

CSj

September 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



China update Special edition

Mixed-ownership reform
Shareholder communications
Board secretary role



CHARTERED
SECRETARIES
特許秘書

Rewarding the Extraordinary



CHARTERED
SECRETARIES
特許秘書



The Hong Kong Institute of Chartered Secretaries Prize 2017

Call for Nominations

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

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

The nomination deadline is Saturday, 30 September 2017.
Please visit www.hkics.org.hk or contact Louisa Lau at 2830 6008 or email to member@hkics.org.hk for details.

Please
act now!

Spending too much time printing board papers?

Have you ever thought of preparing board papers in a much simpler way?

You'll find **Convene** is the perfect paperless meeting solution !



Convene is used by FTSE 100, Fortune 500, banks and governments in more than 30 countries across the world. Contact us for a 30 min demo now to see how **Convene** can simplify your work while empowering your board meetings.

(852) 2152 3666 | azeusconvene.com/CSj | sales@azeusconvene.com
22/F Olympia Plaza, 255 King's Road, North Point, Hong Kong

Call us at the regional office closest to you.

Hong Kong	+852 2152 3666	United Kingdom	+44 (0)20 8004 5936
Singapore	+800 852 3335	France	+33 (0)1 8626 2736
Malaysia	+1 800 817 240	Greece	+30 2111988980
Philippines	+63921 316 0339	Australia	+61 0431 395 477
India	+800 100 6862	New Zealand	+64 4830 3496
United States	+1 800 795 2024	South Africa	+0 800 999 371
Canada	+1 800 795 2024	Kenya	+254 0 718331583



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 became a branch of ICSA in 1990 before gaining local status in 1994. HKICS is a founder member of the Corporate Secretaries International Association (CSIA) which was established in March 2010 in Geneva, Switzerland to give a global voice to corporate secretaries and governance professionals. HKICS has over 5,800 members and 3,200 students.

Council 2016/2017

Ivan Tam FCIS FCS – President

Dr Gao Wei FCIS FCS(PE) – Vice-President

Paul Stafford FCIS FCS(PE) – Vice-President

Dr Eva Chan FCIS FCS(PE) – Treasurer

Professor Alan Au FCIS FCS

David Fu FCIS FCS(PE)

Ernest Lee FCIS FCS(PE)

Stella Lo FCIS FCS

Gillian Meller FCIS FCS

Bernard Wu FCIS FCS

Wendy Yung FCIS FCS

Dr Maurice Ngai FCIS FCS(PE) – Past President

Edith Shih FCIS FCS(PE) – Past President

Committee chairmen

Audit Committee:

Ernest Lee FCIS FCS(PE)

Education Committee:

David Fu FCIS FCS(PE)

Human Resources Committee:

Dr Maurice Ngai FCIS FCS(PE)

Membership Committee:

Dr Eva Chan FCIS FCS(PE)

Nomination Committee:

Edith Shih FCIS FCS(PE)

Professional Development Committee:

Paul Stafford FCIS FCS(PE)

Secretariat

Samantha Suen FCIS FCS(PE) Chief Executive

Mohan Datwani FCIS FCS(PE) Senior Director and Head of Technical & Research

Louisa Lau FCIS FCS(PE) Registrar

Candy Wong Director, Education and Examinations

Lydia Kan FCIS FCS(PE) Director, Professional Development

Carman Wong FCIS FCS(PE) Company Secretary

Karen Ho Senior Manager, Finance and Accounting

Lawrence Wong Senior Manager, Marketing &

Communications

Kenneth Jiang FCIS FCS(PE), BRO Chief Representative

Membership statistics update

As of 31 July 2017, the Institute's membership statistics were as follows:

Students: 3,448

Graduates: 395

Associates: 5,198

Fellows: 596

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

Lingkar 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

September 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

Li Yang

Overseas Chinese Town

(Asia) Holdings Ltd

Yu Tengqun

China Railway Group Ltd

Li Zhidong

CSSC Offshore & Marine

Engineering (Group)

Company Ltd

Kenneth Jiang

HKICS

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

© Copyright reserved

ISSN 1023-4128

Contents

Cover Story

Mixed-ownership reform and corporate governance 08

Li Yang, Vice-President of Overseas Chinese Town (Asia) Holdings Ltd, looks at the governance implications of China's mixed-ownership reform drive.

混改与公司治理 12

在国企混合所有制改革背景下，华侨城（亚洲）控股有限公司副总裁李洋检视公司治理的若干问题。

Corporate governance and the board secretary 14

Yu Tengqun, Board Secretary, General Counsel and Press Spokesman of China Railway Group Ltd, shares his views on the role of the board secretary in corporate governance.

公司治理与董事会秘书 18

中国中铁股份有限公司董事会秘书、总法律顾问、新闻发言人于腾群阐述董事会秘书在公司治理中的作用。

Shareholder communications – strategy and practice 20

Li Zhidong FCIS FCS, Company Secretary of CSSC Offshore & Marine Engineering (Group) Company Ltd, shares some best practice recommendations based on his experience working for a dual-listed A+H share company.

股东沟通策略与实践 24

中船海洋与防务装备股份有限公司公司秘书李志东FCIS FCS以在两地上市的A+H股公司的工作经验，与读者分享一些股东沟通的最佳做法。。

Forging ahead to achieve our mission 26

Kenneth Jiang FCIS FCS(PE), Chief Representative, The Hong Kong Institute of Chartered Secretaries Beijing Representative Office, reviews the work of the Institute on the Mainland in the past year.

不忘初心，砥砺前行 30

香港特许秘书公会北京代表处首席代表姜国樑FCIS FCS(PE)说明过去一年公会在内地的工作。

In Focus

IPO governance: new guidance 32

A new guidance note, published by the Institute's Securities Law and Regulation Interest Group, gives practical guidance on IPO due diligence and the role of company secretaries in helping companies to transition from the private to the public realm.



Vote for the future

The proposals of The Institute of Chartered Secretaries and Administrators (ICSA) relating to the creation of a new designation to be called 'Chartered Governance Professional' and the introduction of an intermediate grade of membership to be called 'Affiliated Membership' will be put to a vote at the 2017 ICSA AGM to be held in London, UK, on 4 October 2017. This month's edition of CSJ (see pages 6–7) carries a letter from your President updating you on the proposals and the proposed implementation strategy here in Hong Kong and Mainland China. Members are urged to vote on the proposals (proxy arrangements are set out on page 7) at the upcoming ICSA AGM.

HKICS News

President's Message 04

Letter from the HKICS President 06

Institute News 38

Student News 45



Looking north

This month's edition of our journal brings us up to date with developments relating to our profession in Mainland China. The cover stories demonstrate the very high level of expertise and insight which the Institute now has within its membership and wider stakeholder community as the result of our close relationship with our peer professionals, employers and regulators on the Mainland.

The authors take on highly relevant topics – governance reforms, the work of the Institute and the role of the board secretary in the Chinese Mainland. Regarding governance reforms, Li Yang, Vice-President of Overseas Chinese Town (Asia) Holdings Ltd, looks at the progress of China's 'mixed-ownership' reform drive, which seeks to encourage a more diversified ownership of China's state-owned enterprises. Li Zhidong FCIS FCS, Company Secretary of CSSC Offshore & Marine Engineering (Group) Company Ltd, shares some best practice recommendations on shareholder communications based on his experience working for a dual-listed A+H share company.

These articles provide an excellent snapshot of the context within which our Institute works on the Mainland. Kenneth Jiang FCIS FCS(PE), who heads our Representative Office in Beijing, looks in detail at how that work is progressing, including an update on our CPD services for our members and Affiliated Persons; and on our promotion of best governance practices and the growth of the Chartered Secretarial profession.

As you might expect, our China edition also gives a first-hand perspective of the role of our peer professionals in the Mainland. Reading the article by Yu Tengqun, Board Secretary, General Counsel and Press Spokesman of China Railway Group Ltd, I was struck by just how similar the board secretary and company secretary roles have become. Over the last two decades – it is 20 years since the establishment of the Hong Kong Special Administrative Region and 21 years since the establishment of our Representative Office in Beijing – there has been a substantial convergence both in terms of the corporate and regulatory environment in Hong Kong and the Mainland, and in terms of the roles expected of practitioners working either side of the Lo Wu border.

Clearly, there are still differences. Most obviously, we go under different names, but that difference is quite superficial. Mr Yu points out that the difference in terminology really comes down to a difference of emphasis – the term 'board secretary' (董事会秘书) reminding us of the key part we play in supporting the board, while the term 'company secretary' (公司秘书) reminds us that, ultimately, the company secretary is responsible to the company as a whole. There are also some differences in the duties board and company secretaries are expected to take on. Mr Yu includes the duty to 'establish the official position of the Communist Party in corporate governance structures' in his list of board secretary duties for example.

Beyond these differences, however, when we drill down to the core value that both board and company secretaries add to the organisations that employ them, we find the same bedrock. Effective decision making by the board; regulatory compliance; good information flows between management and the board; timely and quality information disclosure to external parties; effective internal controls – these are the among the key benefits that flow from having a good board/company secretary. There will always be differences in the specific role

that any one individual performs based on the different types of organisations and corporate cultures involved, but board and company secretaries will always occupy the same space in the organisational structure. As Mr Yu points out, we provide the crucial 'pivot' which connects and balances the other key players – directors, managers, shareholders, regulators, etc. This is an astute observation and it reaffirms our close links with our peers working in Mainland China.

Our Institute has been fortunate over the past two decades to play a part in the evolution of the business and corporate governance environment on the Mainland. We have been able to provide a bridge for expertise sharing and networking opportunities between practitioners and other stakeholders in Hong Kong and the Mainland. In the year ahead I look forward to a deepening of these ties based on the new initiatives covered by Mr Jiang's article in this edition.

Before I go, I would like to draw your attention to important developments relating to the proposals of The Institute of Chartered Secretaries and Administrators (ICSA) designed to better position our profession for the future. On the following pages (pages 6 and 7) you will find my letter to members outlining why I, and our Institute Council, support these proposals, as well as setting out our proposed implementation strategy here in Hong Kong and Mainland China should these proposals be passed. These developments will have significant implications for our profession, so I urge all of you to familiarise yourselves with the issues at stake and cast your vote at the ICSA AGM to be held in London, UK, on Wednesday 4 October 2017.

A handwritten signature in black ink, appearing to read 'Ivan Tam', written in a cursive style.

Ivan Tam FCIS FCS

北望神州

本刊今期介绍中国内地与特许秘书专业有关的最新发展。随着公会与内地同业、雇主及监管机构建立密切的关系，公会现时拥有更广泛的持份者；今期的封面故事，显示公会会员及持份者具备高度专业的知识和深远的见识。

封面故事讨论的课题，与我们息息相关，包括公司治理改革、公会在中国内地的的工作，以及内地董事会秘书的角色等。公司治理改革方面，内地国有企业正进行混合所有制改革，鼓励国企分散股权；华侨城（亚洲）控股有限公司副总裁李洋在文章中探讨改革的进展。中船海洋与防务装备股份有限公司公司秘书李志东FCIS FCS以其在中港两地上市的A+H股公司工作的经验，与读者分享一些股东沟通的最佳做法。

这些文章很好地概括了公会内地工作的背景。公会北京代表处首席代表姜国梁FCIS FCS(PE)详尽说明公会内地工作的进展，包括为会员及联席成员提供持续专业发展服务，以及推广公司治理、发展特许秘书专业的工作。

今期中国专题的内容，也从第一身角度探讨内地专业特许秘书的角色。读着中国中铁股份有限公司董事会秘书、总法律顾问、新闻发言人于腾群的文章，我深感董事会秘书和公司秘书两者角色之相似。今年是香港特别行政区回归20

年，也是公会北京代表处成立21周年；这20年来，香港和内地的企业和规管环境已渐行渐近，人们对两地特许秘书角色的期望也日渐趋同。

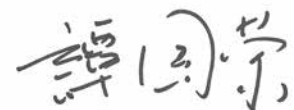
当然，两者还是有分别的。最明显的是名称不同，但这不过是表面上的分野。于先生指出，不同名称实际上表达了不同重点。「董事会秘书」突显特许秘书支援董事会的重要角色，「公司秘书」则说明特许秘书最终要对公司整体负责。董事会秘书和公司秘书的职责也有一些分别，例如于先生开列的董事会秘书职责清单上，就有「落实党组织在公司治理结构中的法定地位」一项。

撇开以上的分别，寻根探底，董事会秘书和公司秘书都能为所服务的机构增值。董事会有效决策、符合法规、管理人员和董事会之间讯息流通、对外讯息披露优质及时、内部监控有效等，都是称职的董事会秘书和公司秘书所能带来的莫大好处。基于不同的机构种类和机构文化，个别人士的具体角色各有不同，但董事会秘书和公司秘书在组织架构中总有着相同的位置。正如于先生所指，特许秘书是关键的枢纽，平衡董事、管理者、股东、监管机构等各方的关系。这是很精辟的见解，证明我们与内地同业的职能十分相似。

20年来，公会有幸参与内地商业及公司治理环境的发展，为香港和内地的同业

和持份者提供经验分享和建立联系网络的机会，发挥桥梁作用。展望来年，我期望藉着姜先生在今期文章提及的新工作，深化两地同业的联系。

最后，我谨请会员留意特许秘书及行政人员公会(ICSA)多项建议的重要进展，该等建议旨在为特许秘书的未来作更佳定位。后页（第6至7页）刊载我给会员的信件，当中阐述我和公会理事会支持这些建议的原因，并说明建议获通过后在香港和中国内地落实的建议策略。这些发展对特许秘书专业有深远影响，我促请大家了解相关事宜，并在2017年10月4日（星期三）于英国伦敦举行的ICSA周年会员大会中投票。



谭国荣 FCIS FCS

Proposed ICSA Charter and byelaws changes – letter from the HKICS President



Dear Members

I am sure many of you have been following the developments relating to the two strategic initiatives put forward by The Institute of Chartered Secretaries and Administrators (ICSA) – the creation of a new designation to be called 'Chartered Governance Professional' and the introduction of an intermediate grade of membership to be called 'Affiliated Membership'. As you probably know, these proposals will be put to a vote at the ICSA AGM to be held in London, UK on 4 October 2017. I would like to take this opportunity to update you on the latest developments relating to these proposals and to explain why our Council recommends that you vote in favour of the proposals at the upcoming ICSA AGM.

