CSj

November 2017

Chartered Secretaries.
More than meets the eye.
特許秘書.潛能.超越所見.

The journal of The Hong Kong Institute of Chartered Secretaries
香港特許秘書公會會刊

Making sense of technology

The company secretary role

Employee rights
ESG reporting
Climate change

CHARTERED SECRETARIES
特許秘書

CSj

CHARTERED SECRETARIES
特許秘書

Good governance comes with membership

About The Hong Kong Institute of Chartered Secretaries

The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, 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 was a branch of ICSA in 1990 before gaining local status in 1994 and has also been ICSA's China/Hong Kong Division since 2005. HKICS is a founder member of Corporate Secretaries International Association (CSIA) which was established in March 2010 in Geneva, Switzerland. In 2017, CSIA was relocated to Hong Kong in which it operates as a company limited by guarantee. CSIA aims to give a global voice for corporate secretaries and governance professionals. HKICS has over 5,800 members and 3,200 students.

Membership statistics update

As of 30 September 2017 membership statistics were as follows:
Students: 3,287
Graduates: 494
Associates: 5,209
Fellows: 623

The Hong Kong Institute of Chartered Secretaries

(Incorporated in Hong Kong with limited liability by guarantee)
3/F, Hong Kong Diamond Exchange Building, 8 Duddell Street, Central, Hong Kong
Tel: (852) 2881 6177 Fax: (852) 2881 5050
Email: ask@hkics.org.hk (general) ecpd@hkics.org.hk (professional development)
member@hkics.org.hk (member) student@hkics.org.hk (student)
Website: www.hkics.org.hk

Beijing Representative Office

Rm 15A04, 15A/F, Dacheng Tower, No 127 Xuanwumen West Street
Xicheng District, Beijing, 100031, China
Tel: (86) 10 6641 9368 Fax: (86) 10 6641 9078 Email: bro@hkics.org.hk

Institute of Chartered Secretaries and Administrators

Governance Institute of Australia
Level 10, 5 Hunter Street
Sydney, NSW 2000
Australia
Tel: (61) 2 9223 5744
Fax: (61) 2 9232 7174

Chartered Secretaries Canada
202-300 March Road
Ottawa, ON, Canada K2K 2E2
Tel: (1) 613 595 1151
Fax: (1) 613 595 1155

The Malaysian Institute of Chartered Secretaries and Administrators
No. 57 The Boulevard
Mid Valley City
Lingkaran Syed Putra
59200 Kuala Lumpur
Malaysia
Tel: (60) 3 2282 9276
Fax: (60) 3 2282 9281

Governance New Zealand
PO Box 444
Shortland Street
Auckland 1015
New Zealand
Tel: (64) 9 377 0130
Fax: (64) 9 366 3979

The Singapore Association of the Institute of Chartered Secretaries & Administrators
149 Rochor Road
#04-07 Fu Lu Shou Complex
Singapore 188425
Tel: (65) 6334 4302
Fax: (65) 6334 4669

Chartered Secretaries Southern Africa
PO Box 3146
Houghton 2041
Republic of South Africa
Tel: (27) 11 551 4000
Fax: (27) 11 551 4027

The Institute of Chartered Secretaries & Administrators
c/o MCI UK
Durford Mill, Petersfield
Hampshire, GU31 5AZ
United Kingdom
Tel: (44) 1730 821 969

ICSA: The Governance Institute
Saffron House, 6-10 Kirby Street
London EC1N 8TS
United Kingdom
Tel: (44) 20 7580 4741
Fax: (44) 20 7323 1132

The Institute of Chartered Secretaries & Administrators in Zimbabwe
PO Box CY172
Causeway Harare
Zimbabwe
Tel: (263) 4 702170
Fax: (263) 4 700624

November 2017

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

Views expressed are not necessarily the views of The Hong Kong Institute of Chartered Secretaries or Ninehills Media. Any views or comments are for reference only and do not constitute investment or legal advice. No part of this magazine may be reproduced without the permission of the publisher or The Hong Kong Institute of Chartered Secretaries.

Circulation: 8,200
Annual subscription: HK$2600 (US$340)
To subscribe call: (852) 3796 3060 or
email: enquiries@ninehillsmedia.com

Editorial Committee

Kieran Colvert
Mohan Datwani
Paul Davis
Lydia Kan
Ernest Lee
Low Chee Keong
Philip Miller
Samantha Suen
Li Zhidong

Credits

Kieran Colvert
Editor
Ester Wensing
Art Director
Harry Harrison
Illustrator (cover)
Images
iStockphoto

Contributors to this edition

George W Russell
Journalist
Tony Wong
Regina Tai
Alaya Consulting
Maya de Souza
BEC
Zoe Chan
Solicitor

Advertising sales enquiries

Ninehills Media Ltd
Tel: (852) 3796 3060
Jennifer Luk
Email: jennifer@ninehillsmedia.com
Frank Paul
Email: frank@ninehillsmedia.com

Ninehills Media Ltd

12/F, Infinitus Plaza
199 Des Voeux Road
Sheung Wan
Hong Kong
Tel: (852) 3796 3060
Fax: (852) 3020 7442
Internet: www.ninehillsmedia.com
Email: enquiries@ninehillsmedia.com

ISSN 1023-4128

ninehills media

Contents

Technology: the good news

Before turning to the theme of this month's journal, I'd like to thank all of you who took part in the voting at The Institute of Chartered Secretaries and Administrators AGM last month. As you no doubt already know, all resolutions at the AGM were approved. The key resolutions – the proposal to give effect to the new Chartered Governance Professional designation and to a new class of members to be called Affiliated Members – received 91% and 82% of the votes in favour. The changes will now be sent to the UK Privy Council for its final consent.

This is a very significant development as it means we can go ahead with our plans here in Hong Kong and the Mainland to introduce the new Chartered Governance Professional designation alongside the Chartered Secretary designation, and revise and update our qualifying programme upon receipt of Privy Council's approval. Looking further ahead, this will pave the way for our plans to improve the public recognition of the role of our members as both Chartered Secretaries and Chartered Governance Professionals.

So, to this month's journal. Our journal keep us up to date with emerging and frontier topics and this month's theme certainly falls into this category. You might think that it is a little early to start discussing the contribution that artificial intelligence will make to improving boards' decision making. Equally, you might imagine that using virtual reality technology to conduct board meetings, or using blockchain to archive company information, might still be some way in the future. In reality, all three of the above technologies are now available to companies willing to embrace the digital age. Whether these tools will become standard for companies in the future is uncertain, but it is certain that companies can gain huge competitive advantage by staying ahead of the technology learning curve.

Our cover story this month looks at the role that we can play as company secretaries to ensure that our organisations do just that. Our role should certainly include the task of ensuring that the board is effective in its oversight of technology-related issues. Do technology issues feature regularly in the board's agenda? Does the board have the necessary expertise in IT areas? Depending on the nature and size of the organisation we work for, our role may also include ensuring regular reviews of our data handling, our disclosure and record keeping systems in the context of potential cyber attacks and data breaches. It might also include ensuring our organisation has adequate internal controls in place to handle technology-related risks.

Good technology governance, then, overlaps with our role in many different areas and company secretaries today cannot afford to leave technology to the IT experts. We should not forget that members of our profession have been major beneficiaries of the digital revolution. Remember the bad old days before electronic statutory filing, entity management systems and board portals? There can be little doubt that technology has increased the efficiency of corporate secretarial departments. It has led to the automation of routine tasks allowing us more time to add value to the increasingly complex regulatory compliance and corporate governance challenges our organisations are facing.

As highlighted by our guidance note, *Technology and the company secretary*, published by our Technology Interest Group in November last year, our focus should not only be on managing the risks involved in emerging technologies. While these can certainly be substantial, technological development has also been a powerfully enabling factor for companies and for company secretaries. In our role as trusted adviser to the board, we can play a critical role in raising awareness about the big picture – how our organisations can adapt to, and utilise, the emerging technologies of the digital revolution.

Finally I would like to mention that, in the spirit of cooperation with our ASEAN neighbours, I attended and gave a presentation at the 'First International Conference on Good Corporate Governance' organised by the Indonesian Corporate Secretary Association and the ASEAN Corporate Secretaries Network. The conference, held in Jakata earlier this month, discussed the governance challenges and increasing regional cooperation in ASEAN countries. I was joined by our Chief Executive, Samantha Suen FCIS FCS(PE), and our Senior Director and Head of Technical & Research, Mohan Datwani FCIS FCS(PE). We always welcome the opportunity to join in the debate and enhance corporate governance in the region. Look out for coverage of this event in next month's Institute News.

Ivan Tam FCIS FCS

科技发展好消息

在讨论今期月刊的主题前，先在这里感谢所有上月在特许秘书及行政人员公会周年会员大会中参与投票的成员。大家应已知道，周年会员大会的决议案全部获得通过，当中的主要决议案，亦即有关特许管治专业人员的新称号，以及设立新的联席会员的决议案，分别获得91%及82%票数支持。这些变更将呈交英国枢密院最终核准。

这是一项很重要的发展，在得到枢密院核准后，我们便可以开始在香港和中国内地落实计划，在特许秘书的称号以外，同时引入特许管治专业人员的新称号，并修订和更新取得相关资格的考试和课程内容。展望将来，这有助我们进一步开展计划，促使公众承认公会会员作为特许秘书和特许管治专业人员的双重角色。

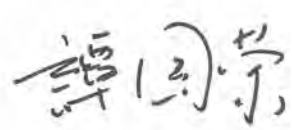
现在返回今期月刊的主题。公会的月刊让我们得知最新的课题，今期的主题肯定属于这一类。现在就开始讨论人工智能对改善董事会决策过程的贡献，大家可能觉得有点言之尚早；同样，以虚拟现实的技术开董事会会议，或利用区块链把公司资料存档，大家也可能觉得是很遥远的事。实际上，有意迎接数码世代的公司，现在已经可以开始使用以上三项科技。它们将来会否成为公司必备的工具，暂时还不肯定，但可以肯定的是，尽早学习新技术，可为公司带来很大的竞争优势。

今期的封面故事，探讨公司秘书在促进所任职机构运用新科技方面可以扮演的角色。我们的角色，肯定包括确保董事会能有效监督与科技有关的事宜。董事会是否定期讨论科技事宜？董事会是否具备与资讯科技相关的所需专门知识？视乎我们所任职机构的性质和大小，我们的角色可能还包括确保定期检讨机构的数据处理、披露及档案贮存系统等，应对可能发生的网络攻击及资料外泄情况。我们的角色可能还包括确保机构设有充分的内部管控措施，处理与科技相关的风险。

由此可见，良好的科技管治，与我们多方面的角色重叠，今天的公司秘书实在不能把科技完全交给资讯科技专才处理。我们不应忘记，特许秘书从数码化革命中得益不少。还记得以前尚未设立电子系统提交法定报表的日子吗？还记得以前尚未发明实体管理系统及董事会系统的日子吗？毫无疑问，科技提升了公司秘书部门的工作效率，把常规工作自动化，让我们有更多时间处理机构面对的日趋复杂的合规和企业管治工作，为机构增值。

正如公会的科技专题小组去年11月出版的指引「科技与公司秘书」所指，我们的着眼点不应只在管理新科技所产生的风险。这当中固然可能涉及重大风险，但科技发展对公司和公司秘书也有重大助益。作为董事会信任的顾问，我们可以发挥关键的角色，提高董事会对大环境的认知，提出机构可以如何适应及善用数码化革命过程中出现的新科技。

最后，我谨在此一提，本着与东南亚国家协会成员国近邻合作的精神，我出席了印尼公司秘书协会及东协公司秘书网络举办的第一届良好企业管治国际会议，并在会议中发言。会议于本月初在雅加达举行，讨论管治工作的挑战，以及东协国家日渐加强的地区合作关系。一同参加会议的，还有公会总裁孙佩仪FCIS FCS(PE)，以及高级总监兼专业技术及研究部主管高朗FCIS FCS(PE)。我们一直珍惜参与讨论，以及协助加强区内企业管治的机会。请留意下月公会消息一栏关于这次会议的报道。



谭国荣 FCIS FCS

Technology governance: the role of the company secretary

CSj examines the key emerging technology issues relevant to Hong Kong businesses and looks at the role of company secretaries in ensuring the effective management of technology risks and opportunities.

From hacking to digital payments, technology issues have become 'mission-critical' for corporations worldwide. Hong Kong is no exception as the WannaCry ransomware attack in May made very clear – at least 25 local computer systems were affected by this attack. Technology issues are in fact particularly relevant for companies with operations in China, which has one of the world's most technology-conscious consumer bases.

