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April 2018

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



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The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, as well as the development of the profession of the Chartered Secretary in Hong Kong and throughout Mainland China. HKICS was first established in 1949 as an association of Hong Kong members of the Institute of Chartered Secretaries and Administrators (ICSA) of London. It was a branch of ICSA in 1990 before gaining local status in 1994 and has also been ICSA's China/Hong Kong Division since 2005. HKICS is a founder member of Corporate Secretaries International Association (CSIA), which was established in March 2010 in Geneva, Switzerland. In 2017, CSIA was relocated to Hong Kong where it operates as a company limited by guarantee. CSIA aims to give a global voice to corporate secretaries and governance professionals. HKICS has over 5,800 members and 3,200 students.

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Shareholder communications

equal partners in running the company's business affairs. As companies and corporate groups grew in size and complexity, and as their shareholders became ever more diverse, the dialogue between investors and investee companies became more distant. By the late 20th century, many shareholders were effectively no longer part of the governance chain and many companies had lost touch with their general shareholder base.

votes cast via mobile phones, for example, together with lively debates of strategic issues among shareholders and stakeholders on company websites and social media channels. These new developments are returning us to the original mutualism that was supposed to define the company–shareholder relationship, where both companies and shareholders recognise the value of shareholder oversight of corporate actions and strategies.

Last month our Institute published its second research report (*Shareholder Communications for Listed Issuers: Five Imperatives to Break the Monologue – Where are we in the Asian Region?*) on the topic of shareholder communications. The report, which is reviewed in the first cover story of this month's journal, is a follow-up on our September 2016 report that assessed the importance given to shareholder communications by both listed companies and investors in Hong Kong.

I would like to congratulate all those involved in producing this new report. I think it is an excellent demonstration of what we can achieve in collaboration with our sister professional bodies in the ASEAN Corporate Secretaries Network (ACSN). ACSN presented the opportunity to work collaboratively to assess the differences in local practices and regulations in shareholder communications in Hong Kong, Indonesia, Malaysia, Singapore and Thailand.

This month's journal updates us on the changing landscape of shareholder communications, both regionally and globally. Over the last decade there has been an increasing recognition that shareholders have a role to play in a healthy governance ecosystem. As Bob Tricker, author of our 2016 shareholder communications report, pointed out – this was how it was supposed to be when the corporate form first came into being. Back then, the owners and managers of the company would typically belong to a close-knit group and would be

Fortunately, however, there are signs that we are now heading in a more auspicious direction. Firstly, the attitude within companies to shareholders who seek dialogue is changing from one of suspicion – shareholder activism used to be seen as a threat or as an unnecessary cost – to a recognition that such a dialogue can help to promote long-term value and, in some cases, reduce the risk of potentially catastrophic outcomes due to bad decisions. Shareholders who fight for issues such as the need for better transparency or for more diverse boards are fighting for values that will make the company stronger and more resilient in the emerging business landscape.

On the investor side, there have also been positive developments. We have seen the dissemination of stewardship codes around the world setting out best practices for 'responsible ownership' by shareholders, in particular institutional shareholders. Our own such code in Hong Kong – the *Principles of Responsible Ownership* launched by the Securities and Futures Commission – was published in 2015. These codes are designed to enhance the quality of the dialogue between investors and investee companies, encouraging shareholders to engage with investee companies beyond voting at shareholder meetings.

If you add to these trends the technological developments that are facilitating better shareholder engagement, the picture looks even more optimistic. We are already seeing live webcasts of shareholder meetings and

Shareholder communications form a key part of the company secretarial function, in particular as it relates to our work managing the AGM and the annual report process, and our board advisory function. Put simply, company secretaries need to stay on top of developments in this field in order to be able to advise directors on the board's responsibility for maintaining an ongoing dialogue with shareholders. This work should be regarded as an integral part of our role to ensure good governance in the organisations we work for. Rest assured therefore, our Institute will continue to play an active role in promoting best practice in this area. Later in the year, for example, our journal will be addressing the changing nature of the AGM within the context of shareholder engagement. Watch this space!

Lastly, I would like to remind readers that this year's Annual Corporate and Regulatory Update seminar will be held on Tuesday 5 June 2018. I recommend you sign up while seats are still available. This event, being the biggest and most popular event in our CPD calendar, tends to sell out fast.

David Fu FCIS FCS(PE)

股东沟通

继2016年9月发表有关香港上市公司及投资者对股东沟通的重视程度的报告后，公会上月出版第二份有关股东沟通的研究报告（《上市公司股东沟通：避免独白的五大要点——香港与其他亚洲地区的比较》）。请参阅本刊今期第一个封面故事的报道。

我谨祝贺参与制作这份新报告的所有人士。该报告清楚显示我们与东协公司秘书网络(ACSN)的专业组织合作可得的成果。ACSN让我们有机会共同比较香港、印尼、马来西亚、新加坡和泰国在股东沟通实务及规例方面的不同之处。

本刊今期介绍亚太区和全球各地股东沟通工作的转变。过去十年，各界日渐认识到股东有助形成健康的管治生态系统。正如2016年股东沟通报告的作者Bob Tricker所指，这正是公司模式发展初期的原意。当时，公司拥有者和管理人通常关系密切，共同经营公司的业务，是地位平等的伙伴。随着公司和企业集团规模日增，架构渐趋繁复，股东背景日趋多元化，投资者和所投资公司之间的对话开始变得疏离。到了20世纪末期，许多股东实际上脱离了管治链，许多公司与广大的股东脱节。

幸好，有迹象显示目前的发展方向正确。首先，公司对寻求对话的股东的态度有所转变。股东维权行动一向被视为威胁，又或是带来不必要的成

本，因此往往受公司敌视；现在公司开始认识到这种对话有助提升长远价值，有时还会降低劣质决策造成灾难的风险。争取提高透明度或董事会多元化等事宜的股东，实际上是争取宝贵的价值，使公司更强大，更能适应转变中的商业环境。

投资者方面也有一些正面的发展。世界各地陆续颁布管理守则，罗列有关股东（特别是机构股东）「尽责管理」的最佳做法。香港的有关守则，是证券及期货事务监察委员会在2015年推出的《责任的拥有权原则》。这些守则旨在提升投资者与所投资公司之间对话的质素，鼓励股东除了在股东大会投票外，亦以其他方法参与所投资公司的事务。

上述的发展趋势，加上日新月异的科技促进了股东参与，前景更见乐观。例如现在已有网上直播股东大会，又可透过流动电话投票，还有股东和持份者在公司网站和社交媒体积极讨论公司策略。这些新发展让我们重拾昔日公司与股东之间的互动关系，公司和股东均认识到股东监督公司行动和策略有其价值。

股东沟通是公司秘书工作的重要部分，与我们统筹股东周年大会、制作年报、为董事会提供意见等工作的关系尤其密切。公司秘书有需要充分掌握股东沟通工作的发展，以便向董事说

明董事会有责任与股东维持对话。这方面的工作，应是我们确保所任职机构实践良好管治的必要元素。请放心，公会将继续积极推广这方面的最佳实务。例如今年较后时间，本刊将探讨周年股东大会的性质因应股东参与的发展而产生的转变，请密切留意。

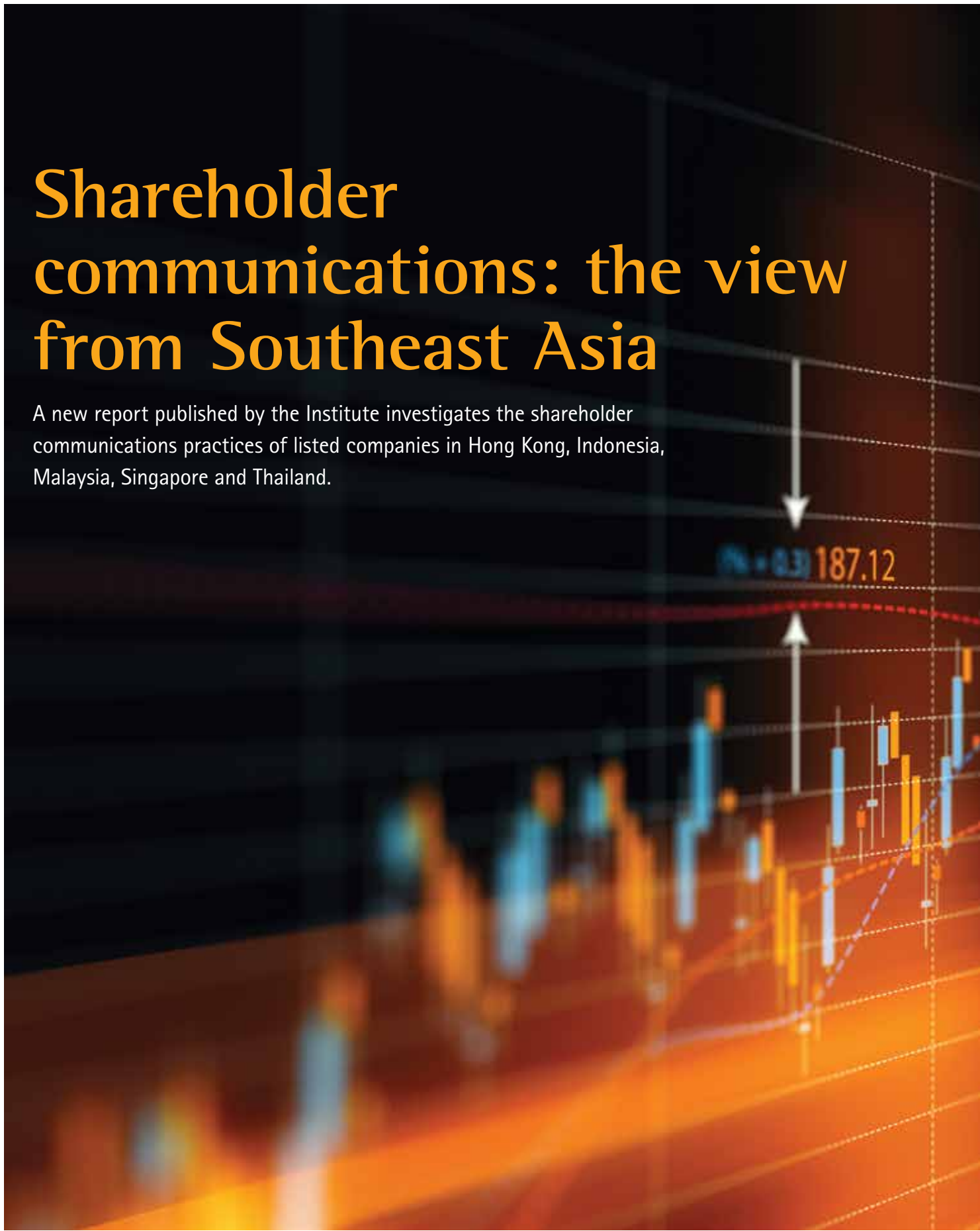
最后，谨此提醒大家，今年的公司规模最新发展研讨会(ACRU)，将于2018年6月5日星期二举行。这是公会持续专业发展活动中最大型、最受欢迎的一项，参加者十分踊跃，请从速报名，以免向隅。

傅溢鸿

傅溢鸿 FCIS FCS(PE)

Shareholder communications: the view from Southeast Asia

A new report published by the Institute investigates the shareholder communications practices of listed companies in Hong Kong, Indonesia, Malaysia, Singapore and Thailand.



The Institute launched a research project two years ago to assess the importance given to shareholder communications by both listed companies and investors in Hong Kong. The research found that shareholder communications tend to be reactively driven by rules and regulations, rather than being proactively driven by a choice to communicate and engage with shareholders. The resulting report – *Shareholder Communications for Listed Issuers – Five Imperatives to Break the Monologue*, published in September 2016, noted the importance of moving from a 'monologue' (whereby issuers simply provide such information as they are obliged or choose to disclose, without expecting or receiving investor feedback) to a 'dialogue' (where investors respond to the information given and proactively engage with the issuer).

Two years on, the Institute has launched a follow-up report extending the discussion to other Southeast Asian capital markets. The Institute has been working with sister professional bodies in the ASEAN Corporate Secretaries Network (ACSN) and this presented the opportunity to work collaboratively to assess the differences in local practices and regulations in shareholder communications around the region. In addition to the Institute (as an affiliate member), ACSN comprises:

“
regulatory requirements and recommendations are an important driver of better shareholder communications
”

- Indonesian Corporate Secretary Association
- Chartered Secretaries Malaysia
- Chartered Secretaries Institute of Singapore, and
- Thai Listed Companies Association.

The new report (*Shareholder Communications for Listed Issuers: Five Imperatives to Break the Monologue – Where are we in the Asian Region?*) gives insights into these five jurisdictions and asks whether a broad regional trend towards enhanced shareholder communications can be observed.