Our Council's recommendations

Each division of ICSA, including our Institute, has been given considerable flexibility in how we wish to implement, or not to implement, the new proposals. With regard to the new designation of 'Chartered Governance Professional', our Council believes that this is an excellent way to raise awareness of the important governance role of our members. We propose to introduce the new designation alongside the existing Chartered Secretary designation, rather than as a separate and distinct professional pathway. Senior members of our profession are, after all, both governance and company secretarial professionals. This approach also means that no change will be needed to the legislation and regulation in Hong Kong relating to the requisite qualifications of company secretaries.

With regard to the creation of the new class of 'Affiliated Membership', our Council believes that Hong Kong should not introduce this membership category for the time being. The creation of Affiliate Membership is less relevant for Hong Kong since our membership is still growing. Further, as mentioned above, there are legislative and regulatory requirements in Hong Kong relating to the qualifications of company secretaries of listed companies and the partial qualifications of Affiliated Members would not meet those requirements.

What the changes will mean for our members

I have met many of you at the forums we have held to promote understanding of these issues, and I have been pleased to see that there is growing awareness of the significance of the ICSA's proposals for our profession going forward. We organised four member forums on the new initiatives last month, attended by about 1,000 fellows and associates. We received many questions relating to how the new 'Chartered Governance Professional' designation would be rolled out and what changes are proposed to our qualifying scheme.

In brief, the answer to these queries is that, for our existing fellows and associates no change is required. All of our fellows, and associates who have been associates of the Institute for at least five years, by 31 December 2019, would be grandfathered to become Chartered Governance Professionals upon implementation of the

dual qualifying programme without further training or examination. ICSA Council will agree, and advise students and members in due course, on the qualifying arrangements for those members who are elected as Associates after 1 January 2020 and have not completed the Chartered Governance Professional Qualifying Programme but wish to attain Chartered Governance Professional status. Even for future students of the Institute who are admitted after the new International Qualifying Scheme (new IQS) is launched, the changes will not mean extra examinations. Since the Institute will bundle the two streams in the new IQS, our students would take all eight subjects – four core subjects with two further subjects in the 'Chartered Secretary' stream and another two subjects in the 'Chartered Governance Professional' stream. Accordingly, they will be awarded both Chartered Secretary and Chartered Governance Professional designations after they have completed all the new IQS examinations and acquired the necessary work experience.

Making governance our home

Our Institute Council believes that these proposals will enhance the recognition of our members, with no derogation whatsoever from the standing of the



The Institute organised four member forums on the new ICSA changes. Panel members were: Institute Vice-President Paul Stafford FCIS FCS(PE); Institute President Ivan Tam FCIS FCS; ICSA Senior Vice-President and Institute Past President Edith Shih FCIS FCS(PE); and Institute Chief Executive Samantha Suen FCIS FCS(PE).

existing Chartered Secretary designation. It will lead to a better recognition of the governance role performed by our members, open up more career opportunities, and align us with global trends in governance and risk management.

The new ICSA proposals will require amendments to the ICSA Charter and

byelaws which will only be passed if there is a high level of support among the ICSA membership. The proposed amendments to the ICSA Charter require not less than three-quarters of the votes at the 2017 ICSA AGM to be in favour, and the proposed amendments to the byelaws require not less than two-thirds of those voting to be in favour, to be

passed. Our Institute Council therefore urges our members to read and consider the details of the new proposals (which can be found on the ICSA website: www.icsaglobal.org and our website: www.hkics.org.hk), and to vote at the upcoming ICSA AGM.

Yours sincerely

The 2017 ICSA AGM and proxy voting arrangements

The 2017 ICSA AGM will be held at 1 Wimpole Street, London, W1G 0AE, UK, on Wednesday 4 October 2017 at 6.45pm (British Summer Time). Members who are not able to attend the AGM in person can vote by proxy by:

1. downloading the proxy form from the Institute's website: www.hkics.org.hk, and
2. sending the completed and signed proxy form to:
 - the Institute's secretariat either by post, by hand, or via email or fax on or before 6.00pm (Hong Kong time) on Monday 25 September 2017 (The Institute will gather the proxy forms received and forward them to the ICSA Company Secretary in London before the proxy deadline), or
 - The Secretary, ICSA at Saffron House, 6-10 Kirby Street, London, EC1N 8TS, UK by post, by email to: proxyforms@icsa.org.uk, or by fax: +44 (0)20 7323 1132, on or before 6.45pm (British Summer Time) on Monday 2 October 2017.

Ivan Tam FCIS FCS

President, The Hong Kong Institute of Chartered Secretaries, and Chairman, Committee for China/Hong Kong, The Institute of Chartered Secretaries and Administrators

Further information on the new ICSA initiatives can be found on the ICSA and the Institute websites: www.icsaglobal.org, and www.hkics.org.hk. If members have any questions relating to the changes proposed by ICSA and the AGM documents, please contact ICSA via www.icsaglobal.org/enquiry.

Mixed-ownership reform and corporate governance

Li Yang, Vice-President of Overseas Chinese Town (Asia) Holdings Ltd, looks at the governance implications of China's mixed-ownership reform drive.



Mixed-ownership reform – the attempt to encourage a more diversified ownership of China's state-owned enterprises (SOEs) – is a key feature of the current round of reforms for China's SOEs. With the support of national and local policy measures, the implementation of mixed-ownership reform has been generally smooth, but the results are yet to be seen. In 2016, total operating income and profits of all SOEs had a year-on-year growth of 2.6% and 1.7% respectively, while total tax paid reduced by 0.7% over the year before. Year-on-year growth in non-governmental fixed assets investment was 3.2%, representing a decline of about seven percentage points. The low effectiveness of SOEs and the lack of strength of non-governmental investment show that mixed-ownership reform has not so far been effective in invigorating SOEs and attracting social capital, because the emphasis has been on reforming ownership structures rather than building the governance structures and capabilities needed.

The ownership dispute of China Vanke Co Ltd, that started in the second half of 2015 was essentially a conflict between the modern governance structure of 'supervision by owners and governing by managers' and the classical governance mechanism of 'control by major shareholders'. The incident is significant in that it reveals the many uncertainties and difficulties in the process of mixed-ownership reform. The governance structure of the company formed over the years, under which 'the major shareholders supervise but do not operate and the managers govern but do not control', effectively stimulated the entrepreneurship of the management and achieved for all shareholders a return much higher than the market average,

making it a widely recognised model in its sector. The roles of the key parties in corporate governance, namely the major shareholder (that is the SOE), independent directors and the management, were highlighted by this incident and became a subject of debate.

The fundamental objective of the reform of SOEs is to remove structural obstructions to the development of the enterprises. A possible way to achieve this objective is to pursue mixed-ownership reform, but the success of mixed-ownership reform relies on the establishment of a modern governance structure of 'supervision by owners and governing by managers'. To reform the governance structure, the powers, responsibilities and inter-relationship between the various parties in corporate governance must first be clearly defined. Only by taking this step-by-step approach can the reform objective be achieved.

Highly diversified ownership structure is characteristic of modern governance

Currently, major shareholders hold 39.5%, 43.7% and 48.9% of the share capital of state controlled A-share, H-share and red chip listed companies respectively. In comparison, the largest shareholders of

the constituent stocks of the Dow Jones Industrial Average account for only 7% of the shareholding of the companies on average. This dominance of the major shareholder is contrary to the intention of mixed-ownership reform and is against the global trend of development in corporate governance. The situation should be changed through mixed-ownership reform in the following aspects.

1. The proportion of mixed ownership should be refined.

Priority should be given to social capital, in particular non-governmental capital and foreign capital, to complement state capital. The cross ownership between SOEs should focus on whether governing efficiency could be promoted after the mix. In particular, in those enterprises categorised as 'Commercial I Class', state-ownership can be reduced to below 50% or 30%, and control by non-state-owned capital should be allowed.

2. Restrict trading of shares by major shareholders.

Trading of shares by major shareholders should be restricted. The threshold and cost of trading should be raised through more stringent information disclosure requirements, extended completion time, and restricting the

Highlights

- the implementation of the professional manager system has been a core problem in the governance of state-owned enterprises, and this should be resolved in this round of mixed-ownership reform
- the right to nominate independent directors should be conferred on a nomination committee made up of a majority of independent directors
- as the pivot of corporate governance, board secretaries are facing great changes in the working environment and an ever-rising expectation of performance

volume per transaction and cumulative volume of transactions. The incentive for major shareholders to control the companies should be reduced by strengthening the vote-abstention system of connected shareholders, setting up different shareholding classes and introducing differential voting rights. Shareholding distribution of a listed company can be improved through regulatory means, such as by reducing the shareholding ratio of financial institutional investors and levying estate duty.

3. Establish a mechanism for

custodians to vote as proxies. To raise the voting rate, custodians should be allowed and encouraged to proactively exercise their voting rights, provided that they have fully explained the motion to shareholders before voting and have not received contrary instructions.

4. Enhance legislative protections.

Legislation to protect public and private property rights and minority shareholders should be enhanced so as to give assurance to various parties participating in mixed-ownership reform.

Independence of independent directors assures the effectiveness of corporate governance

With the prevalence of major shareholder control, independent directors in state-owned listed companies account for merely one-third of the number of directors on the board, barely meeting the statutory minimum requirement. Meanwhile, in US companies, this proportion is as high as 66%. The minority of independent directors is a serious mismatch with the majority public shareholders they represent. Furthermore, other procedures and safeguards are not sufficient to ensure the independence of independent directors,

making it difficult for them to function properly. It is proposed that attention be paid to the following aspects during mixed-ownership reforms.

1. Refine the selection and appointment

system. The existing requirements of 'at least one-third of the members of the board of directors of a listed company should be independent directors' and 'shareholders who individually or jointly hold 1% or more of the issued share capital of a listed company can nominate an independent director' should be amended to require the proportion of independent directors to be not less than 50%, or not less than the proportion of public shareholding. The right to nominate independent directors should be conferred on a nomination committee made up of a majority of independent directors, or on minority shareholders who elect independent directors through classified voting arrangements. Other possible reform measures include reducing the shareholding requirement for shareholders qualified to nominate an independent director, restricting the number of independent directors that a controlling shareholder can nominate, establishing a system of convener of independent directors, and refining the closed-door meeting mechanism of independent directors.

2. Improve the remuneration system.

It is suggested that the standard of remuneration of independent directors across the market be determined by a national self-regulatory organisation (for example the China Association for Public Companies). The remuneration package for independent directors of individual companies should be determined by the remuneration committee of the company and paid out of the membership fees paid by listed companies to the self-regulatory organisation.

3. Safeguard independent directors' performance of duties.

The exercise of independent directors' functions should be safeguarded through the establishment and improvement of detailed information disclosure requirements, immunity from prosecution, investigation of interference with voting by independent directors, etc. Independent directors should be encouraged to disclose matters that would harm the interests of minority shareholders and to express independent views without fear.

Reforming the supervisory board system

Redefining the functions of the board of supervisors is necessary in line with governance trends. The system of the board of supervisors had its origin in the two-tier governance structure of German companies. The original intention was to put in place effective supervision of the board of directors and the managers and protect the interests of all shareholders. In practice, however, the board of supervisors, like the board of directors, is basically controlled by the major shareholder, and there are many overlaps in its functions with those of the independent directors. Its position is getting less clear.

Stakeholders of modern enterprises have expanded from only shareholders to include employees, community, clients, working partners, creditors and so on. With the development of mixed-ownership reform, it is proposed that the composition of the board of supervisors be redefined to establish a new system of board of supervisors oriented towards the needs of stakeholders so as to fulfil a unique supervisory role to serve the interests of both the enterprise and the community.

“
**mixed-ownership reform has not so far
 been effective in invigorating state-owned
 enterprises and attracting social capital
 because the emphasis has been on reforming
 ownership structures rather than building the
 governance structures and capabilities needed**

”

Reforming the professional manager system

The professional manager system is core to the smooth operation of corporate governance mechanisms. The practice of modern corporate governance is based upon the principal-agent theory. The governance structure of 'supervision by owners and governing by managers' typical of large US listed companies is superior to the structure of 'control by major shareholders'. It can effectively reduce information asymmetry and reduce agency cost. 'Governing by managers' has to be supported by a large team of professional managers. Only with this support can the agency relationship between the owner and the operator be clearly defined. Over the years, the dysfunction of the professional manager system has been the crucial reason for many deep-rooted problems in the corporate governance of SOEs, and should be a core problem to be resolved in this round of mixed-ownership reform.

1. Establish a system to select and appoint professional managers suitable for mixed ownership. The board of mixed-ownership enterprises should select and appoint managers by the rules of the market, fully drawing reference

from the successful experience and rigorous criteria of the party-managing-cadres mechanism. A market-oriented assessment and evaluation system should be adopted, and the source of talent and room for development of talent should be expanded. A modern culture of professional managers should be built, promoting the interchangeability of roles and results orientation.

2. Establish a market-oriented incentive and restraint system. A remuneration system that differentiates managers by their performance should be set up, and long-term incentives should be actively explored, such as employee stock ownership plans, project co-investment schemes, stock incentives, increasing shareholdings in the secondary market, etc. A partnership system should be established to bundle the personal objectives of managers with the common interests of the entire body of shareholders.

3. Enhance external supervision. A credibility record system of managers, a lifelong system of accountability where necessary, and a class action and derivative action system for shareholders should be set up. This is to strengthen external monitoring to

prevent governing by managers from developing into insider control.

4. The roles and functions of the board secretary should be redefined. With the development of mixed-ownership reform, corporate governance is moving from the shareholder-centric mode to a mode that caters to the interests of diverse stakeholders. As the pivot of corporate governance, board secretaries are facing great changes in the working environment and an ever-rising expectation of performance. With a more diversified shareholding structure, it will be necessary to grasp the core concern of different groups of shareholders and ensure adequate communication and reporting. The governance structure should be reviewed from time to time, effective communication among the shareholders, directors, supervisors and managers should be maintained, and reforms in management culture should be pursued as necessary. In the context of diverse stakeholders, board secretaries should be familiar with their different languages and communication channels, and enhance their communication skills and ability to handle contingencies. In face of hostile takeovers, board secretaries should consolidate their knowledge of policies and rules, keep abreast of market changes and public opinion, assist the board and the management to work in compliance with laws and regulations, and uphold the overall interests of all shareholders.

The author sincerely thanks Professor Oliver Hart and Professor Hua Sheng for their research and views referenced in this article.