Across the Asia-Pacific region, rapid digital transformations have encouraged more businesses to transfer their products and services onto online platforms to enhance accessibility, customisability and portability. Adopting new technologies can transform internal operations and achieve higher productivity and efficiency, but digital modernisation is not without risks. 'Information technology is ingrained in every part of business operations

Highlights

- the nature of technology risk has changed and traditional approaches are longer sufficient
- company secretaries should ensure technology issues make the boardroom agenda just like any other enterprise risk
- company secretaries should advise their board in plain language – this may require translating technical jargon which is difficult to decipher without a technical background

and many companies would grind to a halt if their IT system went down,' says Ricky Cheng, Director and Head of Risk Advisory Services at BDO Ltd (BDO) in Hong Kong and a member of the Institute's Technology Interest Group.

Dependence on IT means businesses need a continuity plan in place, and the volume of electronic information now being collected, transmitted and shared requires companies to have a robust data-protection mechanism in place to protect sensitive information. 'Businesses nowadays operate in a hyper-connected ecosystem of consumers, third parties and other partners,' Cheng adds. 'There are an endless number of points of failure that could lead to a compromised system. The old-fashioned perimeter-based security approach will no longer be sufficient and companies must take a risk-based approach.'

Recent high-profile data breaches – such as the hacking of three billion Yahoo accounts and the theft of credit data from Equifax – have helped focus top management on technology risks. 'They have risen up the board agenda,' says Gillian Meller FCIS FCS, Legal Director and Secretary at MTR Corporation (MTR), a member of Council, of the Institute's Company Secretaries Panel and Co-chair of the Institute's Technology Interest Group.

While hackers and ransomware are serious threats, there are many other technology risks that don't grab the headlines.

As data breaches become more common and more sophisticated, getting the right risk management system will become more challenging. 'The cybersecurity risk landscape is evolving rapidly,' says Greg Bell, Global Cybersecurity Practice Co-leader at KPMG in Atlanta. 'Breaches are no longer a matter of if, but when and to what extent. [They] call for deeper – and perhaps very different – conversations in the boardroom today.' Those conversations are likely to turn to the role of company secretaries and how they can mitigate the increasingly complex area of risk related to emerging technologies.

Evolving role

While IT departments might be directly responsible for ensuring the security of corporate data, the company secretary is the custodian of many types of records.

In light of rapid developments, the Institute has recognised the company secretary's increasingly important role regarding overall technology risks. In November 2016, the Institute's Technology Interest Group published its first guidance note, *Technology and the company secretary*, looking at a range of technological issues that company secretaries need to be aware of.

The guidance note examines the degree of responsibility that company secretaries have for technological issues, while acknowledging that there will be significant diversity between companies. Many larger companies, for example, will have a number of other executives specialising in IT-related issues.

While technological issues may not be considered part of the core duties and responsibilities of company secretaries, it is not an area company secretaries can afford to ignore. 'There are a number of technology risks that can have an extensive impact on a business,' says Cheng at BDO. 'The company secretary is in a perfect position to drive the change from treating technology as an IT issue to recognising it as a board-level business risk.'

> **“the company secretary is in a perfect position to drive the change from treating technology as solely an IT issue to recognising it as a board-level business risk”**
>
> Ricky Cheng, Director and Head of Risk Advisory Services, BDO Ltd

For Meller at the MTR, that means looking at internal controls around cybersecurity to ensure IT and operational systems are protected. In addition, she is trying to ensure the company is plugged into the latest information and intelligence around cybersecurity. 'We need to be aware of new forms of attack, and look at how we are prepared and how to have our crisis management system in place.'

Cheng believes the company secretary can contribute to many aspects of cybersecurity and information security governance, such as assisting in identifying sensitive data, user compliance training, and ensuring IT operations are in line with government regulations.

Higher profile

Technology risks are assuming greater importance globally among business executives, according to recent surveys. In September, the World Economic Forum reported that cyber attacks were ranked eighth among global concerns – the first time the issue had ranked in the top 10. The issue was rated as more concerning than inter-state conflict or terrorist attacks.

A joint survey by the Institute and KPMG published in July – *Risk management: navigating change in Hong Kong* – showed that cybersecurity was, for the first time, one of the top five risks for executives of Hong Kong-listed companies. It surveyed 197 Hong Kong-based senior executives, assessing the extent to which they have embedded risk management in their businesses.

Meanwhile, a 2016 survey showed that bankers in Mainland China foresaw IT-related risk as becoming their top concern, ahead of legal risk and decision-making risk, according to a survey published in February by the China Banking Association and PricewaterhouseCoopers China.

As these risks become more pressing, Hong Kong company boards, which have traditionally not been strong on technology expertise, are shifting from IT procurement to newer technologies, such as blockchain, artificial intelligence and virtual reality.

While board members may need training or assistance to fully understand and be able to provide oversight in these areas, there is more willingness to focus boardroom discussions on such issues. 'Whether the topic is a technology risk or opportunity, the key to engaging the board of directors and gaining their support is to align technology with the business,' says Philip Miller ACIS, Assistant Company Secretary at The Hongkong and Shanghai Banking Corporation Ltd (HSBC) in Hong Kong.

Cheng agrees, noting that information security is not just about the technological aspect of the business. 'Effective governance requires a holistic approach that also encompasses people and processes,' he says. 'The knowledge and awareness of the end user is critical as the human factor remains the weakest link when it comes to security.'

Policies and procedures might only be effective when all levels of an organisation understand their roles and responsibilities. 'Information security

“

technology is becoming such an integral part of so many business models... that it will continue its current trend and become of equal importance to the management of an organisation as finance, sales and human resources

”

Philip Miller ACIS, Assistant Company Secretary, The Hongkong and Shanghai Banking Corporation Ltd

is a shared responsibility across an organisation,' observes Alan Lee, Advisory Services Executive Director at EY in Hong Kong. 'The board needs to support the efforts being made, and every employee needs to learn how to stay out of trouble by not opening suspicious emails or losing mobile devices.'

For company secretaries, that could mean working with IT, compliance and audit teams to raise awareness of the subject matter, and to make up for the board's lack of technological prowess.

Assisting boards

A company secretary should ensure technology issues make the boardroom agenda just like any other enterprise risk, Cheng at BDO insists. 'When technology items on the agenda require expertise that is not widespread on the board, the company secretary should suggest a pre-discussion takes place.' That way, he adds, the board's knowledge can be brought up to a level in which an informed debate can take place or a decision can be made. 'A company secretary should seek ways to introduce a technology expert to the boardroom as a catalyst to support more meaningful discussions,' Cheng recommends.

To effectively communicate the potential risks and rewards of new technologies, the company secretary has to be increasingly tech-savvy. 'Depending on the nature of the business and industry, the more company secretaries are aware of the technological trends relevant to their industries, the better they will become at identifying and advising on technology risks and opportunities,' says Cheng.

However, less technologically adept company secretaries can provide meaningful input. Meller at MTR talks to her own team, the company's suppliers and other in-house counsel to stay at the forefront of technological change. 'I'm a bit of a dinosaur and I force myself to get out there in order to be aware and able to assess,' she says.

Cheng recommends networking among industry peers. 'A great way to stay informed is to be part of a technology ecosystem that allows exchange of information and feedback between other businesses within the industry, such as third-party providers, customers and regulators.'

Communication is key, and even the most technologically competent company secretaries should advise their board in plain language. 'Translate technical information into understandable language that the intended audience can relate to and comprehend,' Cheng recommends. 'Too often the board is presented with overly-technical reports, which are very difficult to decipher without a technical background.'

The company secretary can help boards to understand technology. 'There is a role in coordinating induction programmes and ongoing training and development for directors so that the chief operating officer, or whoever is most appropriate, is able to provide briefing sessions to directors on the organisation's technology,' says Miller at HSBC. That

can ensure directors are aware of and understand both new and emerging technology opportunities, as well as threats if the business doesn't adapt to take account of such technologies.

Ways forward

The good news is that technology's higher profile among boards has helped company secretaries raise the board's awareness of, understanding of, and ultimate responsibility for, technology-related issues. 'In terms of the top 10 risk areas, technology would be up there,' says Meller at MTR. While cybersecurity is the dominant concern, the next highest issue is opportunities, she says.

Miller at HSBC, who is also a member of the Institute's Technical Consultation Panel and Technology Interest Group, points out that technology is becoming a core concern of companies in Hong Kong. 'Technology is becoming such an integral part of so many business models, or at least a significant contributor to operations and expenditure, that it will continue its current trend and become of equal importance to the management of an organisation as finance, sales and human resources, and will therefore command an equal share of the board's attention,' he says.

One important factor is the realisation of the value of data. 'Effective management of cybersecurity and information security both heavily rely on a business's ability to understand the value of its assets, whether they are data or physical assets, people, critical processes or functions,' says Cheng.

The other piece of good news for company secretaries is that technology is making their roles more efficient. Miller at HSBC points out three main areas where technology has increased the efficiency of corporate secretarial departments:

1. electronic statutory filing (e-filing)
2. corporate information databases, and
3. board portals.

Regarding e-filing, Hong Kong might have some catching up to do. 'Hong Kong is maybe behind other jurisdictions, such as the UK, in widely adopting the use of statutory e-filing,' says Miller, noting that this has the potential to offer significant efficiencies to company secretaries' statutory filing processes.

The impact of more advanced corporate information databases and board portal systems looks set to have a very significant effect on the work of company secretaries. 'With expanded functionality, the information that such databases contain about an organisation, particularly those with a significant number of subsidiaries, might be used by departments such as tax, finance, or the internal control functions,' says Miller. 'I suspect that this is an area that will start to see more change.'

Board portals have been the biggest area of technology growth for company secretaries in the past few years. Miller points out that the number of providers has increased, as has the usability of the systems. There are obvious benefits to using a board portal – for example ease of distributing papers, ease of use for directors, reduced use of paper, etc – but for Miller the most significant advantage is the upgrade in information security that portals offer. As the dangers of using email and other communication technologies have become more apparent, there is now very limited ability to send information securely outside of an organisation's firewalls.

'Board portals provide company secretaries with a invaluable tool for secure distribution of information which, in the current climate, would otherwise be very difficult to achieve with a comparable level of security. One can only assume that the usability and functionality of these systems will continue to develop to the benefit of both directors and the company secretarial teams using them,' Miller says.

George W Russell
Journalist

The guidance note, 'Technology and the company secretary', published by the Institute's Technology Interest Group, along with the joint HKICS and KPMG survey 'Risk management: navigating change in Hong Kong', are available from the publications section of the Institute's website: www.hkics.org.hk.

Rethinking ESG: from compliance to value creation

Alaya Consulting's second annual survey of the ESG performance of Hong Kong's top 200 listed companies finds that 99% of the companies surveyed are in compliance with current ESG reporting requirements. The survey also indicates, however, that few companies are getting the full benefit of a sustainability structure that is aligned with the company's core business.

Environmental, social and governance (ESG) reporting has been a new area of compliance for Hong Kong listed companies, with rising expectations from stakeholders including investors on corporate social responsibility. While some companies have published outstanding reports on their ESG performance, others have treated their reporting process as a compliance exercise.

Alaya Consulting has been tracking compliance by Hong Kong's top 200 listed companies with the ESG requirements set out in the Hong Kong Exchanges and Clearing (HKEX) *ESG Reporting Guide* for two years. Its second annual survey finds that the levels of compliance vary among the companies surveyed, reflecting different levels of commitment, scope of engagement and whether this is an integral goal of value creation.

99% of the companies surveyed were in compliance with the requirement of the Guide for listed companies, on a comply-or-explain basis, to report on all aspects of ESG listed under the 'General Disclosures' section. However, this requirement has now been extended to include 12 environment-related key performance indicators (KPIs). As companies will have to comply with this new requirement in their upcoming annual reports, now is a good time for companies to rethink the value of ESG and to truly kick-off their journey to sustainability.

Governance is key

When it comes to ESG disclosure, emphasis is currently placed on reporting relevant environmental and social KPIs. Establishing an effective ESG governance structure is not high on the agenda for most companies under the study. However, just as corporate governance brings business value, ESG governance helps formulate relevant strategies to create environmental and social value.

Only 63 of the 200 companies (31.5%) established a governance structure, for example a committee, that specifically oversees the company's sustainability, and only approximately half of those directly report to the board of directors, showing the lack of management attention to this matter. However, if we rank the companies according to their overall ESG disclosure and performance, among the 50 companies with the highest scores, 80% of them have an ESG governance structure. The indication is that companies adopting a more structured approach usually perform better in ESG compared to the rest of the sample. Analysis also reveals a significant correlation between having a sustainability committee and the quality of ESG disclosure, showing that having such a committee benefits the level of ESG disclosure significantly.