The findings of the new report

Overall, the new report suggests that the picture which emerged from the survey is a

Highlights

- the survey indicates an awareness of growing activism by shareholders
- there are also indications that the growth in activism has not yet been matched by a strong move toward issuers establishing investor strategies within their corporate strategy
- the survey indicates good awareness levels of where the responsibility for shareholder relations lies within listed companies

positive one. While there were differences, sometimes substantial, between the experience of the different markets covered, overall the survey suggests 'a growing awareness of the importance of good shareholder communications and the development of improved practices and disciplines in this area.'

Nevertheless, since the survey is based on the respondents' own assessment of their engagement policies and practices, rather than a survey of the actual policies and practices themselves, there is always the danger that the picture which emerged is an overly optimistic one. In some specific areas the survey indicates that there is some distance still to go in terms of meeting international best practices. For example, the survey found that the formulation and review of engagement policies is not a regional norm. Moreover, a high proportion of respondents (particularly in Indonesia and Thailand) acknowledged that there is a need to engage shareholders more effectively.

The report recommends that listed companies in the region address the five imperatives set out in the Institute's 2016 report as a way to improve the quality and effectiveness of their dialogue with shareholders. Using these five imperatives as the framework, the new report assesses how the five jurisdictions included in the survey measure up. The findings are summarised below.

1. Develop an investor relations strategy within the corporate strategy

There were substantial differences between ASEAN markets as to the relationship between issuers and their shareholders. The overall feeling was an awareness of growing activism by

Figure 1: Characteristics of Asian stock markets represented by ACSN

	No of issuers (1)	Market capitalisation (2) USD	Ownership structures (3)
Hong Kong	1,973	3.2 trillion	Approximately 75% with a dominant shareholder
Indonesia	537	426 billion	Ownership structures are highly concentrated
Malaysia	903	360 billion	Typically concentrated: Families hold around 45% of shares
Singapore	757	640 billion	Ownership concentration in Singapore is high with family-owned businesses and state-owned enterprises representing major equity holdings. The majority of listed companies in Singapore have a block shareholder of 15% or more.
Thailand	656	433 billion	Highly concentrated

Notes: (1) As at end 2016 – OECD
 (2) 2016 – World Bank data
 (3) OECD Survey of Corporate Governance Framework in Asia (2017)

shareholders, which has not yet been matched by a strong move towards issuers establishing investor strategies within their corporate strategy.

2. Know and regularly review your shareholder base

Given that knowing the identity of shareholders is a critical first step in effective shareholder communications, the feedback from respondents was affirmative about the procedures in place for identifying beneficial shareholders,

the importance attached to the upward transmission of that information to the highest levels within a company and the major role played by company secretaries in that process.

3. Formulate and regularly review shareholder communications policies

Generally, respondents suggested that issuers consider their shareholder communications policies are largely adequate (few issuers believe that it is actually inadequate) and there is a

Figure 2: Are there communication channels other than statutory meetings available to shareholders?



confident view of the timeliness of the provision of information. Only a minority of issuers employ a differentiated communication strategy vis-à-vis different categories of shareholder, however. This might be attributed less to an unwillingness to distinguish between shareholders and more to regulatory requirements, as recognised in the Organisation for Economic Co-operation and Development (OECD) Principles of Corporate Governance, to treat all shareholders equally.

4. Formulate and regularly review shareholder engagement policies

The feedback from ACSN respondents indicates that the formulation and review of engagement policies is not a regional norm. Notwithstanding the advent of new communication platforms, notably social media, statutory general meetings remain the centrepiece of any dialogue between directors and shareholders. Overall, the allocation of resources to this area of corporate activity seems adequate, but whether shareholder engagement is formally structured, planned and implemented was unclear. Both Indonesia (96% of respondents) and Thailand (61%) believe there is a need to engage shareholders more effectively. Perhaps this view is more widely shared.

5. Review the responsibility and accountability for investor relations

There was no indication of general uncertainty about the allocation within issuers of responsibility and accountability for shareholder relations. It was also clear that this lies at senior levels within issuers, including and up to CEO level.

The survey background

As with any survey, the Institute recognises the importance of putting the data in context. The appendices to the report highlight a number of relevant background factors. Appendix A shows that the majority of survey participants represent larger-scale issuers with a substantial market capitalisation and a large number of employees. Appendix B shows that the five jurisdictions involved in the survey are characterised by high ownership concentration (see Figure 1: Characteristics of Asian stock markets represented by ACSN).

The fact that a high proportion of the issuers surveyed are dominated by a single or small number of majority shareholders has an important bearing on their attitudes to shareholder engagement. Majority shareholders are typically highly engaged in the running of the business. In most cases they sit on the board, or,

where they are not formally so appointed, the directors are mindful of their interests. The shareholder engagement issues of most relevance to closely-held companies therefore tends to be the attitude to the wider shareholder base.

The survey indicates awareness of the need to identify all shareholders in the wider shareholder base. Minority and retail shareholders can become 'invisible' to issuers where their shareholding is held via intermediaries such as institutional investors, brokers, banks and share registrars. However, the survey also suggests that issuers may be under-utilising the most effective ways to engage such shareholders – namely via social media channels and the company website. Statutory general meetings remain the centrepiece of any dialogue between directors and shareholders among the survey participants, but minority and retail shareholders often do not participate in the governance of their investee companies and rarely vote in general meetings (see Figure 2: Are there communication channels other than statutory meetings available to shareholders?)

Another important factor to consider is the regulatory background within each of the jurisdictions covered.

Figure 3: The regulatory background

Hong Kong

The Corporate Governance Code is set out in Appendix 14 to the Hong Kong Stock Exchange's listing rules.

The Code sets out the principles of good corporate governance and two levels of recommendations: code provisions and recommended best practices (RBPs). Issuers are expected to comply with the code provisions, whereas the RBPs are for guidance only. Issuers must explain any deviations from the code provisions and are encouraged (but not required) to disclose compliance with the RBPs and any deviations.

Under Code Provision A.2.8, the chairman is asked to ensure that appropriate steps are taken to provide effective communication with shareholders and that the views of shareholders are communicated to the board as a whole.

Principle E.1 obliges the board to maintain an ongoing dialogue with shareholders and in particular, use annual general meetings or other general meetings to communicate with them and encourage their participation. This obligation is backed up by Code Provision E.1.4, which requires the board to establish a shareholders' communications policy and review it on a regular basis to ensure its effectiveness.

Indonesia

Indonesia has participated in the OECD – Asian Corporate Governance Roundtable since 2004, and from 2011 the Indonesia – OECD Corporate Governance Policy Dialogue has facilitated and supported the work of the Financial Services Authority (OJK) in strengthening good corporate governance practices in Indonesia.

Until 2015, Indonesia adopted an ethics-based approach to corporate governance. This encouraged, but did not require, all companies to comply with Indonesia's Code of Good Corporate Governance (the Code). However, with effect from annual reports from 31 December 2016, public companies are obliged by the OJK to comply or explain their governance practices against the new 'Corporate Governance Guideline for Public Companies' (the Guideline).

The Code (at Part IV.D.3.4) identifies investor relations as one of the functions of the corporate secretary. However, the Guideline goes further and, in Recommendation 2.1, specifically requires companies to develop and implement a communications policy with their shareholders. Companies are further required to disclose their communications policy on their website.

Malaysia

In addition to the reporting requirements under the Companies Act 2016 and the listing requirements of Bursa Malaysia, the Malaysia Code on Corporate Governance 2017 (MCCG) provides, as Principle C(1), that 'ongoing engagement and communication with stakeholders builds trust and understanding between the company and its stakeholders'.

Under Practice 11.1, the responsibility for this is placed on directors 'the board ensures that there is effective, transparent and regular communication with its stakeholders'. Guidance 11.1 emphasises that 'dialogue with stakeholders is a necessary and beneficial process as it enables companies to understand stakeholders' concerns and to take these into account when making decisions'.

Singapore

The Code of Corporate Governance 2012 includes:

- Principle 3.2 The Chairman should ensure effective communication with shareholders.
- Principle 3.3 The appointment of at least one lead independent director is to ensure that there is an alternate communication channel for shareholders when the normal communications with the chairman/chairwoman or chief executive officer are ineffective.
- Principle 15 Companies should actively engage their shareholders and put in place an investor relations policy to promote regular, effective and fair communication with shareholders. Guideline 15.3 goes further and provides that 'the board should establish and maintain regular dialogue with shareholders'.

In January 2018, the Monetary Authority of Singapore published a consultation paper on proposed amendments to the 2012 Code. Amongst other measures, these will reinforce the emphasis on shareholder communications, such as through Provision 12.1 whereby 'the company provides avenues for communication between the board and all shareholders and discloses the steps taken to solicit and understand the views of shareholders'.


Thailand

The Corporate Governance Code for Listed Companies 2017 recognises the application of the OECD Principles of Corporate Governance which, as explained in the introduction to this report, form the background to the shareholder communications regime in all of the markets within the ACSN.

Principle 7.5 provides that 'the board should ensure the establishment of a dedicated investor relations function responsible for regular, effective and fair communication with shareholders and other stakeholders'. The Guidelines backing Principle 7.5 explain that 'the board should ensure that management sets clear direction for and supports the investor relations function (such as through a code of conduct) and clearly defines the rules and responsibilities of the investor relations function, so as to ensure effective communication between the company, the financial community and other stakeholders'.

As mentioned above, the Institute's 2016 survey found that in Hong Kong shareholder communications tended to be reactively driven by rules and regulations. This indicates that regulatory requirements and recommendations are an important driver of better shareholder communications. In this context it is encouraging to find that, in the five jurisdictions covered by the new survey,

regulators have been eager to promote better shareholder communications and engagement. However, as set out in Appendix C, these obligations are currently either voluntary or subject to comply or explain (see Figure 3: the regulatory background). Apart from legislative requirements regarding the need to ensure adequate levels of disclosure, the recommendations

relating to improving the dialogue with shareholders are to be found in guidelines and codes of corporate governance. 

Shareholder Communications for Listed Issuers – Five Imperatives to Break the Monologue – Where are we in the Asian Region?' is available on the Institute's website: www.hkics.org.hk.

The art of governance

The winner of the HKICS Prize 2017, Natalia Seng FCIS FCS(PE), Chief Executive Officer – China and Hong Kong, Tricor Group/Tricor Services Ltd, and Institute Past President, shares her thoughts on the art of governance and the future of the company secretary role.



What are your feelings about receiving the HKICS Prize 2017?

'It's an honour and I am very pleased to have received this award. It has made me look back and realise how glad I am that I joined this profession.'

Could you talk about your route into the profession?

'When I finished my higher diploma in company secretaryship and administration at the Hong Kong Polytechnic, I was keen to get some practical work experience. I had been studying a three-year, full-time course and had a pretty good knowledge of company law and company secretarial practice, but I wasn't sure what corporate secretarial work would actually be like. I have been in the profession for over 30 years now, so you can see how that worked out.'

Looking back, I think the diploma course gave me a good foundation in the essential concepts you need to progress as a company secretary, such as the concept of limited liability, the principal/agent relationship and the role of the board of directors. I always tell those at the beginning of their career not to underestimate the importance of getting a professional qualification and continuous professional development because it will help them climb the career ladder. It certainly helped me. When one is in a senior management position, it is true that you can rely on lawyers and other professional experts to advise you, but you still need to rely on your own judgement. Corporate governance is really an art and you learn more about it through practice. In board meetings, as a Chartered Secretary and as a governance professional you need to make your own assessment of the issues under discussion, particularly when it comes to ethical issues and risks.'

You have worked your way to the top of a professional services provider and this career path will perhaps be less well-known than a career as a company secretary of a listed company. Do you think taking the professional services route was a good career choice for you?

'The longer I stay in a professional firm, the more I am convinced that this is the right place for me. Perhaps it is just that I have become accustomed to it, but I do appreciate the fact that I am always meeting different customers from different sectors. Tricor is the service provider for thousands of companies so I am always working with different types of companies and coming across different types of people. Over a 30-year career, how many different sectors or types of companies would I have encountered if I was working in the corporate sector?'

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It is true that you can rely on lawyers and other experts to advise you, but you still need to rely on your own judgement. Corporate governance is really an art.

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I would like to add, however, that participating in the work of the Institute has also helped. Attending Council and committee meetings at our Institute – or at The Institute of Chartered Secretaries and Administrators (ICSA) and the Hong Kong Institute of Certified Public Accountants where I served a two-year term as a lay member on their Council – I have come across great leaders and I have been able to learn from them, even if it is just the way they conduct meetings or their deliberations in meetings. Some people say they hate meetings and they consider meetings to be a waste of time, but I think there is value in holding meetings. In meetings you have to articulate what you think about the issues being discussed and sometimes you have to voice disagreement, but there is an art to doing this in a way that doesn't offend others while reaching a solution.