Li Yang, Vice-President

Overseas Chinese Town (Asia) Holdings Ltd

混改与公司治理

在国企混合所有制改革背景下，华侨城（亚洲）控股有限公司副总裁李洋检视公司治理的若干问题。

中国内地的混合所有制改革，鼓励国企分散股权，是当前新一轮国企改革的重要特征和重要突破口。近年来，在中央和地方一系列政策措施支持下，混改进展总体顺利，但效果还有待观察。数据显示，2016年全国国有企业营业总收入同比增长2.6%，利润同比增长1.7%，上缴税金同比下降0.7%，民间固定资产投资同比增长3.2%，增速下滑约7个百分点。国企效益低位徘徊，民间投资乏力，反映出混改在激发国企活力、调动社会资本方面的成效不显著。究其原因，在于重混轻改，即重视股权混合，忽视了混合所有制下的公司治理结构和能力的建设。

始于2015年下半年的万科股权之争，本质上是“所有者监督、经理层支配”的现代企业治理机制与“大股东控制”的古典企业治理机制之争。事件折射出混改进程中的诸多困惑和困难，具有重要启示意义。万科多年来形成的“大股东监督不经营，经理层支配不控制”的治理结构，有效释放了经理层的企业家精

摘要

- 职业经理人制度的不完善，是这一轮混改应重点解决的国企治理核心问题
- 应将独立董事提名权交给独立董事占多数的提名委员会
- 董秘作为治理机制的枢纽，事业环境正发生深刻变化，履职能力标准不断提高

神，为全体股东创造了远胜于市场均值的高额回报，被公认为业界标杆。在这次事件中，国有大股东、独立董事、经理层等公司治理主体扮演的角色和发挥的作用广受关注和争论。

国企改革根本目的是破除束缚企业发展的体制机制桎梏，实现这一目标的突破口和可行路径在于混改，混改的有效落地必须以建立“所有者监督，经理层支配”的现代公司治理结构为主要抓手，而治理机制的变革，则需首先理顺治理主体的权责定位和相互关系，唯此才能层层阶进达至改革目标。

高度分散的股权结构是现代公司治理的产权基础

据统计，目前A股、H股和红筹股中，国有控股上市公司第一大股东持股比例平均数分别为39.5%、43.7%和48.9%，这一比例在道琼斯工业平均指数成分股中仅为7%。一股独大导致的大股东控制，既非混改初衷，也不符合全球公司治理的发展趋势。因此，要通过混改，从如下方面改变这一局面。

1. 优化混合股权比例。优先选择与国有资本优势互补的社会资本，尤其是民营资本和境外资本开展股权合作。对国有资本相互之间的混合来说，应重点关注混改后的治理效率能否得到切实提升。尤其是对于商业一类企业，可将国有股权比例降低至50%或30%以下，条件允许可由非国有资本控股。

2. 限制大股东股份交易。通过提高信息披露要求、延长交割时间、压缩单次和累计交易数量等方式，提高交易门

槛和成本。通过强化关联股东回避表决制度，建立股权分级和差别投票制度等方式，削弱大股东控制意愿。还可以通过提高金融机构股权投资分散度、征收遗产税等制度安排，强制分散股权。

3. 建立证券托管机构代理投票机制。允许和鼓励证券托管机构在投票前充分向股东说明情况且没有收到反对指示的前提下，主动行使投票权，提升投票率。

4. 加强立法保障。加强保护公私产权和中小股东方面的立法，为各类资本参与混改派定定心丸。

独立董事的独立性是公司治理有效性的关键保证

在大股东控制广泛存在的背景下，我国国有控股上市公司独董占董事会成员比例平均数，据统计仅达到1/3这一法律规定的最低限，而美股公司该比例高达66%。独董的少数与所代表公众股东的多数严重倒挂，加之其它程序性和保障性制度不健全，独董的独立性无法保证，职责难以发挥。建议在混改过程中，重点关注如下方面：

1. 完善选任制度。修改“上市公司董事会成员中应至少包括1/3独立董事”、

“
**混改在激发国企活力、
 调动社会资本方面的成
 效不显著。究其原因，
 在于重混轻改，即重视
 股权混合，忽视了混合
 所有制下的公司治理结
 构和能力的建设**
 ”

“单独或合并持有上市公司已发行股份1%以上的股东可提名独董”等现行规定，要求独董比例不少于50%或不低于公众股东持股比例，并将提名权交给独董占多数的提名委员会，或将提名权交给中小股东，以分类表决方式选举产生。可选的改进措施还包括降低提名权所需持股比例、限制控股股东提名独董数量、建立独董召集人制度、完善独董闭门会议机制等。

2. 改进薪酬机制。可考虑由全国性行业自律组织（如上市公司协会）统一制定全市场范围内的独董薪酬标准，董事会薪酬委员会制定本公司独董薪酬方案，再由自律组织从上市公司缴纳的会费中发放。

3. 加强独董履职保护。建立和完善独董信息披露细则、豁免起诉制度、干预独董投票追责制度等，加强独董履职保护，鼓励独董对损害中小股东利益的事项进行披露并发表独立意见，而无后顾之忧。

改革监事会制度

重新定位监事会职能是顺应公司治理发展趋势的必要选择。我国的监事会制度源于德国企业的双层治理结构，

初衷是对董事会和经理层进行有效监督，维护全体股东利益。但在实践中，监事会和董事会一样，基本受控于大股东，并且与独董在职责方面多有重叠，定位愈发模糊。

现代企业发展中需要面对和顾及的利益主体已经从单纯的股东，扩大到员工、社区、客户、合作伙伴、债权人等多个利益相关方。伴随混改的深入，建议重新界定监事会成员构成，建立利益相关方主导的新型监事会制度，发挥独特的监督作用，促进企业利益与社会利益协同发展。

改革职业经理人制度

职业经理人制度是公司治理机制协调运行的核心环节。现代公司治理实践建立在委托代理理论基础之上。以美国大型上市公司为代表的“所有者监督、经理层支配”治理模式，优于“大股东控制”的模式，可有效减少信息不对称，降低代理成本。经理层支配需要专业且庞大的职业经理人队伍为支撑，才能清晰所有者和经营者之间的委托代理关系。多年来，职业经理人制度的不完善，是国企治理诸多深层矛盾的重要原因，也是这一轮混改应重点解决的核心问题。

1. 建立适应混合所有制的职业经理人选用制度。混合所有制企业的董事会，应充分借鉴党管干部的成功经验和严苛标准，按市场规则选聘经理人，完善市场化考核评价机制，拓宽人才获取渠道和发展空间。积极建设现代职业经理人文化，鼓励身份转换，推崇业绩导向。

2. 建立市场化激励约束机制。制定差异化薪酬制度，积极探索员工持股、项目跟投、股权激励、二级市场增持等长效机制，建立事业合伙人制度，将经理层的“私心”与全体股东的“公利”紧密结合。

3. 强化外部监督。建立健全经理人信用声誉档案制度、必要的终身追责制度、股东集体诉讼和派生诉讼制度等，强化外部监督，防控经理层支配演变为内部人控制。

4. 重新定位董秘职责。随着混改不断深化，公司治理正在从以股东为中心的“一元化”学说向利益相关者兼顾的“多元化”学说演进，董秘作为治理机制的枢纽，事业环境正发生深刻变化，履职能力标准不断提高。面对高度分散的股权结构，要充分了解不同类别股东的核心关切，做好沟通汇报。面对治理结构变革，应经常检视治理机制，维护“三会一层”协调运转，推进管理文化变革。面对多元利益相关者，要熟悉不同话语体系，提升沟通技巧和突发事件应对能力。面对敌意收购，要加强政策规则学习，时刻关注市场变化和舆论方向，协助董事会和经理层合法合规开展工作，维护全体股东的整体利益。

（本文部分内容参考了奥利弗·哈特、华生等专家学者的研究成果和观点，在此诚挚致谢。）

李洋

华侨城（亚洲）控股有限公司副总裁

Corporate governance and the board secretary

Yu Tengqun, Board Secretary, General Counsel and Press Spokesman of China Railway Group Ltd, shares his views on the role of the board secretary in corporate governance.



In November 2006, I was appointed Board Secretary of China Railway Engineering Corporation. In September 2007, I took up the position of Board Secretary of China Railway Group Ltd. These experiences have given me some insights into the role of the board secretary in corporate governance.

The evolution of the board secretary role

The concept of the board secretary originated in the West. The board secretary role gradually developed after the emergence of the board of directors. In common law countries like the UK and the US, this role is usually called the 'company secretary'. I think the key distinction between the board secretary and the company secretary is that, as their names suggest, the former was originally positioned to be responsible to the board of directors, while the latter was positioned to be responsible to the company as well.

The essence of corporate governance is the diversification of control of the company. In the operation of the company, the intricate and complex relationships among shareholders, managers, the government and the company has to be balanced through the diversification of power and the refinement of the governance structure of the company. The company secretary is a position created to balance these relationships. After several centuries of development, the board secretary role has been introduced into countries adopting the continental legal system and the legal status, nature and duties of the board secretary have been continuously refined. The status of the board secretary as a member of senior management is now well recognised in

law, and the board secretary has become an indispensable part of the corporate governance structure and the gatekeeper of corporate governance.

The Companies Ordinance in Hong Kong requires that 'a company must have a company secretary'. Under the Commercial Code of Macau, the company secretary, shareholders, directors and administrators are the four key organs of a company, and the company secretary can be elected by shareholders at a meeting without having to be placed under the board of directors. The Companies Law of China, as amended in 2005, clarifies the duties of the board secretary and stipulates that the board secretary is a senior manager of a listed company. In 2015, the Shanghai Stock Exchange promulgated the revised Measures for the Regulation of Board Secretaries of Listed Companies which specifies that the board secretary is responsible not only to the board of directors but also to the company and relevant parties like the regulatory authorities.

Key duties of the board secretary

In building a practical, efficient and innovative board of directors, the board

secretary takes on important governance duties and a gatekeeping role. Key duties are outlined below.

1. Establishing the official position of the Communist Party in the corporate governance structure. The significance of establishing the official position of the Communist Party in the corporate governance structure must be fully recognised. The areas of duty of the Party organisation, the board of directors and other organs of the company, as well as the effective interface between various procedures, must be clearly defined.

2. Setting up the governance structure. The governance structure is the basis of operation of the board of directors. As the promoter of corporate governance in listed companies and the facilitator of board operations, the board secretary plays an active role in proposing the composition of board committees such as audit committee, remuneration and assessment committee and nomination committee; facilitating communication between the board and the committees; assisting the committees in fulfilling their roles; and coordinating the work of the committees in support of the organisation.

Highlights

- the board secretary and company secretary roles are now well recognised in the laws of Hong Kong, Macau and Mainland China
- there are some differences between the role of board secretaries in Mainland China and company secretaries in Hong Kong, such as the duty to establish the official position of the Communist Party in corporate governance structures
- the board secretary and company secretary roles share the same core duties, such as facilitating effective decision making by the board and ensuring good information flows

“
The intricate and complex relationships among shareholders, managers, the government and the company has to be balanced through the diversification of power and the refinement of the governance structure of the company. The company secretary is a position created to balance these relationships.

”



3. Drawing up rules and regulations.

A good system of rules and regulations safeguards the operation of the board of directors. Board secretaries should help the board put in place a sound governance framework and related rules and regulations. They should keep abreast of corporate governance developments, and actively raise suggestions to turn new requirements, such as those of the State Council State-owned Assets Supervision and Administration Commission and domestic and overseas securities regulatory authorities, into internal requirements of the company in a timely manner.

4. Promoting proper operations.

Ensuring proper operations is one of the core elements of building a properly functioning board of directors. The board secretary should actively raise proposals on compliance to the board of directors and facilitate lawful performance of the board's functions. Propriety is the prime consideration, whether during the planning, execution or evaluation stages. The board secretary should learn about the business and mode of operation of the

board and adhere to propriety in board operations. Efforts must be made to ensure proper operations by putting in place sound systems and stringent procedures with a view to facilitating sound decisions.

5. Promoting sound decisions. Reaching sound decisions is a key objective of building a properly functioning board of directors. Sound decisions must be made in respect of the four major functions of the board, namely setting strategies, managing the team, deliberating on major issues, and controlling risks. Key factors include the personal attributes of directors (experience, insight and judgment), decision making processes (such as procedures and preparation) and monitoring and incentive systems (such as evaluation and rewards).

6. Implementing and monitoring implementation of board decisions.

The sound decisions of the board have to be realised through implementation. Further to facilitating sound decisions and proper functioning of the board, emphasis should be laid on the execution of decisions, strengthening the monitoring

of implementation and ensuring the quality of implementation. This also amounts to an assessment of the decisions of the board and helps improve the quality of decisions.

7. Facilitating delegation by the board.

A prudent and efficient system of delegation can improve the efficiency of the board's decisions and encourage the delegates to proactively manage the company, thereby further enhancing the effectiveness of the board. Efforts should be made towards identifying appropriate delegates; determining an appropriate scope of delegation; ensuring the proper exercise of delegated powers; monitoring the exercise of delegated powers; and ensuring that properly exercised delegation is not nullified.

8. Promoting communication and coordination.

Availability of information to the board is the basis of sound decisions. The board secretary should assist directors in building an effective communication system to ensure the proper flow of information. Proper communication among the board,

committees, the management team and the board of supervisors, as well as between internal and external directors, is critical to help directors obtain comprehensive, objective and accurate information to facilitate decisions.

9. Aligning the governance practices of group companies. Group companies are often multi-layered companies co-existing in the market, each operating on its own. Aligning the practices of group companies is another important concern of the board of directors. The board secretary should actively facilitate the work of the representative of the dominant shareholder in aligning systems, strategies and governance standards of group companies.

10. Supporting and safeguarding external (independent) directors in fulfilling their duties. External (independent) directors are crucial to the proper functioning of the board of directors. Adequate support and safeguards must be provided to external (independent) directors in fulfilling their duties. The board secretary should determine the scope of

support and safeguards in this respect and raise the efficiency and quality of the support and safeguards.

11. Ensuring proper information disclosure. The listing rules stipulate that the board secretary is directly responsible for the information disclosure and investor management of a company. The multiple layers of management and broad scope of business of a company pose challenges to the work on disclosure of information. The board secretary should strictly adhere to legal requirements and ensure the timeliness and quality of disclosure.

12. Properly managing investor relations. In terms of investor relations management, the board secretary should be proactive and innovative in building communication channels. With integrity, patience and understanding, the board secretary should properly organise results announcements, news releases, roadshows and visits by institutional investors to maintain an interactive relationship with investors. The views of the market should be fed back to the production and operational teams, and focused market

reports should be compiled to report the concerns of and key information in the capital market to the management and relevant departments of the company.

13. Facilitating capital financing activities. Capital financing is an important duty of the board of directors of a listed company. The board secretary should take the management of market capitalisation as an important task, and facilitate re-financing, acquisitions, re-organisations and other capital financing matters.