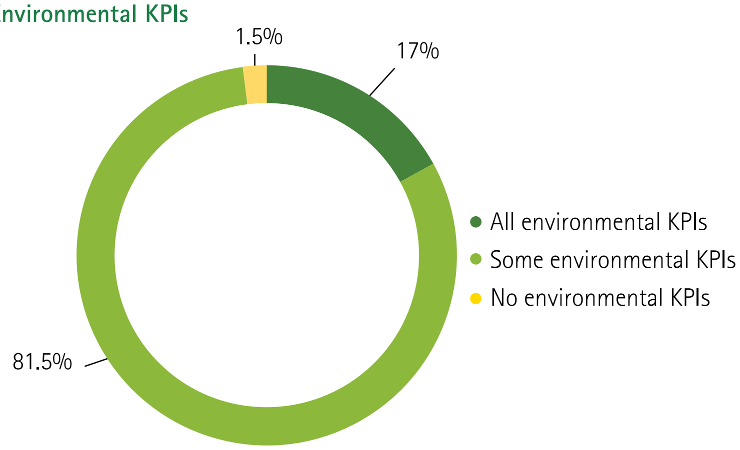
Given the interdisciplinary nature of sustainability risks, a governance structure is necessary to bring together various company functions. By bringing sustainability discussions to top management levels, a governance structure helps construct a system for sustainability initiatives to be translated into day-to-day practices at the operational level.

Communication and coordination between different departments constitutes one of the challenging tasks throughout the ESG reporting process. Sustainability governance is not just a matter of ensuring that the right information is disclosed, it is also about pushing for strategies and measures to be formulated to improve both compliance and performance on each material aspect.

Highlights

- the level of an organisation's ESG performance depends on the extent to which it has a clear and effective structure governing the process
- the research recommends the setting up of a board-level governance structure to oversee the risks and opportunities of ESG
- issues such as labour rights, occupational health and safety and product safety are attracting increasing attention from stakeholders

Figure 1: Environmental KPIs



Environmental KPI disclosure
As mentioned above, 99% of the companies surveyed met the requirement for companies to report on the ESG aspects listed under the 'General Disclosures' section of the Guide. In the current reporting period, that requirement has been extended to include the 12 environmental KPIs listed in the Guide and companies need to prepare themselves for this.

Our study found that 17% of the companies surveyed reported on all of these environmental KPIs and 81.5% reported on some of them (see Figure 1). Amongst the 12 environmental KPIs, the disclosure level of the six qualitative KPIs is generally higher than the seven quantitative KPIs (see Figure 2). This reflects the fact that many companies have yet to set up a management system to measure and collect relevant data, leading them to disclose more narrative information, such as energy saving measures, than quantitative KPIs.

Determining the reporting boundary and ensuring the accuracy of the data collected are critical processes that demonstrate the report's reliability to investors as well as other stakeholders. There is no doubt that ESG governance plays a crucial role in this respect. Since data collection might appear to be challenging for some companies depending on their size and business nature, establishing effective governing mechanisms are necessary to pool resources and efforts to strengthen disclosure and eventually improve performances in environmental aspects based on the data collected.

Social KPI disclosure
As expected, the disclosure of social KPIs is generally low as this remains a recommended best practice. However, some social aspects have a high level of disclosure, for example 96.5% of companies surveyed disclosed their 'focus areas of community investments' KPIs (B8.1); while other social aspects have a high level of non-disclosure, 86% of companies surveyed failed to disclose their 'product recall' KPIs (B6.1) and 70.5% failed to disclose their 'days lost due to work injury' KPIs (B2.2).

Although companies may lack incentives to gather data at this stage, issues such as labour rights, occupational health and safety and product safety are attracting increasing attention from stakeholders. Due to the complexity of social impact of businesses, a company with an overall sustainable strategy and leadership on sustainability helps in managing the reporting process and responding to stakeholders' concerns.

Board independence and diversity
Our research went further to examine whether companies are aiming for best practices on board independence and gender diversity. The listing rules specify that independent non-executive directors (INEDs) should make up at least one-third of the board, but there are no requirements on INED representation on the three main board committees, namely the audit, remuneration and nomination committees. While 58% of the companies surveyed had an audit committee comprised exclusively of INEDs, only 9% of them had all three committees comprised exclusively of INEDs.

In terms of gender diversity, while 62% of the companies had at least one female director on board, on average only 9 out of 100 board members are female. Female directors remain a small minority on boards and forging gender diversity is yet to be a top priority when appointing directors.

Board independence and gender diversity have been identified as indicators of a company's corporate social responsibility as it allows more openness and stakeholder-oriented approach in decision-making. Better governance is largely dependent on incorporating more opinions and perspectives, which in turn brings more robust business performance.

Performing better in ESG
Moving a step further from the previous year's research, this year our study developed a scoring mechanism to rank

companies based on both the level of disclosure and ESG performance. This more comprehensive approach assesses the overall management structure and the outcomes of a company's sustainability initiatives. In addition to the level of disclosure, four other factors including corporate governance, sustainability governance, target setting and reporting standards have been taken into consideration.

With reference to the practices of the top five scoring companies (Swire Properties, CLP Holdings, HKEX, HK Electric Investments, and the Hongkong and Shanghai Hotels), below are three suggestions for improving your ESG performance.

1. Good governance and practices

To make ESG work in a company requires effective practices to be embedded and routinised in each level of daily operation. Once the top management has decided to take the lead, mechanisms are then introduced to implement board strategies at the business operation level. This should increase effectiveness and efficiency in ESG reporting, but going beyond that, good governance aims to transform the company's mindset so that sustainability becomes a core value of the company.

2. Aligning with international sustainability standards and goals

Striving for sustainable growth has become a global business trend, especially with increased attention towards socially responsible investment where more investors are seeking greener and more ethical businesses to invest in. Adopting international sustainability standards and initiatives is more than a display of commitment but an opportunity to achieve greater progress, accuracy and credibility in ESG reporting and performance.

24% of the companies were willing to take a step further, adopting the Global Reporting Initiative frameworks for ESG reports. It is encouraging to see companies committed to respecting international standards but this is not the only purpose of ESG reporting. The sustainable development goals (SDGs), a set of 17 goals agreed by all 193 member states of the United Nations, invites the private sector to join forces with governments and civil society to tackle global challenges, and to sustain economic growth with environmental and social needs being met. While some leading multinational corporations have actively responded to the SDG initiative, only 6% of the companies surveyed in Hong Kong have integrated SDGs into their ESG reports.

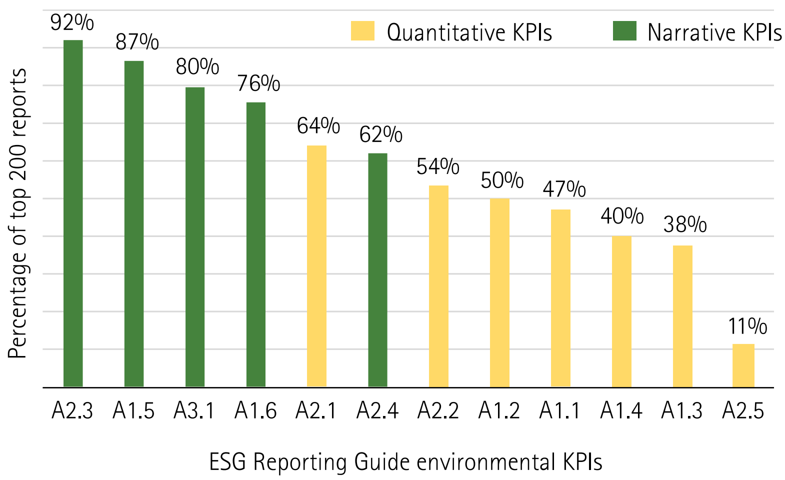
> "female directors remain a small minority on boards and forging gender diversity is yet to be a top priority when appointing directors"

The Hong Kong scorecard

The Alaya Consulting research found that 99% of the companies surveyed are in compliance with Hong Kong's current ESG requirements. However, the survey results, when compared with international best practice, paint a not so encouraging picture. Indeed, the research indicates that Hong Kong's top companies remain well behind the international curve when it comes to ESG reporting and performance:

- only 31.5% of companies surveyed had established sustainability governance structures
- less than 20% of companies surveyed had set targets for ESG performance improvement
- only 6% had aligned their ESG performance with the UN sustainable development goals (SDGs)
- only 23% of ESG reports surveyed carried assurance
- only 9% of directors were female, and
- only one-fifth of the companies surveyed had a non-executive chairman.

Figure 2: Environmental KPIs – narrative and quantitative



> "Hong Kong listed companies have taken the first steps towards sustainability but there is a long and challenging journey ahead"

Though some believe there has to be a trade-off between profit and sustainability, the fact is that most companies implementing sustainability measures achieve higher profits and faster growth rate than their peers. Transforming business models, such as developing greener products with beneficial social impact saves costs, increases efficiency and eventually gains competitive advantage.

3. Target setting

The benefits of target setting are significant. This enables organisations to assess their actual environmental and social impacts, identify related risks and opportunities and eventually establish measures to mitigate such risks. Target setting is also one of the useful tools for organisations to monitor their ESG performance and communicate to stakeholders about ESG. Establishing targets in the long-run helps to set out strategies and a roadmap towards sustainable growth, for example by looking deep into the product life-cycle and supply chain to create innovative ways to improve the products and services provided.

Less than 20% of the companies surveyed set environmental and social targets, with a carbon target (19%) as the most popular one, followed by water consumption (16%), energy reduction (16%), waste (9%) and occupational health and safety (9%). Companies are yet to realise the advantage of setting SMART (specific, measurable, attainable, relevant and time bound) and effective targets as a driving force in ESG, and integrating these into the company's business strategy.

Looking ahead

Sustainability is sometimes viewed as a costly investment. However, companies that perform well in sustainability issues, such as employee satisfaction, often achieve a stable and higher stock price, beating the market in the long-term. More investors wish to invest in companies that earn higher returns, do less harm to the environment and are of benefit to society. Moreover, other stakeholders such as customers and communities are also demanding better ESG performance.

Hong Kong listed companies have taken the first steps towards sustainability but there is a long and challenging journey ahead. Companies with good ESG performance, those at the top of our ranking, are mostly companies with 5-6 years of experience in sustainability reporting. With more experience gained in ESG reporting over the next few years, Hong Kong companies should gradually advance beyond the compliance stage and enter the next phase where they incorporate their sustainability strategies into their core value proposition.

Tony Wong, Founder
Regina Tai, Consultant
Alaya Consulting

Alaya Consulting is a Hong Kong-based firm that advises companies on non-financial reporting and sustainability process improvement. For the full research report discussed in this article, please contact Regina Tai: reginatai@alayaconsulting.com.hk.

EBM Consulting
REDUCE THE RISK
EBM Consulting are specialists in providing market entry and enterprise risk mitigation services, specializing in frontier markets. We deliver detailed business intelligence about individuals, companies & corporates needed to make informed decisions when doing business in Asia, Africa and the Middle East.
We have an unrivalled network of local resources on the ground in 55 jurisdictions worldwide including business intelligence professionals, legal professionals, investigative journalists, and corporate executives who deliver the background information needed to conduct good business.
We provide research, investigation and analysis services when it is helpful to understand the personal & business reputations, military and political links, and criminal & litigation backgrounds of individuals and corporate entities, such as in pre M&A or compliance scenarios.
Our international network of local resources covers 55 jurisdictions worldwide including: Mongolia, Burma, China, Thailand, Cambodia, Laos, Philippines, South Korea, Indonesia, Malaysia, Kazakhstan, Russia, India, Turkey, UAE, Jordan, Egypt & Libya.
Contact us in confidence for a no-obligation consultation
Spencer Elmer, CEO
Tel. (852) 3621 0980
Email. ebm@ebmconsulting.com.hk
Web. www.ebmconsulting.com.hk
Frontier Market Specialists in Research, Investigation & Analysis

Climate change – not my problem?

Company secretaries have a key role in addressing climate risk, argues Maya de Souza, Senior Manager – Policy Research, Business Environment Council Ltd, not only to ensure effective risk management and ESG reporting, but also to 'future proof' the organisations they work for.