So you can learn a lot about the soft skills you will need from experienced colleagues or members of the profession. For young people, participating in the Institute's work is a good way to observe and learn how to chair a meeting or how to set the agenda and manage time effectively – until you get to a senior

Highlights

- those considering a career as a company secretary should not underestimate the importance of getting a professional qualification and CPD training
- participating in the Institute's work helps you develop your career by learning from peer professionals
- in the future, every large organisation will have a Company Secretary's Office, which will function as the corporate memory and the repository of corporate knowledge

position you are unlikely to have any experience of this. These skills are really an art. If you've got a good chairman and you've got a good secretary who is able to prepare a proper agenda, then you are more likely to have a fruitful discussion and get good results.'

You have been active in public service work – for example working as a member of the Standing Committee on Company Law Reform. Are there career benefits from public service work too?

'It enables you to be closely involved in the issues that are relevant to your work. In my case, I have been involved in the issues surrounding the licensing of trust and company service providers (TCSPs) and the new significant controllers register requirements. I have been working on these issues at Tricor and that's why I was invited to join the Standing Committee.'

Both of those issues will be relevant to readers of CSj – what's your view of Hong Kong's new TCSP licensing regime?

'With the licensing of TCSPs, we now have a clear obligation upon those owning or running a TCSP to follow international standards on anti-money laundering. They have to know their clients, they have to keep proper records and if they notice any suspicious transactions they have to make a report. Also, as an employer, they need to cultivate the right culture in their business through training. Without training, some people may be unaware of the serious responsibilities they are taking on as directors or trustees when they agree to provide these services.'

I was interviewed recently by Cable TV on this and I mentioned that the absence of a licensing regime for TCSPs was hurting Hong Kong. Without a licensing regime, there was no entry barrier – anybody could set themselves up as a service provider to set up companies. If businesses then chose low-cost service providers who fail to conduct customer due diligence, or to provide professional advice on the duties and responsibilities of the officers and the annual health check compliance requirements of each company, that would end up hurting Hong Kong's reputation if Hong Kong companies are reported as being involved in money laundering activities. So I think the way the government is now moving is correct. If you are in this business, you have to have people with the necessary skills, qualifications and knowledge. That means you have to invest, you have to pay professionals to run the business and to provide training to your staff. When those things are in place, this will help to mitigate the risks and liabilities, and ensure the sustainability of a TCSP.'

Do you think Hong Kong is ready for the new requirement to keep a significant controllers register?

'In the past few years the banks have already started asking for disclosure of beneficial owners, so financial institutions have already passed through the first stage of the changes. We are now moving on to stage two, and service providers will also have to ensure that a record is kept of the identity of beneficial owners and significant controllers.'

If beneficial owners do not want to disclose their identities there will be a suspicion of malpractice. We are moving towards common reporting standards globally, with the Organisation for Economic Co-operation and Development requirements on transparency, the emerging standards on transfer pricing and base erosion and profit shifting and the tougher anti-money laundering controls. These new standards are accepted by all the major countries of the world so businesses in Hong Kong need to abide by the rules, embrace the changes and move with the new reality.'

The significant controllers registers will not be open to public inspection, so we have maintained a degree of privacy in Hong Kong. The original idea was to have the registers open to inspection by anybody, but that would create privacy issues, particularly for public figures. I think you may know that the Institute advocated that the registers should only be open to inspection by competent authorities and this was accepted by the government.'

'So I think the new requirement puts Hong Kong on a par with other international financial centres – the UK, the Cayman Islands, the British Virgin Islands and Singapore, for example, already have similar requirements. We couldn't afford to fall behind, so in many ways the new regime is no big surprise – Hong Kong naturally had to move in this direction.'

You mention the global effort to counter transfer pricing and base erosion and profit shifting. What is your view of this initiative and the new standards on transparency regarding tax issues in general?

'Times have changed. In the past businesses could use offshore companies to reduce their tax burden or to avoid paying tax altogether. Businesses can still pay huge sums in professional fees to tax specialists in order to ensure they have the best tax arrangement, but they need to be very careful. They will be under scrutiny to determine where their management control is based and the location of their source of income. There is no way that business transactions can be structured to ensure that the business

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in board meetings, as a Chartered Secretary and as a governance professional, you need to make your own assessment of the issues under discussion, particularly when it comes to ethical issues and risks
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does not have to pay tax anywhere. If a company is incorporated in a jurisdiction where it pays zero tax then people will be sceptical. The assumption is that a company needs to pay tax in its principal place of business. If you have your headquarters in Hong Kong, for example, if this is the place you hold your board meetings and make all of your decisions, then you have to pay Hong Kong corporate tax. Our corporate tax rate is very reasonable of course, and it is important to emphasise that operating as a legitimate business will attract investors and good relations with stakeholders.'

You helped maintain the relationship between the Institute in Hong Kong and the ICSA during the difficult period before 2012. Are you pleased with how that relationship has evolved?

'I am very pleased to see that there is better communication among the ICSA divisions. The ICSA now holds its international council meetings in different parts of the world and we have better representation from different divisions on the executive committee.'

It is also good to see better co-operation between the Institute here in Hong Kong and other countries in Asia such as Thailand, Taiwan, and Indonesia. I think everyone sees the need to enhance corporate governance and they are looking to peer bodies in the region for ideas on how best to do this. I think this is a common trend.'

What's your view of the recent ICSA initiative to create the new Chartered Governance Professional designation?

'I support adding the governance professional qualification to our existing Chartered Secretary qualification because calling ourselves only Chartered Secretaries might limit the scope of our profession. There are so many areas we focus on, including for example risk management, but to a large extent all of our work is about upholding corporate governance so why not call ourselves governance professionals? Also, this is a way to embrace more

members in the profession, some of whom do not regard themselves as corporate secretaries. So I think this is a win-win situation.'


What do you think the role of the company secretary will look like in, say, 10 or 20 years time?

'Company secretaries have a central position in companies and, if they stay for long enough, they become an essential knowledge-base. They are responsible for keeping records, keeping up to date with regulatory compliance and many other things that, if they do not fit within an existing department, find their way to the company secretary. So these days we talk about the Company Secretary but over time I think every large organisation will have a Company Secretary's Office, which will function as the corporate memory and the repository of corporate knowledge. This will help maintain continuity as different individuals move in and out of the organisation.'

What issues do you think new recruits to the profession here in Hong Kong will be dealing with in the years ahead?

'I think there will be a growing demand for company secretaries in Hong Kong. Hong Kong is a major IPO centre and increasing numbers of companies from Mainland China are coming to Hong Kong to list so there will be a lot of work to do. If there is a Company Secretary's Office then you can imagine that there will be a team of people involved in company secretarial work and there will be a career ladder for new recruits.'

I expect language skills to be increasingly important. If practitioners are able to read and write effectively in English and Chinese, that will be very useful. Understanding the culture here and in the Mainland will also be an important asset.'

Members of the profession will certainly also have to consider technology. Some developments, for example more advanced data management and document management systems will certainly save company secretaries a lot of time and make it easier to locate and circulate documents. They might also, of course, reduce the number of people required at a junior level on some tedious work. Professionals doing high-end work, though, cannot be replaced easily by technology. In the future, whether it is taking minutes or providing advice to the board, you will still need people with the right technical and interpersonal skills, experience and judgement for that work.' 

Natalia Seng FCIS FCS(PE) was interviewed by CSj Editor Kieran Colvert.



Understanding ESG risk

Dr Glenn Frommer and Theodora Thunder, Principals, The Sustainability Partnership, offer advice to governance professionals on how to understand the drivers and processes used to manage ESG risk. Such an understanding is vital when it comes to successfully reporting on ESG risk in the management discussion analysis (MDA) section of annual reports.

A recent study by the consulting firm Grant Thornton (see their *Corporate Governance Review 2017*) identified an overall weakness in companies (including some 56% of HSCI listed companies) falling short in their governance reporting when disclosing the processes used to identify, evaluate and manage corporate risk. This article offers advice to governance professionals on the specific area of ESG risk, with a view to helping them assist their organisations to successfully manage ESG risks and to provide the basis for intelligent reporting on these risks in the MDA section of their annual reports.

Components of effective risk management

While the board has the ultimate responsibility for corporate risk strategy, the corporate governance function ensures that strategy, policy and processes integrate and continue to be effective and relevant.

Corporate risk management involves three key levers that oversee its effectiveness:

1. a well-thought out and fit-for-purpose policy and strategy and the supporting governance

structure that organises roles and responsibilities, its management and the oversight of activities

2. aligned risk-tolerance levels that articulate the board's expectations and risk appetite, and
3. the assurance processes and feedback loops that monitor and gauge efficacy of policy and strategy.

These are neither new nor unfamiliar concepts. However, with environmental and social risks now on the board's agenda vis-à-vis potential impacts from



the operating context and stakeholder activism, the governance function is tasked with more complex risk dynamics that require even more clarity on these levers.

Risk governance itself operates as an amalgam of all divisions within an organisation, populated by senior managers and chaired by the relevant legal or financial director, with regular board oversight. The risk management committee (or similar internal group) meets regularly, confirming risk impacts and providing senior management with risk heat maps. While the focus is generally on risks that could have short-term impacts, ESG issues draw attention to the longer-term horizons that affect corporate viability, for example, climate change.

1. Risk policy and strategy

The fit-for-purpose risk policy and strategy is articulated by the board. That is, the board nominates where the risk function is placed within the organisation and where it serves to most benefit the business strategy and the continued organisational development.

Is it principally legal (compliance) based, or is it aligned to the financial function, serving to protect the company's bottom line? From this high-level decision follows the thinking and framework for how risk is assessed, quantified, prioritised and managed across the organisation (see the sidebar 'Legal or the financial bottom line?'). The benefit of a well-defined policy established and communicated at early stages ensures a high degree of focus, value and efficiency in the subsequent development and enactment of management processes at the operating level.

The business strategy is the conduit through which policy is enacted, that is, policy establishes the development pathway for the business strategy to operate. It is guided by a risk strategy that minimises or mitigates the ESG impacts, whether legally or financially based. The strategy also directs the resources allocated by the board to manage risk and its consequences.

Policy, however, is not static. Risk-focused policies, for example, require active monitoring and documentation to ensure that risk targets are achieved, and, if necessary, the reset to respond to changes that affect organisational development. Programmes that operate under the system

of continuous improvement such as the ISO standards would be typical processes that support and test policy resilience.

2. Risk appetite and tolerance

The choice of a fit-for-purpose risk strategy influences how risks are subsequently assessed and managed to support the business strategy. This shapes risk appetite and tolerance, the processes of management and the expected outcomes. Similar to policy, risk appetite and tolerance require continual monitoring to optimise allocation of resources, purpose and practice.

Risk appetite defines the organisation's capacity to manage risk. It is a function of internal skills and competencies, management systems and the financial capacity to cover the potential outcomes. In practice, risk appetite plays an important role in the calibration of risks, that is, defining materiality of risks. Amongst its functions, the risk appetite supports thoughtful deployment of resources and inhibits development of objectives that would exceed the risk appetite limits.

Risk tolerance refers to the acceptable variation in performance or mitigating actions. In other words, some levels of risk may exceed or be less than the appetite (or capacity to manage), but that difference

Highlights

- devising a fit-for-purpose ESG risk management policy and strategy is the responsibility of the board and senior management
- the governance function is responsible for implementing this policy and strategy
- organisations need to monitor and gauge the efficacy of policy and strategy via assurance processes and feedback loops

is within acceptable levels of targets set. As an example, a set amount of funds and other resources are allocated to mitigating environmental breaches on a construction site. Provided the differences between expectations (for example the set dollar limit) and reality (the actual fine) are small, the risk tolerance would be acceptable. The outcome would be a lower risk exposure level that would still be flagged for continued monitoring. In the case of intolerance, a review of the cause of the breach or the capacity to manage the mitigating action would be in order to ensure that the risk is, in fact, effectively managed and that, in future, the tolerance level remains within the acceptable range. Repeated failure to reach tolerance targets should, in turn, flag the governing policy and/or strategy and question its continued appropriateness.

3. Assurance and management processes

Governance incorporates not just risk policy and procedures but the establishment or improvement of competencies and skills to manage impacts and potential disruptions. This raises a question about the operating-level understanding of the internal business and social systems' infrastructure capabilities (a function of the risk appetite). A regular gap assessment would provide the markers for strengths and weaknesses and point to where resources allocation is needed for capacity improvement.

A productive gap assessment also addresses the risk tolerance in terms of the efficacy of the mitigation programme and outcome. A common mitigating outcome of an assessment is to set development in the direction of optimising business systems efficiency

Legal or the financial bottom line?

In establishing the fit-for-purpose risk strategy, one needs to consider the culture of the organisation that is reflected in the board's aspirations/goals for the company and enshrined in policy. If it is legal/compliance driven, the organisation looks at the risks of non-compliance and formulates a set of agreed targets around the risks. Financial risks then fold in as one of the categories of risk within the portfolio. With financial orientation, the organisation looks at the risks that influence the ability to achieve primarily the company's financial objectives. Non-compliance risks in this scenario have narrow financial impacts. Targets or restrictions common to both typically include operational, safety, reputational, regulatory and the social licence to operate.