14. Building the culture of the board of directors. Good culture of the board of directors is the cornerstone of good governance and further development of a company. Building a good corporate governance culture is of utmost importance. The essence of governance culture is to ensure checks and balances, democracy, scientific operations, propriety, effectiveness and innovation. The dominant shareholder representative should be loyal and diligent.

15. Establishing the daily business process of the board of directors. The board secretary should attach great importance to the establishment of the daily business process of the board of directors. This is to safeguard compliant and proper operations of the board. In forming the team, attention should be paid to age and skills mix in order to build a cohesive and dedicated work team that excels in capability, quality and style and emphasises rules and procedures. This will build a foundation for the compliant and proper operations of the board of directors.

About the author

Yu Tengqun is currently Board Secretary, General Counsel and spokesperson of China Railway Group Ltd (CREC). In December 2007, CREC became the first in China to join the A+H share capital markets through the 'first A then H' mode. It is a large construction corporation with businesses in infrastructure, prospecting and design, manufacture of equipment and parts, property development, resource mining and capital financing. It has received commendations from regulators and has been granted awards for its board of directors, investor relations, corporate governance and information disclosure. Mr Yu has been named among the top 10 counsels to state-owned enterprises; the top 10 general counsels to state-owned enterprises; best board secretary to listed companies in China; Golden Board Secretary by *New Fortune* magazine; and best board secretary in the Asia-Pacific region.

Yu Tengqun, Board Secretary, General Counsel and Press Spokesman
China Railway Group Ltd

公司治理 与董事会 秘书

中国中铁股份有限公司董事会秘书、总法律顾问、新闻发言人于腾群阐述董事会秘书在公司治理中的作用。

2006年11月，我有幸被任命为中国铁路工程总公司董事会秘书。2007年9月，我又担任了中国中铁股份有限公司董事会秘书，对董事会秘书在公司治理中的作用有了一些粗浅的认识和体会。

董事会秘书角色的演变

董事会秘书不是中国制造，而是舶来品。从世界上诞生董事会后，就逐步产生了董事会秘书。英美海洋法系国家的法律普遍称之为“公司秘书”。

摘要

- 董事会秘书和公司秘书的角色，在香港、澳门和中国内地的法例中获得承认
- 中国内地的董事会秘书，与香港公司秘书的角色有若干差别，例如落实党组织在公司治理结构中的法定地位
- 董事会秘书与公司秘书的核心职责相同，例如服务于董事会的有效决策、协助董事会完善沟通机制等

我个人认为从字面上来说，董事会秘书与公司秘书的最大区别在于董事会秘书最初设计定位对董事会负责，而公司秘书除此之外还要对公司负责。

公司治理的核心在于公司控制权的细化，公司在营运过程中，股东、管理者、政府、公司等利益相关方之间错综复杂的关系需要不断的细分权力来加以平衡，致使公司的治理结构越来越完善，公司秘书就是为适应这种变化而产生的一种旨在平衡各方利益关系的职位。在董事会秘书数百年的发展历史中，从英美海洋法系国家推广到大陆法系国家，董事会秘书的法律地位、性质、职责等不断得到完善，不仅董事会秘书作为公司高管人员的地位得到法律的确认，而且成为公司治理结构中不可或缺的重要组成部分，被称为公司治理的守门人。

香港地区《公司条例》规定：“每间公司须有公司秘书一名才能准许设立”；澳门地区《商法典》规定，公司秘书与公司股东会、董事会、行政管理层并列为公司四大机关之一，公司秘书可由股东大会选举产生而不再隶属于公司董事会。2005年修订后的中国《公司法》明确了董事会秘书的职责，同时规定了董事会秘书为上市公司高级管理人员。2015年，上海证券交易所发布了新修订的《上海证券交易所上市公司董事会秘书管理办法》，明确了董事会秘书不仅要对公司负责，还要对公司、监管机构等相关方负责。

董事会秘书的主要职责

在把董事会建设成为一个务实型、效率型、创新型董事会的过程中，董事会秘书承担着重要的治理责任和规管工作。主要包括：

1. 认真做好党组织在公司治理结构中法定地位的落实。董事会秘书必须充分认识明确党组织在公司治理结构中法定地位的重大意义。依法科学界定

党组织与董事会及其他公司机关的职责边界和各程序间的有效衔接。

2. 认真服务于组织建设。组织建设是董事会运作的基础，董事会秘书作为上市公司公司治理和董事会运作的推动者，在董事会审计委员会、薪酬与考核委员会、提名委员会等专门委员会的人员组成方案上，在协调董事会与专门委员会的关系，促进专门委员会发挥作用，协调专门委员会的工作支持机构等方面上发挥着积极的作用。

3. 认真服务于制度建设。制度建设是董事会运作的保障。董事会秘书应该协助董事会积极推进制度建设，在建立健全公司治理基础性制度及相关配套制度上多下功夫。通过对公司治理和企业发展新需要的学习和研究，积极提出建议，将国务院国有资产监督管理委员会、境内外证券监管机构新出台的规定，及时转化为公司内部要求。

4. 认真服务于规范运作。规范运作是建设规范董事会的核心工作之一。董事会秘书应该注意把握好规范运作中的重点和难点，积极向董事会提出合规建议，促进董事会依法行使职权。始终把“规范”放在第一位，工作前按“规范”去谋划，工作中按“规范”去运作，工作后以是否“规范”进行检查衡量。认真学习和研究董事会运作的知识和规律，坚持以突出规范运作为主线，努力实现以健全制度达到严格程序，以严格程序实现规范运作，以规范运作促进科学决策。

5. 认真服务于科学决策。科学决策是建设规范董事会的重要目标。科学决策必须紧紧围绕着董事会的四大功能（定战略、管团队、议大事、控风险）来进行。一是董事个人的素质（经验、预见性、判断力）；二是决策机制，比如程序，充分的准备工作；三是激励约束机制，如科学的考评，奖励。

6. 认真服务于董事会决议执行与跟踪评价。董事会决议的执行对于董事会科学决策功能的实现至关重要。公司董事会会在科学决策、规范运作的前提下，还应在决议执行上下功夫，强化决议执行监督机制，确保执行效果。同时，对董事会的决策也是检验，有助于董事会不断提高科学决策水平。

7. 认真服务于董事会授权。建立审慎与效率兼顾的授权机制既能提高董事会的决策效率，又能激发被授权人发挥管理企业的主观能动性，从而进一步提高董事会运作有效性，切实做到授权对象要适当，授权范围要适度，授权使用要规范，授权监督要到位，授权责任不免除。

8. 认真服务于沟通协调。信息对称是董事会科学决策的前提，董事会秘书应当协助董事会完善沟通机制，保证决策信息对称。董事会、专门委员会、内外部董事之间及其与经理层、监事会等有关各方之间的沟通，对于董事会获取全面、客观、真实的决策信息至关重要。

9. 积极服务于母子公司治理协同。中央企业营运架构大多数都是多层级法人公司市场共存，各自运转。如何做好母子公司协同发展也是董事会关注的一项重要工作。为此，董事会秘书应

当积极推动产权代表发挥作用，推动母子公司制度协同、战略协同、治理标准协同。

10. 认真做好外部（独立）董事履职的支持与保障。外部（独立）董事制度是规范董事会建设的关键性、支撑性制度安排，企业必须做好外部（独立）董事履职的支持与保障。董事会秘书应当在规范提供保障和服务的内容、提高保障和服务的效率和质量等方面不断努力。

11. 认真做好信息披露工作。《上市规则》规定，董事会秘书是上市公司信息披露和投资者管理工作的直接责任人。公司管理层级多、业务范围广都对信息披露工作提出了挑战。为了做好信息披露，董事会秘书应当严格执行法律监管“底线”，保证信息披露的时效和质量。

12. 认真做好投资者关系管理工作。在投资者关系管理方面，主动创新工作方法，建立沟通渠道，以“诚信、耐心、包容”的态度，认真组织好业绩推介、新闻发布、业绩路演、投资机构来访与交流等投资者关系管理工作，保持与投资者良好的互动关系。另外，为了把投资者关系管理工作与公司生产经营管理结合起来，注重及时反馈资本市场真实诉求，有针对性

“**股东、管理者、政府、公司等利益相关方之间错综复杂的关系需要不断的细分权力来加以平衡，致使公司的治理结构越来越完善，公司秘书就是为适应这种变化而产生的一种旨在平衡各方利益关系的职位**”

地撰写资本市场专报，及时地向公司管理层和相关部门反馈资本市场的重大要求和重要信息。

13. 认真做好资本运作。做好资本运作是上市公司董事会的重要职责。董事会秘书应该把市值管理工作作为一项重要工作来抓，重点做好再融资、并购、重组及其他资本运作事务。

14. 认真服务于董事会文化建设。优秀的董事会文化是公司规范治理和发展壮大的根基，营造良好的公司治理文化，至关重要。公司治理文化的精髓就是制衡、民主、科学、规范、有效、创新，作为出资人代表应当忠实、勤勉。

15. 认真抓好董事会日常工作机构的建设。董事会秘书要高度重视董事会日常工作机构的建设，这是保证董事会合规运转、正常运转的基础。在团队建设中，要注重年龄、专业构成，努力打造出一支能力、素质、作风一流，讲规矩、讲流程，团结协作、互助友爱、敢于拼搏、勇于奉献的工作团队，为董事会合规、正常运转奠定基础。

于腾群

中国中铁股份有限公司董事会秘书、总法律顾问、新闻发言人

关于作者

于腾群先生现任中国中铁股份有限公司（以下简称“中国中铁”）董事会秘书、总法律顾问、新闻发言人。中国中铁于2007年12月以国内首例“先A后H”模式成功登陆A股与H股资本市场，是一个集基建建设、勘察设计、工程设备和零部件制造、房地产开发、资源矿产开发、金融投资为一体的多功能特大型建设集团。2017年在世界企业500强中排名第55位，曾因其董事会、投资者关系、公司治理及信息披露而获得资本市场监管机构的表扬，获颁多个奖项。于先生先后获得中央企业十佳法律顾问、中央企业十佳总法律顾问、中国上市公司最佳董秘、《新财富》金牌董秘、亚太地区最佳董秘等多项荣誉。



Shareholder communications – strategy and practice

The practice of shareholder communications, which is an important part of the board secretary function, has been evolving rapidly in recent years. Li Zhidong FCIS FCS, Company Secretary of CSSC Offshore & Marine Engineering (Group) Company Ltd, shares some best practice recommendations based on his experience working for a dual-listed A+H share company.

There have been many recent developments with significant implications for the strategy and practice of shareholder communications. With the continuous development of corporate governance practice globally, increasing numbers of shareholders are asking for extraordinary general meetings to be held. They consider that annual general meetings do not allow enough time for them to express their concerns. Moreover, the latest studies on shareholder engagement show that about 87% of securities issuers, 70% of asset managers and 62% of asset owners attend at least one shareholder communication activity every year.

The legislative and regulatory environment relating to shareholder communications has also been evolving rapidly in recent years. The Dodd-Frank Act, promulgated in the US in 2010, the *Guidance on the Strategic Report*, published in the UK in 2014, and the *Principles of Responsible Ownership*, issued in Hong Kong in 2016, all aim to enhance transparency and strengthen investor protection and shareholder communications. There have also been new provisions related to shareholder communications in the *Hong Kong Corporate Governance Code (the Code)*. These include requirements for the chairman to ensure that 'appropriate steps are taken to provide effective communication with shareholders' and for the board to be responsible for maintaining an ongoing dialogue with shareholders, and in particular to use general meetings to communicate with them and encourage their participation. The Code also requires the board to establish a shareholders' communication policy and review it on a regular basis to ensure its effectiveness.

As a company listed for over 20 years, CSSC Offshore & Marine Engineering (Group) Company Ltd (COMEC) has practical experience in shareholder communications. COMEC – previously known as Guangzhou Shipyard International Company Ltd (GSI) – was listed in 1993 on the Shanghai Stock Exchange and the Hong Kong Stock Exchange and was the first shipbuilding company in China to go public. It is an A+H military concept stock. In 2014 and 2015, GSI acquired CSSC Guangzhou Longxue Shipbuilding Company Ltd, CSSC Huangpu Wenchong Shipbuilding Company Ltd and Yangzhou Kejin Shipyard Co Ltd, and completed the integration of the core shipbuilding resources of its controlling shareholder, China State Shipbuilding Corporation (CSSC), in South China. It was renamed COMEC in May 2015.

Over the years COMEC has won many awards for its corporate governance and investor relations performance. This article shares some best practice recommendations based on the author's experiences of working for COMEC.

Have a proactive shareholder communication strategy

Listed companies need to proactively engage and communicate with shareholders and investors. Disclosure of corporate information should be

equitable, fair and open, complemented by the confidentiality system of the company. This approach has helped COMEC to raise the market value of the company, maintaining and enhancing the value of the assets of all shareholders, including the state-owned shareholder.

In practice, the positive attitude of management and the company spokesperson and the importance they attach to shareholders are of the utmost importance. No matter whether the company is making or losing money, the attitude of management determines the overall level of trust of shareholders in the company.

Hence the management team of the company, including the directors, general manager, chief accountant, company secretary and securities affairs representative, should attach great importance to shareholder affairs. They should personally participate in the various shareholder communication activities, answering questions patiently, and shareholders should be able to direct their enquiries to the appropriate person at any time.

Know your shareholders

1. Maintaining separate shareholder registers in Mainland China and Hong

Highlights

- proper handling of shareholder communications by the management of a listed company adds to the market value of the company
- promoting shareholder communications is not only a compliance matter but also a commitment and duty to the market
- diverse means of communication should be used to cater for the needs of different shareholders

Kong. As an A+H share listed company, COMEC has to maintain separate registers of shareholders in Shanghai and Hong Kong for the purpose of monitoring the shareholder structure. Shanghai adopts a real name registration system, which means that the company can get information on its shareholders directly. In Hong Kong, some shares are held by nominees such as Hong Kong Securities Clearing Company Ltd. The company therefore has to contact nominee companies from time to time to obtain accurate information on beneficial shareholders for the purpose of distributing annual reports, circulars and dividends.

2. Daily administration of shareholder registers. COMEC engages dedicated personnel to attend to the administration of its shareholder registers and filing-related matters, including the maintenance and updating of the shareholder registers. Upon listing in 1993, the company maintained a register in hard copy format. With the development of new storage media, magnetic disks, compact disks and hard disks have been used to maintain the shareholder registers to facilitate shareholders' enquiries on their own shareholding. COMEC takes care to protect the personal data of shareholders and prevent any negative impact of information leakage on shareholders.

3. Half-monthly analysis of shareholder registers. COMEC has put in place a mechanism for analysing the shareholder registers every half month. Data on the top 10 shareholders, changes in shareholding and recent changes in share prices are analysed, so that changes in shareholding structure are closely monitored and relevant information is reported to the board of directors and the management in a timely manner.

