholders, to share our international professional institutional experience and contribute towards a long-term objective of the establishment of a self-regulatory system for corporate governance professionals.

Ivan Tam FCIS FCS

President, on behalf of the Council of, The Hong Kong Institute of Chartered Secretaries

The BRO anniversary dinner was held on 18 November 2016 at The Westin Beijing Financial Street Hotel, Beijing. More photos of this event are available on the Gallery section of the Institute's website: www.hkics.org.hk.

BRO 20th anniversary messages of congratulation

Xiao Jinfeng

Deputy Chief, Main Board Compliance and Disclosure Department, Shenzhen Stock Exchange

The Hong Kong Institute of Chartered Secretaries is an independent professional association with a long history and superb reputation. Over the years, the Shenzhen Stock Exchange and the Institute have maintained a good cooperative working relationship. We co-sponsored the inaugural Professional Training Programme for Board Secretaries in 1996. We signed a Memorandum of Understanding for Cooperation in March 2016, marking a new milestone for our future collaboration. Against the backdrop of the upcoming launch of Shenzhen-Hong Kong Stock Link, both parties are entering into a more extensive space for cooperation to raise the bar for better corporate governance and operational standardisation for listed issuers.

Yan Weimin

Vice-Chairman & Secretary-General, Shenzhen Listed Companies Association

Congratulations on the 20th anniversary of the Beijing Representative Office of The Hong Kong Institute of Chartered Secretaries. It has been 23 years since the first H-Share listing in Hong Kong. The market reform and internationalisation initiatives of the Chinese economy have had long-established and close ties with the development of capital markets in Hong Kong. The capital markets in both the Mainland and Hong Kong have supported China's reform and opening initiatives and witnessed its achievements and will continue to contribute actively to China's upcoming great renaissance. Best wishes for deeper cooperation between Shenzhen and Hong Kong and more vibrant China and Hong Kong markets through the stock links.

Dr Jin Xiaobin

Former Board Secretary and Joint Company Secretary and Authorised Representative in Hong Kong, Vice-Chair, Investment Banking Committee, Haitong Securities Co Ltd

As a senior board secretary of a listed issuer and a board secretary representative in the PRC securities industry, may I express my warmest congratulations on the 20th anniversary of the establishment of the Beijing Representative Office of The Hong Kong Institute of Chartered Secretaries. As one of the world's most professional organisations for corporate

governance, the Institute has continued to advocate sound corporate governance concepts and best practices to Chinese listed companies through various channels over the last 20 years, resulting in not only enhanced execution capabilities for board secretaries, but also the professionalisation, standardisation and internationalisation of corporate governance practices among China's listed companies. My best wishes for more value-adding initiatives and greater achievements in the corporate governance space by the Institute's Beijing Representative Office in the next 20 years.

Guo Xiangdong FCIS FCS

Board Secretary and Deputy General Manager, Guangshen Railway Co Ltd

The Year 2016 marks the 20th anniversary of The Hong Kong Institute of Chartered Secretaries Beijing Representative Office, as well as the 20th anniversary of the H-Share listing of Guangshen Railway Co Ltd. "Our mission, our road ahead" is therefore the most appropriate theme for the celebrations. The Institute has equipped its members and Affiliated Persons with broader horizons, enhanced communications and mutual assistance in promoting the vibrancy of the Mainland and Hong Kong markets. My best wishes for successful celebration events.

Huang Qing

Board Secretary, China Shenhua Energies Co Ltd

Great accomplishments have been achieved in promoting the professionalisation of board secretaryship through the close ties between The Hong Kong Institute of Chartered Secretaries and China Association for Public Companies. Wishing both parties greater achievements in moving hand-in-hand towards the internationalisation of board secretaryship.

Yao Jun

Company Secretary, Ping An Insurance (Group) Company of China Ltd

The Hong Kong Institute of Chartered Secretaries has tirelessly promoted better corporate governance practices and talent training programmes for Mainland companies listed in Hong Kong for over 20 years. It has created diverse opportunities for exchange and cooperation to solidify the foundations for the long-term development of corporate governance. Wishing the Institute's Beijing Representative Office future success on the strength of fruitful accomplishments over the past 20 years.

BRO 20th anniversary messages of congratulation

Huang Wensheng

Vice-President and Board Secretary, China Petroleum & Chemical Corporation

For the past 20 years, The Hong Kong Institute of Chartered Secretaries and its Beijing Representative Office have focused on the popularisation of knowledge and skill set of operational standardisation, corporate governance, regulatory rules and company secretarial practices and have played a unique role in forming the platforms for learning, exchange and research and facilitating the integration of the PRC companies, including Sinopec, into the international capital markets. As a senior board secretary having attended trainings, exchanges and conferences, I praise the high level of professionalism, service standards and training effectiveness of the Institute and its Beijing Representative Office. Looking forward, as China securities industry is accelerating the process of its internationalisation and increasing and deepening the cross-border collaborative exchanges between the Mainland and Hong Kong, the Institute and its Beijing Representative Office will further their success into the world stage.

Chen Duo

President, Research Institute of Hong Kong and Macau Affairs Office of the PRC State Council

With 20 years' diligence, the Beijing Representative Office of The Hong Kong Institute of Chartered Secretaries has harvested very significant accomplishments in professionalising and standardising board secretaryship in the Mainland and promoting exchanges and collaborations between professionals from the Mainland and Hong Kong. My utmost tribute to your splendid past and my best wishes for future greater achievements from this new starting point of the 20th anniversary.

Shi Meijian

Deputy Secretary-General, Head of General Office, The Listed Companies Association of Shanghai

Our Association has formed a great partnership with The Hong Kong Institute of Chartered Secretaries since the signing of our Memorandum of Understanding for Cooperation as early as 2000. The Association has benefited greatly from the support and assistance of the Institute particularly in the areas of professionalism and professionalisation of board secretaryship. Many thanks and many congratulations on the 20th anniversary of the establishment of the Institute's Beijing Representative Office.

Aisin Gioro Henglin

Secretary-General, The Listed Companies Association of Beijing

On behalf of The Listed Companies Association of Beijing, my heartfelt congratulations on the 20th anniversary of the establishment of the Beijing Representative Office of The Hong Kong Institute of Chartered Secretaries. The Institute has adhered to its mission of promoting corporate governance and its objective of raising the standards and increasing the exchanges of the professional skills of board secretaries of domestic and overseas listed companies. The accomplishments of the Institute through diverse and successful events have been duly recognised by all stakeholders. Best wishes for the Institute's future greater achievements in the areas of corporate governance and professional exchange and progress.

