

CSj

January 2019

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The journal of The Hong Kong
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intelligence

New HKICS guidance
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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 and Chartered Governance Professional 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 6,000 members and 3,200 students.

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Some issues we deal with in this journal relate to specific areas of practice and are targeted at members of our profession with specialised technical expertise. Other issues have a relevance not only for all of our members but for all members of society – these are the game changers. The topic of this month's journal is one such issue.

Artificial intelligence (AI), I am sure you have already heard, is going to transform the way we work and live in the decades ahead. This is because it is not simply a faster or more powerful software. AI and the related technology of machine learning are able to programme computers to 'think' for themselves – interpreting data and learning from successes and failures. As our cover story this month points out, this enables them not only to take over the repetitive and time-consuming administrative tasks of our role, but also to assist us in improving the quality of the strategic decisions of the board. Further down the line, AI and machine learning may lead to a whole new era of human/machine synthesis, but that is still some distance away and perhaps of more immediate concern is the impact that these technologies are already having on members of our profession both here in Hong Kong and globally. In particular, will robots be taking over our jobs any time soon?

The answer to this is two-fold. Firstly, the benefit of AI to our profession so far is

AI – will we lose our jobs?

in the 'applied AI' field – that is, where the technology assists us with specific tasks. 'Generalised AI' – where computers simulate human intelligence – is much further off. We don't yet have enough knowledge of the human brain or the computing power to make this a reality. AI and machine learning technologies, for the foreseeable future, will therefore provide tools for use by human practitioners, making us vastly more efficient in our work, but not replacing the judgement and the emotional intelligence needed to effectively fulfill our roles.

The second part of the answer to the question of whether these technologies will result in mass redundancies in our profession focuses on how we respond to the disruption they are already causing. In short, if we want to keep our jobs we will need to adapt to an AI-powered future. This is the message of two new papers that make very interesting reading for anyone wanting to further their understanding of the potential impact of AI and related technologies in the near and distant future. *Futureproofing: Technological innovation, the company secretary and implications for corporate governance*, by the ICSA's international Thought Leadership Committee, and *Artificial intelligence and the impact on the Company Secretary*, by Chartered Secretaries Southern Africa, give a good introduction to where these technologies are leading us, and highlight the relevant applications which are already in use by organisations and boards around the world.

Rest assured, this issue is high on our Institute's agenda. We will be focusing on improving our members' understanding of AI and related technologies. We will also be adapting our training services, both our qualifying and CPD programmes, to ensure we are training our members for the role, not only as it is now, but for the AI-assisted role we will be fulfilling in the years ahead.

Finally, I would like to thank everyone involved in our latest Annual General Meeting, which was held on 13 December 2018. Details of the 2019 Honorary Officers and Council members can be found in the Institute News section of this edition. I was honoured to be elected for a second term as President and I look forward to working with our new Council, and indeed all of our members, to implement our goals for the year ahead of us in 2019.

A handwritten signature in black ink, appearing to read 'David Fu'. The signature is fluid and cursive, with a long, sweeping tail on the final letter.

David Fu FCIS FCS(PE)

人工智能 — 我们会丢饭碗吗？

本刊讨论的事项当中，有些牵涉公司秘书实务的特定范畴，以具备专业知识的特许秘书为对象；也有些课题不仅与公会会员有关，而且与社会大众息息相关，将改变游戏规则。今期的主题，正是与公众有关的课题。

相信大家都听过，在未来数十年，人工智能将改变我们工作和生活方式。人工智能并非单纯是速度较快或较强力的软件。人工智能和相关的机器学习科技能为电脑设立程式，让电脑自行「思考」，分析数据，从成功与失败的经验中学习。正如今期月刊的封面故事所指，这让电脑不仅能为我们处理重复费时的行政工作，也能协助我们提升董事会决策的素质。日后人工智能和机器学习还可能进入人机合一的新世代，但那还有一段时间才会实现；更迫在眉睫的，是这些科技已为香港及全球特许秘书带来影响。尤其值得关注的是，机械人会否很快取代我们的工作？

答案有两个层面。首先，人工智能至今为我们专业带来的好处，是在「应用人工智能」的范畴，亦即在特定工作上帮助我们。至于「广义人工智

能」，亦即由电脑模拟人类智慧，则仍很遥远，我们对人类大脑或者电脑能力的认识还不够多，未能使这成为现实。因此，在可见的将来，人工智能和机器学习的科技将为人类提供工具，让我们大幅提升工作效率，但不会取代我们有效处理工作所需的判断力和情绪智力。

对于这些科技会否造成我们大规模失业的问题，第二个层面的答案，视乎我们如何应对科技带来的破坏。简言之，假如要保住饭碗，我们就得适应由人工智能驱动的未来。这是两篇新论文的讯息；想了解更多人工智能及相关科技的短期及长远潜在影响的人士，会有兴趣阅读这些文章。两篇论文分别是国际特许秘书及行政人员公会(ICSA)思想引领委员会的《为未来作好防备：科技创新、公司秘书及对企业管治的影响》，以及南非公司秘书公会的《人工智能及其对公司秘书的影响》。文章说明这些科技的发展方向，并介绍全球各地的机构和董事会已经采用的相关应用技术。

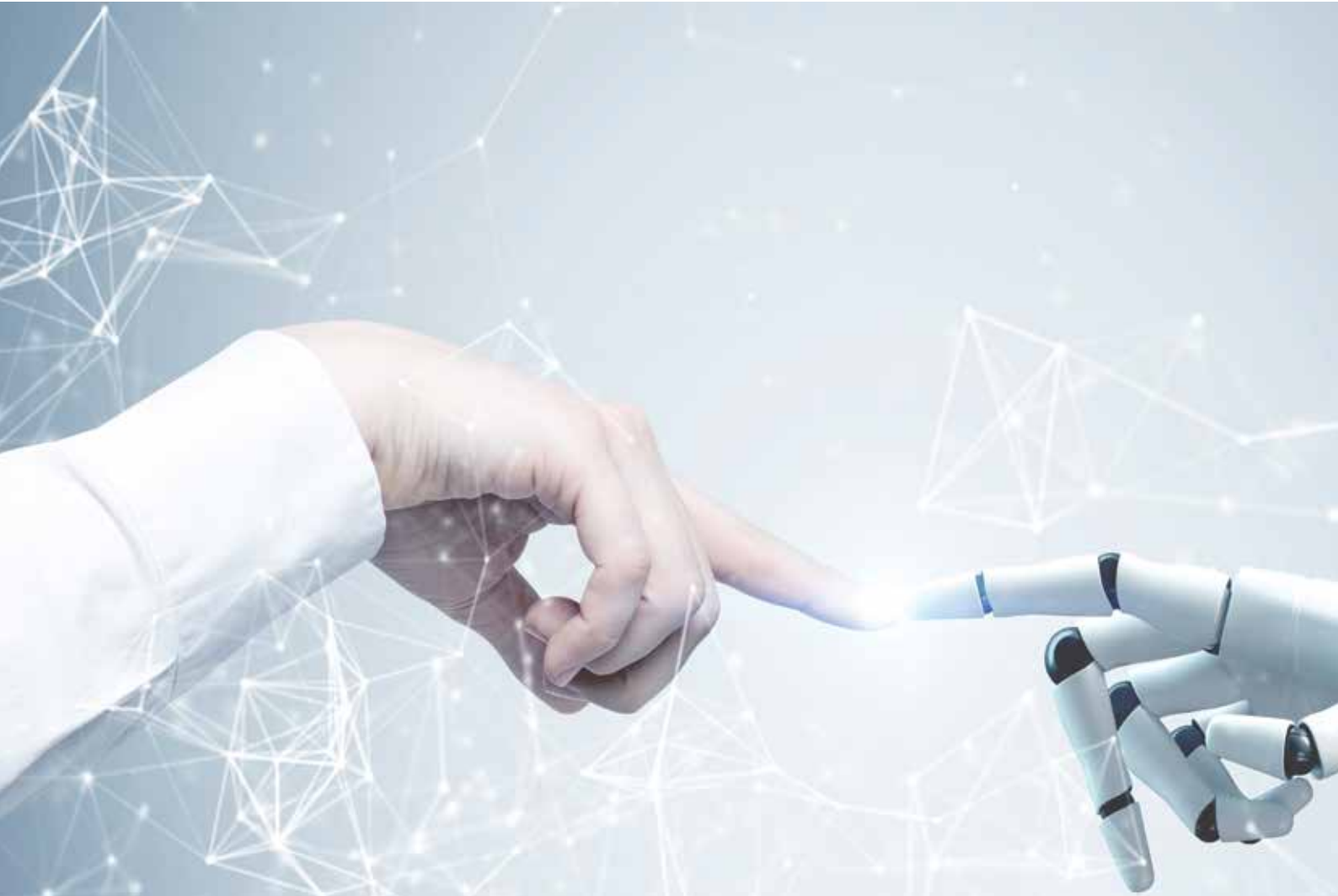
请放心，这课题是公会关注的重点。我们将协助会员提升对人工智能和相关科技的认识，并在颁授资格和持续