“
shareholder engagement and shareholder suggestions are positive factors that can improve the governance and the management of the company
”



Maintain channels of communication

1. Daily communication. COMEC communicates with shareholders through results press conferences, letters, reception of investors, sharing sessions, and participation in strategy seminars of securities dealers, etc. Depending on circumstances, COMEC also communicates with shareholders and potential shareholders through telephone conferences, online Q&As and email communications in order to spread timely messages on the operations and developments of the company and build a positive image of the company in the capital market.

2. Communication in respect of capital operations. In 2015, COMEC completed a major restructuring of its assets and acquired CSSC Huangpu Wenchong Shipbuilding Company Ltd through the issue of shares and payment of cash. During the capital operation, COMEC communicated with shareholders through roadshows and reverse roadshows; press conferences for financial reporters; active participation in analyst forums; one-on-one or one-on-many sessions with institutional

investors; and Q&As on online platforms. COMEC secured the positive support of Institutional Shareholder Services (ISS), and the capital operation was completed smoothly.

ISS works in the interest of minority shareholders, including institutional and individual investors. Transactions connected with majority shareholders, deposits with finance companies and dilution of shareholders' rights are of particular concern to ISS. Through targeted briefing sessions, COMEC convinced ISS that the capital operation would enhance the interests of minority shareholders, securing positive reports by ISS on the transactions.

The difference in the preferences of holders of A+H shares adds to the difficulties in shareholder communications. For example, holders of A shares tend to look for generous bonus shares and share placements and frequent capital operations, while holders of H shares are more concerned with dividend payments and whether capital operations would enhance earnings. In view of these differences, COMEC has to adopt

different strategies. For example, COMEC has to hold more frequent results press conferences in Hong Kong.

Balance communication and confidentiality


In preparing materials for shareholder communications, COMEC emphasises the proactive sharing of information while strictly adhering to the requirements of the state regarding confidentiality. COMEC produces a corporate video to promote investors' understanding of the company; publishes regular reports to disseminate timely information on the operations and developments of the company; issues circulars on general meetings to invite shareholders to participate in important decisions; and regularly updates investor Q&As and actively analyses issues of concern

to shareholders, passing on important information on industry background and outlook, cost structure of products, dividend policy, development strategy and future trends in capital operation.

Conclusion

As a large manufacturer of military products with operations worldwide, COMEC attaches great importance to shareholder communications. All relevant parties in the company, from the chairman of the board to staff responsible for shareholder matters, are involved in shareholder communications, as this is a crucial factor for the long-term success of a listed company. Effective practices of shareholder communications are an important component of good corporate governance. Shareholder engagement and shareholder suggestions

are positive factors that can improve the governance and the management of the company. Proper handling of shareholder communications by the management of a listed company adds to the market value of the company.

For listed companies, shareholder communications is both a science and an art. To evolve from one-way communication to two-way communication, the concerted efforts of the listed company, its shareholders and the regulators are necessary. Promoting shareholder communications is not only a compliance matter but also a commitment and duty to the market. 

Li Zhidong FCIS FCS, Company Secretary
CSSC Offshore & Marine Engineering (Group) Company Ltd




CHARTERED
SECRETARIES
特許秘書

A Sparkling Night

HKICS Annual Dinner 2018

Ballroom, JW Marriott Hotel Hong Kong | Thursday, 18 January 2018

6.30pm Cocktail reception | 7.30pm Dinner

Save the date!

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

股东沟通策略与实践

股东沟通是董事会秘书的重要职能，近年股东沟通的实践不断演变。中船海洋与防务装备股份有限公司公司秘书李志东FCIS FCS以在两地上市的A+H股公司的工作经验，与读者分享一些股东沟通的最佳做法。

近年的一些发展，对股东沟通的策略与实践有重要影响。随着全球公司治理实践的不断发展，越来越多的股东要求董事会召开特别会议（EGM），他们认为年度会议不能提供足够的时间来倾听他们关注的问题。而最新股东参与研究表明，约87%的证券发行者、70%的资产管理经理及62%的资产所有者每年至少出席一次股东沟通活动。

关于股东沟通的法规，近年也有急速发展。美国在2010年颁布了《多德-弗兰克法案》，英国在2014年颁布了《战略报告指引》，香港在2016年颁布了《负责任的拥有权原则指引》，旨在提高公众透明度，强化投资者保护及股东沟通工作。在香港《企业管治守则》中，也有股东沟通的新条文，包括“主席应该确保与股东进行

有效的沟通”、“董事会负责与股东持续对话，特别是通过会议进行沟通并鼓励股东的参与”、“董事会应当建立股东沟通政策并定期检讨，以确保其有效性”等。

中船海洋与防务装备股份有限公司（简称“中船防务”）作为一个上市20多年的公司，在日常的或者资本运作中的股东沟通方面有一些细致的实操经验。中船防务（原广州广船国际股份有限公司）于1993年分别在上海证券交易所和香港联合证券交易所上市，是中国第一家造船上市公司，A+H军工概念股。2014年、2015年，中船防务先后收购了中船龙穴造船有限公司、中船黄埔文冲船舶有限公司及扬州科进船业有限公司，完成对控股股东中国船舶工业集团公司（以下简称“中船集团”）华南地区核心造船资产的整合，并于2015年5月更名为中船海洋与防务装备股份有限公司。

公司多年来获得大量公司治理及投资者关系的荣誉。作者根据在COMEC工作的经验，与读者分享一些最佳实践。

积极主动的股东沟通策略

上市公司有需要积极主动与股东和投资者进行联系、沟通，公司信息披露应做到公平、公正、公开，且与公司保密制度相结合。这策略让中船防务提升公司市值，实现全体股东包括国有股东的资产保值增值。



实务中，管理层和发言人对股东的重视程度及正面积积极的态度十分重要，无论是公司处于利润增长或亏损等何种状态，管理层态度决定了股东对公司的整体信任度。

因此，公司管理层董事长、总经理、总会计师、公司秘书和证代从上至下都应把股东事务放在十分重要的位置，亲自参与各种股东沟通活动，耐心回答问题，股东也应可以随时找到适当的人士进行询问。

掌握股东信息

1. 分别管理中港两地股东名册。作为A+H上市公司，中船防务需要在上海与香港分别申请股东名册以进行股东结构的监察。上海实行实名登记，公司可直接获得股东信息；香港部分股份以托管人名义登记，例如香港中央结算有限公司，公司需不时与登记公司联系以获得准确的实益股东信息，从而进行派发年报、通函、股息等相关事宜。

2. 日常管理股东名册。中船防务设置专人负责股东名册管理及存档相关事宜，包括股东名册的保管及更新。本公司从1993年上市采用纸质、然后不断随新的存储介质的进步而采用磁盘、光碟、硬盘等一直延续地保留股

摘要

- 上市公司管理层善待股东沟通事宜，有利于上市公司提升市值
- 推动股东沟通不只是一项合规性工作，更是对市场的一份承担和责任
- 应采用多元化的沟通形式，配合不同股东的需要



“ 股东参与和股东诉求或 建议对公司治理和管理 改善有十分积极的影响 ”

东名册，为股东查询自身持股情况提供便利。同时，中船防务还注重保护股东的个人信息，防止信息泄露对股东带来的负面影响。

3. 每半个月进行股东名册分析。中船防务建立了一套股东名册分析机制，每半个月进行股东名册分析，对前10大股东构成、股东持股变动以及近期公司股价变化等情况进行数据分析，实时监察公司股东结构的变化情况，及时向董事会和管理层反馈股东变动的相关信息。

维持股东沟通途径

1. 日常沟通形式。中船防务通过举办业绩发布会、邮件函件往来、积极接待投资者、组织交流会、参与券商策略研讨会等形式开展股东沟通业务，按新形势的要求也通过电话会议、网上问答和电邮等与股东及潜在股东进行沟通，及时向公众传递公司的经营发展情况，提升公司在资本市场的正面形象。

2. 资本运作时期沟通形式。中船防务2015年完成重大资产重组，以发行股票及支付现金的形式收购了中船黄埔文冲船舶有限公司。资本运作期间，公司通过多次路演及反向路演、召开财经记者招待会、积极参与分析员会

议、开展机构投资者一对一或一对多、组织网上平台交流问答等形式进行股东沟通，同时争取到了Institutional Shareholder Services (ISS)的正面支持，使公司资本运作顺利完成。

ISS主要维护少数股东包括投资机构和小股东的权益，尤其关注大股东关联交易、财务公司存款和权益摊薄等事项。公司有针对性的进行多次说明和阐述，使ISS理解我们的资本运作有利于提高少数股东的权益，从而得到ISS正面支持的报告。

此外，A、H股股东偏好的差异也增加A+H股公司股东沟通的难度，如A股股东注重公司有良好的高送配、资本运作的频度，而H股股东更关注派息、资本运作是否会带来利润的增加。针对这些差异，公司需采取不同的策略，比如公司在香港举行业绩发布会的频度会高一些。

沟通与保密并重

中船防务在编制股东沟通材料的过程中，采取积极主动、信息共享但又严格遵循国家保密法相关要求的策略。制作公司宣传片，让投资者更直观认识公司；编制公司定期报告，及时向市场传达公司经营发展情况；寄发股

东大会通函，邀请股东参与公司重大决策；定期更新投资者问答材料，主动分析股东关心的事项，向股东传递了公司所处行业背景、业务前景、产品成本构成、分红政策、发展战略以及未来资本运作方向等重要信息。

结语

中船防务作为业务遍布全球的大型军工制造企业，从董事长到股东事务管理人员都非常重视股东沟通业务，以正面积极的态度进行股东沟通，因为这是影响上市公司取得长期成功的关键因素。有效的股东沟通实践是良好企业管治的重要组成部分，股东参与和股东诉求或建议对公司治理和管理改善有十分积极的影响。上市公司管理层善待股东沟通事宜，有利于上市公司提升市值。

股东沟通对于上市公司而言既是一门科学，更是一门艺术。打破独白，进行对话，这需要上市公司、股东以及监管机构的共同努力。推动股东沟通不只是一项合规性工作，更是对市场的一份承担和责任。

李志东FCIS FCS

中船海洋与防务装备股份有限公司
公司秘书

Forging ahead to achieve our mission

Kenneth Jiang FCIS FCS(PE), Chief Representative, The Hong Kong Institute of Chartered Secretaries Beijing Representative Office, reviews the work of the Institute on the Mainland in the past year in serving listed companies, promoting corporate governance and facilitating the professionalisation of the board secretary.





This year marks the 20th anniversary of the establishment of the Hong Kong Special Administrative Region. For the past two decades, The Hong Kong Institute of Chartered Secretaries (the Institute) has witnessed Mainland China and Hong Kong develop and flourish. The Institute has been actively promoting good corporate governance and advocating the professional development of the board secretary on the Mainland, as well as gaining the support and recognition of listed companies and regulators in Mainland China and Hong Kong.

The Institute's Beijing Representative Office celebrated its 20th birthday last year and organised various activities on the theme of 'our mission, our road ahead'. This article intends to bring readers up to date on the work of the Institute in Mainland China over the past 12 months.

Affiliated Persons programme

The Affiliated Persons programme continued to gain the support of listed companies. Through recommendations by word of mouth, the programme attracted increasing numbers of board secretaries,

or practitioners in a similar capacity, of red chip, A-share and to-be-listed companies besides alongside those from H-share companies. As at 30 June 2017, the Institute had 168 Affiliated Persons from 125 H-share companies; 28 red chip companies; seven A-share companies and to-be-listed companies; and eight non-listed companies. A total of 43 Enhanced Continuing Professional Development (ECPD) seminars were organised, with attendees of over 5,000. The seminars attracted not only board secretaries but also directors, supervisors, staff of the board secretary's office and other senior managers. Currently, Affiliated Persons, directors and senior managers, and staff of the board secretary's office each account for one-third of the participants of ECPD seminars. The objective of these seminars is to provide board secretaries with updates on regulatory trends and engage in discussions on practices, and to raise the awareness among directors, supervisors and senior managers of good corporate governance, as well as to enhance their recognition of the importance of the board secretary role. The ultimate purpose is to promote the effective exercise of the corporate governance

Highlights

- the Institute's work in Mainland China focuses on promoting good corporate governance and advocating the professional development of the board secretary
- the Institute intends to set up a technical consultation panel on the Mainland this year which will provide a channel for the Institute's members and Affiliated Persons on the Mainland to comment on relevant legislative and regulatory proposals in Hong Kong
- since September 2016, in collaboration with The Open University of Hong Kong, the Institute has been offering the first accredited master in corporate governance programme in Shanghai

function of the board secretary and to raise the governance standards of listed companies. These seminars have become choice programmes for practitioners on the Mainland, attracting an ever growing audience.

The Institute continues to provide services in professional research as well as sharing and communication for Affiliated Persons, helping to solve problems in the daily work of board secretaries. In 2014, the Institute collaborated with the Board Secretary Committee of the China Association for Public Companies (CAPCO) to prepare a report on the Amendment of the Prerequisite Clauses for the Articles of Association of Companies Seeking Listings Outside the PRC, and submitted the report to the China Securities Regulatory Commission. Over the past year, the Institute collected signatures of H-share companies in support of the above amendments and passed them to CAPCO for submission, together with the amended report, to the Legal Office of the National People's Congress to promote the adoption of the amendment.

Every year, regular meetings of the five Regional Board Secretary Panels in Beijing, Shanghai, Shenzhen, Guangzhou and Southwestern Region (Chongqing and Chengdu) are convened to discuss hot topics, and to promote communication and experience sharing among regional board secretaries. Five Regional Board Secretary Roundtable sessions were held this year in Hong Kong, Beijing, Shanghai, Guangzhou and Chongqing, during which discussions were held on the topic of shareholder communications. Over 120 people attended.

In May 2017, the Institute was invited by China Huarong Asset Management Co

Ltd to conduct training for its directors, supervisors and senior managers on the continuing obligations and duties of directors of listed companies in Hong Kong, as well as the regulation and best practices in Hong Kong regarding inside information. The training was welcomed by the participants. This is a new initiative of the Institute in respect of career specific services.

Opening up broad-based intensive cooperation with the Mainland

Following the conclusion of Memoranda of Understanding since 2011 with the Shanghai Stock Exchange, Shenzhen Stock Exchange, CAPCO and the Insurance Association of China, the Institute has maintained close cooperation with these parties in discussions on corporate governance, training, professional interchange and resource sharing in various aspects. By June 2017, the Institute had co-organised with the Shanghai Stock Exchange six rounds of training for board secretaries of A+H share companies. The third training programme for corporate governance practitioners in collaboration with the Insurance Association of China will be held in Hong Kong in October this year.