Fan Yun

Assistant Director, Investor Education Department (Corporate Training Centre), and Chief Representative, Market Development in Hubei Area, Shanghai Stock Exchange

The 20 years of Beijing Representative Office of The Hong Kong Institute of Chartered Secretaries is a living testimony of the development of China's capital markets for the last 20 years. The professional mission of promoting better corporate governance has been embedded in each of its training sessions, exchange activities and journals and publications. As a mutual supporter to each other from our humble start, we hope to move forward shoulder to shoulder to achieve our shared dreams.

China Association for Public Companies

It has been a great pleasure to acknowledge the 20th anniversary of the Beijing Representative Office of The Hong Kong Institute of Chartered Secretaries, a remarkable occasion to celebrate collaboration, openness, mutual benefit and development of the capital markets in the Mainland and Hong Kong. The Institute advocates good corporate governance with the objective of heightening the professionalism of board secretaryship, which is highly consistent with the Association's mission of perfecting corporate governance and improving the quality of listed issuers. We anticipate further professional collaborations between the parties going forward to contribute collectively to the improvement of the quality of China's listed companies and the vibrancy of the capital markets in the Mainland and Hong Kong.



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4 Harbour Road, Wan Chai, Hong Kong

Free Admission

www.hkics.org.hk

For registration and enquires, please contact Idy Cheung at 2830 6018 or Jonathan Ng at 2830 6019 or student@hkics.org.hk.

The Hong Kong Institute of Chartered Secretaries 香港特許秘書公會
(Incorporated in Hong Kong with limited liability by guarantee)



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秉承使命 共创未来

香港特许秘书公会（公会）于2016年11月于北京举行晚宴，庆祝北京代表处成立20週年。公会会长谭国荣代表公会理事会在晚宴上致辞，回顾公会在内地发展的历程。

在90年代，内地在香港上市企业寥寥可数；时至今日，内地上市企业市值已占香港股票交易总市值六成以上，投资者亦可透过“互联互通”投资两地的股市。香港目前已成长为全球主要国际金融中心之一，而公会则成为全球特许秘书专业机构之中发展最快的一家，在全球公司治理和公司秘书专业发展中发挥着日益重要的作用。

公会于90年代初就开始与内地监管部门联络，为内地赴香港上市企业提供上市辅导服务。当时公会已相信自己在发展的进程中有所作为，扮演重要角色。

北京代表处成立后，公会恪守使命，励精图治，一直致力于在内地推广良

好的公司治理理念和实践，发展特许秘书专业，并与时俱进，在各方面不断取得新的进步。

构建了良好的合作关系

代表处成立初期，公会内地专业工作主要聚焦于与内地监管机构的联络工作与合作培训，并积极推介香港公司秘书制度及其治理价值，协助内地制定董事会秘书职责，推动其专业化发展。目前公会已与中国证券监督管理委员会、国务院国有资产监督管理委员会、中国财政部、中国商务部等内地监管机构以及中国上市公司协会（中上协）等内地自律组织建立了密切联系及常规访问，并得到了各方的指导与支持。

专业推广取得历史性突破

在代表处成立8年后，公会于2004年针对在香港上市的H股公司董事会秘书设立联席成员计划，为其提供量身定制的强化持续专业发展培训，提升其专业知识和实务技巧，并搭建了经验分享与沟通交流的平台。与此同时，公会自2006年开始连续三年每年在内地举办一期“公司治理研讨会”，倡导良好的公司治理理念与实践。迄今为止，公会共举办了41期强化持续专业发展讲座，累计出席人数超过4500人次，受众除了联席成员及其工作团队外，也吸引了上市公司董事、高级管理人员及其他专业人士参与。多年以来，联席成员数目达371人。截至2016年10月，公会拥有的联席成员数量已达172人（H股上市公司236家）。



专业资格考试植根内地

公会于2007年在北京开设内地首个国际专业知识评审考试(International Qualifying Scheme, IQS)考点，2015年在上海设立第二个考点，公会透过香港公开大学举办的首期高级企业管治研修班也于2016年9月11日在上海开课，至此香港有的专业资格考试途径已全部在内地落地生根。截至2016年10月，共有162名内地人士注册参加IQS考试，36人已取得香港监管机构及国际认可的特许秘书专业资格。目前，内地持有担任公司秘书资格的人士还较为稀缺，相信未来将有越来越多内地业内人士通过此方式获取特许秘书专业资格，继而通往担任上市公司之公司秘书的职业路径。

建成董事会秘书区域网络

鉴于内地地域辽阔，在2009年圆满举办中港两地董事会秘书高峰论坛之后，公会依靠联席成员计划平台相继在北京、

摘要

- 公会于90年代初就开始从事内地工作，为内地赴香港上市企业提供上市辅导服务
- 公会将与内地同仁携手共进，构建内地公司治理自律体系与秩序
- 公会的长远目标，是建立公司治理专业



“

目前，内地特有担任公司秘书资格的人士还较为稀缺，相信未来将有越来越多内地业内人士通过公会的内地途径获取特许秘书专业资格，继而通往担任上市公司之公司秘书的职业路径

”

上海、深圳、广州、重庆及成都多个城市设立了地区性董事会秘书小组，探讨两地专业发展及执业技术问题，并就大家关心的问题进行交流，更好地满足中港两地上市监管要求。截止到2016年10月，公会共举办地区性董事会秘书圆桌会议25期，研讨主题涵盖两地内幕信息披露、关联交易管控、风险管理、必备条款修订等领域，加强了区域内联席成员的沟通与执业经验共享。

起航实务研究引导专业

20多年来，公会亦致力在内地规管及治理事宜上，发挥其专业引导作用。继2008年发布《香港与中国上市公司之持续披露比较研究- A、H股双边上市之启示》研究报告之后，公会于2013年组织联席成员编写出版了《A+H股公司内幕信息披露实务指引》，另于2014年与中上协联合成立工作小组，针对《到境外上市公司章程必备条款》的修订课题进行调研，并透过中上协向中国证券监督管理委员会递交了专门报告，推动相关法规尽快修订。

开创全面合作的新局面

自2011年以来，公会已先后与上海及深圳证券交易所、中上协及中国保险行业协会签订了合作备忘录，建立了多方位的战略合作关系，加强在公司治理研究、培训、交流及其他专业服务方面的合作，共同推动内地董事会秘书的专业化发展。