专业发展两个层面的培训服务上配合，确保培训内容不仅为会员准备从事特许秘书目前的工作，也协助他们掌握将来在人工智能协助下特许秘书所担当的角色。

最后，我谨向参与公会周年会员大会的人士致谢。大会在2018年12月13日举行，选出2019年的义务干事和理事会成员；有关名单刊载于今期月刊公会讯息一栏。本人很荣幸再度获选出任会长；在第二年任期内，期望与新一届理事会及公会所有会员共同努力，实现2019年的工作目标。

傅溢鴻

傅溢鴻 FCIS FCS(PE)



Meet your new colleague – artificial intelligence

AI technology hit the headlines in 2016 when AlphaGo beat the world's top Go players. In fact, the technology has been around for some time, and, as Joseph Chu and Charlie Wang of Deloitte China explain, is fast becoming an essential part of workforces around the world.



Attitudes towards artificial intelligence (AI) vary radically from the AI zealots to the AI sceptics. The sceptics tend to focus on the 'threat' that AI represents to the human workforce. Gartner research, *Surviving the rise of 'smart machines'* (see 'Online resources' for the web addresses of the reports cited in this article), estimates that, 'By 2030, 90% of jobs as we know them today will be replaced by smart machines.' Nowadays, this kind of statement or forecast can be heard almost everywhere, even in the mainstream media, while in reality AI technology is still far away from being mature enough to entirely replace human labour. At this stage, most forms of AI technology are very far from matching human intelligence.

Nevertheless, AI colleagues (though rarely in a physical form) are already working with us in an increasing number of workplaces, and whatever the level of 'intelligence' AI has achieved, the disruptive changes it has brought are already being felt across all industries. AI will be able to complete increasing amounts of work that used to be done by human employees in a more efficient way. Currently, this is mostly the repetitive tasks which previously required intense human effort but limited cognitive skills, such as reading a contract, finding the key numbers and putting them into an

excel sheet. Higher-level work requiring complicated skill sets such as planning, judgement and reasoning have proved difficult for AI. So AI is performing very well within a well-defined scope and 'artificial general intelligence (AGI)' still only exists as science fiction at this stage.

Despite these limitations, companies ignore AI's disruptive impact at their peril. The second edition of Deloitte's *State of AI in the Enterprise* report, published in 2018, found that 42% of executives believe that AI will be of 'critical importance' within two years. This 'critical importance', however, will probably have less to do with saving costs by replacing human employees, and more to do with optimising work processes, increasing returns on investment and supporting better strategy.

Three types of AI colleagues

Machine learning, deep learning technologies, voice recognition, speech synthesis, image recognition and natural language processing (NLP) are evolving and upgrading rapidly. AI can now outperform humans in voice and image recognition. While we have not seen NLP develop to this level, AI is making progress here too. AI can now see, hear, speak, understand and even think, to a certain degree, like a human being. With these tools, AI colleagues are able to play three

Highlights

- AI colleagues can automate business processes, augment business decision-making and facilitate engagement with customers and other employees
- obstacles to the adoption of AI include cybersecurity concerns and the difficulty of finding the right AI expertise
- organisations that adapt quickly to the new digital business model by embracing AI technology can increase their competitive advantage

typical roles in the work environment – they can automate business processes, augment business decision-making and they can facilitate engagement with customers and other employees.

1. Automation

The most common application of AI is the automation of human tasks and business processes. Robotic Process Automation (RPA) was introduced to the China market in 2017. Now RPA has integrated with cognitive components and evolved to Robotics & Cognitive Automation (R&CA). Robots can now handle both of these tasks according to predefined rules. This includes doing 'smart' tasks, for example:

- recognising named entities, such as a company or a person's name
- extracting structured information from unstructured documents, such as contracts and financial statements
- automatically classifying invoices according to their product name in natural language, and
- searching websites to find target information.

These types of tasks are increasingly carried out by AI in fraud detection, for example, assisting forensic teams in searching unstructured documents for target terms and information. This enables teams to deliver relevant work faster, more accurately and at a lower cost. RPA and R&CA are very likely therefore to increase human unemployment from a long-term perspective, especially in the offshore business-process outsourcing industry. If you have the ability to outsource a project, you can probably automate the whole process.

AI challenges

	Ranked 1	Ranked 2	Ranked 3	Ranked in the top three
Cybersecurity vulnerabilities of AI	23%	15%	13%	51%
Making the wrong strategic decisions based on AI	16%	13%	14%	43%
Legal responsibility for decisions/ actions made by AI systems	11%	15%	13%	39%
Failure of AI system in a mission-critical or life-or-death context	13%	14%	12%	39%
Regulatory noncompliance risk	12%	15%	10%	37%
Erosion of customer trust from AI failures	11%	11%	11%	33%
Ethical risks of AI	10%	12%	10%	32%

Source: Deloitte State of AI in the Enterprise (Second edition, 2018)

Note: This survey interviewed more than 1,100 IT workers and executives from US-based companies in Q3 2018.

2. Assisting decision-making

By using machine learning algorithms to detect key patterns and relationships from billions of data sources, AI can derive deep and actionable insights to support the business decision-making process. There is nothing new, of course, in using a wide variety of data sources to predict consumer behaviour – there is a significant difference, however, in the scale, speed and accuracy with which AI can process data. Big data technologies integrated with machine learning or deep learning algorithms can give surprising and useful insights. Moreover, this process of insight generation is not driven by user queries but by a continuous monitoring mechanism that is proactive and real-time based.