This year, the Institute was also one of the organisers of the Stock Connect - Shanghai Corporate Access Day, fulfilling its role as an international professional body in assisting with dual listing on the Mainland and Hong Kong. Over 200 representatives from 80 Hong Kong-listed companies and Mainland securities companies participated in the event.

Technical consultation panel on the Mainland to be set up for networking and professional exchange

To reflect the views of Hong Kong-listed

Mainland companies on the consultation papers issued by regulators in Hong Kong and to study practical issues faced by board secretaries on the Mainland, the Institute intends to set up a technical consultation panel on the Mainland this year. Comprising Mainland members or Affiliated Persons, the panel will be mainly responsible for:

1. discussing and giving comments on legislation and regulatory policies promulgated by the government and regulators in Hong Kong in relation to professional skills and practices of board secretaries,
2. considering professional and technical issues raised by Mainland members or Affiliated Persons and providing professional advice,
3. coordinating the efforts of Mainland members or senior Affiliated Persons acting as board secretaries to discuss and compile guidance notes and conduct experience sharing to meet the practical needs of board secretaries,
4. when appropriate, assisting the Institute in lobbying for recognition of the professional status of the board secretary by the government or regulators,
5. providing support to the conferences and ECPD seminars for Affiliated Persons organised by the Institute, and
6. representing the Institute in liaising with relevant bodies on the Mainland regarding areas of interest to members and Affiliated Persons.

“
there will be rapid growth in the demand on the Mainland for high quality corporate governance professionals, such as board secretaries, who have an international vision and possess professional expertise
”



New qualifying route – master in corporate governance programme

Chartered Secretary qualifying examination test centres have been set up in Beijing and Shanghai for the convenience of Mainland students. Since September 2016, in collaboration with The Open University of Hong Kong, the Institute has been offering the first accredited master in corporate governance programme in Shanghai. This is a distance learning course supplemented by a weekend face-to-face tutorial session every month. Students who complete the programme can apply for credits in the Master in Corporate Governance programme of The Open University of Hong Kong. After further studying in Hong Kong, students can get a master degree in corporate governance. Holders of this degree are eligible to apply for full exemption from the qualifying examination of the Institute. After accumulating sufficient working experience, candidates can apply for membership of The Institute of Chartered Secretaries and Administrators and the

Institute here in Hong Kong. The second programme in Shanghai will commence in September 2017.

Future developments

Tougher regulation in the major capital markets of the world has evolved into the new normal after the global financial crisis. New governance requirements include strengthening the regulation of risk management and information disclosure; enhancing the supervision of directors' and senior managers' performance of their duties; and promoting shareholder engagement and shareholder communications.

The governance roles and functions of the company secretary have also been clarified, and the importance of corporate governance has become more evident. With the further reform and opening up of the Mainland capital market, the implementation of the One Belt and One Road strategy and further interconnection between the Mainland

and Hong Kong, there will be rapid growth in the demand on the Mainland for high quality corporate governance professionals, such as board secretaries, who have an international vision and possess professional expertise. There will therefore be huge development potential for Chartered Secretaries on the Mainland. The Institute will make the most of this trend and explore professional reforms to adapt to these new developments in corporate governance. As usual, the Institute will provide support and assistance to the professionalisation of Mainland board secretaries, and contribute to the enhancement of corporate governance standards on the Mainland and Hong Kong and to the training of more quality corporate governance professionals.

Kenneth Jiang FCIS FCS (PE), Chief Representative

*The Hong Kong Institute of
Chartered Secretaries Beijing
Representative Office*



不忘初心，砥砺前行

香港特许秘书公会（公会）北京代表处说明过去一年在内地服务上市公司、推广公司治理，以及促进董事会秘书专业化的工作。

今年是香港回归祖国20周年，香港特许秘书公会（公会）亲历并见证了这20年祖国与香港的共同发展与走向繁荣。20多年来，公会在内地积极倡导良好公司治理与董事会秘书专业化发展，获得了广大上市公司与两地监管机构的大力支持与广泛认可。

去年是公会北京代表处成立20周年，公会举办了主题为「秉承使命，励精图治，携手并进，共创未来」的庆典活动。本文报告公会过去12个月在内地的的工作。

联席成员计划

公会的联席成员计划继续获得广大上市公司的支持，除H股外，通过口碑相传，吸引了越来越多的红筹股、A股及拟上市公司董事会秘书（董秘）及同等

执业人士加入，截至2017年6月30日，公会拥有在册联席成员168人，分别来自125家H股公司，28家红筹股公司，7家A股与拟上市公司及8家非上市公司。公会共举办强化持续专业发展讲座（讲座）43期，参与人次逾5,000人次。除董秘外，讲座也吸引了董事、监事、董秘室相关人员及其他高级管理人员（高管）等的参与。目前公会的联席成员讲座参与人员构成是联席成员，董事及相关高管和董秘室工作人员各占约1/3。这些讲座旨在为董秘们提供了解最新监管形势与实务研讨的机会，提高董监高等对良好公司治理的认知以及对董秘工作重要性的认可，从而推动董秘公司治理作用的有效发挥以及广大上市公司治理水平的提升，现已成为内地相关执业人士踊跃参加的精品课程，出席人数屡创新高。

公会继续为联席成员提供专业研究及沟通交流服务，为董秘们解决日常实务中的问题提供协助，继2014年公会

摘要

- 公会在内地的工作，主要是促进良好公司治理，以及提倡董事会秘书专业化
- 公会今年拟成立内地专业技术谘询小组，让内地会员及联席成员对香港发布的法律及监管政策提出意见
- 2016年9月起，公会联同香港公开大学在上海开设了第一期获认可的企业管治研修班课程

与中国上市公司协会董秘专业委员会共同成立《到境外上市公司章程必备条款》修订联合课题组并撰写报告提交中国证券监督管理委员会后，公会过去一年收集了H股公司响应以上修订倡议的签名，并交由中国上市公司协会连同其修订后的报告提交人大法治办，以期推动此修订倡议的达成。

公会每年定期召集北京、上海、深圳、广州及西南地区（重庆和成都）5个地区董事会秘书小组开展相关热点问题的研讨与交流，促进了地区董事会秘书之间的沟通交流与经验分享。今年公会在香港、北京、上海、广州与重庆举办了五次地区小组会议暨圆桌会议，召集当地董秘就股东沟通的议题进行了广泛讨论，参加人数逾120人。

此外，公会2017年5月应邀为中国华融资产管理股份有限公司的董事、监事及高管就香港上市公司持续义务与董事责任，以及香港内幕信息监管法规重点与最佳实务进行了培训，获得参训人员广泛好评。此次培训是公会定向专业服务的又一新尝试。

开创内地广泛与深入合作的新局面

继公会于2011年起与上海证券交易所、深圳证券交易所、中国上市公司协会及中国保险业协会签署合作备忘录后，公会一直积极践行与合作方在公司治理研讨、培训、专业交流与资源共享方面的紧密合作。截至2017年6月，公会已经与上海证券交易所合作举办了6期A+H股公司董事会秘书的后续培训，与中国保险业协会合作的第3期公司治理师培训将于今年10月在香港举办。

今年公会亦作为主办方之一参与了“掘金港股通-港股企业与内地投研机构交流峰会”，以发挥国际专业机构两地上市的桥梁作用，此活动共有来自80家香港上市公司和内地证券公司等机构的200多名代表出席，香港交易所是该活动的主要支持机构。

拟成立内地专业技术咨询小组，形成联谊与专业交流双网络

为了能充分反映内地在港上市公司对香港有关监管机构发表的咨询文件之意见、研究内地董事会秘书执业中遇到的实务问题，公会今年拟成立内地专业技术咨询小组。该小组将由内地会员或联席成员代表组成，其主要职责为：

1. 针对香港政府和监管部门发布的且与董秘专业技能和实务相关的法律及监管政策，进行讨论并提出意见；
2. 研究内地会员或联席成员提出的有关专业技术问题并提供专业意见；
3. 组织担任董事会秘书的内地公会会员或资深联席成员，根据董事会秘书执业需要进行研讨并编撰实务指引，推动董事会秘书最佳实务与经验分享；
4. 在合适时机协助公会游说政府或监管部门对董事会秘书专业地位的认可；
5. 为公会组织的研讨会和联席成员强化持续专业发展讲座提供支持；
6. 就会员与联席成员感兴趣的领域代表公会与内地相关团体进行联络。

开辟获取特许秘书资格的新通道 - 企业管治研修班课程

北京和上海设立了特许秘书资格考试考点，以方便内地学员参加考试。2016年9月起，公会联同香港公开大学在上海开设了第一期获认可的企业管治研修班课程，此课程主要为远程学习，另辅以每月一个周末的面授辅导。修毕课程可申请获得香港公开大学企业管治硕士课程学分，并于完成

“
内地对具有国际视野和专业技能的高素质董事会秘书等公司治理人才的需求将急剧增加
”

赴港境外学习后可在香港获颁相应企业管治硕士学位；获得相应硕士学位之后可申请获得公会特许秘书资格考试全部豁免，在获取足够相关工作经验后可以申请获得英国特许秘书及行政人员公会及香港公会会员资格。第2期课程将于2017年9月开课。

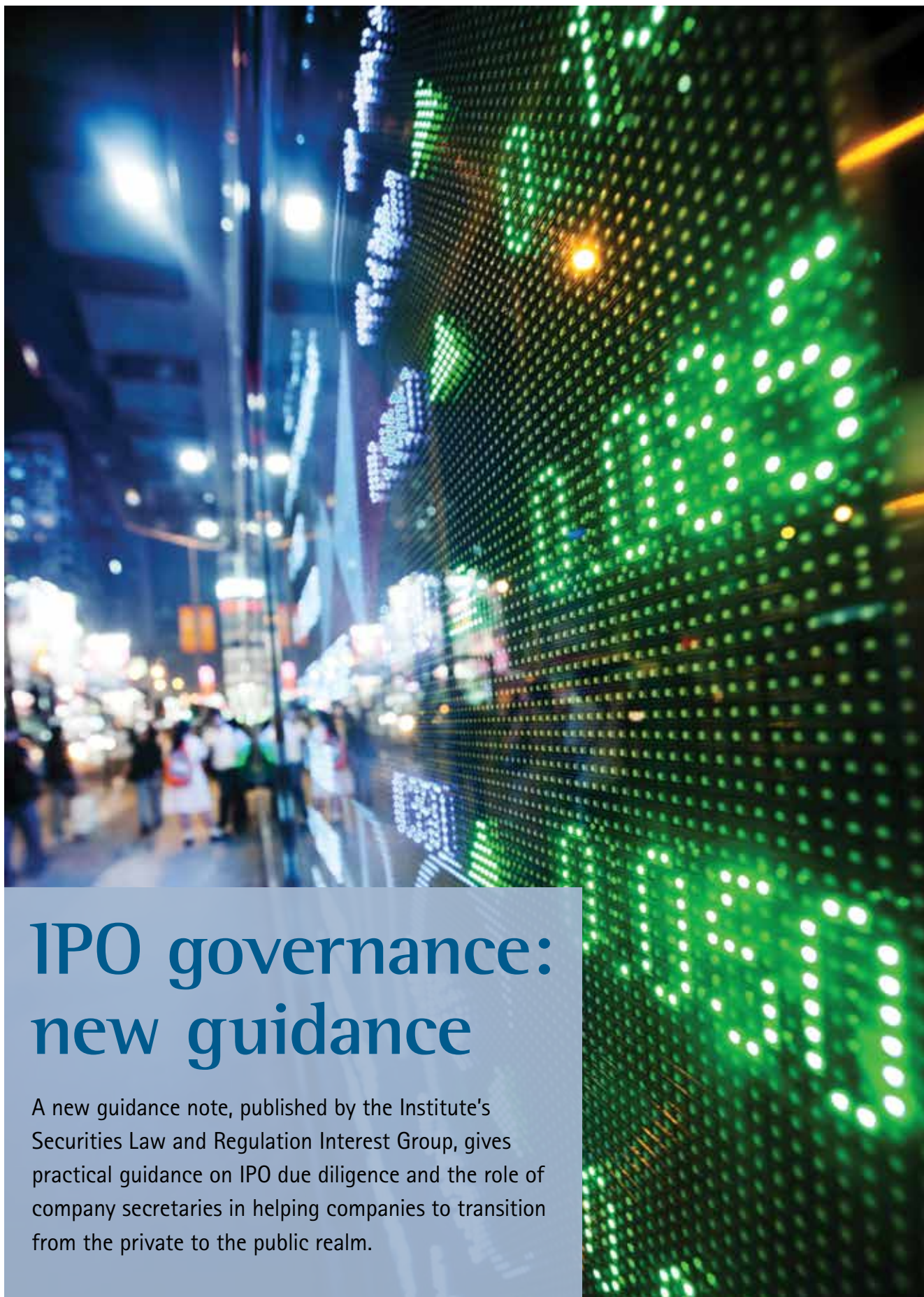
未来发展

全球金融危机后，世界主要资本市场均进入监管新常态，从强化风险管理与信息披露监管、加大监管及董事与高管责任、推进股东参与及股东沟通等方面提出了新的治理要求。

公司秘书的治理职责与作用日趋明确，公司治理日益彰显其重要性。随着内地资本市场的进一步改革开放和“一带一路”战略的实施，两地互联互通深入发展，内地对具有国际视野和专业技能的高素质董事会秘书等公司治理人才的需求将急剧增加，特许秘书在内地发展前景十分广阔。本会将依据形势积极探索专业改革，适应公司治理的新发展，一如既往地地为内地董事会秘书的专业化提供支持帮助，为推动两地公司治理水平的提升，以及为培养更多优秀的公司治理专才贡献力量。

美国樑FCIS FCS(PE)

香港特许秘书公会（公会）北京代表处首席代表



IPO governance: new guidance

A new guidance note, published by the Institute's Securities Law and Regulation Interest Group, gives practical guidance on IPO due diligence and the role of company secretaries in helping companies to transition from the private to the public realm.

The right to raise public money on the capital market comes with a number of obligations, in particular the obligation to have in place appropriate corporate governance practices that will protect shareholder interests. The due diligence process required to go public in Hong Kong imposes a degree of quality control on the entities seeking listing to maintain a quality market. It is also designed to ensure that prospective investors can access the information they need to assess whether a company is a good investment. The IPO process is a long and complex one and company secretaries, whether as part of the in-house team or as corporate service providers, play a key part in ensuring that the necessary due diligence is observed and that appropriate internal controls and governance structures are in place.