'Our societies face a series of profound environmental and social challenges,' said Mark Carney, Governor of the Bank of England, in a speech to the UK Insurance Industry in September 2015. 'The combination of the weight of scientific evidence and the dynamics of the financial system suggest that, in the fullness of time, climate change will threaten financial resilience and longer-term prosperity... With better information as a foundation, we can build a virtuous circle of better understanding of tomorrow's risks, better pricing for investors, better decisions by policymakers, and a smoother transition to a lower-carbon economy. By managing what gets measured, we can break the 'tragedy of the horizon'.

Climate change may appear as a problem for the next generation, something best dealt with by educating our children and grandchildren. It may seem at once too big to ignore, but also too overwhelming to tackle. To others it may seem like an issue for larger companies or for larger countries, not for us. For company secretaries and accountants, the question that arises is – what is your role? Are you responsible in some way?

Won't the government or the market deal with this?

There are two problems that hamper swift action, articulated so well by Mark Carney in the speech quoted above. To begin with, the 'tragedy of the horizon' is about the enormity of the consequences of working without longer-term time horizons in mind. Essentially, if we wait until climate change in a severe form is upon us, it will be too late to act. The time lag in terms of the impact of reducing emissions is too great. However, governments, businesses and people often don't think in terms of such horizons.

The other risk is the 'tragedy of the commons'. This is another worrying outcome – again of huge proportions – if no one takes action on the basis that this is not their responsibility, in the hope that others do instead.

What about the Paris Agreement – does this solve the problem?

The Paris Agreement 2015 is in effect a global compact to confront this situation and avert the tragedies referred to above. It is a game-changer and you've no doubt heard it mentioned many times. What does it actually mean? It is an agreement by 197 countries to reduce greenhouse gas emissions so that the global temperature rise is no more than 2°C (two degrees Celsius) over pre-industrial levels, but agreeing to endeavour to keep this rise below 1.5°C. To achieve this, it is agreed that the world economy needs to be net zero in the second half of the century. That means that in the second half of the century, carbon emissions produced need to be absorbed by trees or captured by carbon capture and storage.

To achieve this, all countries have set their 'nationally determined contributions' but these will need to be ratcheted up and reviewed every five years. The first stocktake is in 2018 – to be kicked off shortly when countries reconvene in Bonn for the second follow up to the Paris Agreement referred to as COP 23 – and the first review in 2023. As part of the Paris Agreement, China has set its nationally determined contribution of 60%-65% carbon intensity reduction by 2030 and peaking emissions before then. The chances are that these targets will be made stricter before long.

Hong Kong has accordingly set its contributions in line with China's commitments – 65%-70% reduction in emissions intensity or 26%-30% reduction in absolute emissions by 2030. This is a good start in the pathway to net zero emissions. However, it does mean that the final 70% reduction will be in the 20 or so years that follow – unless Hong Kong finds some way to offset its emissions, not easy with our limited land space.

Country targets are just that. In reality, the Paris Agreement will only work if all those who are directly responsible for the emissions or who have control over them take steps to reduce their emissions – for the short and medium term but also for the longer term. Investment decisions taken now by companies may have an impact on longer-term emissions, so action in the short term as well as the longer term is critical.

Highlights

- company secretaries should ensure that climate risk is on their board's agenda
- companies in Hong Kong need to report on the effectiveness of their management of risk, including climate risk, and their ESG performance, including greenhouse gas emissions
- companies need to adopt a longer-term horizon if they are to survive in the low-carbon future

> addressing climate change is not only part of ESG reporting, but a critical part of risk management

Why is this relevant for company secretaries?

One of the roles of a company secretary is to assist the board to understand the issues and risks in order for the board to keep them under review and make related decisions. Another is to advise the board on good corporate governance practice. There are a number of emerging risks for businesses from climate change, making consideration of climate risk a high priority. The board can contribute to the management of these risks including consideration of potential business opportunities. Recent years have also seen developments in good corporate governance – particularly regarding the need for better risk management and transparency. These are discussed in more detail below.

Risk management

Readers will no doubt be familiar with Hong Kong's Corporate Governance Code, which was revised in January 2016. Section 14, Appendix Q, states that where an issuer includes the board's statement that it has conducted a review of its risk management systems and internal control systems, it must disclose:

- how often the risk management and internal control systems are reviewed, and if a review has not been conducted during the year, an explanation of why not, and

- a statement as to the effectiveness of the procedures conducted.

There are a number of risks from climate change which need to be taken on board to be able to make an evaluation of effectiveness. Company secretaries need to understand this in order to ensure that such a statement is made in good faith. These are classified in different ways in different papers, but below we use the terminology of the G20 Financial Stability Board's Taskforce on Climate-Related Financial Disclosures (TCFD).

Physical risks. The first set of risks is about the physical impacts of climate change from rising sea levels, extreme weather, water scarcity and temperature. Some international examples of what risk assessments have found include that of a major tea company. The company found that with a 2°C temperature rise, their tea producers in Kenya may no longer be able to supply the tea they use, so they needed to carry out research and development or look for other sources of supply. Slow action could lead to expensive supplies or no supplies. A well-known clothing company concluded that their primary raw material, cotton, would be affected by water scarcity. A local example would include the risk to Hong Kong developers from flooding and storm surges. This may lead to a diminished value of their assets.

Transitional risks. The TCFD categorises this set of risks as: policy and legal risks; technology risk; market risk and reputation risk. Two of these categories are discussed below.

1. ***Policy and legal risks.*** These risks relate to the impact of new climate change public policies to effect the transition to a low carbon economy, which may range from carbon pricing to regulation. Failing to factor in the impacts of such policies could prove costly. For example, with a carbon price being introduced on domestic air and rail travel, airlines that do not seek to reduce their carbon emissions may have their profitability reduced.

Investing in fossil fuels extraction carries a risk of 'stranded assets'.

2. ***Reputational risk.*** This risk relates to reputation – this may be consumer pressure or investor pressure. At present, we are witnessing a shift in investor behaviour beginning with institutional investors. Some are setting exclusions as to investment. Others are looking to invest in environment, social and governance (ESG) funds, and in green bonds. Discussions are beginning on how government can incentivise the flow of money to greener investments and in the end this may mean subsidies or tax breaks. So in terms of raising funds, ensuring new projects and the company as a whole are sufficiently green is likely to help.

We'd like to stress the importance of a systematic approach that takes on board all these risks. To fulfil your duty, you will need to understand these risks and check on the robustness of risk management procedures. In the next section we explore how to do so.

Transparency

Company secretaries need to take on board Hong Kong's *ESG Reporting Guide* (Appendix 27 of the listing rules) with its list of comply-and-explain considerations. Having regard to the four principles of materiality, balance, quantitative KPIs and consistency, a company needs to decide whether to comply and report on each of the listed items, or explain why not.

- Aspect A1 covers greenhouse gas emissions (as well as other major air pollutants) data but also policies as well as compliance with laws and regulations.
- A2 is on the efficient use of resources including energy – this specifically includes both direct and/or indirect use of energy (such as in your supply chain), as well as initiatives on energy usage.
- A3 is on the impact on the environment, which would include climate change.

The specific reference to greenhouse gas emissions in the Guide and the reference to energy usage, suggest that this aspect of environmental performance is regarded as a high priority. A company will need to take care to avoid categorising greenhouse gas emissions (of which energy usage will in Hong Kong often be the major source) as non-material without a good basis for this.

Aspect B5 is on managing supply chain impacts, and here again climate impacts are relevant. For example, companies need to consider the source of construction materials, which are often highly carbon intensive, or how materials are transported to the company.

In conclusion, neither sustainability reporting nor risk management are new. Many companies will have completed questionnaires for the CDP (formerly the Carbon Disclosure Project) and reported on carbon emissions (often simply levels of energy usage), and recognise the importance of this transparency for investor relations and consumer reputation. All companies will have some form of risk management in place. But it is this inter-relationship of these duties that needs to be noted – addressing climate change is not only part of ESG reporting, but a critical part of risk management. It's the impacts on the company itself that are also important.

What needs to be done?

So we have looked at why company secretaries have a role in climate risk, but the next question is how you should fulfil this duty. The TCFD report released in July 2017, though formally about disclosure by companies and asset managers, provides a useful framework for companies to manage their risk. As this framework is likely to be what investors will be looking at – and it is in part directed at investors and insurers – it makes sense for companies to use it as a guideline. It has four parts to it.

1. Risk assessment procedures

Though easy to understand in principle, having regard to our categories of risk above, this is complex to assess in practice. One way to begin is to make use of a risk tool that provides a framework as well as some of the evidence for your analysis. A risk tool has been designed for Hong Kong businesses by Business Environment Council Ltd (BEC) Climate Change Business Forum with the assistance of PricewaterhouseCoopers. This enables companies to enter information as to the different parts of their business and obtain a 'heat map'. It's a starting point for a detailed analysis. For that analysis, you may wish to commission internal or external experts to look closely at particular risks.

2. Metrics for measuring impact and targets

As we all know, it's very hard to measure progress without metrics. What would these be? They could range from a meaningful measure of your carbon intensity (energy usage) per square foot. This may be what your business can control in practice and what you should focus on. Simply counting carbon emissions may not be as helpful as those figures will change as the carbon intensity of generation changes. Targets to manage risk and

> "past emissions are of course part of the picture, but the more critical aspect of good risk management is forward-looking"

opportunity as well as performance against these targets is another aspect of this framework.

3. Strategy

This reflects growing investor interest, not so much as to how carbon intensive a business is, but what its plans are to change. For example, in deciding on an airline to invest in, there may be an interest in whether the company's strategy is 'future proofed' from changing climate policy through plans to increase the energy efficiency of planes and reduce the carbon intensity of its fuel. Targets are intrinsic to a good strategy. A strategy without a target may not help garner the support of different parts of an organisation.

4. Good governance structures

All the above are part of good governance, but we must not forget good structures too. Company secretaries will understand the role of the board and the importance of ensuring the board is aware and engaged in moderating a big risk such as this.

The TCFD recommendations advise that companies cover these aspects in reporting on climate risk, and the report provides detailed guidance on a sectoral level. Company secretaries may of course ask how this approach relates to of Hong Kong Exchanges and Clearing Ltd (HKEX) requirements. The main difference is that the TCFD approach is about investors looking ahead – at whether a company is resilient to risk. It is therefore more about processes in place to manage risk including governance, risk assessment, strategies, metrics and targets. Past emissions are of course part of the picture but the more critical aspect of good risk management is forward-looking. HKEX's 2016 Guide requests details of current emission levels, and asks for disclosure of the relevant company policies which may include those addressing climate change as well as measures to mitigate emissions and results achieved.

Another important tool recommended in the TCFD report is scenario analysis. This is a useful tool for thinking ahead and taking on trends and future uncertainties, and it is becoming more widely used by businesses to develop business strategies and manage risk. It helps with spotting those 'weak signals' which are a precursor of change that can suddenly fundamentally transform the business environment. We may only see weak signals for change but all of a sudden that change may be upon us. For example, early in the last century it took London just eight years to change from fully horse-drawn carriages to internal combustion engine vehicles. With climate change, a similar scale of change in the way we do things may just happen. Businesses need to be prepared for this with good systems of risk management and processes to spot those business opportunities inherent in the changing landscape.

Maya de Souza

Senior Manager – Policy Research
Business Environment Council Ltd

This article should not be regarded as offering advice on legal duties and obligations. For such advice, you will need to seek independent advice in the usual way. This article should also not be regarded as an official view of BEC and its members.

The Taskforce on Climate-Related Financial Disclosures report mentioned in this article is available online at: https://www.fsb-tcfd.org.

Employee rights in Hong Kong

Compliance professionals need to keep a close eye on the case law relating to labour disputes in Hong Kong. Zoe Chan So Yuen FCS FCIS, solicitor, looks at how the courts in the HKSAR have played an important role in upholding basic employee rights.

Hong Kong is often considered an 'employer-friendly' jurisdiction, particularly when it comes to trade union rights. Although 879 registered trade unions are active in Hong Kong, collective bargaining rights are mostly disregarded and ignored by employers. Moreover, general employment law does little to protect trade union rights and the participation in union activities by employees. In Hong Kong few workers are covered by collective agreements and those that exist are not legally binding. Recent surveys also indicate that bullying in the workplace is relatively common in Hong Kong, though most workers dare not complain.

Given that employers usually have better resources for litigation and can often depend on witnesses' eager to support the corporate interest, they would seem to be in a much stronger position than employees when it comes to labour litigation and negotiation. Nevertheless, some important court decisions have shown that the courts in Hong Kong are prepared to uphold employee rights. In particular, contractual disciplinary and grievances procedures (DGP) represent an important safeguard for employees. Indeed, it can be hard for employers to terminate an employment contract if the DGP policies are used tactically by employees.