回顾公会及内地特许秘书专业的发展历程，我们深以自豪，也藉北京代表处成立20周年之际，感谢各界对公会内地专业工作的一贯指导与支持！内地特许秘书专业发展尚在起步阶段，发展机遇与挑战并存。公会将以现在为起点，更加广泛深入地探索专业改革与发展之路，与内地同仁携手共进，分享国际专业机构的经验，为构建内地公司治理自律体系与秩序、为实现建立公司治理专业的远大目标而做出贡献。

谭国荣 FCIS FCS

会长

谨代表香港特许秘书公会理事会

北京代表处20周年晚宴，于2016年11月18日假北京金融街威斯汀大酒店举行。是次晚宴相片已上载到公会网站：www.hkics.org.hk，予以浏览。

北京代表处成立20周年纪念贺辞

深圳证券交易所

公司管理部副总监肖金锋先生

香港特许秘书公会是一个历史悠久、声誉卓着的独立专业团体，长期以来，深圳证券交易所与公会一直保持着良好的合作关系。早在1996年双方合办了第一期上市公司董事会秘书专业培训。2016年3月双方签署合作备忘录，合作关系翻开了新的一页。在深港通即将开通的背景下，双方将迎来广阔的合作空间，进一步提升两地上市公司的公司治理和规范运作水平。

深圳上市公司协会

副会长鄢维民先生

祝贺香港特许秘书公会北京代表处成立20周年！H股到香港上市已有23年，中国经济的改革及中国经济的国际化发展，与香港资本市场的发展有着特别渊源与密切联系，大陆资本市场与香港资本市场的发展，推动并见证了中国的改革开放，并将继续为中国的伟大复兴做出积极贡献。祝愿深港两地的合作发展愈加深入，中港两地股票市场互联互通的发展越来越好！

海通证券股份有限公司

原董事会秘书、香港联席公司秘书、公司授权代表、公司投资银行委员会副主任金晓斌博士

值此香港特许秘书公会北京代表处成立20周年之际，我谨以中国证券行业资深上市公司董秘和董秘代表的身份，致以最热烈的祝贺！20年来公会作为全球公司治理最专业的机构之一，通过多种方式为中国上市公司传播科学的公司治理理念和实务，不仅提高了董秘的履职能力，也大大推进了中国上市公司法人治理的专业化、规范化和国

际化。衷心祝愿公会北京代表处在新的20年里，为中国公司治理创造更大的价值，再创新的辉煌！

广深铁路股份有限公司

董事会秘书、副总经理郭向东先生

2016年，既是香港特许秘书公会北京代表处成立20周年，也是广深铁路H股上市20周年，特别契合此次庆典“携手并进，共创未来”之主题。公会帮助会员及联席成员拓展视野、沟通互助，促进了中港两地市场的共同繁荣。敬祝庆典圆满成功！

中国神华能源股份有限公司

董事会秘书黄清先生

在推动董事会秘书职业化的道路上，香港特许秘书公会与中国上市公司协会董事会秘书专业委员会密切合作，硕果累累。祝愿双方在探索董事会秘书国际化的道路上携手并进，再创佳绩！

中国平安保险(集团)股份有限公司 公司秘书姚军先生

20多年来，香港特许秘书公会不遗余力地推动内地在香港上市公司治理水平提升和人才培养制度建设，为会员公司提供多元化的交流和合作机会，从而奠定公司治理长远发展的基础。在此谨恭贺香港特许秘书公会北京代表处桃李芬芳20载，继往开来续辉煌！

中国石油化工股份有限公司

副总裁兼董事会秘书黄文生先生

过去的20年，香港特许秘书公会及北京代表处专注规范运作、公司治理、监管规则和公司秘书实务等方面知识和技能在中国内地的推广，为内地和香港上市公司搭建了高水

平的学习、交流、研究平台，为推动包括中国石化在内的中国企业更好地融入国际资本市场发挥了独特的作用。作为参与过多次培训、交流和讲演的资深董秘，我深切感受到公会及北京代表处良好的专业水准、服务精神和显着的培训效果。展望未来，中国证券行业国际化进程将进一步加快，两地跨境合作交流将更加广泛和深入，公会及北京代表处必将百尺竿头更进一步、十方世界展峥嵘！

国务院港澳事务办公室港澳研究所所长陈多先生

经过20年的辛勤耕耘，香港特许秘书公会北京代表处在推动内地董秘专业规范发展和促进内地与香港同行交流合作方面收获了丰硕成果，谨此表示崇高的敬意。祝贵处从20年这个新的起点出发，取得更优异的成就！

上海上市公司协会

副秘书长、办公室主任史美健先生

我协会早在2000年就与香港特许秘书公会签署了《合作备忘录》，双方建立了良好的伙伴关系。尤其在董秘队伍职业化、专业化建设方面，协会得益于公会的鼎力支持和帮助，值此公会北京代表处成立20周年之际，谨表谢意并致以热烈祝贺！

北京上市公司协会

秘书长爱新觉罗·恒林先生

值此香港特许秘书公会北京代表处成立20周年之际，谨代表北京上市公司协会表示衷心的祝贺！

20年来，公会以倡导和推广公司治理为使命，以促进境内外上市公司董事会秘书的专业技能的交流与提升为服务宗旨，开展了一系列丰富

并卓有成效的活动，获得了各方广泛认同。

愿公会今后在公司治理和董事会秘书专业交流与提升方面再创辉煌！

上海证券交易所

投资者教育部（企业培训中心）总监助理

湖北地区市场发展首席代表范云先生

香港特许秘书公会北京代表处的20年是伴随着中国资本市场发展的20年。它的每一期培训、每一次交流、每一本刊物都弘扬着公会推行“良好公司治理”的专业使命。作为上市公司培训之路上相濡以沫的伙伴，希望我们继续并肩携手，共同成就梦想。

中国上市公司协会

欣闻香港特许秘书公会北京代表处迎来20载华诞，倍感欣喜，此乃香港与内地资本市场合作、开放、共赢、发展之大事，殊为可贺。公会倡导良好的公司治理，以促进上市公司董事会秘书专业水平提升为宗旨，与中国上市公司协会“完善上市公司治理、提升上市公司质量”的根本使命高度契合，一脉相通。期待未来双方进一步深化专业合作，促进会员交流，携手共进，为提升中国上市公司质量、繁荣内地及香港资本市场共同贡献力量。



Accounting and Finance Master of Corporate Governance

- The curriculum is a combination of cutting-edge theories and up-to-date professional practices.
- Students comprehend and appreciate the legal aspects involved in company matters and the corporate governance systems of Hong Kong and PRC companies.
- Graduates may be eligible for full exemption from the examination requirements of The Institute of Chartered Secretaries and Administrators (ICSA), and The Hong Kong Institute of Chartered Secretaries (HKICS). Graduates may also be eligible for professional examination exemption in respect of other professional bodies, such as ACCA and CPA (Australia).