AI colleagues who provide cognitive insights can be considered senior consultants, but they won't pose threats

to the existing employees since their tasks are far beyond human capabilities. The cognitive insights that AI colleagues produce are useful to executives since they improve the quality of strategic decisions. Executives need to understand the importance of, and make strategic investments in, this type of AI.

3. Facilitating engagement

Digital agents are becoming increasingly popular in daily work and life. The Turing test is a test of AI's ability to exhibit intelligent behaviour equivalent to, or indistinguishable from, that of a human. Although digital agents are, as yet, unable to pass the Turing test, they have already made our work and life easier in many areas. Digital agents are already present in the following industries.



“
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of strategic decisions
”

- **Consumer and industrial goods.** Digital agents enhance the customer experience by answering questions contextually based on past behaviour, preferences, weather, vacation plans, etc.
- **Financial services.** Robo-advisers give investment advice and provide personalised investment options to customers, and monitor and alert users about changes to portfolio risk.
- **Healthcare.** Digital agents deliver personalised, collaborative and timely medical advice to patients, such as providing prescription refill reminders, thereby improving patient satisfaction and health outcomes.

problems. This is not a problem unique to AI, but as dependence on AI increases, addressing cybersecurity concerns will become all the more important.

Failures of AI systems are another critical concern, particularly where mission-critical data is involved. A photocopying error in an internal document might not pose a significant risk to an organisation, but an error in the key numbers in a financial statement would be another matter. In the medical field there can be 'life-and-death' situations where the risk of an AI failure cannot be tolerated. Human monitoring and control are still needed in many scenarios.

Meet AIME

How should we get ready?

Despite the concerns discussed above, many companies that have invested in AI technology have already reaped economic benefits. The key is to take a practical approach to the benefits available from these technologies. This approach usually starts with implementing process automation via AI. This can lead to the adoption of RPA or R&CA technology, which is relatively cheap and can be applied to business processes within a managed scope. These benefits can be gained immediately and they can help establish confidence in the management team about future use of AI.

Challenges

While AI is becoming an important element of the workforce in many different organisations, there are risks associated with the use of AI technology. According to our *State of AI in the Enterprise* report mentioned above, cybersecurity is viewed as the number one risk (see 'AI challenges'). Cyber attacks targeting AI systems may cause data breaches and information security

Digital agents are becoming more common in workplaces around the world. The first digital agent developed by Deloitte China was recently developed for a healthcare client to support employees with their internal policy inquiries. The Deloitte office in the Netherlands recently unveiled 'AIME', a digital employee with natural language processing and natural language generation capabilities. She supports the human workforce across different departments in Deloitte, internally and externally. Perhaps most important of all, however, AIME is able to learn on the job. She currently delegates tasks she is unable to handle to her human colleagues, but she is able to learn from these situations.

“
as dependence on AI increases, addressing cybersecurity concerns will become all the more important
”



The question of finding the right mix of talent to successfully adopt AI should be the first consideration. Although China is in a leading position in the AI industry globally, there is a significant shortage of AI talent in China as compared with the US. According to a 2017 LinkedIn report, *Talent solutions*, the US is ranked number one and China is in seventh position in terms of the available talent. It is calculated that there are only around 50,000 AI engineers in China. Another report from McKinsey, *The future of artificial intelligence in China*, shows that most US data scientists have more than 10 years of work experience, while 40% of Chinese data scientists have less than five years experience.

Due to the high demand in the market, the salary levels of the data scientists and AI engineers keeps increasing. However, many companies still find it very hard to find the right talent to support the implementation of their AI strategy. There are typically three different ways to address this problem.

1. Companies can target global talent, especially the established Chinese researchers working in the US, for recruitment.

2. Companies can train existing employees to become AI experts. People with a background in mathematics, data mining and software development are well suited to a career in AI.
3. Companies can collaborate with university laboratories. Although fresh graduates from universities lack industry experience, their academic training gives them a good knowledge of AI. They can be good candidates for a new AI research team in the company, with enough in-work training.

Conclusion

It seems certain that increasing numbers of AI colleagues will join the workforce in the future and take over many labour-intensive tasks, but they are unlikely to eliminate humans from the workforce as many tasks require high-level cognitive skills. Further in the future it is harder to predict what may happen, but it seems likely that AI will continue to evolve and redefine the relationship between technology and humans.

The impact of these developments will be very significant for businesses and for the workforce. Organisations that adapt

quickly to the new digital business model by embracing AI technology can increase their competitive advantage. As discussed above, AI can not only save on labour costs but can also assist executives with their strategy formulation and decision-making. Management teams need to assess what impact the increasing popularity of AI will have on the organisation's workforce and plan ahead for the training that will be required to ensure the human workforce is adapted to the new AI era. Opportunities and threats are coming together; it will be the survival of the fittest.

Joseph Chu, Chief Digital Officer, and Charlie Wang, Director of Deloitte Analytics Institute
Deloitte China

Online resources

- *Maverick research: surviving the rise of 'smart machines'* – www.gartner.com/doc/2594820/maverick-research-surviving-rise-smart.
- *State of AI in the Enterprise* – www2.deloitte.com/insights/us/en/focus/cognitive-technologies/state-of-ai-and-intelligent-automation-in-business-survey.html.
- *Talent solutions* – <https://business.linkedin.com/zh-cn/talent-solutions/s/sem-report-resources/ai-report>.
- *The future of artificial intelligence in China* – www.mckinsey.com.cn/中国人工智能的未来之路/.

Best Dressed Competition

at the HKICS Double Anniversary Gala Dinner

The Colour Purple

Celebrate our Double Anniversary Gala Dinner to be held on Thursday, 17 January 2019 by taking part in the 'Best Dressed' competition. All we ask is for you to add a touch of purple to your outfit when attending the Gala Dinner. It can be just a pinch or a splash of purple, we'll leave it up to you. All participants at the Gala Dinner are welcome to join in the fun with your peers and other fellow members at this wonderful event.

Enter & Win Fabulous Prizes

Two awards will be offered – Best Dressed Individual and Best Dressed Team. Please register now. The deadline for registration is Friday, 4 January 2019.

Registration

To enter the competition, please register online either on the Institute's website: www.hkics.org.hk or scan the QR code for details. The top three contestants for each award will be announced and invited to take part in a fashion parade at the Gala Dinner. The winners will be chosen by a judging panel and presented with fabulous prizes at the end of the Gala Dinner.



If you have any questions,
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Regime change



CSj looks at useful resources for governance professionals seeking to upgrade their compliance with Hong Kong's Corporate Governance Code.

Changes to Hong Kong's Corporate Governance Code and related listing rules become effective this month, including tougher requirements on board diversity and the nomination and election of independent non-executive directors (INEDs). In this context, CSj looks at the latest review by The Stock Exchange of Hong Kong Ltd (the Exchange) of listed company compliance with the Corporate Governance Code and Corporate Governance Report, and at other resources now available to listed companies hoping to raise their governance standards.

The Exchange has been conducting reviews of listed issuers' compliance with the Corporate Governance Code and Corporate Governance Report (the Code) since 2007. The 2017/2018 review (the Review) is a useful resource for governance professionals seeking to keep up to date with the regulator's assessment of the level of compliance with Hong Kong's corporate governance regime.

'The Review is a part of the Exchange's continuing effort to maintain high corporate governance standards amongst issuers. By identifying shortfalls in issuers' corporate governance reporting and providing guidance on ways in which such reporting may be improved, we hope and expect that the Review would contribute to better future reporting', the Review states.