Last month the Institute's Securities Law and Regulation Interest Group published its first guidance note on this complex area of practice. The guidance note highlights the importance of company secretaries understanding both the detailed requirements of the IPO due diligence process and the rationale behind them. 'This would more effectively assist the company secretary in discharging the duty of trusted adviser to the chairman and/or board of directors, and allow the company secretary to be in a better position as influencer including as to good governance. Accordingly, this guidance note seeks to set out basic requirements and the points that the company secretary needs to know and to pay attention to,' the guidance states.

Why go public?

The guidance first addresses the issues that should be considered before a decision to go public is made. The rationale will differ of course depending

on the specific circumstances of the company. The decision to go public is usually about accessing capital for expansion and to fund growth, but this is certainly not the only consideration. The decision may be part of a desire to enhance the company's public profile, status and image, or to facilitate a transition from a family-run business to becoming a professionally managed firm.

The guidance note makes it clear that the comprehensive and intricate IPO due diligence exercise, as well as the ongoing listing requirements, bring a governance dividend. This is perhaps the most valuable aspect of the process. The IPO requirements, and ongoing listing requirements, are designed to build up strong and independent boards, effective risk management and effective internal controls. The IPO process usually also results in significant improvements to the information disclosure standards of IPO applicants.

Other potential benefits of going public listed by the guidance note include those set out below.

Building confidence among stakeholders.

Stakeholders, such as customers,

suppliers, financiers and advisers, generally take comfort from the fact that listed companies have gone through a rigorous legal, financial and corporate due diligence. In particular, the higher information disclosure requirements of a listed company give comfort to stakeholders.

Enhancing loyalty of staff and other core personnel.

Going public also gives organisations the ability to develop employee motivation schemes, such as employee share options. Employee share options can encourage staff and core members to be more efficient in their work in order to support the company's growth and profitable development – which in turn increases the operational and financial efficiency of the company and its market value.

Improving debt finance terms.

Banks feel more confident to extend loans to listed companies, often in larger amounts, under smaller collateral, for longer maturities and with lower interest rates.

Facilitating mergers and acquisitions and other growth strategies.

As a listed company, it is much easier to carry out mergers and acquisitions as compared

Highlights

- the guidance note highlights the importance of company secretaries understanding the detailed requirements of the IPO due diligence process and the rationale behind them
- company secretaries play a key part in ensuring that the necessary IPO due diligence is observed and that appropriate internal controls and governance structures are in place
- the IPO due diligence exercise, as well as the ongoing listing requirements, should improve the internal controls and governance standards of the company

“
the right to raise public money on the capital market comes with a number of obligations, in particular the obligation to have in place appropriate corporate governance practices that will protect shareholder interests
 ”



to a private company. The processes are relatively simpler as valuations are largely market driven based on the stock price and the company's assets, for example.

The IPO process

One of the most useful aspects of the Institute's new guidance note is a single page synopsis of the IPO listing process according to Hong Kong's current requirements. The 'Flowchart of IPO process and vetting procedures' forms the centrepiece of the guidance note and provides an excellent overview for practitioners of the actions and documents required at each stage of the process.

The IPO requirements

Directors and controlling shareholders

Directors of a listing applicant must satisfy the stock exchange that they have character, experience and integrity and are able to demonstrate a standard of competence commensurate with their position as directors of a listed issuer. In particular, the prospectus must disclose any instances of non-compliance or the conviction record involving a director. Having a past non-compliance or conviction record does not necessarily

mean that a person cannot be accepted as a director of a listed issuer, but there may be concern as to the applicant's suitability for listing and the suitability of the individual to act as a director.

IPO due diligence also focuses on the role of controlling shareholders. Where persons are controlling shareholders, they will be able to exert substantial influence over the operation and management of the applicant even if they are not formally appointed as directors, or have previously resigned as directors. The issue of the applicant's suitability therefore may not be solved by that person refraining from acting as the applicant's director, and it may even break management continuity.

The guidance notes that there are strict requirements regarding the ability of controlling shareholders to dispose of their shares or their interest in the issuer, if such disposal would result in them ceasing to be a controlling shareholder, within the first year after listing.

In addition, controlling shareholders must undertake to disclose to the issuer and the stock exchange any pledge/charge of any

securities beneficially owned by them for a 12-month period commencing from the listing date.

The IPO process seeks to control and make transparent any transactions between a proposed listed group and connected persons. 'Connected persons' include:

- directors, the chief executive or substantial shareholders of the listed issuer or any of its subsidiaries
- ex-directors of the listed issuer or any of its subsidiaries in the last 12 months
- the supervisor of a PRC issuer or any of its subsidiaries, and
- their respective associates.

For the purpose of IPOs, the prospectus concerns only continuing connected transactions spanning across the listing date. Prior to IPO, there is no connected transaction concept. Although profits from transactions with connected persons or closely related parties do not necessarily have to be disregarded in assessing

whether the listing requirements are met, when these transactions are excessive, this may raise a concern as to whether the applicant is suitable for listing.

Competing interests

One of the most complex areas of IPO due diligence concerns the requirements relating to any potential conflicts of interest between 'insiders' and 'outsiders' when a company goes public. The Institute's new guidance note covers these requirements in detail. Where a controlling shareholder, substantial shareholder, director or any of their respective close associates (as the case may be depending on whether it is listed on the Main Board or GEM Board) has interest in a business which competes, or is likely to compete, either directly or indirectly, with the listing applicant's business, full disclosure shall be made in the prospectus.

The competing interest is normally regarded by the stock exchange as a

disclosure issue. However, in extreme cases where in the view of the stock exchange there are inadequate arrangements to manage conflicts of interest and delineation of businesses between the listing applicant and other businesses under common control, the exchange may reject the listing application for suitability for listing.

Undue reliance

Hong Kong also has requirements relating to 'undue reliance'. For example, the prospectus must disclose details of how the listing applicant is capable of carrying on its business independently of the controlling shareholder (including any close associate thereof) after listing. When considering independence issues, the exchange will generally require the company to take into account: financial independence, operational independence and management independence. The issue of reliance on controlling shareholders can usually be dealt with by

disclosure in the prospectus but where the degree of dependence is excessive, this may translate into a concern about the suitability for listing.

Where a listing applicant relies heavily on a single major supplier or customer, the exchange may consider it an extreme case which impacts on suitability for listing.

Where a listing applicant's major customer is also its major supplier, the exchange may consider that the listing applicant is not capable of carrying on its business independently of the major customer/major supplier. When the listing applicant's supply and sales are dominated by the same party, the listing applicant's relationship with this party will be fundamental to its business. If the listing applicant is unable to demonstrate that it is capable of carrying on its business independently of this party, it will translate into a concern about its suitability for listing.

The HKICS Interest Groups

The Securities Law and Regulation Interest Group is one of seven groups set up last year under the Technical Consultation Panel to look into key areas of corporate governance and company secretarial practice with a view to producing guidance to Institute members and the wider profession and community.

The members of the Securities Law and Regulation Interest Group are: Daniel Wan (Chairman), Agnes Wong, CK Poon FCIS FCS, Bill Wang FCIS FCS and Professor CK Low FCIS FCS. Mohan Datwani FCIS FCS(PE) serves as secretary.

The six other Interest Groups cover the following areas: competition law; company law; ethics, bribery and corruption; public governance; takeovers, mergers and acquisitions; and technology. The guidance notes in this series are available from the Publications section of the Institute's website: www.hkics.org.hk.

Please contact Mr Datwani if you have any suggestions about topics relevant to this interest group, or generally, at: mohan.datwani@hkics.org.hk.

Financial requirements

The Institute's new guidance also provides a useful summary of the financial requirements for IPO applicants. Currently companies wishing to list on the Main Board need to have a market capitalisation of at least HK\$200 million at the time of listing. The market capitalisation at the time of listing is determined by multiplying the number of issued shares by the expected issue price. Companies wishing to list on the GEM Board need to have a market capitalisation of at least HK\$100 million at the time of listing. Companies wishing to list on the Main Board also need to have profits totalling HK\$50 million in the last three years (with HK\$20 million in the most recent year and an aggregate of HK\$30 million in the two preceding years).

“
the guidance note makes it clear that the comprehensive and intricate IPO due diligence exercise, as well as the ongoing listing requirements, bring a governance dividend
”



Existing shareholders

The guidance also covers the requirements relating to existing shareholders and investors in the business. Any person may invest in a business to be listed by acquiring new shares or convertible instruments from a listing applicant, or acquiring existing shares from an existing shareholder. However, shareholders above certain thresholds set out in the guidance must disclose their shareholding. Pre-IPO investments must be completed 28 clear days before submission of the listing application. Pre-IPO investments are considered completed when the funds for the underlying shares are irrevocably settled and received by the listing applicant (in the case of an issue of new shares by the listing applicant), or existing shareholders (in the case of a transfer or sale of existing shares by existing shareholders). Special rights to pre-IPO investors which do not extend to all other shareholders may exist and be exercised up to listing, but are not permitted to survive after listing, to comply with the general principle of even treatment of shareholders under the listing rules. Pre-IPO investors are also usually requested by the applicant to lock-up their pre-IPO shares for a period of six months or more.

Track record, ownership and management continuity

The guidance also looks at the requirements in Hong Kong relating to track record, ownership and management continuity.

Listing applicants for the Main Board are required to have:

- a trading record of at least three financial years
- ownership continuity and control for at least the most recent audited financial year, and
- management continuity for at least the three preceding financial years.

Listing applicants for the GEM Board are required to have:


- a trading record of at least two financial years
- ownership continuity and control for at least the most recent audited financial year, and
- management continuity for at least the two preceding financial years.

The ownership continuity requirement means that the listing applicant has to demonstrate that, for at least the most recent financial year up until the time immediately before listing there has been no change to any controlling shareholder(s) or, where there is no controlling shareholder, the single largest shareholder, identified at the beginning of the most recent financial year.

'Controlling shareholder' means any person or group of persons who are:

1. entitled to exercise or control the exercise of 30% or more of the voting power at general meetings, or
2. in a position to control the composition of a majority of the board of directors.

Ownership continuity and control could be satisfied by aggregating the shareholding interests and control of a group of shareholders, where such shareholders could show that they jointly affected their 'management and control' as a unit.

Listing applicants must demonstrate that there has been no change in the majority of the applicant's board of directors and senior management of its principal operating subsidiaries during the preceding three (Main Board) or two (GEM Board) financial years. The exchange focuses on the substance of a listing applicant's management when examining management continuity. In some cases the management continuity requirement could be satisfied where less than a majority of the board of directors and senior management, or even just one single dominant director, continued to serve throughout the trading record period. 



CHARTERED
SECRETARIES
特許秘書

HKICS



Online CPD seminars

CS Practical Training Series:

Annual General Meeting – Private and Listed Companies

Options for Winding Up a HK Private Ltd Co – Liquidation vs Deregistration

Director Induction/Training & Development

ESG Reporting

Handling a Difficult AGM

SFC Means Enforcement Business

HK Incorporated NGOs – Public Governance Standards/Business Review As Ltd or Guarantee Co under NCO

Register now

Anytime anywhere at your convenience



More than meets the eye.
潛能. 超越所見.

Registration: <http://ecentre.ouhk.edu.hk/cpd/coursesHKICS/coursesOnOfferForHKICS>

CPD section of HKICS website: www.hkics.org.hk

Enquiries: 2830 6011 / 2881 6177 / ecpd@hkics.org.hk

Professional Development

Seminars: July 2017

5 July

Company secretarial practical training series: formation, administration and maintenance of NGOs (in the form of a company limited by guarantee)



Chair: Grace Wong FCIS FCS(PE), Institute Professional Development Committee member, and Company Secretary and Deputy General Manager, Investor Relations Department, China Mobile Ltd

Speaker: Susan Lo FCIS FCS(PE), Executive Director and Head of Learning & Development, Tricor Group/Tricor Services Ltd

10 July

The role of Hong Kong notaries public in helping business and citizens (re-run)



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

Speaker: Samuel Li, Notary Public & Solicitor (Samuel Li & Co)

11 July

Company secretarial practical training series: requirements for a successful Hong Kong IPO



Chair: Jenny Choi FCIS FCS(PE), Institute Professional Services Panel member, and Executive Director, Global Compliance and Reporting of Corporate Secretarial Services, Ernst & Young Company Secretarial Services Ltd

Speaker: Daniel Wan, Partner, Francis & Co in association with Addleshaw Goddard (Hong Kong) LLP

12 July

BEPS impacts on your companies – updates & preparation



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

Speaker: Caesar Wong, Managing Director, China Business Services, RSM Hong Kong

13 July

Company secretarial practical training series: guides for company dissolution (different types of winding-up)



Chair: Edmond Chiu FCIS FCS(PE), Institute Membership Committee member, and Head of Corporate Services, Vistra

Speakers: Chan Leung Lee, Principal; and Zoe Wong, Manager; Specialist Advisory Services, BDO Ltd

18 July

Practical implementation guide for ESG reporting



Chair: Polly Wong FCIS FCS(PE), Institute Education Committee Vice-Chairman, and Company Secretary and Financial Controller, Dynamic Holdings Ltd

Speakers: Hauman Yeung, Director; and Shirley Lui, Manager, ESG Reporting Services; Ascent Partners Advisory Service Ltd

20 July
Company secretarial practical training series: best practice in board evaluation



Chair: Gillian Meller
FCIS FCS, Institute Council member and Professional Development Committee member, and Legal and European Business Director, MTR Corporation Ltd

Speakers: Merlin Underwood, Partner; Oliver Ziehn, Partner; Neil Alderton, Associate; and Philip Mackie, Associate; Lintstock Ltd

24 July
Update on Hong Kong Corporate Governance Code – sharing of market trends



Chair: Richard Law FCIS FCS, Institute Education Committee member, and Company Secretary, Global Brands Group Holding Ltd

Speakers: Kanus Yue, Partner; and Hok Fan, Senior Manager; Risk Assurance Practice, PwC Hong Kong

27 July
How corporate insolvency and restructuring are relevant to company secretaries and business executives and practical sharing on several popular cases



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

Speaker: Daniel Chow FCIS FCS, Senior Managing Director, Corporate Finance and Restructuring, FTI Consulting (Hong Kong) Ltd

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
28 September 2017	6.45pm – 8.15pm	Tax controversy workshop 2 – IRD investigations	1.5
10 October 2017	6.45pm – 8.15pm	Tax controversy workshop 3 – know more about the IRD	1.5
11 October 2017	6.45pm – 8.15pm	ESG reporting: first-year lessons and what to do next?	1.5

For details of forthcoming seminars, please visit the CPD section of the Institute's website: www.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	<p>The accredited providers of ECPD seminars are listed below.</p> <ul style="list-style-type: none"> • Companies Registry • Hong Kong Exchanges and Clearing Ltd • Hong Kong Institute of Certified Public Accountants • Hong Kong Monetary Authority • Independent Commission Against Corruption • 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	<p>Where a relevant person:</p> <ol style="list-style-type: none"> 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; <p>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.</p>

For details of the revised CPD Policy, please visit CPD Policy under 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.