Enquiries

☎ (852) 3400 3229 / 2766 5645

✉ afpgmail@polyu.edu.hk

📘 www.facebook.com/PolyU.B.School



www.af.polyu.edu.hk

Online application: www.polyu.edu.hk/admission

Early applications are strongly encouraged.

Admission interviews will be conducted from January 2017 onwards.



Information
Seminars
14 JAN 2017



Dawn raids

How to deal with the three 'C's when they come knocking at your door



Sherman Yan, Dominic Wai and Eutonia Chen, ONC Lawyers, give an overview of the dawn raid and investigative powers of the Independent Commission Against Corruption (ICAC), Securities and Futures Commission (SFC) and Competition Commission (CC), and practical tips on dealing with them.

What do you do if someone knocks on your door or comes to your office early in the morning with a search warrant to enter and search your premises? The ICAC, SFC and CC have the power to gain entry and search premises for investigations. Any company or individual might be subject to a 'dawn raid' if the raiding authorities have reasonable grounds to believe or suspect that such a company or individual has contravened particular laws, such as the Prevention of Bribery Ordinance (Cap 201), Securities and Futures Ordinance (Cap 571) and the Competition Ordinance (Cap 619).

Recently, the SFC has issued an announcement notifying the industry of anti-money laundering (AML) concerns. In the announcement, the SFC highlighted that during its onsite inspections of licensees and AML investigations, they identified the following areas of concern:

1. failure to scrutinise cash and third-party deposits into customer accounts
2. ineffective monitoring of transactions in customer accounts
3. failure to take adequate measures to continuously monitor business relationships with customers which present a higher risk of money laundering
4. inadequate enquiries made to assess potentially suspicious transactions

to determine whether or not it is necessary to make a report to the Joint Financial Intelligence Unit, and lack of documentation of the assessment results, and

5. failure to monitor and supervise the ongoing implementation of anti-money laundering and counter-terrorist financing policies and procedures.

As a result, the SFC has stated explicitly that it expects to bring a number of enforcement proceedings against SFC-licensed brokerages. In view of the rising concerns on AML and the recent implementation of the Competition Ordinance, it is expected that there will be increasing use of dawn raids for authorities to gather evidence for investigations.

What is a 'dawn raid' and what are the common allegations triggering it?

A dawn raid is an unannounced inspection of premises (for example an office, personal residence or warehouse) without prior notice. The word 'dawn' is

used because the raiding authority is likely to conduct the inspection during the early hours of the day (say, before or around 9.00am). Generally, the ICAC, SFC and CC need a search warrant to conduct a dawn raid.

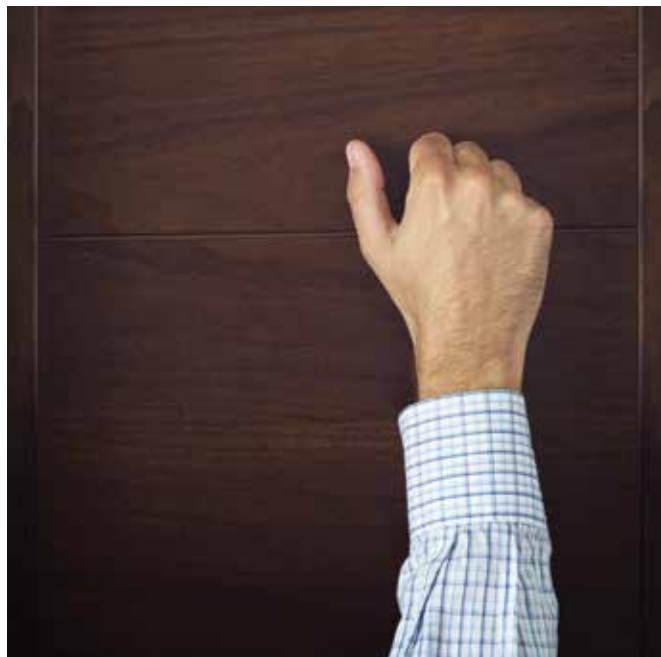
The following are some common allegations which might trigger a dawn raid:

1. corruption, kickbacks and secret commissions (investigated by the ICAC)
2. fraud and conspiracy to defraud (investigated by the ICAC)
3. money laundering (investigated by the ICAC)
4. insider dealing and market misconduct (investigated by the SFC), and
5. price fixing and bid rigging (investigated by the CC).

Highlights

- you should remain calm, polite and cooperative during the investigation
- it is recommended to have a legal representative (for example your in-house lawyer or external lawyers) present during the search
- it is advisable to have a dawn raid plan and policy so that all personnel of the company will know what to do if there is a raid

“
in view of the rising concerns about AML and the recent implementation of the Competition Ordinance, it is expected that there will be increasing use of dawn raids for authorities to gather evidence for investigations
”



Overview of the major investigative powers

It is important to understand the investigative powers of the raiding authorities, in order to ensure that the search investigation is conducted properly and the company or individual being investigated has fulfilled the legal obligations and their legal rights have been fully respected.

ICAC

The ICAC Commissioner has the duty, on behalf of the Chief Executive of Hong Kong, to receive and consider complaints alleging corrupt practices and investigate such of those complaints as he/she considers practicable. The Independent Commission Against Corruption Ordinance (Cap 204) authorises the ICAC officer to conduct enquiries or examinations.

Further, the Prevention of Bribery Ordinance also gives the ICAC extensive powers to compulsorily acquire information if the ICAC is satisfied that there is reasonable cause to believe (i) that an offence under Prevention of Bribery Ordinance might have been committed; and (ii) that the accounts, books or

documents are likely to be relevant for the purposes of an investigation of such offence.

In respect of the power of arrest, pursuant to Section 10 of the Independent Commission Against Corruption Ordinance, the ICAC might arrest without warrant anyone reasonably suspected to be guilty of the offences under the Independent Commission Against Corruption Ordinance or the Prevention of Bribery Ordinance or the Elections (Corrupt and Illegal Conduct) Ordinance.