Separation of roles of chairman and chief executive

As with previous reviews, the results of the Review demonstrate issuers' high level of compliance with the Code. Whilst the compliance rates are similar to previous

years, the Exchange notes a 2% rise in the number of issuers that complied with all 78 Code Provisions (CPs), and chairmen's attendance at general meetings has improved by 4%.

The CP requiring the separation of the roles of chairman and chief executive (CP A.2.1) retained its place as the CP with the lowest compliance rate among listed companies in Hong Kong (see 'The five CPs with the lowest compliance rates'). It states that: 'The roles of chairman and chief executive should be separate and should not be performed by the same individual. The division of responsibilities between the chairman and chief executive should be clearly established and set out in writing.'

The common reasons for deviation from this CP (see 'Reasons disclosed for not separating the roles of chairman and chief executive') were similar to those disclosed by the issuers in the previous review.

The most common reason for departure from the CP was that vesting the roles of chairman and chief executive in the same

person provided the group with strong and consistent leadership and allowed for more effective formulation and implementation of long-term business strategies. Other reasons included that the person holding the dual capacity of chairman and chief executive had profound experience and knowledge in operations of the business, or that practical considerations including the size and business nature required the company to deviate from this CP.

The Review indicates that generally more comprehensive explanations are being given by listed companies who deviate from A.2.1. In previous reviews, the Exchange has recommended that issuers deviating from A.2.1 should give more detailed explanations of how they have addressed the challenges inherent in having the same person fulfilling both these roles – in particular, the leadership's lack of checks and balances.

While some of the sample issuers made bare assertions that their structures would not impair the balance of power without

Highlights

- the Exchange's annual reviews of Code compliance have become a useful resource for governance professionals seeking to keep up to date with the regulator's assessment of the level of compliance with Hong Kong's corporate governance regime
- the Code Provisions requiring the separation of the roles of chairman and chief executive has the lowest compliance rate among listed companies in Hong Kong
- it is important for issuers to set measurable objectives for implementing a board diversity policy and to disclose the progress on achieving those objectives

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offering details, over half of the sample issuers did address the governance issue of balance of power and authority on the board. Some gave examples of how strong independent elements on the board, delegation of authorities to management, supervision by the board and board committees mitigate the governance risks.

'It is important to note that the separation of the roles of the chairman and chief

executive promotes good corporate governance', the Review states. 'In addition to balancing the powers and authority on the board, thereby mitigating the risk of 'groupthink', it also promotes stability in a company. By separating functions, the chief executive can focus on strategy, operations, and organisational issues while the chairman can oversee management, lead the board, and promote good governance.'

The five CPs with the lowest compliance rates

Code provision	2017/2018 review	2016 review
1. A.2.1 – Separation of the roles of chairman and chief executive	64%	63%
2. A.4.1 – Non-executive directors (NEDs) being appointed for a specific term	85%	88%
3. E.1.2 – Chairman's attendance at general meeting	90%	86%
4. A.5.1 – Establishment of a nomination committee which comprises a majority of INEDs	95%	95%
5. A.2.7 – The chairman should hold meetings with NEDs without the presence of executive directors	95%	96%

Board diversity

In addition to examining the sample issuers' compliance with the CPs, the Review also reviewed their disclosures under the Code's Mandatory Disclosure Requirements (MDRs) and Recommended Disclosures (RDs). The Review observed a varied level and quality of disclosure in these areas.

In particular, MDR Section L.(d)(ii) requires issuers to disclose their board diversity policy or a summary of the policy (if they have one), including any measurable objectives. The Exchange had noted from previous reviews that some issuers did not disclose their board diversity policies, despite claiming to have such policies, whilst others may have provided 'boiler-plate' style policies.

The Review found that, while a majority of the sample issuers disclosed that they were in compliance with CP A.5.6, which requires issuers to have a diversity policy, some are still failing to disclose such a policy. 'Issuers should note that not explaining a deviation from a CP is a breach of the listing rules', the Review states. 'We have contacted sample issuers that failed to disclose their diversity policies without giving considered explanations individually and will take follow up action as appropriate.'

At the other end of the spectrum, a small number of the sample issuers were able to go beyond the requirements in the Code and provided a skills matrix to demonstrate existing composition of the board, as well as describing the matters taken into account in their board diversity policies.

The Review emphasises that it is important for issuers to set measurable

Reasons disclosed for not separating the roles of chairman and chief executive

Reasons	Number of issuers	% of issuers deviating from CP A.2.1
The same person provides the group with strong and consistent leadership, allows for more effective planning/formulation and execution/implementation of long-term business strategies.	89	61%
The issuer had considered the governance issue of balance of power and authority on the board and believed that the structure of the company, including strong independent elements on the board, delegation of authorities to management, supervision by the board and board committees, was sufficient to address this potential issue.	77	53%
The board has confidence in the person who acts as chief executive and chairman, for example because the person is knowledgeable, well-known and/or has a good understanding of the operations of the issuer.	25	17%
Contributions are made by all executive directors/independent non-executive directors, who bring different experience and expertise and who meet regularly to discuss issues affecting the issuer's operations.	24	17%

objectives for implementing a board diversity policy and to disclose the progress on achieving those objectives. 'We appreciate that diversity milestones vary from company to company, depending on the nature of the business, stage of development and diversity profile of the board. Issuers are encouraged to determine their measurable objectives to reflect the particular needs of the board and disclose any milestones they have achieved,' the Review states.


The Review also points out that CP A.5.6 has been upgraded to a listing rule, effective 1 January 2019. 'Issuers are reminded as from January 2019, they must have a board diversity policy and they must also disclose the policy

or a summary of it in their corporate governance reports,' the Review states.

Preparing for Hong Kong's new corporate governance regime

The new listing rule on board diversity is part of a number of corporate governance measures announced in the Exchange's *Consultation Conclusions on Review of the Corporate Governance Code and Related Listing Rules* (consultation conclusions) published in July 2018. In addition to tougher disclosure requirements on board diversity, the changes are designed to make the election process of INEDs more transparent to enhance the board's accountability to shareholders. There are also new requirements for disclosure of potential INEDs' time commitment,

perspectives, skills and experience, as well as diversity considerations. The listing rules on INEDs' independence criteria have also been strengthened.

In addition to the Review discussed above, issuers can also make use of the tools published on the website of the Hong Kong Exchanges and Clearing Ltd (HKEX) (www.hkex.com.hk) designed to help companies prepare for the new corporate governance regime. These include the webcast entitled 'INEDs' Role in Corporate Governance' and the new set of guidelines entitled 'Guidance for Boards and Directors'. 

More information is available on the HKEX website: www.hkex.com.hk.

GDPR extraterritoriality: new guidelines





Miriam Everett, Head of Data Protection and Privacy, Herbert Smith Freehills, looks at new draft guidelines issued by the European Data Protection Board giving long-awaited guidance on the extraterritorial application of the EU's General Data Protection Regulation.

The EU's General Data Protection Regulation (GDPR) imposes broad extraterritorial application, catching those who process personal data about EU data subjects wherever the processing takes place (subject to exceptions). On 23 November 2018, the European Data Protection Board (EDPB) published its draft guidelines on Article 3 of the GDPR, being the provision that sets out the territorial scope of Europe's data protection legislation.