Understanding employee rights

Enshrining worker protections in labour regulations and law increases job stability and improves productivity through better employer-worker cooperation. In this context, it is vital that both employers and employees understand their rights. Complex labour disputes will have a direct impact on human resources (HR) practice and the costs of defending charges of summary or wrongful dismissal can be substantial. In addition to being liable to pay common law damages and statutory termination payments, employers may also be liable for damages for breach of implied trust and confidence, and sometimes costs will be ordered on an indemnity basis.

Upholding trade union rights

The Court of Final Appeal (CFA) judgment in the *Campbell Richard Blakeney-Williams & Ors v Cathay Pacific Airways Ltd & Ors (Cathay) (FACV 13 & 14/2011)* case concerned the unfair dismissal of pilots who participated in industrial action. The judgment marks a landmark in employment law development in Hong Kong and is the most significant trade union judgment in Hong Kong that reconfirms the legal protection of employees' participation in trade unions and strikes.

'Working to rule' is regarded as a legitimate activity of a trade union. Section 21B of the Employment Ordinance protects employees' right to participate in union activities outside working hours or with the employer's consent. Hence a thorough understanding of the rights and responsibilities of employers and employees in collective bargaining is crucial for HR professionals, particularly those in larger organisations in the public and private sectors.

Employers should allow trade union representatives or staff members reasonable time off for union duties or activities. A refusal to do so is not only likely to have a detrimental effect on employee relations, it may also result in a Labour Tribunal intervention with a declaration to that effect and an award for substantial compensation.

“workers are generally let down by the parlous state of the Hong Kong Employment Ordinance which is outdated and has not kept pace with modern workplace requirements”

The CFA judgment also concerned the pilots' complaints about defamatory statements made online by their employer regarding their alleged misconduct. Cathay was held liable for substantial damages for these defamatory statements.

Moreover, the employer's conduct in making various internal and external announcements on the matter constituted sufficient evidence that the employees were dismissed for disciplinary reasons. Giving reasons for dismissal by employers that are untrue can lead to adverse publicity and substantial damages of defamation being awarded to former employees.

The judgment also upheld the principle that neither party can contract out of Hong Kong employment law where employees are based in Hong Kong.

Upholding DGP rights

Where disciplinary proceedings form part of employees' contractual terms, such procedures need to be given due regard when an employee's employment is being terminated for reasons relating to discipline or performance. Damages may be awarded against employers if they fail to conduct contractually entitled disciplinary hearings.

DGP was the focus of the *Lam Chun Choi v Standard Chartered Bank (Hong Kong) Ltd ([2016] HKCFI 320)* case. How DGP is used to determine the issue of wrongful dismissal of an employee will depend on whether the issue involves the employee's:

- ***conduct*** – involving misdeeds such as wilful disobedience, dishonesty or conflict of interest, and/or
- ***performance*** – involving behaviour such as incompetence, neglect of duty or general sloth or indolence.

The court decision highlights the dangers of incorporating an employee handbook and DGP rights into an employment contract. The effect of incorporation will prolong the termination process as employers must follow the policies

Highlights

- court decisions have shown that the courts in Hong Kong are prepared to uphold employee rights
- contractual disciplinary and grievances procedures represent an important safeguard for employees
- the courts have shown an increasing willingness to look at 'substance over form' in employment disputes

> **“the judicial acceptance of broader rights attaching to the employment relationship is a welcome signal that the courts will work to prevent the undermining of employee rights”**

and procedures that are incorporated into the employment contract. As a result, it appears hard to terminate the employment if the employer does not strictly follow the DGP.

The lessons to be learned

General lessons to be learned from the cases discussed above are many. Any wrongful suspension of work during a case investigation of alleged staff misconduct is challengeable. It may amount to a breach of the implied terms to suspend an employee without reasonable and proper cause, and the plaintiff may be able to recover damages for personal injury action or psychiatric harm which he or she has suffered as a result of the suspension.

The courts have shown an increasing willingness to look at ‘substance over form’ in employment disputes and to assess the specific circumstances of each individual case. The legal duties and responsibilities of employers are substantial and there are many circumstances where managers can get it wrong. Keeping your company

secretarial teams up to date with current and forthcoming Hong Kong employment legislation and case law is essential.

Regular staff training to understand the practical application of law to potential labour disputes and employment relations is critical. It is time to respond to new developments in employment legislation and case law, and ensure practical knowledge is shared throughout the corporation. Compliance professionals should keep employment policies, procedures and contracts of employment up to date with a regular review.

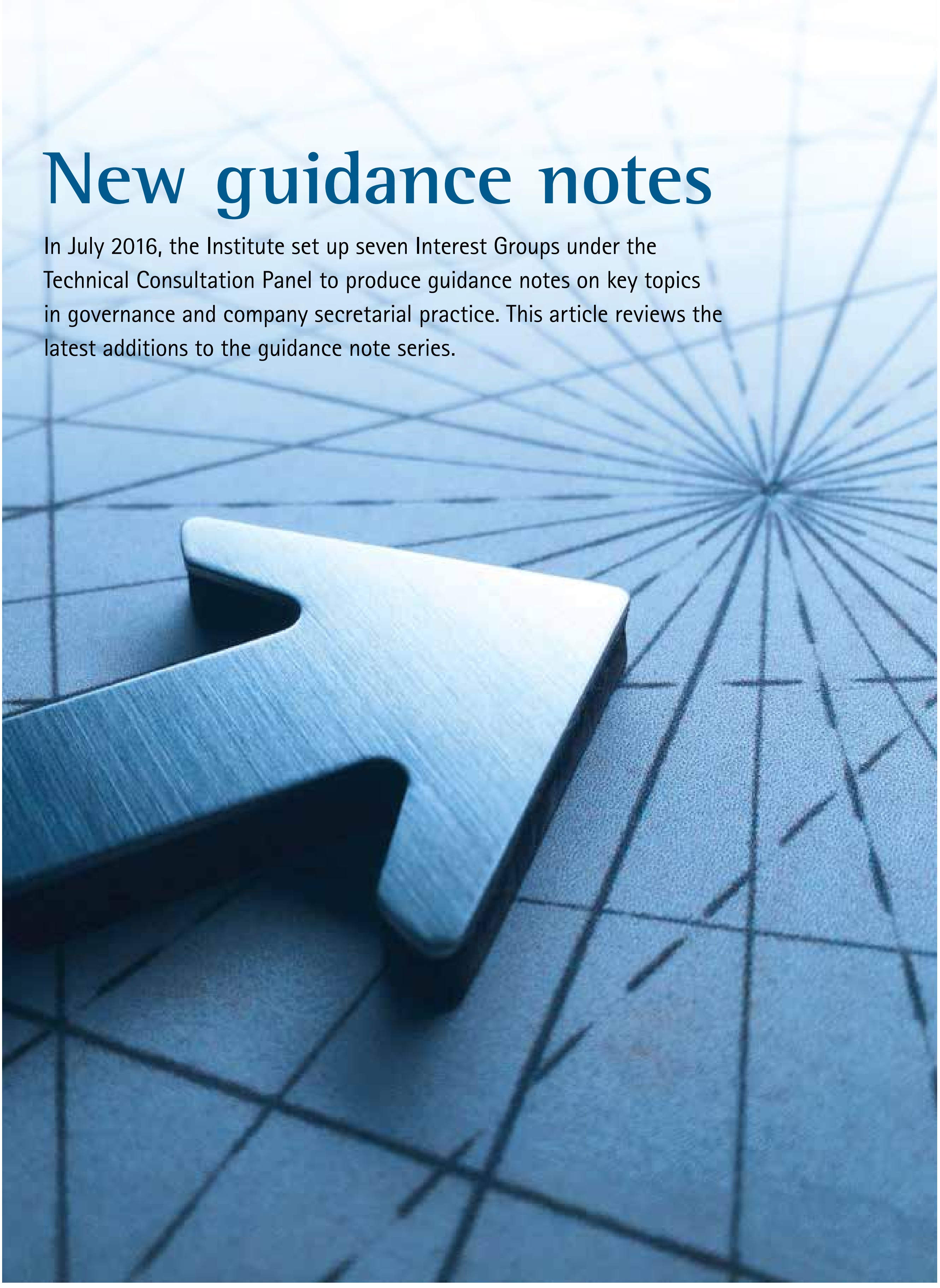
Employers should treat employees fairly in DGPs. Both employees and employers should maintain mutual trust and confidence. Unfair dismissal or termination processes can destroy that mutual relationship of trust and confidence. When an employer has fundamentally breached its duty of trust and confidence, an employee may be justified in treating his or her contract as having been unlawfully breached. This may result in a valid constructive dismissal claim.

Investigation of the relevant DGPs before any summary termination or work suspension is essential. Employers should investigate the circumstances leading to the termination and provide employees with fair representation to explain their position in the DGP. They must ensure that consistent treatment is afforded to all employees when contemplating summary dismissal. Bear in mind that, where wrongful summary dismissal results in unfair stigmatisation of a particular employee, this can affect his or her ability to seek alternative employment, and may result in an increased award of compensation.

Modernising Hong Kong’s labour law

Compliance with employment law is important because it stabilises the overall value system of society, thus harmonising relationships among workers, employing entities, and trade unions etc. Although Hong Kong is an international financial hub with a strong local and expatriate workforce, workers are generally let down by the parlous state of the Hong Kong Employment Ordinance which is outdated and has not kept pace with modern workplace requirements. Filibustering together with general reluctance on the part of the Legislative Council members to modernise the Employment Ordinance in line with international labour laws has weakened employees’ ability to negotiate for better employment conditions and collective bargaining arrangements. But the judicial acceptance of broader rights attaching to the employment relationship is a welcome signal that the courts will work to prevent the undermining of employee rights.

Zoe Chan So Yuen FCS FCIS
Solicitor



New guidance notes

In July 2016, the Institute set up seven Interest Groups under the Technical Consultation Panel to produce guidance notes on key topics in governance and company secretarial practice. This article reviews the latest additions to the guidance note series.

The Institute's Interest Groups project has demonstrated the value of bringing together the Institute's considerable network of expertise for the benefit of members and the community. In its first year, the project published five guidance notes on non-governmental organisations (NGO) governance, technology governance, Hong Kong's new competition law, and mergers and acquisitions (parts one and two) in Hong Kong.

This year the series is expanding further. A guidance note on initial public offering governance was published in August 2017 and reviewed in the September 2017 edition of this journal. This article reviews the three latest guidance notes to be added to the Institute's website: www.hkics.org.hk, on competition law, company law and NGO governance.

Competition law

The Competition Ordinance (Cap 619) has been high on the agenda of governance professionals since it came into effect in 2015. The Institute's Competition Law Interest Group published its first guidance note on the new law in December 2016, providing an introduction to, and overview of, the ordinance. Its second guidance note, published in September 2017, looks at the sectors that have been impacted so far by Hong Kong's new competition regime.

The enforcement mechanism established by Cap 619 has been of as much interest to practitioners as the wording of the competition law itself. This is because, following the new trend in legislation in Hong Kong, the new law takes a largely principles-based approach to preventing anti-competitive behaviour. The prohibitions of the first and second conduct rules, for example, focus on behaviour 'which prevents, restricts or distorts competition'. How has this wording been interpreted so far by the Competition Commission and the Competition Tribunal? Moreover, what have been the enforcement priorities of the Commission?

The focus of the second competition law guidance note is therefore on the activities of the Competition Commission to gauge what practitioners can expect going forward. The guidance note is arranged under each relevant sector to make it more user-friendly. It also looks at global competition law trends that may provide clues to how Hong Kong's competition law may impact those sectors in the future.

So what has the Commission been up to in the first two years of operation? The guidance note looks at the first case brought by the Commission to the Competition Tribunal in March 2017. The Commission alleges that five IT companies engaged in bid-rigging. The IT companies allegedly colluded in July 2016 in relation to a tender for the supply and installation of an IT server system to the Hong Kong Young Women's Christian Association (YWCA). The Commission says the companies agreed to submit dummy bids to satisfy the YWCA's minimum requirement of five tenders. However, the bids contained a number of unusual features which alerted the YWCA to the bid-rigging behaviour, such as identical responses, identical typographical errors and omission of key information. The case is continuing.

The guidance note also looks at the publication, in September 2016, of a proposed 'block exemption order' in the shipping sector, which would allow shippers to discuss and agree on operational arrangements, including joint operation of vessel services and the exchange of vessel space. The Commission considers that these agreements will generate economic efficiencies in the operation of liner shipping services. The final decision is still pending.