SFC

Where the SFC has reasonable cause to believe that an offence under the relevant provisions might have been committed, or a person might have engaged in defalcation, fraud, misfeasance or other misconduct in connection with various conduct involving the financial products and activities which the Securities and Futures Ordinance (SFO) regulates, the SFC might in writing direct one or more of its employees or, with the consent of the Financial Secretary, appoint one or more other persons, to investigate the matter.

Under Section 183 of the SFO, the SFC might also by way of a written notice, require the person under investigation, or any person believed to have any relevant record or document or information to attend an interview at a time and place specified by the investigator to answer any question relating to the matters under investigation.

CC

The CC might conduct an investigation if it has reasonable cause to suspect a contravention of a competition rule has taken place, is taking place or is about to take place. The CC has powers under the Competition Ordinance to issue notices requiring a person to provide documents, information and/or to give evidence before the CC.

Further, the CC has the capacity to seek for a search warrant from a judge of the Court of First Instance to enter and search specific premises for documents that may be relevant to an investigation by the CC.

Practical tips on dealing with dawn raids

If the raiding authority knocks on your

door in the morning with a search warrant, you should remain calm, polite and cooperative during the investigation. The following are some practical tips on dealing with the search investigation.

Request for legal advisers to be present

Once the raiding authority has arrived, you will be allowed to call your lawyers to attend the search. It is recommended to have a legal representative (for example your in-house lawyer or external lawyers) present during the search. However, the ICAC, SFC and CC are under no legislative duty to suspend their search until your lawyer has arrived at the premises. If the search nevertheless commences before your legal representative arrives, it is advisable to study the terms of the search warrant and ensure that the search will be properly conducted.

It is important to note that the CC issued a *Guideline on Investigations* on 27 July 2015 which expressly indicates that, where parties have requested that their legal advisers be present during the search and there is no in-house lawyer already on the premises, the CC officers will wait for a reasonable time for external legal advisers to arrive. During such time, the CC officers may take necessary measures to prevent tampering with evidence, such as instructing the employees and other persons at the premises to move away from their workspaces, requesting that computer/IT system access or email accounts be blocked, stopping external communications and sealing offices and/or filing cabinets (para 5.31 of the Guideline).

Bear in mind the concept of legal privileged documents

It is necessary to identify the documents

which should be protected by legal professional privilege in the course of the investigation in order to avoid accidental disclosure of the privileged documents to the investigators. This might not be easy and the raiding authorities have no obligations to remind the suspect/witness in relation to the legal professional privilege, hence, it is recommended to have your in-house lawyers or external lawyers be present during the search.

Pursuant to Article 35 of the Basic Law, Hong Kong residents shall have the right to confidential legal advice. In gist, privilege arises in two instances, namely: litigation privilege and legal advice privilege:

1. litigation privilege protects documents and communications from disclosure if they are brought into existence for the sole or dominant purpose of actual or contemplated litigation, and
2. legal advice privilege protects documents and communications made in confidence between a lawyer (including in-house lawyer) in his/her professional capacity and his/her client for purpose of giving or seeking legal advice.

In practice, it is not easy to determine on the spot if the documents to be removed by the raiding authority contains privileged materials. Further, it is the usual practice for the raiding authority to remove from the premises laptop computers or even hand phones which they believe contain the relevant information subject to the search warrant. Where there is a dispute as to the nature of documents to be removed, it is advisable to convey the objection

to the raiding authority, who may then put the disputed documents in sealed containers, pending the court's resolution.

Can the suspects/witnesses remain silent?

If the raiding authority wishes to put certain questions relating to the investigation to you or your staff during the course of search, it is advisable to remain silent and wait until the arrival of your legal representatives. After the dawn raid, the raiding authority might arrange for an interview with the person involved or connected to the matters being investigated. If a person (for example employees of the company being investigated) receives a Notice to Answer Questions from the SFC or CC, there is no right to silence and such person must answer the questions being raised.

However, for the interviews conducted by the ICAC, generally the interviewee may exercise his/her right to remain silent by answering 'I exercise my right to silence and have nothing to say'.

Conclusion

It could be a very disconcerting experience to have a dawn raid conducted at your office or personal residence. Therefore, it is essential to contact your in-house lawyers or external lawyers at an early stage and ideally should have your lawyer accompanying you during the dawn raid and the interview to be conducted after the raid. It is also advisable to have a dawn raid plan and policy so that all personnel of the company will know what to do if there is a raid.

Sherman Yan, Partner; Dominic Wai, Partner; and Eutonia Chen, Associate; ONC Lawyers

Professional Development

Seminars: November – December 2016

8 November
Company secretarial
practical training series: the
M & M & M of company
secretaries – shareholders'
meetings



Chair: Stella Lo FCIS FCS, Institute Council Member, and Company Secretary, Guoco Group Ltd
Speaker: Edith Shih, Solicitor, FCIS FCS(PE), Institute Past President; Senior Vice-President, ICSA; Head Group General Counsel & Company Secretary, CK Hutchison Holdings Ltd

17 November
Challenges faced by taxpayers
in resolving tax disputes over
offshore claims



Chair: Eric Chan FCIS FCS(PE), Chief Consultant, Reachtop Consulting Ltd
Speakers: Kaiser Kwan, Partner; and Elsa Chan, Manager, Tax Services; PwC Hong Kong

21 November
Managing data in the big
data era



Chair: Daniel Chow FCIS FCS, Senior Managing Director, Corporate Finance and Restructuring, FTI Consulting (Hong Kong) Ltd
Speaker: Richard Bird, Partner, Freshfields Bruckhaus Deringer LLP

22 November
Latest update and
developments in setting up
businesses in China



Chair: Edmond Chiu FCIS FCS, Institute Membership Committee Member, and Head of Corporate Services, Hong Kong, Vistra
Speakers: Daniel Hui, Partner; and Anlio Shi, Senior Manager, China Tax; KPMG

23 November
ESG reporting – turning
questions into answers



Chair: Kitty Liu FCIS FCS, Institute Membership Committee Member, and Company Secretary – Group Legal, AIA Group
Speaker: Imelda Kwong, Director, Risk Assurance, PwC Hong Kong

29 November
New connected transactions
rules (re-run)



Chair: Jenny Choi FCIS FCS(PE), Institute Professional Services Panel Member, and Senior Manager, Global Compliance & Reporting – Corporate Secretarial Services, Ernst & Young Company Secretarial Services Ltd
Speaker: Daniel Wan, Partner, Francis & Co in association with Addleshaw Goddard (Hong Kong) LLP

30 November
Hong Kong incorporated
NGOs – public governance
standards/business review as
limited or guarantee
companies under NCO