The guidelines are in draft form and are subject to consultation but they help clarify key questions regarding the application of the GDPR. That being said, they do not cover every possible permutation of Article 3. There remain gaps where organisations outside the EU will need to exercise judgement without any comfort that their interpretation will align with that of regulators. In particular, there are still question marks around the application of what actually constitutes

the offering of goods and services to individuals in the EU.

Background

The GDPR seeks (via Article 3) to extend its reach beyond European borders, making non-EU organisations directly subject to its obligations when processing personal data either:

- in the context of an establishment of a controller or a processor in the EU, or
- relating to the offer of goods or services to individuals in the EU, or
- relating to the monitoring of the behaviour of individuals as far as their behaviour takes place in the EU.

The broad drafting of the legislation and potentially extremely wide application of the GDPR to organisations located outside the EU has left many

Highlights

- the draft guidelines issued by the European Data Protection Board give long-awaited guidance on the extraterritorial application of the EU's General Data Protection Regulation (GDPR)
- there are still question marks around the application of what actually constitutes the offering of goods and services to individuals in the EU
- the guidelines confirm that the EU representatives of non-EU organisations caught by the GDPR will be liable to enforcement actions

organisations worldwide in a state of uncertainty as to the fundamental application of this important legislation to their activities. Guidance on Article 3 is therefore long overdue.

The draft guidelines published on 23 November 2018 are open for consultation, with interested parties being given until 18 January 2019 to provide comments. However, even in their current draft state, the guidelines give invaluable insight into the European regulators' view on interpretation of Article 3.

At a high level, the guidelines confirm that non-EU organisations directly caught by the GDPR and with no establishment in the EU will not be able to benefit from the one-stop shop mechanism. This confirms that such organisations will need to comply with national privacy laws in each of the member states in which they have customers.

Key highlights

Article 3(1)

Article 3(1) relates to processing in the context of the activities of an establishment of a controller or a processor in the EU. The key highlights of the guidelines in the context of Article 3(1) are set out below.

- The simple fact that an organisation's website is accessible in the EU will not mean that the non-EU entity has an establishment in the EU.
- The existence of an 'establishment' should not be interpreted too broadly to conclude that the existence of any presence in the EU with even the remotest links to the data processing activities of a non-EU entity will be sufficient to bring processing within the scope of the GDPR.

- Where a controller subject to the GDPR uses a non-EU processor, it will need to ensure by contract that the processor processes the data in accordance with the GDPR. The processor will become indirectly subject to some GDPR obligations by virtue of its contractual arrangements with the controller but will not be directly subject to the GDPR by virtue of Article 3(1).
- A non-EU controller using an EU processor will not become subject to the GDPR simply because it chooses to use a processor in the EU. By instructing a processor in the EU, the non-EU controller is not carrying out processing 'in the context of the activities of the processor in the Union'. The processing is carried out in the context of the controller's own activities; the processor is merely providing a processing service.

Article 3(2)(a)

Article 3(2)(a) relates to processing relating to the offer of goods or services to individuals in the EU. The key highlights of the guidelines in the context of Article 3(2)(a) are set out below.

- Article 3(2) refers to 'personal data of data subjects who are in the Union'. This is regardless of citizenship (that is, it does not just apply to EU citizens). The requirement that the data subject be located in the EU must be assessed at the moment of offering of goods or services.
- The processing of personal data of an individual in the EU alone is not sufficient to trigger the application of the GDPR. The element of 'targeting' individuals in the EU, by

offering goods or services to them, must always be present in addition.

- The offering of goods or services will apply regardless of whether a payment by the individual is required. Article 3(2)(a) is not dependent upon payment being made in exchange for the goods or services provided.
- When considering whether or not goods or services are being offered, the EDPB suggests taking into account the following factors:
 - o the EU or at least one member state is designated by name with reference to the good or service offered
 - o the controller (or processor) pays a search engine operator for an internet referencing service in order to facilitate access to its site by consumers in the EU
 - o the controller (or processor) has launched marketing and advertisement campaigns directed at an EU country audience
 - o the international nature of the activity at issue, such as certain tourist activities
 - o the mention of dedicated addresses or phone numbers to be reached from an EU country
 - o the use of a top-level domain name other than that of the third country in which the controller or processor is established, for example '.de',

- o the use of neutral top-level domain names such as '.eu'
- o the description of travel instructions from one or more other EU member states to the place where the service is provided
- o the mention of an international clientele composed of customers domiciled in various EU member states, in particular by presentation of accounts written by such customers
- o the use of a language or a currency other than that generally used in the trader's country, especially a language or currency of one or more EU member states, or
- o the controller offers the delivery of goods in EU member states.

Article 3(2)(b)

Article 3(2)(b) relates to processing relating to the monitoring of the behaviour of individuals as far as their behaviour takes place in the EU. The key highlights of the guidelines in the context of Article 3(2)(b) are set out below.

- For Article 3(2)(b) to apply, the behaviour monitored must first relate to an individual in the EU and, in addition, the monitored behaviour must take place within the EU.
- Although Recital 24 only talks about the tracking of a person on the internet, the EDPB considers that tracking through other types of network or technology involving personal data should also be taken

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into account, for example through wearable and other smart devices.

- The online collection or analysis of personal data of individuals in the EU would not automatically count as 'monitoring' (that is, just having some cookies on a website will not be enough). It will be necessary to consider the controller's purpose for processing the data and, in particular, any subsequent behavioural analysis or profiling techniques involving that data.
- Examples of monitoring activities could include:
 - o behavioural advertising
 - o geo-localisation activities, in particular for marketing purposes
 - o online tracking through the use of cookies or other tracking techniques such as fingerprinting
 - o personalised diet and health analytics services online
 - o CCTV



- o market surveys and other behavioural studies based on individual profiles, and
- o monitoring or regular reporting on an individual's health status.

The guidelines finally also consider the requirement for non-EU organisations with no establishment in the EU to appoint an EU representative. The guidelines confirm that it was the intention of the legislation to enable enforcers to initiate enforcement action against a representative in the same way as against controllers or processors. This includes the possibility of imposing administrative fines and penalties against representatives, and to hold representatives liable.

Miriam Everett, Head of Data Protection and Privacy

Herbert Smith Freehills

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The EDPB draft guidelines are available at: https://edpb.europa.eu/our-work-tools/public-consultations/2018/guidelines-32018-territorial-scope-gdpr-article-3_en.

Companies Ordinance compliance: new guidance for not-for-profits



The fourth in a series of guidance notes produced by the Institute's Public Governance Interest Group gives guidance on the continuing compliance obligations of not-for-profits under the Companies Ordinance.

The Institute's Interest Group guidance note project got underway in June 2016. The seven Interest Groups formed under the Institute's Technical Consultation Panel have subsequently published 17 guidance notes, available on the Institute's website. This article reviews the latest addition to this series.

Compliance overview

Previous guidance notes published by the Institute's Public Governance Interest Group (PGIG) looked at the different legal structures available to organisations dedicated to the public good, as well as the compliance considerations relevant to the setting up of a Hong Kong limited liability company – the most flexible form for incorporating a charity and/or to carry out a social enterprise. The latest PGIG guidance highlights the continuing compliance obligations of such enterprises under the Hong Kong Companies Ordinance (Cap 622) (CO).

The guidance starts with a compliance overview. A company is run by its directors, with oversight by members/shareholders (as members are commonly called for a company limited by shares) at member/shareholder meetings. There is a need to present the financial and director reports to member/shareholders before the annual member/shareholder meeting (known as the annual general meeting).