An example of a legal-based risk strategy would be a company that manufactures precision widgets that are assembled and supplied to another company. It operates a facility that requires specialised technologies and tools and is operated by a skilled team of professionals. The manufacturing process requires strict specifications and quality controls to ensure minimum error (and waste) in the final product. The risk strategy would consider legal or compliance as its primary driver in purpose. Risks, for example, could include contractual/

product specifications and certifications, IP, IT and cyber security, disruptive or obsolete technologies and equipment and staffing issues. The advantage of this strategy is that competitive advantage is achieved through controlled management systems for differentiation and focus. The company establishes and maintains an industry reputation through its precision and quality of product.

An example of a financially aligned strategy would apply to a company that produces finished retail goods and employs a workforce located in multiple jurisdictions. Regulatory issues and compliance-based risks would apply, however the scope of financial risks take precedence due to the business purpose and context in which the company operates. The board's risk strategy would be financially oriented in consideration of its exposure in reliance on external supply chains and shared community resources, codes of practice and quality control, changes in consumer demographics and customer trends, climate change impacts, manpower and optimised manufacturing systems, geopolitical events, etc. The advantage of this strategy is that it considers context and the wider engagement of stakeholders to achieve and maintain competitive advantage through cost leadership and differentiation.

and, to a lesser extent, improvement of the social systems to engage. While business systems optimisation is the most common solution chosen, the actions to

mitigate social and environmental risk through such optimisation increasingly demonstrate diminishing returns on their investment and less tolerance in risk

“ while the board has the ultimate responsibility for corporate risk strategy, the corporate governance function ensures that strategy, policy and processes integrate and continue to be effective and relevant

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acceptance levels. Continued use of this business systems favoured pathway can ultimately lead to the potential loss of competitive advantage. A more balanced, albeit more demanding in practice, approach increases the role of social systems (for example stakeholder engagement, co-generation of value) and the improvement of internal competencies to manage risks.

With the risk governance framework in place, the process for management follows with the deployment of appropriate assurance systems and feedback loops. The choice of systems is subject to specific company needs and functions. However, systems that include audit functions, internal controls and mechanisms for continuous improvement (for example the 'Deming Cycle') provide the reliable data and information that is collated, analysed and organised into board-level reports. These reports are expected to reveal which risk activities connect to and support the business strategy. Boards apply their

own business expertise to the reports and provide feedback and guidance on adjustments or changes in risk strategy, thus creating the necessary circular management loop necessary for sustainability development.

Conclusion

When discussing ESG risks and their management processes, the following summary points serve to help reporters clarify and articulate their understanding of the issues and to intelligently communicate to vested interests the company's position and progress.

- The fit-for-purpose ESG risk management policy and strategy is the responsibility of the board and senior management. They establish the thinking (corporate risk culture) that will guide management activities and determine the long-term organisational development direction. It is the role of the governance function to implement this policy and strategy.

- The understanding and setting of targets for the risk appetite and tolerance levels are critical to successful risk practices at the operating level. Strategy and processes are monitored and adjusted on a continual basis to ensure relevance and to (re)confirm that policy is fit for purpose. An appropriate gap assessment can help to quickly identify strengths and weaknesses in these areas.
- Best management practices require capacity building that incorporates both social and business systems for optimal efficacy of purpose and outcomes. Several standards and guidelines are recognised for building such capacity to manage risks, monitor performance and create feedback loops for board and senior management decision making. These include the ISO standards, EHS systems, balanced scorecard, global and industry-specific standards/guidelines and relevant codes of conduct. What is important to all processes is inclusiveness, materiality, transparency and accountability of action.
- Reporting demands that information be verifiable, timely and relevant to senior decision makers for continued strategy validation and the organisational transformation necessary to achieve stated goals.

Dr Glenn Frommer and Theodora Thunder, Principals

The Sustainability Partnership

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The benefits of co-operation

New guidance from the SFC



Alan Linning, Susanne Harris and Sara Or, Partners at Mayer Brown JSM, assess the latest guidance from the Securities and Futures Commission on the benefits of co-operating in its investigation and enforcement proceedings.

On 12 December 2017, the Securities and Futures Commission (SFC) issued its *Guidance Note on Co-operation* (the guidance note), highlighting the benefits of co-operating in its investigation and enforcement proceedings. The SFC also issued frequently asked questions to help the industry and public understand the guidance note that replaces the Hong Kong financial regulator's previous guidance published in March 2006.

In the aftermath of the global financial crisis, the SFC put aside the 2006 guidance and adopted what some critics considered to be an inflexible approach towards the resolution of SFC enforcement actions generally. When settlements were agreed, it was often unclear from the SFC's public announcements what credit, if any, was given for co-operation in the enforcement process.

The guidance note is designed to encourage early co-operation by articulating the benefits of co-operation and the most opportune times to engage the SFC in settlement discussions. Under appropriate circumstances, the SFC says co-operation may be recognised in the form of reduced sanctions. Hopefully, this signals a more transparent approach by the regulator to co-operation and settlement.

Something old, something new

The new guidance note applies to disciplinary matters involving licensed or registered persons, as did the previous guidance. In addition, the SFC provides guidance on the benefits of co-operating

in the early resolution of civil court and Market Misconduct Tribunal (MMT) proceedings for the first time.

Criminal cases excluded

The guidance note does not apply to criminal cases because the Department of Justice (DOJ) has unfettered discretion over criminal prosecutions. Any plea negotiation and agreement in a criminal case will be subject to the terms of the Prosecution Code of the DOJ, and consideration by the presiding magistrate or judge.

The SFC's policy on private or no-admission settlements

As a general principle, the SFC considers it is not in the public interest to resolve cases privately or on a no admission of liability basis.

'Co-operation' defined by the SFC

Prompt, voluntary reporting of breaches or failings constitutes co-operation. The

SFC expects full and frank disclosure of information when a report is made. This includes sharing the results of any internal investigation and providing the SFC with evidence and information of which it is otherwise unaware.

Unsurprisingly, an admission of liability and the prompt payment of compensation to investors who have suffered losses also constitute co-operation. Finally, the SFC regards prompt rectification and remediation of any breaches or failings as additional indicators of co-operation.

What isn't co-operation?

The guidance note states that mere compliance with the requirements of the Securities and Futures Ordinance or other regulatory requirements does not represent co-operation in the eyes of the SFC. A party must go beyond what is required by law in order to be deemed co-operative. For example, in the context of disciplinary proceedings, if a regulated

Highlights

- the new Securities and Futures Commission (SFC) *Guidance Note on Co-operation* is designed to encourage early co-operation by articulating the benefits of co-operation and the most opportune times to engage the SFC in settlement discussions
- under appropriate circumstances, the SFC says co-operation may be recognised in the form of reduced sanctions
- if the SFC considers it appropriate to impose a reduced sanction, it will inform the regulated person of the original sanction and the final sanction imposed after taking co-operation into account

“
 it is good to read in the guidance note that the SFC acknowledges that a *bona fide* refusal to waive legal privilege over a document will not be regarded as unco-operative conduct
 ”



person agrees to jointly appoint a third-party review with the SFC in respect of the breaches or failings and agrees to be bound by the reviewer's findings, then the SFC will recognise that step as co-operation.

How does the SFC measure co-operation?

The SFC will consider the value of assistance provided in a particular case by referencing a number of factors, including the quality, extent and substance of the assistance provided. The nature and seriousness of the breaches or failings and the conduct of the party after the breaches or failings will be considered as well.

Waiver of privilege

Concerns have been expressed by the industry in the past that the SFC expects privilege to be waived in the context of internal investigations, and that a refusal to waive privilege may be viewed negatively by the regulator. Therefore, it is good to read in the guidance note that the SFC acknowledges that a *bona fide* refusal to waive legal privilege over a document will not be regarded as unco-operative conduct.

What are the rewards for co-operation?

For disciplinary cases, the SFC has been creative. If a case is resolved before the SFC issues a Notice of Proposed Disciplinary Action (NPDA), a reduction of the sanction imposed by up to 30% is possible according to the guidance note. The potential discount is up to 20% if the case is settled after the NPDA is issued but before the regulated person is due to make written representations in response. This discount is reduced to no more than 10% if settlement is reached after the regulated person makes representations but before the SFC issues a Decision Notice.

The SFC is unable to offer similar incentives for prompt co-operation in court or MMT cases where the sanctions to be imposed are ultimately determined by the presiding judge or MMT. The guidance note points out that early resolution of court or MMT cases can result in significant savings of time, cost and manpower to the SFC, which may in turn enable a case to be resolved on the basis of agreed facts. However, as a litigant rather than a decision maker, the SFC cannot fix a scale for a reduction in sanctions. The most it can do is agree

to put forward a reduced sanction for the court or MMT's consideration, which the court or MMT may or may not accept.

Transparency

The guidance note concludes by saying that in the interests of transparency, the SFC will provide an appropriate level of disclosure regarding co-operation. If the SFC considers it appropriate to impose a reduced sanction, it will inform the regulated person of the original sanction and the final sanction imposed after taking co-operation into account. This will allow the regulated person to measure the tangible benefits of their co-operation. The SFC will also state in its press release and Decision Notice the fact that the regulated person co-operated and give a general description of such co-operation. The enhanced transparency will be welcomed, enabling all market users to understand better what benefit, by way of reduction in sanction or otherwise, will stem from co-operation and under what circumstances.

Alan Linning, Susanne Harris and Sara Or, Partners Mayer Brown JSM

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New guidance notes

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



Since its launch in 2016, the Institute's Interest Groups project has added a substantial body of guidance to the Institute's website for the benefit of Institute members and the wider profession and community. A total of 12 guidance notes have been published so far in this series (all of which are available in the 'Publications' section of the Institute's website: www.hkics.org.hk). This article reviews the three additions to this series so far in 2018, comprising two guidance notes on managing bribery and corruption risks, and a guidance note on the corporate secretary's role in preparing for and responding to a ransomware attack.

Managing bribery and corruption risks

The risks associated with bribery and corruption, both internationally and in the Asian region, are on the rise. The two guidance notes published earlier this year by the Institute's Ethics, Bribery and Corruption Interest Group emphasise that companies cannot afford to neglect this area of risk management and compliance, and company secretaries and governance professionals can play a key role in ensuring that the relevant issues are understood by the board and senior management.

The guidance emphasises that ethics, bribery and corruption risks are not only about possible fines and regulatory actions – far more serious for companies are the reputational risks. 'Global corruption scandals over the last few years have shown that non-compliant behaviour does not only lead to financial losses, but also massive reputational damage. In comparison to possible exclusion from bidding procedures due to a blacklisting, or even the imprisonment of managers and employees, reputational damage can be far more serious. Building a good reputation takes a long-term investment and it might take

years of effort to win back stakeholders' trust,' the guidance note (first issue) states.

Step one – know the rules

For company secretaries and governance professionals, the first requirement is of course to have a good understanding of the relevant regulatory requirements and the consequences of non-compliance. The first issue guidance note from the Institute's Ethics, Bribery and Corruption Interest Group provides an overview of the regulatory requirements relating to bribery and corruption in Hong Kong, Mainland China and internationally.

These include the main anti-corruption laws – such as the Prevention of Bribery Ordinance in Hong Kong, the Criminal Law of the People's Republic of China and the US Foreign Corrupt Practice Act – but also lesser known laws and rules which can be just as relevant to managing bribery and corruption risks. These include the Theft Ordinance, the Companies Ordinance and the listing rules in Hong Kong, the Anti-Unfair Competition Law in Mainland China and the Organisation for Economic Co-operation and Development Anti-Bribery Convention internationally.

While a knowledge of the rules is essential, the first issue guidance note points out that practitioners should also be aware of

enforcement trends in the areas of ethics, bribery and corruption. There has been an escalation in the number of investigations and prosecutions by regulatory and criminal authorities. In Mainland China, for example, we have seen a sweeping anti-corruption campaign in recent years with vigorous enforcement activities. In Hong Kong and internationally we have also seen an increased focus by regulatory and enforcement authorities on holding individuals to account for wrongdoings.

Step two – build an ethics and compliance programme

The second issue guidance note from the Institute's Ethics, Bribery and Corruption Interest Group focuses on practical advice to help company secretaries and governance professionals build a compliance programme for managing ethics, bribery and corruption risks. It sets out the key elements such a programme would need to include to be effective. Some of the key elements discussed in the guidance are highlighted below.

- **Set the right tone from the top.** The guidance emphasises that it is important for management and the board of directors to set the right tone from the top. 'A strong foundation based on the commitment and endorsement of company leaders is

Highlights

- a strong foundation based on the commitment and endorsement of company leaders is vital to the success of an ethics and compliance programme
- ransomware can have severe operational consequences and can bring the business of even multinational companies to a halt
- corporate secretaries play a critical role in preventing, responding to and remediating ransomware attacks

“
global corruption scandals over the last few years have showed that non-compliant behaviour does not only lead to financial losses, but also massive reputational damage
 ”



vital to the success of an ethics and compliance programme. Management should set the right tone and be seen to play an active and visible role in demonstrating ethical behaviour,' the guidance states.