Chair: April Chan FCIS FCS, Institute Past President and Technical Consultation Panel Chairman
Speaker: Mohan Datwani FCIS FCS(PE) CAMS, Solicitor, Institute Senior Director and Head of Technical & Research

1 December
2016 AGM season review



Chair: Kitty Liu FCIS FCS, Institute Membership Committee Member, and Company Secretary – Group Legal, AIA Group
Speaker: Stephanie Cheung, Vice-President, Client Services, Computershare Hong Kong Investor Services Ltd

2 December
Company secretarial practical
training series: non-Hong
Kong companies under the
new Companies Ordinance



Chair: Richard Law FCIS FCS, Company Secretary, Global Brands Group Holding Ltd
Speaker: Ella Wong ACIS ACS(PE), Senior Manager, Corporate Services, Tricor Services Ltd

Online CPD (e-CPD) seminars

HKICS has launched a series of e-CPD seminars in collaboration with The Open University of Hong Kong (OUHK). Through the online learning platform of OUHK, members, graduates and students are able to easily access selected video-recorded seminars with any smart devices anytime, anywhere. The launch of e-CPD seminars enables members, graduates and students to schedule their professional learning more flexibly.

Details and registration are available at the CPD courses section of the OUHK website: <http://ecentre.ouhk.edu.hk>. For enquiries, please contact the Institute's Professional Development section at: 2830 6011, or email: ecpd@hkics.org.hk.

Seminar fee discount for the Institute's registered students

Effective from 1 January 2017, registered students of the Institute can enjoy a 30% discount for the Institute's regular ECPD seminars.

Seminar duration	Regular seminar rate	Discounted rate for registered students
1.5 hours	HK\$320	HK\$230
2 hours	HK\$400	HK\$280
2.5 hours	HK\$480	HK\$340

For details, please visit the ECPD section of the Institute's website: www.hkics.org.hk. For enquiries, please contact Sharon Yip at: 2830 6070, or email: ecpd@hkics.org.hk.

Professional Development (continued)

MCPD requirements

Members are reminded to observe the MCPD deadlines set out below. Failing to comply with the MCPD requirements may constitute grounds for disciplinary action by the Institute's Disciplinary Tribunal as specified in Article 27 of the Institute's Articles of Association.

CPD year	Members who qualified between	MCPD or ECPD points required	Point accumulation deadline	Declaration deadline
2016/2017	1 January 1995 - 31 July 2016	13.5* (at least 2.5 ECPD points)	30 June 2017	31 July 2017
2017/2018	On or before 30 June 2017	15 (at least 3 ECPD points)	30 June 2018	31 July 2018

**pro-rata for 2016/2017 as a result of the Institute's year-end date change.*

Key update on the revised MCPD policy (effective from 1 August 2016)

Revised MCPD Policy (effective from 2016/2017 CPD year)	
Extended coverage of CPD activities	<ol style="list-style-type: none"> participation in Institute activities as a mentor/coach for the Institute or other professional associations or institutions being an external examiner/assessor for the Institute or other professional associations or institutions for the promotion of education or professionalism in the key areas of learning participation in committees of the Institute other than technical committees of the Institute or committees of other professional associations or institutions for the promotion of education or professionalism in the key areas of learning <p>A maximum of five CPD points in each CPD year can be earned in each category under (a)-(c), excluding activities of members/graduates' own occupation.</p>
Full exemption from MCPD compliance	<p>Full exemption from the MCPD requirements would be granted for the following reasons:</p> <ul style="list-style-type: none"> long-term illness pregnancy period of unemployment for over six months, or retirement. <p>Applications, with proof, should be submitted to the Institute by 31 July each year.</p>

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
23 Jan 2017	4.00pm – 5.30pm	Managing third-party rights – controlling, reducing and avoiding future legal risk	1.5
7 Feb 2017	6.45pm – 8.15pm	New reporting exemption for non-public companies and other impacts of the new Companies Ordinance on financial reporting for the non-accountant (re-run)	1.5
10 Feb 2017	12.30pm – 2.00pm	China's new Cybersecurity Law	1.5
16 Feb 2017	6.45pm – 8.15pm	Anti-money laundering: essential training for service providers	1.5
21 Feb 2017	6.45pm – 8.15pm	Competition law – part 1 (re-run)	1.5
22 Feb 2017	6.45pm – 8.15pm	Tax considerations when undertaking group reorganisations in Hong Kong (re-run)	1.5
23 Feb 2017	6.45pm – 8.15pm	Competition law – part 2 (re-run)	1.5

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

Advocacy

HKICS attends HKCT 60th anniversary launch ceremony and annual luncheon 2016

Institute President Ivan Tam FCIS FCS attended the 60th anniversary launch ceremony and annual luncheon 2016 of the Hong Kong College of Technology (HKCT) on 9 December 2016. At the ceremony, the HKICS was re-appointed as the Advisor for the HKCT Information Service Centre of Professional Studies (ISCOPS) for a term of two years from December 2016. A certificate was presented to Mr Tam for the re-appointment.



Ivan Tam with other ISCOPS Advisors

Advocacy (continued)

HKICS President and Council for 2016/2017

HKICS held its Annual General Meeting (AGM) on 14 December 2016 during which Council members for the ensuing year were elected and a special resolution regarding the amendment of the HKICS' Articles of Association was passed. The six candidates, namely: Professor Alan Au FCIS FCS, Stella Lo FCIS FCS, Gillian Meller FCIS FCS, Paul Moyes FCIS FCS(PE), Paul Stafford FCIS FCS(PE) and Bernard Wu FCIS FCS were elected/re-elected Council members. The tally of the votes for the candidates is available at the News section of the Institute's website: www.hkics.org.hk.



Council group photo

At the Council meeting following the AGM, the Honorary Officers for 2016/2017 were elected with Ivan Tam FCIS FCS, Deputy Managing Director of Chevalier International Holdings Ltd, being re-elected as President for a second term, and Dr Gao Wei FCIS FCS(PE) and Paul Stafford FCIS FCS(PE) being re-elected as Vice-Presidents, as well as Dr Eva Chan FCIS FCS(PE) being re-elected as Treasurer. Dr Maurice Ngai FCIS FCS(PE) and Edith Shih FCIS FCS(PE), will continue to serve as Council members in the capacity of Past Presidents. Jack Chow FCIS FCS retired from Council. The Institute would like to thank Jack Chow for his contributions.