A key point to bear in mind is that the due diligence required of directors and officers to ensure compliance with the CO applies to all companies, irrespective of whether they are for, or not for, profit.

The guidance will be particularly useful in situations where a not-for-profit (NPO) is run by volunteer directors, who may work pro bono in their free time and who may be less familiar with their compliance obligations under the CO.

In fact directors and officers of NPOs are not subject to lesser liabilities than their counterparts in commercial organisations and the guidance emphasises that the compliance function needs to be adequately understood and resourced. "You need to seek to understand and commit resources to compliance-related matters in your company," the guidance states.

After giving an overview of CO compliance, the guidance focuses on key issues of particular relevance to companies' ongoing compliance obligations.

Constitutional documents

A company's constitutional documents are a contract between the company and its members/shareholders, and among themselves, and they are very relevant to ongoing compliance issues. The CO requires a company to have a set of

Articles of Association (the Articles), a standard form of which can be found on the Companies Registry website (www.cr.gov.hk). The Articles set out the rules and regulations applicable to the company, including relating to member/shareholder meetings, director appointments and authorisations to deal with day-to-day business of the company. The guidance makes it clear that directors and officers need to be familiar with their organisation's constitutional documents and the technical requirements thereunder. For example, the Articles may have specific rules as to how to deal with a director who is interested in a transaction with the company.

Directors' duties

Compliance with directors' duties has been subject to increasing regulatory scrutiny in Hong Kong and the obligations relevant under the CO should be made very clear to anyone taking up this role. Directors have to exercise reasonable care, skill and diligence to the standard that would be exercised by a reasonably diligent person having the general knowledge, skill and experience of a director, or a higher

Highlights

- directors' duties obligations under the Companies Ordinance (CO) should be made very clear to anyone taking up a director's role
- directors and officers of not-for-profits are not subject to lesser liabilities than their counterparts in commercial organisations
- the company secretary can be liable for the company not complying with the CO compliance obligations

“ you need to seek to understand and commit resources to compliance- related matters in your company ”

standard where he or she has a higher skill set. These are in addition to common law fiduciary obligations of a director to act in good faith in carrying out the business of the company.

A key area of directors' duties to address is how to handle potential conflicts of interest. 'Directors must not allow their own personal interests to conflict with those of the company in resolving and/or carrying out the business of the company without appropriate disclosures,' the guidance states.

Subject to additional requirements under the Articles, where a director is directly or indirectly interested in a transaction, arrangement or contract, or a proposed transaction, arrangement or contract, that is significant in relation to the company's business, and the director's interest is material, the director must declare the nature and extent of the director's interest to the other directors in accordance with certain requisite procedures (Sections 536-542).

There are additional compliance requirements for 'fair dealing' by directors. They relate to loans, quasi loans, credit transactions, payment for loss of office

and lengthy directors' service contracts. Some of these extend to the company conferring a benefit to a child, cohabitee or shadow directors of the director (Sections 484-535).

The guidance also points out that there are very limited indemnities and ratification rights under the CO for director's wrongdoings (Sections 465-473). Directors therefore need to consider procuring directors and officers (D&O) insurance to cover certain exposures to liabilities.

The guidance also addresses the assistance company secretaries provide to directors. All companies in Hong Kong must have a company secretary. This can be a natural person or a company (but not held only by a sole director). The guidance adds that the company secretary can be liable for the company not complying with the CO compliance obligations (Sections 3(2) and 474-475).

Annual general meetings

A company must, in respect of each financial year of the company, hold a general meeting as its annual general

meeting (AGM) within nine months after the end of its accounting reference period, but in any event not more than 18 months from incorporation or 15 months from the last meeting (Sections 369 and 431).

A company's directors must, in respect of each financial year, lay before the company in the AGM, or in any other general meeting directed by the court, a copy of certain reporting documents, and the director's failure to comply with this obligation could lead to a HK\$300,000 fine and 12 months' imprisonment (Section 429).

The reporting documents, which should be sent 21 days before the AGM, are: the financial statements for the financial year, the directors' report for the financial year and the auditor's report on those financial statements. Alternatively, companies can comply with the statutory requirements via a written resolution with all the reporting documents circulated on or before the date of the written resolutions to all members. The guidance points out that it is important to remember to notify every member and

Online resources

Briefing notes on Companies Ordinance compliance, together with the forms needed for filing to the Companies Registry, are available on the Companies Registry website: www.cr.gov.hk.

The Hong Kong Council of Social Service provides a good reference for the filing obligations for a company limited by guarantee on the following website: <https://governance.hkcss.org.hk/index.php/node/299>.

A best practice manual for not-for-profits is available on the website of the Social Welfare Department: www.swd.gov.hk.

A best practice checklist – 'Management of Charities and Fund-Raising Activities' is available on the website of the ICAC: www.icac.org.hk.



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inspection at the company's registered office or a prescribed place (Sections 618-620, and 641-648). Information as to trusts are not to be entered in the members register, but companies are now required to keep a significant controllers register identifying beneficial owners holding more than 25% interest in the company, which is subject to narrow exceptions. This applies to all companies within the chain of title from the company to its beneficial owners (Sections 634 and 653A). [CSj](#)

The members of the Institute's Public Governance Interest Group are April Chan FCIS FCS (Chairman), Lau Ka-shi BBS, Rachel Ng ACIS ACS, Samantha Suen FCIS FCS(PE), Stella Ho and Stella Lo FCIS FCS(PE).

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

the auditor within 15 days of the written resolution (Sections 559, 610-612). 'We have seen many companies failing to meet this compliance requirement,' the guidance states.

In fact, a company could dispense with the requirement for holding AGMs altogether by passing a written resolution or a resolution at a general meeting by all members. The company is required to deliver a copy of the resolution to the Companies Registry for registration within 15 days after the resolution is passed (Section 613 and 622).

To protect shareholders, the financial statements and reports originally required to be laid before an AGM would still need to be sent to members. Any member may request the company to convene an annual general meeting for a particular year (Section 613(5)).

Record keeping requirements

The guidance also addresses the record keeping requirements under the CO – an issue particularly relevant to company secretaries. A company must keep its records of resolutions and meetings of members and directors available for

Insider dealing update

Hong Kong Court of Final Appeal clarifies 'innocent purpose' defence to insider dealing.

The Hong Kong Court of Final Appeal (CFA) has recently allowed the Securities and Futures Commission's (SFC) appeal against the Market Misconduct Tribunal's (MMT) findings that two former executives of a listed company (ATML), Charles Yiu Hoi Ying and Marian Wong Nam, had not engaged in insider dealing in ATML shares.

The appeal focused on the defence to insider dealing under Section 271(3) of the Securities and Futures Ordinance (SFO), which is sometimes referred to as the 'innocent purpose' defence. In brief, it provides that a person shall not be regarded as having engaged in market misconduct by reason of an insider dealing taking place through his/her dealing in listed securities, if he/she establishes that the purpose(s) for dealing in the securities

were not, or did not include the purpose of, securing or increasing a profit (or avoiding or reducing a loss) by using inside information.

Overturning the rulings by the MMT and the Court of Appeal on the applicability of the defence, the CFA held that Mr Yiu and Ms Wong could not rely on the defence as they sold their ATML shares taking advantage of their knowledge that the prices were significantly higher than they ought to have been and which would not be achievable if the inside information were available to the market.