This issue will have particular relevance for corporate secretaries and governance professionals in their board advisory function. Since the board of directors is the starting point for setting the right tone, practitioners will need to ensure that ethics, bribery and corruption issues are on the board's agenda and are monitored on a regular basis.

- **Take a principles-based approach.** With ethical issues, and in particular in the fight against bribery and corruption, a rules-based approach alone will not be sufficient. Rules are useful to provide clarity about the minimum standards of behaviour and practice, but the ultimate goal should be to change mindsets and create an ethical culture that is based on principles and values. For this reason, it is important to engage the users of the ethics and compliance programme. Ethical values need to be effectively communicated to employees, the guidance points out,

because their support is needed to make the programme effective and sustainable.

'The company's code of conduct will only have an impact if the appropriate standards of behaviour are effectively communicated to all members of the organisation. Accordingly, the code should be clear and understandable to every employee at every level. Use simple and concise language, and avoid unnecessary legal jargon,' the guidance states.

- **Support whistleblowers.** Most instances of fraud are detected by parties within organisations rather than by external agencies. It makes sense therefore for organisations to encourage whistleblowing by members of the organisation.

The guidance reviews the support and incentives to whistleblowers in overseas jurisdictions and in Hong Kong. Code Provision C.3.7 of Hong Kong's Corporate Governance Code, for example, indicates that the terms of reference of the audit committee should require a review of the arrangements 'employees of the issuer can use, in confidence, to raise

concerns about possible improprieties in financial reporting, internal control or other matters. The audit committee should ensure that proper arrangements are in place for fair and independent investigation of these matters and for appropriate follow-up action'.

In addition, Recommended Best Practice C.3.8 in the code recommends the audit committee to establish 'a whistleblowing policy and system for employees and those who deal with the issuer (for example customers and suppliers) to raise concerns, in confidence, with the audit committee about possible improprieties in any matter related to the issuer'.

Ransomware prevention, preparedness and response

The WannaCry ransomware attack of May 2017 is estimated to have affected more than 200,000 computers across 150 countries and caused total damages into the billions of US dollars. WannaCry certainly put this type of ransomware cyber risk on the global map for compliance and governance professionals.

What is a ransomware attack?

A typical ransomware attack involves introducing malware into your IT system,

which then renders critical data and systems inaccessible via encryption. This is followed by a demand for payment for the decryption key – usually in the form of cryptocurrencies such as bitcoin. The consequences of a ransomware attack can be severe and the guidance points out that companies need to take all available preventative measures in advance. They also need to have a response plan ready in the event that these measures fail.

The corporate secretary role

The guidance points out that ransomware is not a problem that one corporate officer, or even any single division, can take on in isolation. A whole-of-company approach is required, from the boardroom down and across divisions. 'Corporate secretaries are increasingly being called on to take on this challenging issue on a proactive basis. With the right planning, they can save their companies from the headlines and focus on the business instead,' the guidance states.

As you would expect, many of the measures recommended in the guidance relate to the IT system, but there are many measures which are likely to involve close participation by the corporate

secretary. The incident response team, for example, needs to include employees from all relevant divisions, including IT, security, legal, compliance, human resources, customer relations, and public relations, as well as the company's outside advisers. The corporate secretary will be in an ideal position to co-ordinate this cross-disciplinary effort. 'The corporate secretary should consider who within the organisation is responsible for elements of planning and response around ransomware, and then convene those corporate stakeholders around the table,' the guidance states.

Another area which relates directly to the work of the corporate secretary is the need to advise the board of directors and senior executives on ransomware risk, prevention, planning and response.

Key elements of prevention and response

The guidance goes into some detail on the key things to consider when preparing for a ransomware attack. Corporate secretaries are likely to be involved in organising regular training for employees on the expected vectors for the malware, such as phishing emails. Training will also be needed to ensure employees

notify IT immediately when a potential ransomware attack has occurred. 'Employees should be trained never to pay ransom or attempt to negotiate or communicate with the attackers,' the guidance states.

Where preventative measures fail, companies will need to implement a response plan and the guidance gives advice on what such a plan should involve. For example, this plan should involve notifying all affected audiences such as employees, customers, investors, key commercial partners, regulators and, potentially, law enforcement.

Perhaps the most difficult aspect of a ransomware attack is the question of whether to pay ransom. The guidance lays out the key considerations for such a decision and makes it clear that such a decision should involve the company's key decision makers – including the CEO, corporate secretary and general counsel. The company should also try to identify the perpetrator as this can assist in evaluating sanctions compliance risk, the likelihood that the perpetrator will indeed furnish the decryption key upon payment and other relevant issues.

Returning to business as usual

The guidance also has advice on the key remediation measures companies should consider after a ransomware attack. These should involve restoring data backed up prior to the attack and assessing whether there are any regulatory, contractual or other obligations as a result of the incident. 📄

A word of thanks

The Institute would like to give thanks to all those involved in the production of the guidance notes reviewed in this article. These include the members of the Institute's Ethics, Bribery and Corruption Interest Group (Dr Brian Lo FCIS FCS, Lily Chung, Miang Lee and Ralph Sellar) and the authors of the ransomware guidance note (Robert Silvers, Jacqueline Cooney and Reade Jacob of Paul Hastings).

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

The guidance notes reviewed in this article are available from the 'Publications' section of the Institute website: www.hkics.org.hk.

Transfer pricing: the proposed regime

Windson Li, Partner, and Shan Yu, Tax Consultant, DLA Piper, look at the key features of Hong Kong's first comprehensive legislation designed to tackle transfer pricing and base erosion and profit shifting.

The Hong Kong government gazetted an unprecedented tax legislative amendment – the Inland Revenue (Amendment) (No 6) Bill (Amendment Bill) – on 29 December 2017, to meet the international standards promulgated by the Organisation for Economic Co-operation and Development (OECD) in the Base Erosion and Profit Shifting (BEPS) Action Plan (see the 'Glossary' sidebar for more on BEPS).

This Amendment Bill not only solidifies the major provisions in the previous Consultation Report on Measures to Counter Base Erosion and Profit Shifting

jointly issued by the Financial Services and the Treasury Bureau and the Inland Revenue Department (IRD) in July 2017, but also proposes significant legislative amendments to the Inland Revenue Ordinance (Cap 112) and the Inland Revenue Rules (Cap 112 sub leg A), which contain the transfer pricing (TP) rules in Hong Kong (see the 'Glossary' sidebar for more on TP).

It is likely that this Bill will be finalised in mid-2018, and a Departmental Interpretation and Practice Note (DIPN) is expected to follow with details to facilitate a better understanding and compliance.

Highlights

- the Amendment Bill codifies fundamental transfer pricing rules in Hong Kong's domestic legislation
- no safe harbour is provided in the Bill for Hong Kong domestic intercompany transactions
- multinational companies in Hong Kong will have a significantly heavier administration burden to comply with the new transfer pricing rules and requirements

This article sets out the key features related to the proposed TP rules in the Amendment Bill.

Codification of TP definitions and rules

Before this Amendment Bill, the Inland Revenue Ordinance and its DIPNs only included some general provisions on TP. In practice, the IRD has been referring to the OECD TP Guidelines for application of the arm's length principle to transactions between associated persons (see the 'Glossary' sidebar for more on the arm's length principle).

As the first comprehensive transfer pricing legislation in Hong Kong, this Amendment Bill codifies the key definitions and fundamental TP rules in Hong Kong's domestic legislation, including key definitions such as associated persons/enterprises, resident of tax purpose, advanced pricing arrangement, independent person/enterprise, and the arm's length principle, which are generally consistent with the OECD TP Guidelines and China's TP regulations.

Associated persons/enterprises are defined and tested based on one party's direct



and indirect participation in, or control of, management or capital of another, including common participation or control by a third party and holding of beneficial interest.

The TP rules will apply to all associated persons and enterprises, as well as foreign head offices and their permanent establishments (PE) in Hong Kong, covering intercompany buy–sale, services, financing and asset transfer. In spite of the many requests in the prior consultation process, no safe harbour is provided in the Amendment Bill for Hong Kong domestic intercompany transactions. Hong Kong domestic transactions therefore are subject to the fundamental TP rules and compliance requirements under the Amendment Bill.

1. Elaborating the definition of PE

The Amendment Bill further elaborates on the definition of PE and provides guidance on determining if a non–Hong Kong resident constitutes a PE in Hong Kong. For a person resident in a Comprehensive Double Taxation Agreement (CDTA) territory, the

Amendment Bill proposes that the definition of PE shall still refer to the PE provision in the CDTA. For a non–CDTA territory resident person, the Amendment Bill proposes a fixed–place test and an agency test for identification of a PE and clarifies that preparatory or auxiliary activities do not constitute PE.

2. Enhancing the double taxation relief system

The Amendment Bill allows a taxpayer to apply for double tax relief if a tax adjustment has been made abroad based on the arm's length principle resulting in double taxation of the Hong Kong taxpayer's income. Such double taxation relief also applies to transactions between parts of the same enterprise, such as between the head office and PEs in different territories.

For application of double taxation relief, the Amendment Bill requires taxpayers to take reasonable steps to minimise foreign taxes paid before resorting to the tax relief system in Hong Kong, and to notify the IRD on the adjustment of their foreign tax credit within a prescribed time limit. For

double taxation related to cross–border transactions, the time limit for relief application is limited to two years.

3. APA framework

The Amendment Bill includes an advanced pricing arrangement (APA) framework to strengthen Hong Kong's APA regime in anticipation of rising demand for APAs after the codification of fundamental TP rules. Taxpayers may apply for unilateral, bilateral or multilateral APAs for transactions involving Hong Kong resident persons or PE of a non–Hong Kong resident person. The IRD Commissioner continues to have discretion in accepting or rejecting an application.

According to the Amendment Bill, APA application fees will be calculated and charged based on hourly rates of IRD officials by seniority, which could be very substantial, and may not be refunded even if the APA is not successful. Rollback of an APA agreement is possible for prior income years subject to the statutory limitation, as long as the taxpayer's

Hong Kong tax liability will not be reduced due to the rollback.

4. Dispute resolution mechanism

The Amendment Bill introduces a dispute resolution mechanism to address treaty-related disputes. Where an agreement is reached based on the mutual agreement procedure (MAP) under Hong Kong's tax treaties, the Commissioner will give effect to the MAP agreement by making adjustments. Such adjustments can be in the form of discharge, repayment of tax, allowance of credit against tax payable in Hong Kong, or other forms determined by the Commissioner.

5. Mandatory documentation requirement

The Amendment Bill includes a mandatory documentation requirement that is generally consistent with the three-tiered documentation requirements under Action 13 of the OECD BEPS Action Plan. A Hong Kong enterprise will have the obligation to prepare the master file and local file, unless it satisfies any two of the three conditions below in a particular tax year:

- records a total annual revenue of no more than HK\$200 million
- records total assets of no more than HK\$200 million, and
- employs an average of no more than 100 people.

A local file is not required to cover a particular category of transaction if the size of that transaction falls below the following threshold:

- transfer of properties: HK\$220 million

- transaction of financial assets: HK\$110 million
- transfer of intangibles: HK\$110 million, and
- any other transactions (such as services or royalties): HK\$44 million.

If an enterprise's related-party transactions of all categories are below the above thresholds, it will be exempt from preparing a local file and will not be required to prepare the master file either. The above mandatory documentation requirement applies to each accounting period beginning on or after 1 April 2018 and should be completed within six months after the end of the accounting period. Taxpayers who fail to prepare the master file and local file will be liable to a fine and may be ordered by court to complete the documentation within a specified time limit.

6. Country-by-country report

Under the Amendment Bill and with effect from 1 January 2018, a multinational

enterprise with annual consolidated group revenue equal to or exceeding HK\$6.8 billion (€750 million) will be required to file a country-by-country (CbC) report in Hong Kong if its ultimate holding company is a Hong Kong resident. The filing requirements are broadly in line with the OECD's requirements.

Similar to the OECD mandate, the primary obligation of filing CbC reports set out by the Amendment Bill falls on the ultimate parent entities of multinational enterprises that are resident in Hong Kong, subject to secondary filing obligation if the ultimate parent entities are resident in a jurisdiction that neither requires the filing nor provides for the exchange of CbC reports.

For an accounting period beginning on or after 1 January 2016 but before 1 January 2018, the IRD also welcomes voluntary filing of CbC reports in Hong Kong. The Amendment Bill acknowledges a common practice that a service provider may be engaged by a reporting

Glossary

Transfer pricing – refers to the pricing of transactions between enterprises under common ownership or control.