A thank you dinner was held to express appreciation to the Council, Committee and Working Group members of the Institute, members and peers who have contributed to student and member development and professional training, as well as those who have supported the Institute by taking up external appointments in other government bodies and associations.



At the AGM

HKICS Council 2016/2017

Honorary Officers:

Ivan Tam FCIS FCS	President
Dr Gao Wei FCIS FCS(PE)	Vice-President
Paul Stafford FCIS FCS(PE)	Vice-President (re-elected to Council)
Dr Eva Chan FCIS FCS(PE)	Treasurer

Council Members:

Professor Alan Au FCIS FCS
(newly elected)

David Fu FCIS FCS(PE)

Ernest Lee FCIS FCS(PE)

Stella Lo FCIS FCS
(re-elected to Council)

Gillian Meller FCIS FCS
(newly elected)

Paul Moyes FCIS FCS(PE)
(re-elected to Council)

Bernard Wu FCIS FCS
(re-elected to Council)

Wendy Yung FCIS FCS

Ex-officio:

Dr Maurice Ngai FCIS FCS(PE)	Past President
Edith Shih FCIS FCS(PE)	Past President

HKICS attends 2017 policy address and 2017/2018 budget consultation

Institute Chief Executive Samantha Suen FCIS FCS(PE) attended the 2017 policy address and 2017/2018 budget consultation session organised by the Central Policy Unit of the HKSAR Government on 1 December 2016. The consultation exercise aims to collect public views to enable the government to boost the economy, improve livelihood in Hong Kong, as well as to address the challenges of the future.

HKICS Chief Executive attends the HKICPA Best Corporate Governance Awards 2016

On 1 December 2016, the Hong Kong Institute of Certified Public Accountants (HKICPA) held its Best Corporate Governance Awards presentation ceremony at a luncheon. Institute Chief Executive Samantha Suen FCIS FCS(PE), as a judging member of the Awards, attended the luncheon. The HKICS, as a governance institute, supports the formulation and effective implementation of good governance policies in Hong Kong and Mainland China.

Secretariat Christmas lunch

On 21 December 2016, a Christmas lunch for the Institute secretariat was organised. Institute President Ivan Tam FCIS FCS and Treasurer Dr Eva Chan FCIS FCS(PE) joined the lunch and the seasonal celebrations. Thanks to the generous contributions of lucky draw prizes by the Council, the Chief Executive and directors, together with the secretariat staff, spent a joyous lunch gathering.



Membership

Chartered Secretary Mentorship Programme – closing of 2016 and launch of 2017 ceremony

On 6 December 2016, a ceremony was held to conclude the 2016 Chartered Secretary Mentorship Programme (the Programme) and to launch the 2017 Programme. Since the 2016 Programme was launched in April 2016, various training sessions and social events have been organised to benefit the career and personal development of the mentees. The Institute received overwhelming responses from members, graduates and registered students during the recruitment of mentors and mentees for the 2017 Programme, and over 110 mentors and mentees have been enrolled for the coming year.

Institute Vice-President Paul Stafford FCIS FCS(PE) thanked the mentors for their contributions and welcomed new participants joining the Programme at the closing of 2016 and launch of 2017 ceremony. He also encouraged mentees to make use of this platform to broaden their horizons. Institute Treasurer and Membership Committee Chairman Dr Eva Chan FCIS FCS(PE) gave a review and provided practical tips on maintaining a successful mentoring relationship.

A series of activities will be arranged for the 2017 Programme. Details will be reported in future editions of CSj.



Institute Vice-President Paul Stafford FCIS FCS(PE) welcoming participants



Institute Treasurer and Membership Committee Chairman Dr Eva Chan FCIS FCS(PE) giving an overview of the Programme



Mentors and mentees networking



Group photo

Membership/graduateship renewal for 2016/2017

The membership/graduateship renewal notices for 2016/2017 and demand notes were sent in August 2016. Members and graduates are obligated to settle their subscription payments as soon as possible but no later than Tuesday 31 January 2017.

Failure to pay by the deadline will constitute a ground for membership/graduateship removal. Reinstatement of membership/

graduateship is at the absolute and sole discretion of the HKICS, subject to payment of outstanding fees and levies determined by the HKICS Council.

Members and graduates who have not received the renewal notice should contact the Membership section immediately at: 2881 6177, or email: member@hkics.org.hk.

Members' activities highlights: November – December 2016

17 November
Members' Networking – 处身大时代，如何策划个人投资



Institute Past President Natalia Seng FCIS FCS(PE) presenting a souvenir to Agnes Wu

24 November
Young Group – wine tasting and networking



Members learning about wine



The speaker sharing tips on managing investment and assets

26 November
Young Group – bowling with coach



At the bowling centre

22 November
Chartered Secretary Mentorship Programme – mentors and mentees second social gathering



Mentors and mentees at the gathering

10 December
Members' Networking – 西贡地质公园生态游



Sai Kung Trip

Forthcoming membership activities

Date	Time	Event
7 January 2017	10.30am – 3.30pm	Fellows Only – Ping Shan Heritage trail walk with poon choi (盆菜) lunch
14 January 2017	9.45am – 11.30am	Chartered Secretary Mentorship Training – The art of listening and providing feedback (by invitation only)

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

Membership (continued)

New graduates

Congratulations to our new graduates listed below.

Chan Chui Man	Chu Ka Wa	Lam Chak On	Lo Man	Wong Lai Loi, Connie
Chan Hiu Fung	Goddard Lui Man Fong, Eva	Lam Chui Fong	Man Shing Chun	Wong Ngai
Chan Ho Tai	Hon Ching Ki	Lam Yick Man	Mok Wing Yee	Wong Suk Kuen
Chan Ka Lun	Hung Ka Lai	Law Hoi Dik	Nip Lon Ning, Teresa	Woo Ka Man
Chan Wan Woon	Hung Lai Fai	Lee Wai Yee	Poon Nga In	Wu Wing Yan
Cheng Chi Leung	Ip Pui Fan, Olivia	Leung Tsz Yan, Peggy	To Hoi Yi	Yu Chor On
Cheung Hoi Ue	Kung On Yee, Annet	Leung Tung Tung	Tsui Yuet Ting	
Cheung Lai Ching	Kwan Shan	Leung Yi Kok	Wong Hiu Ying	
Choi Wai Hung, Keith	Lai Kwok Fung	Liao Shaoling	Wong Kwong Fai	

New associates

Congratulations to our new associates listed below.