The guidance note also looks at two market studies carried out by the Commission. In May 2016, the Commission reported that it had detected potentially widespread bid-rigging in the building maintenance and renovation market. It found patterns consistent with bid-rigging after analysing tender records from about 500 public projects. It also received substantial anecdotal evidence suggesting regular bid-rigging. In May 2017, the Commission published the findings of its study of the auto-fuel sector, finding no evidence that retailers were colluding on prices.

Finally, the guidance note also looks at the decisions of the Communications

Highlights

- the competition law guidance note looks at the first case brought by the Competition Commission to the Competition Tribunal
- the company law guidance note looks at two cases that have been brought on the breach of a director's duty of care, skill and diligence
- the public governance guidance note covers the advice a company secretary would need to give regarding the setting up of an NGO

> "the enforcement mechanism established by Cap 619 has been of as much interest to practitioners as the wording of the competition law itself"

Authority – the regulator of the Competition Ordinance in the telecommunications sector. The Communications Authority's powers to regulate telco mergers predates the enactment of the Competition Ordinance. Since the Competition Ordinance came into effect, the Authority has cleared two telco mergers – the acquisition by Hong Kong Broadband Network Ltd of two companies owned by New World Telephone Holdings Ltd, and the sale of Wharf T&T to MBK Partners and TPG.

Company Law

The Institute's Company Law Interest Group published its first guidance note earlier this month, looking at the provisions of the Companies Ordinance (Cap 622) relating to directors' duties. Cap 622 replaced the former Companies Ordinance (Cap 32) in March 2014 and brought in a new directors' duties regime. Most obviously, it codified a director's duty of care, skill and diligence for the first time in Hong Kong law.

The company law guidance note points out that company secretaries need to be well versed in the basics of a director's duties. They are frequently asked to provide views to the chairman and board of directors as to whether directors have individually and/or collectively discharged their director's duties, and they need to advise directors on the extent of their liabilities under the law.

The guidance note is designed to be a handy reference to the revised law on director duties in Hong Kong. It starts with a discussion of the implications of the codification of a director's duty of care, skill and diligence. The new law adopts a dual objective and subjective test.

- Under Section 465(2)(a) of Cap 622, a director is required to possess 'the general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company'. This is known as the objective test.

- Under Section 465(2)(b) of Cap 622, where a director is appointed due to some special knowledge, skill or experience, a higher standard of care, that is 'the general knowledge, skill and experience that the director has', will be placed on him compared to those without such knowledge, skill or experience. This is known as the subjective test.

The guidance note points out that 'while the objective test sets a minimum standard for all directors which cannot be adjusted down, the subjective test imposes a standard that may be adjusted upwards for directors who are employed due to their special knowledge and skill'. The guidance note also clarifies that the provisions of Companies Ordinance apply to all directors of a Hong Kong incorporated company, including shadow directors (see Section 465(5)). A shadow director is a person in accordance with whose directions the directors, or a majority of directors, are accustomed to act.

The all important question, of course, is how this new regime will be interpreted by regulators and the courts in Hong Kong. Consequently, the guidance note looks at the two cases that have been brought in Hong Kong courts on the breach of a director's duty of care, skill and diligence.

In the first case, *Securities and Futures Commission (SFC) v Yin Yingneng Richard & Others [2015]*, the SFC brought disqualification proceedings against the directors of a GEM listed company, First China Ltd, in connection with a payment to the seller of a company acquired by the listed company purportedly pursuant to a pre-completion mutual understanding which was held by the court not to have existed. The directors and former directors of the listed company were ordered to compensate the listed company for wrongfully causing it to make the above payment to the seller. This was despite the fact some of the directors did not personally gain from the wrongdoing.

In the second case commenced earlier this year, a company brought an action against its director and a senior manager for failing to present cheques issued by a company which subsequently went bankrupt, and making up subsequent resale transactions to cover the loss. Judgment on whether the director was in breach of his duties has yet to be made.

Another important issue covered by the guidance note is the degree to which directors can limit their liability under the new regime. A key issue here is the limits of directors and officers insurance. If a director serves a listed company, the listed company is required under the Corporate Governance Code to purchase appropriate insurance to cover legal actions against its directors (see Para A.1.8 of Appendix 14 of the listing rules), or alternatively must explain the reasons for the deviation from the above requirement in its interim (Para 44 of Appendix 16 of the listing rules) and annual report (Para 6.3(n) of Appendix 14 of the listing rules). However, under common law, a court may invalidate an insurance contract on public policy grounds if it insures a director for regulatory or criminal fines.

Public governance

The Institute's Public Governance Interest Group published its second guidance note earlier this month. The Group's first guidance note, published in August 2016, was the first guidance note to be published under the Interest Group project. It looked at the qualities required of those at the helm of NGOs and examined some key issues in NGO governance via a hypothetical scenario of a director getting involved in an NGO for budding musicians.

The second public governance guidance note continues this hypothetical case study to consider the initial issues and steps that the director should consider in setting up an NGO. In the scenario, the director seeks advice from a company secretary on how to set up an NGO focused on running an international exchange programme for talented, budding musicians. The guidance note covers the advice the fictional company secretary would need to give, such as an assessment of the available legal structures for the NGO, the compliance issues to consider and how to achieve tax-exempt status.

Regarding the available legal structures for the NGO, the guidance note explores the suitability of:

- a trust
- a society established under the Societies Ordinance
- a company under the Companies Ordinance (including a company limited by guarantee), and
- a statutory body.

The guidance note suggests that the most appropriate structure for the director's NGO would be a company limited by guarantee due to the ability of this structure to accommodate a large number of members and to minimise the personal liabilities of the director(s). The guidance note then guides the reader through the steps needed to set up a company limited by guarantee, such as choosing a name, preparing the Articles and preparing the incorporation form (Form NNC1G) and the Notice to Business Registration Office (IRBR1).

The focus of the guidance note, in keeping with the remit of the entire guidance note series, is on providing timely, relevant and practical advice to those involved in this area of practice. In addition to the advice on NGO governance, the guidance note also provides a handy reference for the sources of information and guidance available in Hong Kong, for example the publications available on the Companies Registry website: www.cr.gov.hk, and the Inland Revenue Department website: www.ird.gov.hk. CSj

> ***The guidance notes reviewed in this article are available from the publications section of the Institute's website: www.hkics.org.hk. The next guidance note in this series, on ethics, bribery and corruption is scheduled to be published this month.***

A word of thanks

The Hong Kong Institute of Chartered Secretaries would like to give special thanks to all those involved in its Interest Groups project. The membership of the Interest Groups covered in this review are set out below.

Competition Law Interest Group

- David Simmonds (Chairman)
- Brian Kennelly QC
- James Wilkinson
- Professor Mark Williams
- Mike Thomas
- Neil Carabine

Company Law Interest Group

- Benita Yu (Chairman)
- Angela Mak FCIS FCS
- Loretta Chan FCIS FCS
- Paul Moyes FCIS FCS(PE)
- Wendy Yung FCIS FCS

Public Governance Interest Group

- April Chan FCIS FCS (Chairman)
- Lau Ka-shi BBS
- Rachel Ng ACIS ACS
- Samantha Suen FCIS FCS(PE)
- Stella Ho
- Stella Lo FCIS FCS(PE)

Mohan Datwani FCIS FCS(PE), Senior Director and Head of Technical & Research, serves as secretary to the Institute's Interest Groups. Feedback on this project is welcome; please contact Mr Datwani at: mohan.datwani@hkics.org.hk.

Professional Development

Seminars: September 2017

13 September
How to simplify ESG reporting & practical experience sharing

Chair: Daniel Chow FCIS FCS, Institute Exemption Sub-Committee member, and Senior Managing Director, Corporate Finance and Restructuring, FTI Consulting (Hong Kong) Ltd

Speakers: Debby Chan, Director, Strategic Enterprise Business & Corporate Quality & Sustainability; Joseph Tong, Manager, Sustainability Management, Corporate Quality & Sustainability, Fuji Xerox (Hong Kong) Ltd; and Victor Kwong, Chairman of Environmental Working Committee and Head of Corporate Health, Safety, Environment & Security, The Hong Kong and China Gas Company Ltd

14 September
Tax controversy workshop 1 – what is tax controversy and what does it involve?

Chair: Eric Chan FCIS FCS(PE), Chief Consultant, Reachtop Consulting Ltd

Speaker: Wilson Cheng, Partner, Tax & Business Advisory Services, EY

19 September
Change management (re-run)

Chair: Michelle Hung FCIS FCS, Institute Membership Committee member and Technical Consultation Panel member, and General Counsel and Company Secretary, COSCO Shipping Ports Ltd

Speaker: Roy Fung, Managing Director, Tricor Consulting Ltd

25 September
Whistleblowing & integrated reporting: can Hong Kong learn from Australia and South Africa?

Chair: Mohan Datwani FCIS FCS(PE) CAMS, Solicitor, Institute Senior Director and Head of Technical & Research

Speaker: Professor Jean Jacques du Plessis, Professor (Corporate Law), Deakin University, Australia

25 September
The failure of the statutory business judgment rule: what alternative protections should there be for company directors?

Chair: Professor CK Low FCIS FCS, Institute Technical Consultation Panel member, and Associate Professor in Corporate Law, CUHK Business School

Speaker: Professor Jean Jacques du Plessis, Professor (Corporate Law), Deakin University, Australia

27 September
Are you ready for regulatory investigations? Some practical tips

Chair: Duffy Wong BBS JP FCIS FCS, Institute Past Chairman and Disciplinary Tribunal Chairman, and Senior Partner, Ho, Wong & Wong, Solicitors & Notaries

Speaker: Jill Wong, Partner, Howse Williams Bowers

28 September

Tax controversy workshop 2 – IRD investigations

Chair: Jerry Tong FCIS FCS, Institute Education Committee member, and Financial Controller and Company Secretary, Sing Lee Software (Group) Ltd

Speaker: Wilson Cheng, Partner, Tax & Business Advisory Services, EY

Seminar fee discount for HKICS registered students

Effective from 1 January 2017, registered students of the Institute can enjoy a 30% discount on 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

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
21 November 2017	6.45pm – 8.15pm	Implementing new risk management and ESG provisions (with case study)	1.5
22 November 2017	4.00pm – 5.30pm	Recent developments in cross-border insolvency law	1.5
23 November 2017	4.00pm – 5.30pm	中国金融科技发展与监管研究	1.5
28 November 2017	4.00pm – 5.30pm	Fund structures and beneficial ownership in BVI and Cayman Islands	1.5
5 December 2017	2.00pm – 5.20pm	AML/CFT – regulations and reforms – persons with significant control register/TCSP regulation	3
6 December 2017	6.45pm – 8.15pm	Common challenges in ESG reporting and guidance on environmental KPIs	1.5

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

Online CPD (e-CPD) seminars

The Institute 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 device 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.

Professional Development (continued)

CPD requirements

All members and graduates are reminded to observe the deadlines set out below. Failing to comply with the CPD requirements may incur an administrative penalty of HK$3,000 payable upon the Institute's demand and 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 and graduates who qualified on or before	CPD or ECPD points required	Point accumulation deadline	Declaration deadline
2017/2018	30 June 2017	15 (at least 3 ECPD points from the Institute's ECPD seminars)	30 June 2018	31 July 2018

Key update on the revised CPD Policy (effective from 1 July 2017)

	Revised CPD Policy
Basic CPD requirements	All members/graduates are required to fulfil the minimum CPD requirements of at least 15 CPD hours per CPD year, at least 3 ECPD hours should be from the Institute's ECPD seminars.
Accredited providers of ECPD seminars	The accredited providers of ECPD seminars are listed below. • Companies Registry • Hong Kong Exchanges and Clearing Ltd • Hong Kong Institute of Certified Public Accountants • Hong Kong Monetary Authority • Independent Commission Against Corruption • Office of the Privacy Commissioner for Personal Data • Official Receiver's Office • Security Bureau • The Law Society of Hong Kong • The Securities and Futures Commission • Other organisations considered appropriate by the Professional Development Committee
Administrative penalty	Where a relevant person: a. fails to file the declaration under Clause 6.2 of the CPD Policy within one month of the end of the previous CPD year; and/or b. fails to supply to the Institute's satisfaction the requisite information required under any random check referred to under Clause 6.3 of the CPD Policy with the declaration; and/or c. fails, based on other grounds identified by the Institute, as otherwise not having complied with the CPD Policy; the relevant person shall incur an administrative penalty of HK$3,000 payable upon the Institute's demand should the failure subsist as at the end of 90 days from the end of the previous CPD year, without prejudice to the right of the Institute to refer the matter to the Institute's Investigation Group in accordance with Clause 3 of the CPD Policy for commencement of discipline.