The arm's length principle – is used by tax authorities in many countries to combat the practice whereby organisations distort their taxable income by adjusting intragroup transfer prices. The tax authority readjusts the price to what would have been charged by unrelated enterprises dealing at arm's length.

Base erosion and profit shifting (BEPS) – refers to the practice of shifting profits across borders to take advantage of tax rates that are lower than in the country where the profit is made. The OECD's BEPS Action Plan is designed, among other things, to ensure that taxable profits can't be artificially shifted away from countries where the value is created and it will oblige taxpayers to report any aggressive tax planning arrangements.

“
the Amendment Bill marks
a groundbreaking change in
Hong Kong’s transfer pricing
enforcement regime
”



entity to furnish a CbC report and give relevant notification to IRD.

7. Specific provisions on taxation of IP-related return

The Amendment Bill emphasises that IP-related returns attributable to a Hong Kong person's value creation contribution should be regarded as trading receipts arising in or derived from Hong Kong and hence subject to Hong Kong tax. In line with the 2017 OECD Transfer Pricing Guidelines, IP-related value creation activities generally refer to:

- performing the functions of and assuming risks relating to the development, enhancement, maintenance, protection or exploitation of the IP, or
- providing assets in and assuming risks relating to the development, enhancement, maintenance, protection or exploitation of the IP.

8. Penalties

The Amendment Bill introduces specific penalty provisions, under which administration penalties will be imposed on taxpayers for failure to comply with requirements under TP rules, TP documentation and CbC report requirements, for providing misleading, false or inaccurate information, and

for omitting to provide information. Administration penalties may also be imposed on service providers if the service provider engages in non-compliant or tax evasion actions.

It is noted that the Amendment Bill does not provide a blanket exemption from penalties for taxpayers who have prepared TP documentation. As such, it leaves it to the Commissioner to decide if a taxpayer should be exempt from penalties for engaging in non-arm's length intercompany transactions where TP documentation has been prepared.

A groundbreaking change, a heavier administrative burden

With the key provisions set out above, the Amendment Bill marks a groundbreaking change in Hong Kong's TP enforcement regime. Codifying the fundamental TP rules in domestic legislation and implementing the BEPS standards clearly demonstrates Hong Kong's commitment to prevent cross-border BEPS actions, and the tax enforcement environment around TP rules is expected to be more strict in Hong Kong.

Multinational companies in Hong Kong will have a significantly heavier administration burden to comply with the new TP rules and requirements. While this is the time to start preparation

for complying with the three-tiered documentation requirements in Hong Kong in line with obligations of overseas headquarters or affiliates for consistency and compliance, it is also very important to look further into the substantive functions of existing businesses and align TP arrangements inside and outside Hong Kong to make sure the foundation of TP compliance is robust under the Amendment Bill. The latter is particularly important for any IP-related returns, as such returns in Hong Kong would need to be supported by appropriate functions, risks and assets going forward.

The Amendment Bill also signals some opportunities to rely on the APA and MAP programmes. Under the proposed rules, a taxpayer may apply for unilateral, bilateral or multilateral APAs for transactions involving Hong Kong resident persons or their PE. Further, a MAP agreement reached under Hong Kong's tax treaties will be given effect in Hong Kong in the form of discharge, repayment of tax, allowance of credit against tax payable in Hong Kong or other forms determined by the Commissioner.

Windson Li, Partner, and Shan Yu, Tax Consultant

DLA Piper

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Listing regulation in Hong Kong: the latest proposals

CSj reviews the key points in the Stock Exchange of Hong Kong consultation paper proposing new rules to expand Hong Kong's listing regime to facilitate listings of companies from emerging and innovative sectors.

The Stock Exchange of Hong Kong Ltd (the Exchange), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Ltd (HKEX), published its *New Board Concept Paper* on 16 June 2017, proposing significant changes to Hong Kong's listing regime. In the interests of boosting Hong Kong's overall competitiveness versus other major global listing venues, particularly in respect of attracting companies from emerging and innovative sectors, the Exchange proposed to expand the existing listing regime by introducing two new chapters to the listing rules to allow the listing of:

- biotech companies which do not meet the financial eligibility tests of the Main Board listing rules, and
- innovative and high-growth issuers that have weighted voting rights (WVR) structures, subject to additional disclosure and safeguards.

These proposals were further developed in the conclusions to the *New Board Concept Paper* published in December 2017 (*New Board Concept Paper Conclusions*). In addition to the proposals

listed above, the Exchange proposed to modify the existing listing rules in relation to overseas companies to create a new secondary listing route to attract innovative issuers that are primary listed on a 'qualifying exchange'.

These proposals were submitted for consultation in February 2018. This latest consultation paper offers more detail on the key issues that the three proposals discussed above raise for the Hong Kong market and sets out the draft amendments to the listing rules.

Investor protection

Since issuers listed under the proposed new biotech chapter in the listing rules would not meet any of the financial eligibility tests of the Main Board, these issuers potentially carry additional risks to investors. Accordingly, the proposals include eligibility and suitability criteria for determining appropriate applicants, a higher market capitalisation requirement, enhanced disclosure requirements, as well as restrictions on fundamental changes of business.

Highlights

The new proposals from The Stock Exchange of Hong Kong Ltd are to:

- permit listings of biotech issuers that do not meet the financial eligibility tests of the Main Board listing rules
- permit listings of companies with weighted voting right structures, and
- establish a new concessionary secondary listing route for Greater China and international companies that wish to secondary list in Hong Kong.



Regarding issuers with WVR structures, the proposals closely follow the position set out in the Way Forward section of the New Board Concept Paper Conclusions. An applicant will be required to demonstrate that it is eligible and suitable for listing with a WVR structure by reference to a number of characteristics, including the nature of the company and the contribution of the proposed WVR beneficiaries. Recognising the potential risks associated with WVR structures, the Exchange has proposed safeguards, including limits on WVR power and measures to protect non-WVR holders' right to vote, enhanced corporate governance requirements, as well as enhanced disclosure requirements.

For the proposed new secondary listings chapter, the Exchange aims to strike a balance between facilitating listings of innovative companies that are primarily subject to regulation overseas and providing appropriate investor protection. As a result, it has proposed a new regime for three types of companies that are primary listed on a qualifying exchange (QE) in the US or the UK, namely:

1. Greater China issuers that were primary listed on a QE before the publication of the New Board Concept Paper Conclusions
2. those that were primary listed on a QE afterwards, and
3. non-Greater China issuers.

Regulatory oversight

Another issue to be addressed is the relative roles of the Exchange and the Securities and Futures Commission (SFC) in providing regulatory oversight and enforcement. Following discussions, the two regulators have signed an addendum (Addendum) to the Memorandum of Understanding Governing Listing Matters signed on 28 January 2003.

Pursuant to arrangements under the Addendum, a new Listing Policy Panel (LPP) has been established as an advisory, consultative and steering body to initiate and centralise discussions on listing policy with broader regulatory or market implications. The LPP was set up based on the *Joint Consultation Conclusions on Proposed Enhancements to The Stock Exchange of Hong Kong Ltd's Decision-making and Governance Structure for Listing Regulation* (published on 15 September 2017).

The LPP consists of 12 members comprising senior representatives of the SFC, the Listing Committee, HKEX and the Takeovers and Mergers Panel. The LPP is not a committee under the SFC, HKEX or the Exchange.

The role of the SFC as a statutory regulator has evolved to have a more direct presence in more serious

listing matters. The Joint Consultation Conclusions clarified the role of the SFC as the statutory regulator in:

- administering the Securities and Futures Ordinance and the Securities and Futures (Stock Market Listing) Rules (SMLR), and
- supervising, monitoring and regulating the activities of the Exchange, including the Exchange's role as the regulator in administering the listing rules.

The Exchange is the primary frontline regulator and remains the contact point for all listing applications, save in respect of concerns raised by the SFC under the SMLR. The SFC is the direct contact point on issues raised under the SMLR.

The next steps

If the proposals in the Exchange's latest consultation paper are implemented, a prospective listing applicant and its sponsor(s) may, after the listing rules are published, submit a formal pre-IPO enquiry regarding the interpretation of the final listing rules and their application to the prospective listing applicant's circumstances. Before then, the Exchange will respond to any such enquiries on an informal basis. Companies may submit a formal application for listing under the new regime only after the listing rules to implement the regime come into effect.

More information is available on the websites of the Stock Exchange of Hong Kong Ltd: www.hkex.com.hk and the Securities and Futures Commission: www.sfc.hk.

Professional Development

Seminars: February 2018

6 February
Overview on anti-money laundering



Chair: Loretta Chan FCIS FCS, Institute Professional Services Panel Chairman, and Partner, Tax, Company Secretarial Services, PricewaterhouseCoopers Ltd

Speakers: Roy Lo, Managing Partner, Shinewing (HK) CPA Ltd, and Gloria So, Principal, Shinewing Risk Services Ltd

7 February
Board meeting masterclass



Chair: Edith Shih FCIS FCS(PE), Institute Past President; Senior Vice-President, ICSA; and Executive Director & Company Secretary, CK Hutchison Holdings Ltd

Speaker: David Venus FCIS, International President, ICSA

9 February
Company secretarial practical training series: change in directors, officers, committees and other corporate positions



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

Speaker: Ricky Lai FCIS FCS, Company Secretary, HKC (Holdings) Ltd

23 February
Significant controller register & new licensing regime of TCSP (re-run)



Chair: Neil M McNamara FCIS FCS, Institute Past President, and Group Corporate Secretary, Director of Group Corporate Affairs, Jardine Matheson Ltd

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

23 February
Significant controller register & new licensing regime of TCSP



Chair: Natalia Seng FCIS FCS(PE), Institute Past President, and Chief Executive Officer – China & Hong Kong, Tricor Group/Tricor Services Ltd

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

26 February
Company secretarial practical training series: the role and challenges of INEDs



Chair: Kitty Liu FCIS FCS, Institute Education Committee member, and Company Secretary – Group Legal, AIA Group

Speaker: Dr Davy Wu, Senior Lecturer, Department Accountancy and Law, Hong Kong Baptist University

27 February
Insolvent trusts and risk management



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

Speakers: Ian Mann, Partner, and Lucy Hickmet, Associate, Harney Westwood & Riegels

28 February
International enforcement of large judgments and arbitration awards



Chair: Richard Leung FCIS FCS, Barrister, MA, LLB, FCPA, Institute Past President, and Barrister-at-Law, Des Voeux Chambers

Speaker: John Han, Lawyer, Kobre & Kim

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
23 April 2018	6.45pm – 8.15pm	Pre-IPO trust planning & employee stock option plan (re-run)	1.5
24 April 2018	6.45pm – 8.15pm	Exclusive agreements & competition law: a case study	1.5
25 April 2018	4.00pm – 5.30pm	Structuring a private investment fund and the latest developments	1.5
11 May 2018	6.45pm – 9.30pm	Company secretarial practical training series: notifiable and connected transactions	2.5
15 May 2018	6.45pm – 8.15pm	Practical ways to resolving offshore claim disputes	1.5

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

Online CPD (e-CPD) seminars

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

Chak Shuk Man	Chow Fuk Wai	Law Kiu Yan	Tang Yee Wah
Chan Kai Hong	Choy Man Sau	Lee Lung Piu	Tsang Man Shan
Chan Oi Kuen	Chung Kam	Leung Tsz Man	Wan Pui Hin, Gladys
Chan Tsz Yu	Fong Mei Ling	Li Chiu Sing	Wong Ka Yan
Chan Wai Yi	Ho Lai Ying	Li Peihua	Wong Kit Yi
Chan Wing Tung	Ho On Ni	Lo Yu Yung	Wong Man Hei
Chan Yuk Yee	Hsing Tsang Lun	Mak Ho Yiu	Yip Yim Fan
Cheng Chau Kuen	Ip Yan Pui	Ngai Tan Ching	Yu On Nei, Natasha
Cheng Ching Kit	Ko Wing Man	Sit Lai Ha	Yuen Sze Chai
Cheng Ka Ki	Lam Ka Yan	Suen Ka Yan	
Cheung Chung Wing	Lam Ming Ki	Tam Oi Kam	
Cheung Kit Ying	Lam Wing Yiu	Tang Pak Yan	

New associates

Congratulations to our new associates listed below.