The CFA's clarification of the applicability of the innocent purpose defence means that it would be difficult for persons who are connected to listed companies



for the purpose of insider dealing provisions to rely on the defence, unless in exceptional circumstances where they can demonstrate that the purpose of their dealings is unconnected with the market price of the shares.

Background

At the relevant time, Mr Yiu was ATML's Director of Finance and executive director, and Ms Wong was ATML's Company Secretary. ATML was insolvent and was no more than a listed shell. In June 2007, Goodpine Ltd (Goodpine) served a winding-up petition on ATML, alleging that ATML was indebted to, and had failed to satisfy, Goodpine of a debt of approximately HK\$70.3 million including interest. Goodpine had commenced action to recover the debt after a previous ATML creditor assigned the debt to it in February 2007. In April 2007, prior to the serving of the winding-up petition, Goodpine served

Highlights

- the case concerned an executive director and company secretary of a listed company who sold their shares in the company before information about a winding-up petition was disclosed to the public
- the Hong Kong Court of Final Appeal (CFA) ruling overturned earlier rulings by the Market Misconduct Tribunal and the Court of Appeal which found that the defendants could rely on the innocent purpose defence
- the CFA's clarification means that it would be difficult for persons who are connected to listed companies for the purpose of insider dealing provisions to rely on the innocent purpose defence

Facebook	28.19	27.16
Expedia	45.46	46.10
Expeditions Int.	38.03	37.78
Express Scripts Hold	52.53	52.12
Freddie Mac	0.262	0.268
Garmin Ltd.	43.32	42.94
Gilead Science	50.50	49.94
Google	588.23	581.72
Green Mountain C.	24.90	23.86
Hasbro Inc.	35.29	35.35
Henry Schein	74.84	74.20

“ the clarification of the innocent purpose defence renders the defence more difficult to establish, essentially requiring proof that the purpose of a dealing is unconnected with the market price of the shares

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a statutory demand on ATML to seek payment of the debt.

The public was not informed about the assignment of the debt to Goodpine and the subsequent statutory demand at the time. Mr Yiu and Ms Wong sold their ATML shares before information about the winding-up petition was disclosed to the public and made a profit of over HK\$10 million in total. After the winding-up petition was disclosed to the public, the share price fell substantially.

The MMT found that the elements of insider dealing were established against the individuals, holding that when they sold their ATML shares, they had information that they knew constituted inside information, which was price sensitive. The inside information comprised of the assignment of debt and the subsequent statutory demand.

The individuals were, however, not found to be culpable of insider dealing on the basis that they could rely on the innocent purpose defence. The MMT found that they had not used the price-sensitive information to secure a profit as their sole motivation for selling the shares was to take advantage of an unexpected speculative boom in the ATML share price, and they believed that the debt owed by ATML to Goodpine would be resolved behind closed doors and would never be known by the market.

The MMT's decision was upheld by the Court of Appeal.

Insider dealing and innocent purpose defence

Insider dealing, as defined under Section 270(1) of the SFO, involves five elements:

1. the corporation concerned must be publicly listed (in Hong Kong)

2. the person concerned must be 'connected with the corporation' (connected person)
3. he/she must have information which constitutes 'relevant information' (now referred to as 'inside information' under the SFO)
4. he/she must know that such information is inside information, and
5. he/she deals in the corporation's listed securities with such knowledge.

All five elements above must be shown to exist at the time the person deals in the listed securities. The CFA agreed with the MMT and the Court of Appeal that the above elements were established against Mr Yiu and Ms Wong. The primary question in the appeal was whether they

were entitled to rely on the innocent purpose defence. Aspects of the defence were noted in the judgment:

- It is a defence which only comes into play where a *prima facie* case of market misconduct has been established.
- The burden of establishing the defence is on the person seeking to rely on it, discharged on a balance of probabilities.
- That person must establish that the purpose for which he/she dealt with the securities was not (or if there was more than one purpose, did not include) the prohibited purpose of securing or increasing a profit by using inside information.

To discharge that burden, the person might often be expected to give direct evidence of his/her subjective purpose to show that he/she was acting for what might be called an 'innocent purpose'. If such direct evidence is not given, that person must nevertheless be able to point to evidence which demonstrates that he/she acted for a purpose (or purposes) which entirely excluded the above mentioned prohibited purpose when dealing with the securities.

CFA decision

The CFA, in a majority decision of four to one, held that the MMT made an error in law and that Mr Yiu and Ms Wong could not rely on the innocent purpose defence.

- It was clear that they were looking to secure unexpectedly high profits when they sold the ATML shares. Hence, the question was whether it was also part of their purpose to use inside information to secure such profits.

- Using inside information means making a decision to buy or sell the listed securities because of the quoted market price, knowing that the price is either artificially high or low because the inside information is not generally known to those accustomed or likely to deal in the securities.
- In selling their ATML shares, Mr Yiu and Ms Wong did use the inside information as they took advantage of their knowledge that the prices they were securing would not have been achievable if the inside information were disclosed to the market. They knew that the prices at which they sold the shares were artificially high.
- Their belief as to what might happen in the future (that the indebtedness owed by ATML to Goodpine would eventually be resolved behind the scenes and would never enter the public domain) was legally irrelevant in establishing the innocent purpose defence. As mentioned above, the relevant time at which to examine the questions of whether the elements of insider dealing are satisfied and whether the defence is applicable is the time of dealing in the securities.

The dissenting judge, Justice Tang PJ, was of the view that Section 271(3) of the SFO should be interpreted to provide a defence for a defendant who can show that he/she would have done what he/she did even if he/she had not had the information. The MMT was entitled (based on factors such as the timing of the sale) to hold that Mr Yiu and Ms Wong had sold the shares because of the speculative

bubble in the shares and that the inside information was not a factor influencing the sale.

As a result of the majority decision, the CFA set aside the orders made by the Court of Appeal and the MMT and remitted the matter back to the MMT to decide on the appropriate sanctions.

Comment

The clarification of the innocent purpose defence renders the defence more difficult to establish, essentially requiring proof that the purpose of a dealing is unconnected with the market price of the shares. The CFA noted that this may well put the connected persons at a disadvantage compared to others who may deal in the same shares, but it is the consequence of being connected persons who come into possession of price-sensitive information. A restriction on such connected persons from dealing is the reasonable price of achieving a fair and level playing field in the market, akin to restrictions placed on trustees and other fiduciaries.

Market participants who are connected persons in possession of inside information should avoid dealing in listed securities until the information is made public, unless in exceptional situations such as dealings pursuant to prior contractual obligations or in compliance with court orders, under which the innocent purpose defence might arise.