For details of the revised CPD Policy, please visit CPD Policy under the CPD section of the Institute's website: www.hkics.org.hk.

Membership

HKICS Convocation 2017

The Institute's annual Convocation was held on 26 September 2017, with Peter Greenwood FCIS FCS MA as the Guest of Honour. In the year of 2016/2017, 44 fellows and 288 associates were elected, while 68 graduates were admitted to the Institute. Prior to the convocation ceremony, a cocktail reception for Council and Committee members, awardees and guests, and a Facebook live broadcast were arranged to celebrate the occasion.

At the ceremony, the Institute's International Qualifying Scheme (IQS) subject prize winners and merit certificate awardees received their award certificates, and Dr Jody Wong and Dr KP Yuen ACIS ACS received HKICS Teaching Awards. The Teaching Awards were offered in collaboration with the School of Accounting and Finance of The Hong Kong Polytechnic University to recognise outstanding teaching performance in subjects relevant to the IQS.

Certificates were presented by Peter Greenwood; Institute President Ivan Tam FCIS FCS; Institute Past President and Senior Vice-President of ICSA Edith Shih FCIS FCS(PE); Past President April Chan FCIS FCS; Treasurer and Membership Committee Chairman Dr Eva Chan FCIS FCS(PE); Council Member and Membership Committee Vice-Chairman Stella Lo FCIS FCS; and Chief Executive Samantha Suen FCIS FCS(PE).

IQS subject prize winner and merit certificate awardee Ada Au GradICSA was also invited by the Institute to share her experience and aspiration for the profession.

For more photos, please visit the Gallery section of the Institute's website: www.hkics.org.hk.

Membership (continued)

Chartered Secretary Mentorship Programme 2018

The Chartered Secretary Mentorship Programme 2018 will be launched in January 2018. The Institute is reviewing the recruitment applications for the new group of mentors and mentees. Successful candidates will be informed of the mentor-mentee pairings for this year's programme.

A kick-off ceremony of the programme will be held on Tuesday 5 December 2017. Invitation emails will be sent to new mentors and mentees by late November 2017.

The Institute would like to thank all members, graduates and students for their support for this programme.

New graduates

Congratulations to our new graduates listed below.

Chan Dik Cheung	Choy Se Hon	Leung Sze Ming	Qiu Shaomeng	Wong Sze Man, Nana
Chan Hiu Leong	Fong Kei Kwong, Karen	Li Kit Chung	Sung Kit Lin	Wong Tsun Wah
Chan Mei Ki	Ho Ting Shan, Suki	Li Kwok Fat	Tang Hoi Ting	Wong Wing Gee
Chan Pik Kwan	Huang Yin	Li Yu Ming	Ting Siu Bong	Wong Yau Kit
Chan Suet Yiu	Hui Ka Yan	Ling Chi Man	Tong Oi Tai	Wong Yuk Kwan, Jennifer
Chan Sze Wai	Kwong Ka Ki	Lo Kwan Yeung	Tsang Kwai Ping	Yeung Ian Ian
Chan Wing Wing	Lai Wai Leuk	Lui Chi Hin	Tse Kwan Ting	Yeung Kam Chi
Cheng Chi Chung, Kevin	Lam Chi Wai	Ma Sui Hung	Tse Shing Wa	Yeung Siu Wai, Kitty
Cheng Ka Yan	Lam Hoi Yan	Mak Po Man, Cherie	Tse Sui Lun	Yip Wai Ching
Cheung Ka Lai	Lau Yee Wing	Mok Hoi Ying	Wong Chi Yuen	Yu Oi Ling
Ching Tsui Wah	Lau Yin Hing	Mok Hon To, Quinness	Wong Chun Kit, Gally	Yu Wing Sum
Choi Hau Yung	Law Hoi Ching	Mui Sze Wan	Wong Ka Wai	
Choi Shuk Mei, Tammy	Lei Ming Fung	Ng Chun Chi	Wong Kin Chung	
Chow Ling Pin	Leung Heung Ping	Ng Yat Kwan	Wong Mau Shek	
Chow Tsz Lun, Aaron	Leung Shui Bing	Or Kam Ting	Wong Pui Yee	

New fellows

The Institute would like to congratulate the following fellows elected in September 2017.

Chan Wai Mei FCIS FCS

Ms Chan is a Partner of PricewaterhouseCoopers and is responsible for overseeing the firm's Company Secretarial Department. She is a solicitor qualified in Hong Kong and received her bachelor's degree in laws from The University of Hong Kong. She also received a bachelor's degree in China law from the China University of Political Science and Law and a master's degree in comparative and public history from The Chinese University of Hong Kong.

Ms Chan is currently a member of The Law Society of Hong Kong and the Vice-Chairman of the Professional Services Panel of the Institute.

Chin Poh Wah FCIS FCS

Ms Chin is the Senior Manager of Hutchison Ports Holdings Ltd, a subsidiary of CK Hutchison Holdings Ltd (Stock code:1), which is the world's leading port investor, developer and operator, with over 30,000 employees, holding interests in 48 ports in 25 countries. She has over 15 years of experience in company secretarial, corporate governance and related regulatory compliance work.

Prior to joining the Hutchison Ports group, Ms Chin gained over eight years of Chartered Secretarial experience in professional practice in law firms and several different industries in the commercial sector. Ms Chin holds a master's degree in laws (Chinese and Comparative Law) from the City University of Hong Kong and a bachelor's degree in laws from the University of London.

Ko Yuen Kwan FCIS FCS

Ms Ko is the Director, Chief Financial Officer, Vice-President of Corporate Affairs and Secretary of GobiMin Inc (TSXV Symbol: GMN) and the Company Secretary of Timeless Software Ltd (Stock code: 8028). She has over 22 years of experience in overseeing the company secretarial, compliance, finance and accounting matters of listed groups in Hong Kong and Canada. Ms Ko holds a master's degree in professional accounting from The Hong Kong Polytechnic University and is a member of both the Hong Kong Institute of Certified Public Accountants and CPA Australia.

Lam Shuk Mei FCIS FCS

Ms Lam is the Deputy Company Secretary of Goldin Properties Holdings Ltd (Stock code: 283) and is responsible for company secretarial, corporate governance and compliance matters for the listed group. She has over 15 years of company secretarial experience in listed companies in Hong Kong. Ms Lam holds a bachelor's degree in laws from the University of London and a bachelor's degree in arts from The University of Hong Kong.

Lam Siu Wa FCIS FCS

Ms Lam is the Company Secretary of Tongda Hong Tai Holdings Ltd and oversees corporate governance, company secretarial and compliance matters of the company. Ms Lam holds a master's degree in corporate governance from The Hong Kong Polytechnic University and a master's degree in business from The University of Newcastle, Australia.

Lau Ka Ho FCIS FCS

Mr Lau is the Deputy Chief Financial Officer and Company Secretary of Peace Map Holding Ltd (Stock code: 402). He has over 15 years of experience in accounting, auditing, corporate finance and corporate secretarial areas and holds master's degrees in business administration and corporate governance.

Li Wing Yee, Winnie FCIS FCS

Ms Li joined CWCC in 2003 and is the Director and Head of Corporate Services of the firm in Hong Kong and Mainland China. She has nearly 20 years of experience in handling complex company secretarial and corporate administrative matters for companies in Hong Kong and other jurisdictions. She also advises business on structures for multinational companies and cross-border businesses. Ms Li holds a master's degree in China area studies from The University of Hong Kong, a postgraduate diploma in corporate administration and a bachelor's degree in business studies from the City University of Hong Kong.

Ng Kwok Fai FCIS FCS

Mr Ng is the Senior Manager of Chong Hing Bank Ltd (Stock code: 1111). He has over 36 years of experience in branch administration and sales in personal banking. Mr Ng holds a master's degree in business administration from The University of Adelaide, Australia. He is also a Chartered Marketer of The Chartered Institute of Marketing, a member of the Chartered Institute of Arbitrators and the Accredited General Mediator of the Hong Kong International Arbitration Centre and Hong Kong Mediation Accreditation Association Ltd.

Ng Sum Yu, Phyllis FCIS FCS

Ms Ng is the Company Secretary of Integrated Waste Solutions Group Holdings Ltd (Stock code: 923). She is responsible for corporate governance and compliance matters for the listed company. Ms Ng has over 20 years of experience in corporate governance, company secretarial, legal and compliance areas. She holds a master's degree of science in finance from the City University of Hong Kong and is a lawyer of the Supreme Court of New South Wales, Australia.

Wong Kin Wing FCIS FCS

Mr Wong has been the Head of Finance of Sun Hung Kai & Co Ltd (Stock code: 86) since May 2016 and has over 15 years of working experience in treasury and financial control. Prior to joining the Group, Mr Wong worked for China Orient Asset Management (International) Holding Ltd for five years and was the Head of Treasury and Finance before he left the company. He started his career in KPMG and was the Senior Audit Manager. Mr Wong holds a master's degree in finance and a bachelor's degree in business and administration (accounting and finance) from The University of Hong Kong. He also holds a bachelor's degree in laws from The University of London and is a member of The Hong Kong Institute of Certified Public Accountants.

Wong Yu Kwong FCIS FCS

Mr Wong is an adviser to the Dickson Group (Stock code: 113) on China trade business and has almost 30 years of

Membership (continued)

experience in finance and accounting. He spent his first three years in KPMG as an auditor and subsequently the Chief Financial Officer of a joint venture shopping mall of the Dickson Group (Stock Code: 113) in Shanghai for more than 12 years. Mr Wong holds a bachelor's degree of arts in accountancy with honours from the City University of Hong Kong and a master's degree in business administration from The University of Hong Kong. He is also a fellow of The Institute of Chartered Accountants in England and Wales and the Association of Chartered Certified Accountants.

Chan Ching Man, Loren FCIS FCS
Company Secretarial Manager, CGN New Energy Holdings Company Ltd (Stock code: 1811)

Chan Kin Yan FCIS FCS
Senior Company Secretarial Manager, CITIC International Assets Management Ltd

Cheng Hoi Yin FCIS FCS
Consultant, RK Enterprises Ltd

Chung Ho Ying, Frina FCIS FCS
Company Secretary, Emperor Watch & Jewellery Ltd (Stock code: 887), and Group Assistant Company Secretary, Emperor Group

Robin Brendan Healy FCIS
Assistant Group Secretary and Head of Statutory and Regulatory Reporting, The Hongkong and Shanghai Banking Corporation Ltd (Stock code: 5)

Lau Chi Ming FCIS FCS
Assistant Financial Controller, Man Lee Management Ltd

Lee Yu Ki FCIS FCS
Senior Manager, Company Secretarial Department, Tencent Holdings Ltd (Stock code: 700)

Li Wing Man FCIS FCS
Senior Company Secretarial Manager, CK Hutchison Holdings Ltd (Stock code: 1)

Lo Shuk Yi FCIS FCS
Chief Executive Officer, the Government of the HKSAR

Lui Tan Hau, Thomas FCIS FCS
Board Director and Group Finance Director, Rich Force Holdings Ltd

Mak Tze Leung FCIS FCS
Partner, PricewaterhouseCoopers

Ng Tsz Yeung FCIS FCS
Company Secretary, Hong Kong Airlines Ltd

Sit Yin Ping FCIS FCS
Associate Director, Corporate Secretarial Services, TMF Hong Kong Ltd

Tsang Lin Kiu, Theresa FCIS FCS
Director, Azubu SA, and Director, Kimbaco Ltd

Tsang Mei Chu, Angela FCIS FCS
Group Company Secretary, Shun Tak Holdings Ltd (Stock code: 242)

Tsang Tsz Ying, Fion FCIS FCS
Company Secretarial Manager, CGN New Energy Holdings Company Ltd (Stock code: 1811)

Wong Yuk Suen FCIS FCS
Senior Manager, Kingsway Group Service Ltd

Forthcoming membership activities

Date	Time	Event
11 November & 16 December 2017	10.00am – 12.30pm	Community Service – 关爱独居长者行动
17 November 2017	6.30pm – 8.30pm	Members' Networking – dialogue: career paths of Chartered Secretaries
18 & 25 November 2017	10.00am – 12.00nn	Young Group – 掌中宝摄影工作坊 (two sessions)

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

Members' activities highlights: October 2017

7, 14 and 21 October
Yoga training interest group

8 October
Shau Kei Wan dragon boat competition 2017 – CPA Cup

14 October
Community Service – volunteer training (part 2) – re-run

17 October
Members' Networking – sharing forum on business bank account opening practice

22 October
Community Service – pink walk for breast health 2017

24 October
Mentorship Programme – social gathering

CHARTERED SECRETARIES
特許秘書

A Sparkling Night

HKICS Annual Dinner 2018

Guest of Honour

Chan Mo-Po, Paul

GBM GBS JP FCIS FCS

Financial Secretary
the Government of the Hong Kong SAR

Thursday
18 January 2018

6.30pm Cocktail reception
7.30pm Dinner

Ballroom
JW Marriott Hotel
Hong Kong

Fees: HK$790 per student | HK1,090 per member/graduate | HK$1,290 per non-member
HK$13,080 per table of 12 seats

Attire: Lounge suit

For enquiries, please contact Vicky Lui at 2830 6088 or Vincy Wong at 2830 6048 or member@hkics.org.hk.