Au Yeung Yiu Chung	Kong Wai Hang	Sit Po Ling
Bai Yang	Kwok Siu Ying, Sarah	So Hiu Wa
Chan Hiu Yi	Kwok Wai Chun	Tam Yuen Yu, Galaxy
Chan On Yee	Lau Sze Yan, Trevina	Tsui Yuet Ting
Chan Pik Yi, April	Law Ching Wa	Wong Chi Yuen
Cheng Ka Kit	Lee Hoi Lam	Wong Wai Na
Cheng Ka Man	Lee Yin Yee	Wu Hing Ting
Cheung Ching Yuen	Leung Siu Miu	Wu Mei Kei
Cheung Shing Chi	Li Man Wah	Ye Fangfei
Chiang Ching Yee	Luo Shuyu	Ying Yuen Yan
Chiang Yuen Ying	Ng Ho	Yu Wing Sum
Chin Hei Yin	Ng Sui Yin	Zhang Tan Fung
Fong Yuen Yuen	Ng Yu Yi	
Fung Man Wai	Pang Kwan Wai	
Ko Wing Yu	Shum Ting Yan	

Update of correspondence address

Members and graduates are reminded to update their correspondence address directly via the members' login area or by submitting to the Secretariat the completed and signed 'M016 – Personal Data Update Form', which can be downloaded from the Membership section of the Institute's website: www.hkics.org.hk. For enquiries, please contact the Membership section at: 2881 6177, or email: member@hkics.org.hk.

Members' activities highlights: February and March 2018

24 February
Community Service –
single elders home
visit project 2018
(kick-off briefing
and volunteers'
monthly visit 1)



5 March
Welcome drinks with
newly elected fellows



3 March
Dragon boat training



10 March
Chartered Secretary
Mentorship
Training – effective
communication
skills



Forthcoming membership activities

Date	Time	Event
18 April 2018	6.45pm – 8.30pm	Members' Networking – grooming for professionals
28 April 2018	9.15am – 1.00pm	Community Service – beach cleaning
3 May 2018	6.45pm – 8.30pm	Members' Networking – grooming for professionals (re-run)
5 and 12 May 2018	10.45am – 12.45pm	Fun & Interest Group – yoga training (class A)
10 May 2018	6.45pm – 8.30pm	Mentorship Programme – social gathering
18 May 2018	6.45pm – 8.30pm	Welcome drinks for graduates and associates
19 and 26 May 2018	10.45am – 12.45pm	Fun & Interest Group – yoga training (class B)

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

Membership (continued)

Application for concessionary subscription rate for 2018/2019

As a professional body established by members and for members, the Institute continues to offer concessionary subscription rates to members who satisfy the criteria listed below.

1. Retired rate

This applies to members who:

- are retirees and are not contributing to the Mandatory Provident Fund Scheme; and
 - o have reached the age of 55 on or before the beginning of the financial year (1 July 2018) and who have been a paid-up member of the Institute for at least 25 years, or
 - o *have reached the age of 60 on or before the beginning of the financial year (1 July 2018) may be exempted from the 25-year membership requirement at the discretion of the Membership Committee.*

2. Reduced rate

This applies to members/graduates who:

- have been unemployed for a minimum of six months prior to their application; or
- have ceased to receive income and/or remuneration due to health conditions for a minimum of three months prior to their application; or
- have encountered circumstances which, in the judgement of the Membership Committee, warrant the reduced rate.

3. Hardship rate

This applies to members/graduates who have ceased to receive income and/or remuneration due to health conditions for over two years prior to application or other circumstances which, in the judgement of the Membership Committee, warrant the hardship rate.

Notes to applicants:

- The application deadline for any concessionary subscription rates for the 2018/2019 financial year is Thursday 31 May 2018.
- All applications must be approved by the Membership Committee, the decision of which is final.
- Retired rate applications should only be made once. However, such members should keep the Institute informed immediately of any change in circumstances which may affect their entitlement to the retired rate.
- Reduced rate and hardship rate applications are approved on an annual basis.

The application forms for the concessionary subscription rates can be downloaded from the Membership section of the Institute's website: www.hkics.org.hk. For enquiries, please contact Rose Yeung at: 2830 6051, or Vicky Lui at: 2830 6088, or email: member@hkics.org.hk.

Advocacy

A vote of thanks to Paul Stafford, former Institute's Vice-President and Council member

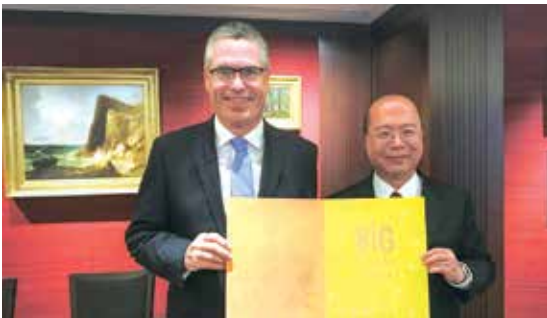
Paul Stafford FCIS FCS(PE), a Council member and Vice-President of the Institute since 2014 and 2015 respectively, as well as a representative of the Institute on the International Council of The Institute of Chartered Secretaries and Administrators (ICSA) from 1 January 2015, resigned from these positions with effect from 1 March 2018 due to personal reasons. Institute Council member Gillian Meller FCIS FCS has been elected by Council as Vice-President of the Institute and Peter Greenwood FCIS FCS has been elected as a representative of the Institute on the ICSA International Council with effect from 1 March 2018.

Mr Stafford has made a tremendous contribution to the Institute through his involvement since 2010. He was a Vice-Chairman of the Membership Committee in 2014 and 2015, and the Chairman of the Professional Development Committee from 2016 to 2018. He also served on the Company Secretaries Panel (2010 to 2018), Technical Consultation Panel (2011 to 2015), ICSA/HKICS

Name Working Group (2016 to 2018) and Human Resources Committee (2017 to 2018). In addition to Council and Committee appointments, Mr Stafford has actively contributed to the Institute's seminars and conferences as a speaker or a chair, as well as to the Institute's mentoring programme.

Institute President David Fu FCIS FCS(PE) hosted a farewell gathering for Mr Stafford on 15 March 2018 with Council members, Past Presidents and Secretariat staff. A souvenir was presented to Mr Stafford as a memento.

Council would like to extend a vote of thanks to Mr Stafford for his valuable contribution to the Council and Institute during his period of service. Council wishes Mr Stafford all the best in his new ventures.



David Fu presenting a thank you card to Paul Stafford



Paul Stafford with Institute Council, fellows and Secretariat staff

HKICS receives the Caring Organisation Logo Award

The Institute has been awarded the 2017/2018 Caring Organisation Logo by the Hong Kong Council of Social Service. The Award is a recognition for the Institute's corporate social responsibility efforts in caring for the community, its employees, and the environment. The Institute will continue to support and embark on projects that will bring long-term sustainable growth to its members and students, its employees, other stakeholders, as well as the community and the environment at large.



Advocacy (continued)

ICSA International President's masterclass in Hong Kong

On 7 February 2018, the Institute was honoured to have the International President of The Institute of Chartered Secretaries and Administrators (ICSA), David Venus FCIS, sharing his knowledge and experience on the essentials for conducting a successful board meeting with more than 220 Institute members and students at his masterclass in Hong Kong. Mr Venus' masterclass provided members and students with valuable input to practice at work. Institute Past President and ICSA Senior Vice-President Edith Shih FCIS FCS(PE) also shared her past experience for the benefit of the participants. The masterclass was followed by an interesting question and answer session with the participants.

The Institute would like to thank Mr Venus for his insightful sharing and continuous support of the Institute.



David Venus delivering his presentation



Edith Shih presenting a token of thanks to David Venus



Group photo

HKICS participates in an EOC seminar

On 5 March 2018, a seminar on 'Enhancing Awareness of Sexual Harassment in Different Sectors' was jointly organised by the Equal Opportunities Commission (EOC) and the Gender Research Centre of The Chinese University of Hong Kong. Institute Council member Stella Lo FCIS FCS was invited to be one of the panellists discussing how the concerted efforts of different sectors could prevent sexual harassment. At the panel discussion with other speakers from various community sectors in Hong Kong, Stella talked about the governance role of the company secretary and discussed sexual harassment issues in the context of environmental, social and governance concerns. The panel discussion also addressed the adoption and enforcement of anti-sexual harassment policies.

The issue of how to advise the board of directors on these issues was also discussed. To get buy-in by the board, there needs to be an understanding of the reputation and vicarious liability risks. Stella Lo also answered a number of practical questions and contributed useful perspectives to the seminar. Also attending the seminar was Mohan Datwani FCIS FCS(PE), the Institute's Senior Director and Head of Technical & Research, and an EOC Member.



Stella Lo presenting at the seminar

HKICS attends ICGN-IIRC Tokyo Conference 2018

On 28 February and 1 March 2018, Institute President David Fu FCIS FCS(PE); Institute Past President and ICSA Senior Vice-President Edith Shih FCIS FCS(PE); and Chief Executive Samantha Suen FCIS FCS(PE) attended a conference on corporate governance and stewardship in Tokyo, Japan. The conference was jointly organised by the International Corporate Governance Network (ICGN) and the International Integrated Reporting Council (IIRC) and hosted by the Japanese Institute of Certified Public Accountants and Tokyo Stock Exchange.



At the conference at Tokyo Stock Exchange

At this two-day conference, speakers from different sectors and professional backgrounds explored how to accelerate the reforms on governance and stewardship, as well as how to mitigate impediments to company and investor engagement efforts with over 400 global investors, corporate executives and professional advisors. The Institute representatives used this opportunity to build networks with ICGN, IIRC and other relevant institutions and bodies in Japan for potential future collaboration.



From left to right: David Fu FCIS FCS(PE); Edith Shih FCIS FCS(PE); Judge Professor Mervyn King; Samantha Suen FCIS FCS(PE); and members Yumiko Nakano FCIS FCS(PE) and Paul Chan FCIS

ICSA Council meeting in Jersey

The Council of The Institute of Chartered Secretaries and Administrators (ICSA) held its Council meeting in Jersey, Channel Islands on 22 and 23 March 2018. Institute Past President and ICSA Senior Vice-President Edith Shih FCIS FCS(PE), Institute representative on the ICSA International Council, Peter Greenwood FCIS, and Chief Executive Samantha Suen FCIS FCS(PE) attended the ICSA Council meeting. The ICSA divisional Chief Executives also held their meeting in Jersey, UK on 21 March 2018.



At the Council meeting

HKCPS luncheon talk with the Financial Secretary

On 21 March 2018, a luncheon talk on the 2018/2019 budget of the Government of the Hong Kong SAR (HKSAR) was organised by the Hong Kong Coalition of Professional Services (HKCPS) with the HKSAR Financial Secretary The Honourable Chan Mo-po, Paul GBM GBS MH JP FCIS FCS, as the Guest of Honour. The Institute has been a member of the HKCPS since 2011. Institute President David Fu FCIS FCS(PE); Treasurer Dr Eva Chan FCIS FCS(PE); Council members Stella Lo FCIS FCS; Bernard Wu FCIS FCS; Immediate Past President Ivan Tam FCIS FCS; Past President Dr Maurice Ngai FCIS FCS(PE); other Institute members and secretariat staff attended the luncheon talk.

Advocacy (continued)

Chartered Secretaries Preview Day 2018

The Institute held its second 'Chartered Secretaries Preview Day' on 17 March 2018 at the Harbour Grand Hong Kong and achieved a record-breaking registration of over 230 attendees. The Preview Day aimed to bring Institute registered students, undergraduates of local universities and potential employers together. The event provided the opportunity for registered students and undergraduates of local universities to meet with industry experts for first-hand information and advice about the Chartered Secretarial and Governance profession in lively experience-sharing activities. Institute President David Fu FCIS FCS(PE) highlighted the importance of Chartered Secretaries in today's ever-changing business environment and the immense career opportunities of this profession. Institute Past President and ICSA Senior Vice-President Edith Shih FCIS FCS(PE) addressed the occasion as the Guest of Honour. Ms Shih indicated that many Chartered Secretaries serve as governance professionals in the public and private (whether listed or non-listed) sectors, non-government organisations and other corporate service providers or professional firms. She also stressed that artificial intelligence can only help with mechanical and clerical chores. It cannot replace the work

of a company secretary or governance officer which require people with a complex body of knowledge and skill set. Institute Education Committee member Rachel Ng ACIS ACS (event moderator), Council member Ernest Lee FCIS FCS(PE), as well as Institute members Joey Chung FCIS FCS and Carrie So ACIS ACS, also shared their career paths and working experiences with the participants. A workshop on interview preparation by Michael Page, as well as a small-group sharing session by Institute members were arranged to provide the participants with practical tips on exploring their careers in the Chartered Secretarial and Governance profession. Two onsite internship interview sessions were also arranged by PricewaterhouseCoopers Ltd and Tricor Services Ltd for selected candidates.

The Institute would like to thank BDO Ltd for being the welcome refreshment sponsor; Tricor Services Ltd for being the coffee break sponsor; Baker & McKenzie, PricewaterhouseCoopers Ltd and Vistra (Hong Kong) Ltd for being the sponsors; jobsDB for being the media partner; the Companies Registry and Michael Page for being supporting organisations, and all Institute members and helpers for their contributions to the event.



International Qualifying Scheme (IQS) examinations

June 2018 IQS examination enrolment and IQS study pack updates

The 2018 updated online version of the IQS study packs for Corporate Governance, Corporate Administration and Hong Kong Corporate Law have been made available on the HKICS PrimeLaw online platform since 13 March 2018. Summaries of the updates for each of these three study packs are available under the News section of the Institute's website: www.hkics.org.hk. Students who have activated their online account will have access to the updates and the summaries on that platform too. Students who have not yet activated their accounts are encouraged to do so as soon as possible.