Membership

New graduates

Congratulations to our new graduates listed below.

Chan Ting	Choi Wing Yan	Heung Manson	Li Yuen Kie	Wong Bik Wai
Chan Wai Han, Vivian	Chow Ho Yan, Jonathan	Ho Chor Yin	Lo Sze Wan	Wong Ka Chun
Chan Wing Ki	Chow Nga Ting	Hu Wanying	Ng Hoi Yan, Jennifer	Wong Wing Tung
Cheah Shek Hei	Chuang Ka Wing	Lai Kit Ying	Poon Kiu Yan	Wong Yuk Yee
Cheng Pak Kay	Chung Suk Ting	Lai Wing Kwan	Shum Ting Yan	Wu Siu Ling
Cheung Ching Yuen	Fan Wai King	Lam Ho Yan	Tai Chun Kit	Yau Yan Yi
Cheung Shing Chi	Fan Wai Yin	Leung Yuet Ting	Tam Pak Yu, Vivien	Yeung Lai Ting
Cheung Sin Ping	Fung Sze Man	Li Liju	Tsoi Wing Ki	Zeng Zhao

New fellows

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

Huang Qing FCIS FCS

Mr Huang is the Board Secretary and Company Secretary of China Shenhua Energy Company Ltd (Stock code: 1088). Before joining the company, he served in various capacities, including Secretary to the Chairman of Shenhua Group Corporation, Deputy Director of the General Office of Shenhua Group Corporation, and Deputy General Manager of Hubei Provincial Railway Company. Mr Huang received a bachelor's degree from National University of Defence Technology in 1988 and received a master's degree from Guangxi University in 1991. He is also a Senior Engineer and Senior Visiting Scholar of the Eisenhower Fellows. He obtained a board secretary certification and an independent director certification from the Shanghai Stock Exchange.

Mr Huang joined the Affiliated Person Programme of the Institute in 2006. He is also the Vice-Chairman of China Association for Public Companies, and a member of Public Offering Review Committee of China Securities Regulatory Commission.

Zhou Lianqing FCIS FCS

Mr Zhou is currently the Secretary to the Board of Huadian Power International Corporation Ltd (Stock code: 1071). He is responsible for company secretarial, corporate governance and compliance matters for the company.

Mr Zhou started his career in 1982 and has been working in the electricity sector for over 35 years. He has extensive experience in electric power sector management, strategic acquisitions, finance, and investor relations. Before joining the company, he worked at the Shandong Xindian Power Plant and Shandong Electric Power Group Corporation.

Membership (continued)

Membership/graduateship renewal for the 2017/2018 financial year

The membership/graduateship renewal notice for the 2017/2018 financial year, together with the demand note, was posted to members and graduates in July 2017. Members and graduates should settle the subscription payment, as well as complete and return the personal data update form to the Institute as soon as possible, but no later than Saturday 30 September 2017. Failure to pay by the deadline will constitute a ground for membership or graduateship removal. Reinstatement by the Institute is discretionary and subject to payment of the outstanding fees, and with levies determined by the Council.

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

Members' activities highlights: July and August 2017

29 July

Young Group – introduction workshop on perfume making



5 and 12 August

Young Group – bowling interest group 2017



Forthcoming membership activities

Date	Time	Event
9 September 2017	1.30pm – 2.30pm	Mentorship programme – social gathering (by invitation only)
26 September 2017	6.00pm – 9.00pm	Annual Convocation 2017 (by invitation only)
22 October 2017	8.15am – 1.00pm	Community Service – pink walk for breast health 2017

Advocacy

Taiwan delegation visits Hong Kong

On 28 and 29 August 2017 a group of delegates, comprising professors, legal and other professionals from Taiwan visited Hong Kong to study governance-related issues conducive to reforms in Taiwan. On 28 August 2017, the delegation attended a practical governance workshop conducted with the support of Tricor Services Ltd. At the workshop, Aster Leung, Manager – Corporate Services, Tricor Services Ltd and Institute Past President Natalia Seng FCIS FCS(PE) spoke on the topics of e-incorporation, filing and search and ultimate beneficial owners disclosure practices respectively. Institute Senior Director and Head of Technical & Research Mohan Datwani FCIS FCS(PE) provided an overview on anti-money laundering compliance in Hong Kong. Institute President Ivan Tam FCIS FCS hosted a welcome dinner for the delegation with several Council, Committee members and senior secretariat staff joining. On 29 August 2017, Institute Chief Executive Samantha Suen FCIS FCS(PE) chaired a meeting with several representatives of the delegation and senior secretariat



At the workshop

staff. They discussed and explored the possibility of launching a collaborative master of corporate governance course in Taiwan.

The Institute would like to thank Tricor Services Ltd for hosting the workshop.

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.

Members are invited to nominate candidates for election to Council of the Institute at the 2017 Annual General Meeting. The Articles of Association of the Institute provide that Fellows who are ordinarily resident in Hong Kong and the Mainland are eligible to stand for election. More details will be available on the Institute's website: www.hkics.org.hk.


Advocacy (continued)

Grand Bauhinia Medal and award

Institute member Chan Mo-Po, Paul GBS MH JP FCIS FCS has been awarded the Grand Bauhinia Medal in recognition of his dedicated and distinguished public services to the community and people of Hong Kong in various roles. Mr Chan has made valuable contributions in striving to achieve fiscal balance and dedicating public resources flexibly for launching various government projects and public services to meet the needs of the community after assuming the post of financial secretary.

Lunch meeting with the Liaison Office of the Central People's Government in HKSAR

On 16 August 2017, the Institute held a lunch meeting with representatives of the Coordination Department of the Liaison Office of the Central People's Government in HKSAR to share the latest development of the Institute in both Hong Kong, Mainland China and Taiwan. Guests attending included: Vice-Minister Jiang Qiang (张强副部长); Director Yao Ming (姚铭处长); Researcher Luo Ji Zhong (罗智中调研员); Institute President Ivan Tam FCIS FCS; Past President Edith Shih FCIS FCS(PE); Treasurer Dr Eva Chan FCIS FCS(PE); Chief Executive Samantha Suen FCIS FCS(PE) and Registrar Louisa Lau FCIS FCS(PE).



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

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

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

To advertise your vacancy in the Careers section, please contact us at: enquiries@ninehillsmedia.com

ninehills
media

International Qualifying Scheme (IQS) examinations

IQS examination pass rates (June 2017)

Subject	Pass rate
Part I	
Strategic and Operations Management	57%
Hong Kong Financial Accounting	46%
Hong Kong Taxation	31%
Hong Kong Corporate Law	44%
Part II	
Corporate Governance	26%
Corporate Administration	10%
Corporate Secretaryship	16%
Corporate Financial Management	27%

Subject prize and merit certificate awardees

The Institute is pleased to announce the following awardees of subject prizes and merit certificates at the June 2017 examinations. The subject prizes were awarded by The Hong Kong Institute of Chartered Secretaries Foundation Ltd. Congratulations to all awardees!

Subject	Subject prize winners
Hong Kong Financial Accounting	Chu Ka Yin, Tiffany Lau Ka Ki, Klare
Hong Kong Corporate Law	Au Ka Yi
Corporate Governance	Chan Tsz Yan, Jean

Subject	Merit certificate awardees
	Au Ka Yi
Hong Kong Financial Accounting	Chan Yuk Kwan Lok Ka Lam
Hong Kong Taxation	Tong Ka Ki
	Chan Tsz Yu Chan Yip Wang Hau Jing Kwan, Iris Ho Ka Wai Ho Ka Yan Kam Chui Ling Lau Mei Siu Lau Wing Lim Lee Siu Kwan Lo Wai Yan Lo Yu Yung Mak Ho Yiu Ng Yu Yi Tam Lai Ching Wong Hoi Sui Zhang Tan Fung
Hong Kong Corporate Law	
	Lau Pui Ka Mak Lok Yi Tam Yik Sing, Simon To Pui Kei Yau Ching Mei
Corporate Governance	
	Chan Tsz Ting Chan Tsz Yu
Corporate Administration	
	Yiu Ho Pui
Corporate Financial Management	

International Qualifying Scheme (IQS) examinations (continued)

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

Examination enrolment

The examination enrolment period is from 1 to 30 September 2017. The Examination Entry Form can be downloaded from the Studentship section of the Institute's website: www.hkics.org.hk. All entries must reach the Institute's secretariat by 1.00pm on Saturday 30 September 2017, or, if sending by post, with a post-mark on or before that date. Late applications will not be accepted in any circumstances. To avoid postal error or delay, students are recommended to submit their applications in person or by registered mail. No change can be made to the subject(s) and examination centre selected after the examination application has been submitted.

HKICS examinations preparatory programme

The Institute's examinations preparatory programme conducted by HKU SPACE will commence in September 2017. The timetable and enrolment form are available on the Institute's website: www.hkics.org.hk. For enquiries, please contact HKU SPACE at: 2867 8317, or email: hkics@hkuspace.hku.hk.

IQS study packs go green

The Institute launched an online version of four IQS study packs on 9 January 2017. This new 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. Detailed arrangements have been sent to students for information via email.

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

Student Ambassadors Programme (SAP) 2017/2018 – recruitment of mentors

The Institute's SAP promotes the Chartered Secretarial profession to local undergraduates and provides a platform for student ambassadors to enhance their skills and career prospects. Members are invited to contribute as mentors to share their working experience, professional knowledge and provide career guidance to the student ambassadors. A tea reception for mentors and mentees will be arranged on 7 October 2017 to launch the 2017/2018 programme.

For enquiries and enrolment, please contact Eva Cheung at: 2830 6019, or email: eva.cheung@hkics.org.hk.

Studentship (continued)

New students orientation

Students registered since March 2017 are invited to attend an orientation on Tuesday 19 September 2017 to learn more about the Institute and meet with other students. Recent IQS examinations subject prize awardees will share examination preparation tips at the event.

The enrolment form is available at the Events section of the Institute's website: www.hkics.org.hk. Please complete the reply slip and return it to the Institute's secretariat via email: student@hkics.org.hk. For enquiries, please contact Ally Cheung at: 2830 6031, or Eva Cheung at: 2830 6019.

Date:	Tuesday 19 September 2017
Time:	7.00pm – 8.30pm
Venue:	School of Continuing and Professional Education (SCOPE), 8/F, United Centre, Admiralty, Hong Kong

IQS information session

At the IQS information session held on 24 July 2017, Rebecca Yu FCIS FCS, Company Secretarial & Legal Affairs Manager of Hop Hing Management Company (HK) Ltd, shared her professional work experience with the attendees interested in pursuing a career in the Chartered Secretarial profession. Information on the IQS examinations and career prospects for Chartered Secretaries were also provided.



At the information session

Summer internships

The Institute invited companies and organisations to offer summer internship positions to local undergraduates for a maximum of eight weeks from June to August 2017 under its Student Ambassadors Programme, with the aim to promote the Chartered Secretarial profession to the young generation in Hong Kong. This year, a total of 36 local undergraduates received summer internship offers from the Institute and 13 other companies (listed in alphabetical order). The institute would like to thank these companies for their generous support of the programme.

1	Alter Domus Hong Kong Ltd
2	CLP Holdings Ltd
3	CK Hutchison Holdings Ltd
4	Companies Registry
5	Cotai Services (HK) Ltd
6	Hutchison Ports Ltd
7	Intertrust Resources Management Ltd
8	PricewaterhouseCoopers Ltd
9	Reachtop Consulting Ltd
10	Reanda EFA Secretarial Ltd
11	TMF Hong Kong Ltd
12	Tricor
13	Vistra

Policy – payment reminder Studentship renewal

Students whose studentship expired in July 2017 are reminded to settle the renewal payment by Tuesday 26 September 2017.

Exemption fees

Students whose exemption was approved via confirmation letter in June 2017 are reminded to settle the exemption fee by Thursday 28 September 2017.

Studentship (continued)

Student Ambassadors Programme summer interns photo gallery



At CK Hutchison Holdings Ltd



At Reachtop Consulting Ltd



At CLP Holdings Ltd



At Reanda



At Companies Registry



At TMF Group



At PricewaterhouseCoopers Hong Kong



At the Institute

Corporate Governance Paper Competition and Presentation Award 2017

The Institute's Corporate Governance Paper Competition has been organised every year since 2006 to raise awareness and promote business ethics and corporate governance among undergraduates of local universities. This year a total of 36 teams from local universities enrolled for this competition. Six finalist teams will compete for the Best Presenter Award, and this award, together with the award for the winning paper of the Corporate Governance Paper Competition, will be presented to the winners at the award presentation ceremony on 21 October 2017.

Members, graduates and students are welcome to join the presentation competition. If you wish to attend this event, please provide your full name and membership/graduateship/studentship number to Ally Cheung at: 2830 6031, or Ruby Ng at: 2830 6006, or email: student@hkics.org.hk for enrolment by Friday 13 October 2017.

Date: Saturday 21 October 2017

Time: 10.00am – 1.00pm
(Registration starts from 9.45am)

Venue: United Conference Centre, 10/F, United Centre, 95 Queensway, Admiralty, Hong Kong

Fee: Free of charge

CPD Points: 2

A bird's eye view

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

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



Subscribe to *CSj* today to stay informed and engaged with the issues that matter to you most.

Please contact:

Paul Davis on +852 3796 3060 or paul@ninehillsmedia.com

ninehills
media

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



**CHARTERED
SECRETARIES**
特許秘書



**You're known by the company you keep.
And by the company that keeps you.**

We enable you to focus on growing your business

You're in good hands with Tricor looking after your non-core business support functions.

Tricor Group (Tricor) is a global provider of integrated Business, Corporate and Investor Services. As a business enabler, Tricor provides outsourced expertise that allows you to concentrate on what you do best – Building Business.

www.tricorglobal.com

 Tricor Group

Our Services Include:

- Business Advisory
- Entity Formation
- Corporate Governance, Corporate Administration & Secretarial
- Trust & Fiduciary Services
- Accounting & Financial Reporting
- Payroll, Payment & Treasury Administration
- Services for New Issues / Initial Public Offerings & Registry Management
- Tax Services
- China Entry & Consulting
- Executive Search
- Management Consulting
- Human Resource Consulting
- Fund Administration