Advocacy

HKICS Annual Dinner 2018 and Best Green Pioneer Contest

The Institute will hold its 2018 Annual Dinner on Thursday 18 January 2018 at 6.30pm at the Ballroom, JW Marriott Hotel Hong Kong, with the theme 'A Sparkling Night'. The Honourable Chan Mo-Po, Paul GBM GBS MH JP FCIS FCS, the Financial Secretary, will be the Guest of Honour.

As an Institute promoting sustainability and environmental consciousness, the Institute has launched a number of initiatives to raise green awareness among staff and members. Members' support would bring a big positive impact on the environment. The Institute is calling members, graduates and students to join the Institute's Green Circle and be a Green Pioneer practising and sharing green living tips. All members, graduates and students are invited to take part in the 'Best Green Pioneer Contest'.

To learn more green living tips and details of the Contest, please visit the Institute's Facebook page and the Institute's website: www.hkics.org.hk. The closing date for submissions to the Contest is Friday 15 December 2017. The first 50 participants will receive a gift. The three finalists will be invited to the Annual Dinner 2018 for the final round of the Contest and the awarding of the prizes.

Environmentally friendly actions – say no to plastic bottled water

The Institute's Council values the importance of preserving the environment and has arranged for a series of environmentally friendly actions to encourage our members to work together and care for our planet. At upcoming events and activities, the Institute will not provide plastic bottled water. Members, graduates and students are encouraged to bring their own reusable water bottles from now on.

Message from ICSA President

The 2017 Annual General Meeting (AGM) of The Institute of Chartered Secretaries and Administrators (ICSA) was held on 4 October 2017 in London. The vast majority of members who voted approved all of the resolutions put forward. The changes will now go before the UK Privy Council for their final consent.

On 5 October 2017, before the ICSA International Council Meeting, a breakfast meeting was organised with Sir Win Bischoff, Chairman of the UK Financial Reporting Council. Sir Win gave an inspiring and thought-provoking speech on corporate governance issues.

Please refer to the message from ICSA President David Venus FCIS on the AGM results on the Institute's website and ICSA's website: www.icsaglobal.org/2017-agm-results/.

At the AGM

At the breakfast meeting

Macau Corporate Governance Conference

Institute Chief Executive Samantha Suen FCIS FCS(PE), and Senior Director and Head of Technical & Research Mohan Datwani FCIS FCS(PE), attended the Macau Corporate Governance Conference which was organised by the Macau Corporate Governance Institute on 13 October 2017. At the conference, Hong Kong and global developments in corporate governance were shared with the attendees.

HKTA 2017 Conference

Institute Senior Director and Head of Technical & Research Mohan Datwani FCIS FCS(PE) was invited by the Hong Kong Trustees' Association (HKTA) to be one of the panellists discussing anti-money laundering, trust and company service providers and beneficial ownership disclosure at the HKTA 2017 Conference on 31 October 2017.

Listed Enterprises of the Year 2017

The Chinese edition of *Bloomberg Businessweek* organised the Listed Enterprises of the Year 2017 on 30 October 2017. The event, of which the Institute was one of the supporting organisations, aimed at celebrating the 20th anniversary of the return of Hong Kong to Mainland China, and recognising outstanding listed companies in Hong Kong. Institute President Ivan Tam FCIS FCS was invited to be one of the panel judges and award presenters of the event.

Ivan Tam and other panel judges and award presenters

Advocacy (continued)

Annual training programme for H-share companies and the IAC

The Institute's annual training programme for H-share companies and the Insurance Association of China (IAC) was held in Hong Kong between 17 and 20 October 2017. It was attended by over 50 board secretaries and senior executives from H-share, A+H share and red-chip companies, as well as insurance companies from Mainland China. Speakers from Hong Kong Exchanges and Clearing Ltd (HKEX), Independent Commission Against Corruption (ICAC), the Securities and Futures Commission, as well as experienced market practitioners and professionals shared their professional knowledge and hands-on experience on a range of topics, including the latest regulatory developments, financial reporting standards, connected transactions, environmental, social and governance reporting guidelines, due diligence and anti-money laundering. Participants also visited HKEX and the ICAC Hong Kong Business Ethics Development Centre.

At the training programme

The Institute would like to thank all participants, speakers from the regulators, professional firms and other organisations as well as IAC, for their support; and DLP Piper, Tricor and Wonderfulsky for sponsoring the event.

HKICS 2017 Annual General Meeting

Friday 15 December 2017 at 6.30pm

Theatre A, 22/F, United Centre, 95 Queensway, Hong Kong

Members please mark your diary and join us at the AGM.

For details of the Institute's 2017 Annual General Meeting and other related papers, please visit the Institute's website: www.hkics.org.hk

International Qualifying Scheme (IQS) examinations

December 2017 diet schedule

	Tuesday 5 December 2017	Wednesday 6 December 2017	Thursday 7 December 2017	Friday 8 December 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

Admission slips

Admission slips, together with 'instructions to candidates', will be posted to candidates in the second week of November 2017. The slip specifies the date, time and venue of the examination. Candidates should read through the instructions before taking the examination.

For enquiries, please contact Ruby Ng at: 2830 6006, or Mandy So at: 2830 6068.

Syllabus update – Corporate Secretaryship

The topic titled 'Environmental, Social and Governance Report' will be included in the syllabus of Corporate Secretaryship under the field of Corporate Compliance with effect from the December 2017 examination diet.

For details of the syllabus, please visit the IQS Syllabus of the International Qualifying Scheme under the Studentship section of the Institute's website: www.hkics.org.hk.

IQS study packs go green

The Institute has launched online versions of four IQS study packs. This service, which is free to all registered students, enables students to schedule their professional learning and studies more flexibly, economically and in an environment-friendly manner. Students are highly encouraged to activate their online account and obtain access to the study packs for examination revision as soon as possible. For details of the account activation, please select Education under the News section of the Institute's website: www.hkics.org.hk, or refer to the Student Handbook of the Institute.

For further information regarding the online study packs, please contact Ally Cheung at: 2830 6031, or Ruby Ng at: 2830 6006, or email: student@hkics.org.hk. For technical questions regarding the PrimeLaw account, please contact Wolter Kluwer's customer service: HK-Prime@wolterskluwer.com.

Studentship

IQS information session

This free seminar will include information on the International Qualifying Scheme (IQS) and a member of the Institute will share valuable experience and the career prospects of Chartered Secretaries. This seminar is open to the public. Members and students are welcome to recommend the seminar to colleagues and friends interested in learning more about the Chartered Secretarial profession.

Date:	Monday 20 November 2017
Time:	7.00pm – 8.30pm
Venue:	School of Continuing and Professional Education (SCOPE) , 8/F, United Centre, Admiralty, Hong Kong

Studentship (continued)

Student Ambassadors Programme 2017/2018

To kick-off the Student Ambassadors Programme (SAP) for the new academic year, a tea reception was held on 7 October 2017.

Institute Education Committee Chairman David Fu FCIS FCS(PE) addressed the attendees welcoming a new group of mentors and mentees, and presented souvenirs and participation certificates to the mentors and mentees of last academic year. Three student ambassadors, Nathalie Tam, The University of Hong Kong, Jenna Fung, The Open University of Hong Kong, and Daniel Cheung, Hang Seng Management College, also shared their summer internship experience and what they have learned from the programme.

The Institute would like to thank the following members (surname in alphabetical order) for their valuable contributions as mentors for the 2016/2017 Programme and as new mentors for the 2017/2018 Programme.

Mentors for the 2016/2017 Programme

Brian Chan ACIS ACS	Carmen Lam FCIS FCS
Caroline Chan FCIS FCS	Louisa Lau FCIS FCS(PE)
Elly Chan FCIS FCS	Janice Law ACIS ACS
Eric Chan FCIS FCS(PE)	Allan Lee FCIS FCS
Tobey Chan ACIS ACS	Simon Lee ACIS ACS
Irene Cheng ACIS ACS	Anna Leung ACIS ACS
Cavan Cheung FCIS FCS	Dr Bruce Li FCIS FCS(PE)
Daniel Chow FCIS FCS	Kitty Liu FCIS FCS
Simon Chow ACIS	Sendy Ng ACIS ACS
Victor Ho ACIS ACS	Jerry Tong FCIS FCS
Eddy Ko ACIS ACS	Sandy Yan ACIS ACS
Anna Kong ACIS ACS	Cathy Yu ACIS ACS
Ricky Lai FCIS FCS	Rebecca Yu FCIS FCS

New mentors for the 2017/2018 Programme

Willa Chan ACIS ACS

Iris Lai ACIS ACS

Davis Lau ACIS ACS

Irene Lau FCIS FCS

Alan Lee ACIS ACS

Patrick Wong ACIS ACS

Group photo of mentees

Group photo of mentors

David Fu giving his welcoming speech

Passing the Torch' project 2017/2018

The Institute partnered with The Hong Kong University of Science and Technology (HKUST) and the Hong Kong Baptist University (HKBU) to run the 'Passing the Torch' project for 2017/2018. This project, which is supported by the Companies Registry and The Hong Kong Institute of Chartered Secretaries Foundation Ltd, aims to promote better knowledge of business ethics and corporate governance among undergraduates, and pass on the knowledge to secondary school students.

At HKBU

On 10 October 2017, an open forum with the theme 'CSR and ethics in the challenges of technology faced by Hong Kong listed companies' was held at HKBU with over 200 undergraduates in attendance. Institute members Polly Wong FCIS FCS(PE) and Angus Pang FCIS FCS shared their working experience with the undergraduates.

At the forum

From left to right: Polly Wong, HKBU Dean of School of Business Professor Edward J Snape and Angus Pang

At HKUST

On 10 October 2017, a sharing lecture was organised at HKUST to over 180 undergraduates. Institute members Professor James Pong FCIS FCS and Daniel Chow FCIS FCS shared real-life practical cases in corporate governance and business ethics with the undergraduates.

At the sharing lecture

From left to right: Daniel Chow, Professor James Pong and HKUST Associate Professor of Business Education Professor Dennis Chan

Studentship (continued)

HKICS professional seminar

The Institute organised a professional seminar for about 220 BBA undergraduates of The Hong Kong University of Science and Technology to promote the Chartered Secretarial profession on 27 September 2017. Institute member Edmond Chiu FCIS FCS(PE) gave a presentation on corporate governance and the Chartered Secretarial profession in Hong Kong to the undergraduates.

At the professional seminar

HKICS/HKU SPACE programme series: Corporate Administration/ Executive Diploma in PRC (new module)

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

For more information, please contact HKU SPACE at: 2867 8317, or email: prcprogramme@hkuspace.hku.hk.

Date and Time:	18, 19, 25 and 26 November 2017 (Saturdays and Sundays) Saturdays: 2.00pm – 5.00pm and 6.00pm – 9.00pm; Sundays: 10.00am – 1.00pm and 2.00pm – 5.00pm
Venue:	HKU SPACE Learning Centre on Hong Kong Island (to be confirmed)
Speaker:	李源博士 广东省社会科学院企业研究所副所长

Policy – payment reminder

Studentship renewal

Students whose studentship expired in September 2017 are reminded to settle the renewal payment by Saturday 25 November 2017.

Exemption fees

Students whose exemption was approved via confirmation letter in August 2017 are reminded to settle the exemption fee by Monday 20 November 2017.


ASCENT PARTNERS
Together We Flourish
YOUR PARTNER TO ASCENT!
Let us take care of the details,
so that you can focus on
your core competencies.
At Ascent Partners, we provide
corporate valuation and advisory services to
business partners like you.
With our people-centric approach,
we can be your trustworthy partner.
CORPORATE ADVISORY
TECHNOLOGY ADVISORY
VALUATION SERVICE
www.ascent-partners.com
contact@ascent-partners.com