For questions regarding the online study packs and the June 2018 examinations, please contact Ally Cheung at: 2830 6031, or Ruby Ng at: 2830 6006, or email: student@hkics.org.hk.

Examination technique workshops

The Institute will organise a series of three-hour IQS examination technique workshops for students. These workshops, which will commence in mid-April 2018, aim to help students improve their examination technique. Each workshop costs HK\$500.

Students may download the enrolment form from the Studentship section of the Institute's website: www.hkics.org.hk.

IQS seminar on Hong Kong Corporate Law

The Institute will organise an IQS seminar on Hong Kong Corporate Law for registered students on Thursday 26 April 2018. Ian Lee, the teaching fellow of the School of Accounting and Finance of The Hong Kong Polytechnic University will be the speaker. This seminar will focus on examination technique and analyse some questions selected from examination past papers.

Students may download the enrolment form from the Studentship section of the Institute's website: www.hkics.org.hk.

Tips from subject prize awardees

Subject prize awardees from the December 2017 IQS examination share their study experiences and tips on preparing for the IQS examinations.

Li Ka Hung (Hong Kong Corporate Law subject prize awardee)

Ms Li graduated with an accounting degree from Hong Kong Shue Yan University. She is currently a company secretarial officer at a professional firm that provides corporate services.

Ms Li sees the Chartered Secretarial qualification as very useful for her career development and this was her first attempt at taking Hong Kong Corporate Law. She found that taking examinations helped improve her memory and also her analytical and organisational skills. Regarding examination preparation, Ms Li would first revise major topics and then spend time on the details of different topics. She points out that time management is important for examination preparation, and that understanding the concepts and principles behind the issues, as well as analysing

past examination papers are essential. The past examination papers helped to test her answering skills. Ms Li found the Institute's study materials useful in her preparation.

Though it was stressful studying part time for the examination, Ms Li did allocate time for exercise in order to release the pressure. She enjoys the fact that she can apply what she has learnt from the examination in her daily work. With a clear idea of concepts, procedures and the requirements of issues, she finds that she can deal with her work more efficiently.

Chow Fuk Wai (Hong Kong Corporate Law subject prize awardee)

Ms Chow graduated with a BBA in Accounting and Finance from The University of Hong Kong. She is working as senior company secretarial officer in a listed company.

This was Ms Chow's first attempt at taking the Hong Kong Corporate Law examination. Though already a CPA, she wants

International Qualifying Scheme (IQS) examinations (continued)

to pursue the Chartered Secretarial qualification for her career development. Ms Chow points out that the IQS examination is a recognised professional qualification for company secretaries from which she will gain knowledge in law, corporate administration, employment law and listing rules.

Ms Chow's strategy for examination preparation was to focus on topics covered in the past examination papers and try to understand the legal principles and relevant case law. She usually summarised from the suggested answers to work out how to apply the legal principles and cases set in the questions. She advises that it is important to first identify those topics and principles and see if they are applicable to the cases. As she usually allocated weekends for study, her advice is to start preparation earlier and notes that the Institute's study materials are definitely good reference materials.

Ms Chow found that her company secretarial work experience helped her in analysing cases and answering examination questions. She also appreciated the fact that the Institute provides good services in responding to students' enquiries on studentship, examination and exemption matters.

Ku Ka Wai (Corporate Governance subject prize awardee)

Ms Ku graduated with a BA in linguistics and language technology from City University of Hong Kong. She is currently working at a professional services firm.

Ms Ku seeks to equip herself with requisite and updated technical knowledge to discharge her duties and develop her career via the Chartered Secretarial qualification. This was her second attempt at taking Hong Kong Corporate Law. She decided to start revision as early as possible, as without sufficient preparation time she felt that it would be difficult to get good results. Ms Ku took the

examination preparatory course to gain a basic understanding of the principles of the subject. She found that practicing past examination papers by topics and with reference to the study packs, suggested answers and examiners' reports was also essential.

Ms Ku found the Institute's monthly journal *CSj* to be a useful reference for the examination, as it provides the latest developments in the changing business environment, for example the new corporate governance provisions and listing disclosure requirements such as ESG reporting.

Yang Tsz Sheung (Hong Kong Corporate Law subject prize awardee)

Ms Yang graduated with a BBA in Marketing from The Hong Kong Polytechnic University. She is currently working as a senior company secretarial officer in a listed company.

This was Ms Yang's first attempt of Hong Kong Corporate Law. She decided to pursue the Chartered Secretarial qualification due to the increasing demand for company secretary and governance professionals.

Ms Yang attended the examination preparatory courses and would also go through the study pack and past papers by topics. She says that early preparation and planning is a must in order to monitor study progress. To reinforce her memory of the topics, she used diagrams and pictures to help memorise different cases. These 'stories' were shared with the study group. Whenever she needed clarification of legal concepts, she searched online and referred to the main textbook (*Hong Kong Company Law* by Vanessa Stott) and found the Institute's study materials to be useful. She usually studied over weekends and took breaks after work on weekdays to do exercise and meet with friends as she found it unproductive to study after a day's work.

Studentship

'Passing the Torch' project 2018

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

In October 2017, Institute Education Committee Vice-Chairman Polly Wong FCIS FCS(PE); and members Angus Pang FCIS FCS, Professor James Pong FCIS FCS, and Daniel Chow FCIS FCS, delivered two lectures on real-life practical cases and best practice recommendations in corporate governance and business ethics with the HKBU and HKUST undergraduates participating in the 'Passing the Torch' project 2018 respectively.

In February and March 2018, 21 HKBU and 21 HKUST undergraduates visited eight secondary schools (listed opposite) and passed their knowledge in corporate governance and business ethics gained from Institute members (during the two lectures in October 2017) to over 260 secondary school students. During the visits, the participants interacted with the undergraduates and Institute Education and Examinations Director Candy Wong, and Institute members Flora Chiang FCIS FCS(PE) and Mok Mei Lee ACIS ACS via lively games or designed scenarios using a mobile app.



At Precious Blood Secondary School



At Pentecostal Lam Hon Kwong School



At Tsuen Wan Government Secondary School



At HKBUAS Wong Kam Fai Secondary and Primary School



At Po Leung Kuk Choi Kai Yau School



At Po Leung Kuk Tong Nai Kan Junior Secondary College



At IVE (Tsing Yi)



At Po Leung Kuk Celine Ho Yam Tong College

Studentship (continued)

Date	Name of secondary school/institution	Participating universities
5 February 2018	Precious Blood Secondary School (宝血女子中学)	HKBU
27 February 2018	Pentecostal Lam Hon Kwong School (五旬节林汉光中学)	HKBU
1 March 2018	Tsuen Wan Government Secondary School (荃湾官立中学)	HKBU
6 March 2018	HKBUAS Wong Kam Fai Secondary and Primary School (香港浸会大学附属学校王锦辉中小学)	HKBU
6 March 2018	Po Leung Kuk Choi Kai Yau School (保良局蔡继有学校)	HKUST
6 March 2018	Po Leung Kuk Tong Nai Kan Junior Secondary College (保良局唐乃勤初中书院)	HKUST
7 March 2018	IVE (Tsing Yi)	HKUST
16 March 2018	Po Leung Kuk Celine Ho Yam Tong College (保良局何荫棠中学)	HKUST

New students orientation

On 20 March 2018, a new student orientation was held for newly registered students to learn more about the Institute and meet with other students. The subject prize and merit certificate awardees of the December 2017 IQS examinations received appreciation certificates from Institute Treasurer and Education Committee Chairman, Dr Eva Chan FCIS FCS(PE), and shared their examination preparation advice with attendees.



Group photo of subject prize and merit certificate awardees



At the orientation

IQS information session

At the IQS information session held on 26 March 2018, Joyce Kwan ACIS ACS, Assistant Company Secretary of John Swire & Sons (HK) Ltd, shared her professional work experience with 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

HKICS professional seminars

Centennial College

The Institute organised a professional seminar at Centennial College to introduce the Chartered Secretarial profession to its BBA undergraduates on 8 March 2018. Institute member Dr Davy Lee FCIS FCS(PE) gave a presentation to the students on the company secretary role and corporate governance.



Dr Davy Lee at Centennial College

City University of Hong Kong

Institute Education Committee Vice-Chairman Polly Wong FCIS FCS(PE) gave a presentation on 'Recent developments and emerging issues of corporate governance in Hong Kong' to over 150 BBA undergraduates and alumni at City University of Hong Kong (CityU) on 24 March 2018.



Polly Wong at CityU

Student Ambassadors Programme – calling for summer internship vacancies

Members who are interested in offering summer internship positions to local undergraduates under the Institute's Student Ambassadors Programme this year for a maximum period of eight weeks from June to August 2018, please visit the News section of the Institute's website. For details, please contact Eva Cheung at: 2830 6019, or email: student@hkics.org.hk.

The Institute has been organising the Student Ambassadors Programme (SAP) since 2006 to provide a platform for undergraduates from local universities to better understand the Chartered Secretarial profession and assist participating undergraduates to develop their potential as future leaders of the Chartered Secretarial profession. To date more than 1,100 undergraduates from local universities have joined as HKICS student ambassadors.

Policy – payment reminder

Studentship renewal

Students whose studentship expired in February 2018 are reminded to settle the renewal payment by Monday 23 April 2018.

Exemption fees

Students whose exemption was approved via confirmation letter in January 2018 are reminded to settle the exemption fee by Monday 23 April 2018.



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

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TCSP licensing regime update

The new licensing regime for trust or company service providers (TCSPs), together with the new requirements on the keeping of significant controllers registers, took effect on 1 March 2018. The new licensing regime for TCSPs has been introduced under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap 615) to require TCSPs to apply for a licence from the Registrar of Companies by Thursday 28 June 2018, the end of a four-month transition period. Any person who carries on a trust or company service business in Hong Kong without a licence commits an offence. TCSP licensees are also required to comply with the statutory customer due diligence and record-keeping requirements.

In addition, with effect from March 2018, all Hong Kong companies (except listed companies) are required to ascertain and maintain up-to-date beneficial ownership information by way of keeping a significant controllers register. The register should be open for inspection by law enforcement officers upon demand.

The new TCSP licensing regime and the significant controllers register requirement are part of the government's effort to enhance Hong Kong's regulatory regime for combating money laundering and terrorist financing.

The Companies Registry has set up a dedicated hotline at: 3142 2822 to answer public enquiries. Particulars of the new requirements are also available on the Companies Registry's website: www.cr.gov.hk.

SCCLR publishes its latest annual report

The Standing Committee on Company Law Reform (SCCLR) has published its 2016–2017 annual report. The annual report discusses issues relating to the legislative proposals to enhance the transparency of beneficial ownership of companies in Hong Kong, to improve the clarity and operation of the new Companies Ordinance (Chapter 622) and to introduce a statutory corporate rescue procedure.

The 2016–2017 annual report of the SCCLR is available at the websites of the Financial Services and the Treasury Bureau: www.fstb.gov.hk, and the Companies Registry: www.cr.gov.hk.

SFC warns on sponsors' diligence

Last month the Securities and Futures Commission (SFC) issued a circular urging licensed corporations carrying out sponsor work to critically review and enhance their systems and controls following a thematic inspection of sponsors, which found deficiencies in standards of conduct and due diligence practices, as well as internal systems and controls.

The inspection found that some sponsors, when conducting due diligence, failed to follow up on obvious red flags, only followed standard checklists without adapting them to the circumstances of specific listing applications and did not confirm that interviewees had the appropriate authority and knowledge to provide the information requested.

In vetting draft prospectuses of listing applications, the SFC also identified concerns which the sponsors should have discovered and addressed through reasonable due diligence prior to the submission of the listing applications.

'Sponsors and their senior executives are reminded to comply with the expected standards and the relevant codes, rules and regulations in carrying out their work,' said Ashley Alder JP, the SFC's Chief Executive Officer. 'The SFC will not hesitate to take enforcement action against those responsible for failing to do so.'

The inspection also found that serious deficiencies and instances of non-compliance were prevalent in the sponsor work done for initial public offering transactions on Hong Kong's GEM board.

Due to sufficiently serious concerns raised during the vetting process, 44 listing applications have been returned or rejected since October 2013. The SFC circular emphasises that sponsors with a history of returned or rejected listing applications, or which are found to have had serious deficiencies and instances of non-compliance, may expect more frequent inspection visits and supervisory actions. 'These factors may cast doubt on a sponsor's capability to discharge its responsibilities as well as potential compliance risk. Future listing applications submitted by them may also be subject to closer regulatory scrutiny,' an SFC press release states.

More information is available on the Securities and Futures Commission website: www.sfc.hk.

A bird's eye view

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

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



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