Au Wai Ching	Chow Hoi Kan	Lam Ka Leung	Mak Kam Chun	Wong Kin Cheung
Chan Chi Wai	Chow Ka Lai	Lam Wing Chi	Ng Kwok Kei, Sammy	Wong Kwan Yi, Queenie
Chan Chiu Wing	Cui Wei	Lam Yin Ling	Ng Lok Man, Jackie	Wong Lai Lin, Phyllis
Chan May See	Fok Chung Ki	Lau Mei Wah	Ng Yee Kwan	Wong Pui Man
Chan Pui Man, Angie	Fung Ming Lee	Lau Wing Chuen	Ngan Pui Shan, Jane	Wong Sau Pik
Chan Pui Sim	Fung Yan Chi, Yammie	Lee Wing Yan	Pak Wing	Wong Siu Chun
Chan Tin Chun, Steven	Ho Cheuk Nang	Leung Hoi Yan	Pang Kai Cheong	Wong Tsz Yan
Chan Tung Yi	Ho Ka Yan	Leung Ka Wa	Poon Ching Yan	Wong Wang Kit
Chan Wai Yu	Ho Yiu Fai	Leung Suet Wing	Pun Wai Hang	Wong Yi Sha, Isabel
Chan Yee Wa, Eva	Hui Man Chun	Leung Tsun Ip	Sin Yuk King	Woo Sze Wai, Shirley
Chan Yiu Ming	Hui See Lin	Li Chak Kan	Sit Man Pan	Wu Shuang
Cheng Ching Fu	Hui Sze Ho, Davis	Li Ming Wai	Siu Ting Yuk	Yang Xi Lin
Cheung Hei Ming	Kwan Lai Ki	Li Sin Ting, Esther	Tang Sui Ying, Linda	Yau Hong Chun
Cheung Kin Kan	Kwan Ming Sun, Joyce	Li Wai Shan	Wai Tsui Yee	Yeung Tsz Man
Cheung Kwun Kiu	Kwan Yan Tung	Liao Xiaqing	Wan Pui Ying	Yeung Yan Ning
Cheung Siu Chun	Lai Fung Choi	Lu Heng	Wan Sau Kwan	Yeung Yu Ching
Choi Pun Man	Lai Po Ying	Lui Wai Fung	Wan Yuen Ki, Eunice	Yim Lok Kwan
Choi Shuk Yin	Lam Chi Shan	Ma Ching Fung	Wong Cheung Ki, Johnny	Yue Fu Tak
Chow Ho Yan	Lam Chun Yat	Mak Hiu Yan	Wong Hoi Ting	

International Qualifying Scheme (IQS) examinations

June 2017 diet schedule

	Tuesday 6 June 2017	Wednesday 7 June 2017	Thursday 8 June 2017	Friday 9 June 2017
9.30am – 12.30pm	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
2.00pm – 5.00pm	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

Please enrol between 1 and 31 March 2017.

Study packs – go green

In support of environmental protection, the Institute is planning to switch to online versions of the four IQS study packs. The print copy of the study packs will not be available for purchase once the online version is available. Detailed arrangements will be sent to students for information via email.

Studentship

HKICS professional seminar

The Institute organised a professional seminar at Hang Seng Management College to introduce the Chartered Secretarial profession to undergraduates on 24 November 2016. Institute member Rachel Ng ACIS ACS gave a presentation to the students on 'How do directors and company secretaries enhance ethics and corporate governance in the corporate world?'



Rachel Ng sharing her experience

IQS information session

At the IQS information session held on 30 November 2016, Edmond Chiu FCIS FCS, Head of Corporate Services, Hong Kong, Vistra, shared his professional work experience with the attendees interested in pursuing a career in the Chartered Secretarial profession. Information on the IQS examinations and career prospects for Chartered Secretaries was also provided.



Edmond Chiu sharing his experience

Studentship (continued)

Student Ambassadors Programme – visit to the Hong Kong Business Ethics Development Centre, ICAC

The Institute organised a visit to the Hong Kong Business Ethics Development Centre, ICAC, for 22 student ambassadors on 25 November 2016. The students learned about the history and functions of the ICAC and the Prevention of Bribery Ordinance. A visit to the ICAC Exhibition Hall was also arranged.

The Institute would like to thank the Hong Kong Business Ethics Development Centre, ICAC, for its continued support of the programme.



At the ICAC

Policy – payment reminder

Studentship renewal

Students whose studentship expired in November 2016 are reminded to settle the renewal payment by Thursday 26 January 2017.

Exemption fees

Students whose exemption was approved via confirmation letter in October 2016 are reminded to settle the exemption fee by Thursday 26 January 2017.

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

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CHARTERED
SECRETARIES
特許秘書



Applying Governance To Open Up One Belt, One Road Opportunities

The 'One Belt, One Road' (OBOR) initiative brings along with it extensive opportunities from basic infrastructure projects to trade and investments. This forum will explore how applying governance could open up inbound OBOR opportunities by dealing with overall cultural differences, bribery and corruption concerns, and resolving disputes, should they arise. The potential contributions of Chartered Secretaries and governance professionals will be highlighted throughout.

This forum organised by The Hong Kong Institute of Chartered Secretaries (HKICS), in partnership with the Hong Kong Trade Development Council, is part of the International Financial Week of the Asian Financial Forum 2017 (AFF). Participants of AFF 2017 will enjoy HKICS member's rate in attending this forum.

Target audience: directors, INEDs, company secretaries and senior management.

Date: Friday, 13 January 2017
Time: 3.00pm – 5.30pm
(Registration at 2.30pm; networking at 5.00pm)
Language: English
Venue: 21/F, PwC Conference Centre, Edinburgh Tower
The Landmark, 15 Queen's Road Central, Hong Kong
Fee: HK\$400 for HKICS members/AFF participants
HK\$500 for non-members
Accreditations: HKICS (2 ECPD points)
The Law Society (TBC)

For enquiries, please contact Mr Simon Ng at 2830 6011, or email:
ecpd@hkics.org.hk.

Chair:



Ms Gillian Meller FCIS FCS
Council member, HKICS
Legal and European Business
Director
MTR Corporation Limited

Speakers:



Ms Pru Bennett
Director & Head of Corporate
Governance and Responsible
Investment for Asia Pacific
BlackRock



Mr Simon Booker
Head of Capital Projects and
Infrastructure
PricewaterhouseCoopers
Hong Kong



Mr Paul Starr
Partner and Practice Team Leader
HK Infrastructure and
Dispute Resolution
King & Wood Mallesons Hong Kong



Mr Carl Wilkins
Fiscal Crime Liaison Officer
British Consulate-General

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