William Hallatt, Head of Financial Services Regulatory Asia, Hong Kong, and Hannah Cassidy, Partner, Hong Kong

Herbert Smith Freehills

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Professional Development

Seminars: November 2018

6 November

What are the legal and compliance issues for companies participating in the Esports arena



Chair: Jenny Choi FCIS FCS(PE), Institute Professional Services Panel member, and Associate Partner, Ernst & Young Company Secretarial Services Ltd

Speaker: Eugene Low, Partner, Hogan Lovells

9 November

Company secretarial practical training series: disclosure of interests in securities (re-run)



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

12 November

Legal shadow over moonlighting



Chair: Alberta Sie FCIS FCS(PE), Institute Professional Services Panel member, and Company Secretary & Director, Reanda EFA Secretarial Ltd

Speaker: Dominic Wai, Partner, ONC Lawyers

16 November

Practical company secretarial workshops: part 4 – what you can do more, module 9 – risk and business continuity planning



Speaker: April Chan FCIS FCS, Institute Past President and Chairman of Technical Consultation Panel, and Inaugural President, CSIA

20 November

ESG – practical issues/ management buy-in



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

Speakers: Michael Ling, Deputy Company Secretary, CLP Holdings Ltd; and Julie Wong, Associate Director, Business Reporting and Sustainability, KPMG China

27 November

Corruption and corporate governance



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

Speaker: Professor Jean Du Plessis, Professor of Law, Deakin University, Australia

27 November
The failure of soft law for corporate governance



Chair: Mohan Datwani FCIS FCS(PE), Institute Senior Director and Head of Technical & Research
Speaker: Professor Jean Du Plessis, Professor of Law, Deakin University, Australia

28 November
Improving the disclosures in annual reports of Hong Kong listed companies – key financial reporting matters for company secretaries



Chair: Christine Chung FCIS FCS, Institute Professional Development Committee member, and Partner, KPMG China
Speaker: Ernest Lee FCIS FCS(PE), Institute Council member and Audit Committee Chairman, and Partner, Audit & Assurance, Deloitte China

29 November
Blockchain and compliance



Chair: Eric Chan FCIS FCS(PE), Chief Consultant, Reachtop Consulting Ltd
Speaker: Janice Chew, Principal, JC Legal

30 November
Practical company secretarial workshops: part 4 – what you can do more, module 10 – building ethical cultures



Speaker: April Chan FCIS FCS, Institute Past President and Chairman of Technical Consultation Panel, and Inaugural President, CSIA

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: 2830 6011, or email: ecpd@hkics.org.hk.

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
22 January 2019	6.45pm–8.15pm	Company secretarial practical training series: guides for company dissolution	1.5
18 February 2019	4.00pm–5.30pm	Employee share incentive plan (PRC SAFE rules and regulation)	1.5
22 February 2019	6.45pm–9.30pm	Company secretarial practical training series: continuing obligations of listed company: practice and application	2.5

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

Professional Development (continued)

The 48th Affiliated Persons Enhanced Continuing Professional Development Seminars

The Institute held the 48th Affiliated Persons Enhanced Continuing Professional Development (ECPD) Seminars under the theme of 'Annual Financial Audit and Annual Report' in Sanya between 28 and 30 November 2018. The seminars attracted over 230 participants from H-share, A+H share, red-chip, A-share and to-be-listed companies.

Senior professionals and board secretaries shared their knowledge and experience on a wide range of topics including: update on the latest amendment of Hong Kong listing rules; continuous obligation of directors of listed companies and penalty for non-compliance; financial audit and annual report preparation; rules and practice for organising general meetings; connected transactions and the practices in handling the differences

between Mainland China and Hong Kong; ESG report and non-financial report, compliance and governance in transactions; experience sharing of investor relationship management and planning for roadshows; and case analysis about how board secretaries are involved in the management of market capitalisation. At the group discussion session, participants discussed and shared their practical experiences on annual report preparation and information disclosure.

The Institute would like to thank the speakers, participants, associate organiser (Shinewing CPA), event partners (Computershare Hong Kong Investor Services Ltd, DLA Piper UK LLP, SWCS Corporate Services Group (Hong Kong) Ltd and Tricor Services Ltd), and sponsor (Equity Financial Press Ltd) for their support.



Institute representatives



At the seminar

Corporate governance practical training for IAC in Shenzhen

From 12 to 14 December 2018, the Institute and The Insurance Association of China (IAC) jointly organised a practical training on corporate governance in Shenzhen. This was the fourth training held after the signing of the Memorandum of Understanding with IAC in March 2015, designed to facilitate collaboration in promoting good governance practices to members of IAC. This latest training was attended by 74 board secretaries, representatives from board secretary offices, supervisory board offices, internal control departments, risk management departments and strategic planning departments of insurance companies in Mainland China. Institute Past President Dr Maurice Ngai FCIS FCS(PE), Council member Bernard Wu FCIS FCS,



At the training

Chief Executive Samantha Suen FCIS FCS(PE), representatives from Shenzhen Stock Exchange and Hong Kong Exchanges and Clearing Ltd, and four other senior legal/accounting professionals, as well as senior board secretaries, gave presentations on corporate governance best practices from various perspectives.

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- 公司治理結構及標準化指引
- 公司治理機制及董事工作指引
- 公司治理績效及監事會、財務總監、人力資源工作指引
- 中國公司治理法律透視及大陸、台灣、香港模式比較

課程時間表

課程為期兩週 授課時間：4堂，每堂6小時，共24小時

上課時間：周六，14:00 - 17:00及18:00 - 21:00;周日，10:00 - 13:00及14:00 - 17:00

授課日期：2019年1月19日、1月20日、1月26日及1月27日
(校方保留更改及調動課堂時間之權利)

授課地點：港島區其中一所教學中心

講者簡介

李源博士

- 畢業於暨南大學管理學院 - 管理學博士
- 廣東省人事廳管理學研究員
- 為廣東省社會科學院研究生部主講企業經濟、企業管理、公司治理等課程
- 研究領域涉及企業經濟、企業管理及創新管理研究

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Membership

Governance Professional Mentorship Programme 2019

Formerly known as the 'Chartered Secretary Mentorship Programme', the Institute's Mentorship Programme is running its fifth term in 2019 with an aim to nurture young professionals and develop future leaders for the Chartered Secretary and governance profession. Nearly 400 mentors and mentees have participated in this programme since its inauguration in 2015, and have reported finding the programme beneficial for career and personal development. The recruitment of mentors and mentees for the programme continues to receive an enthusiastic response from members, graduates and registered students.

On 7 December 2018, a ceremony was held to close the 2018, and to launch the 2019, programme. At the ceremony, Institute President David Fu FCIS FCS(PE) thanked the mentors for their time and welcomed the new participants joining the programme. He also encouraged mentees to make use of this platform to broaden their horizons. Institute Council member and Membership Committee Chairman Stella Lo FCIS FCS(PE) gave a review of the programme and provided practical tips on maintaining a successful mentoring relationship.

A series of activities will be arranged for the 2019 programme. Details will be reported in future editions of CSj.



New graduates

The Institute would like to congratulate our new graduates listed below.

Chung Yee Man, Yvonne Ho Kin Ching	Ng May Chi, Sandra Siu Heng Yee	Tam Yiu Fai Wong Hei Lui	Yeung Lai Kwan, Acima
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New Associates

Congratulations to our new Associates listed below.

Au Ka Yi	Chow Yuk Ki	Lau Ka Yee	Mok Miu Chi, Rebecca	Yang Tsz Sheung
Au Wing Han	Chu Ka Yin, Tiffany	Lau Wing Yan	Mok Shu Ki	Yau Kit Han, June
Au-Yeung, Nelly	Chui Tsan Kit	Law Hau Yan	Mok Yue Him	Ye Han
Chan Chui Ying	Chung Lap Hung	Law Wai Yan, Grace	Ng Ho Yee	Yeung Chui Yan
Chan Lai Ying	Churk Sin Ki	Law Yu Ting	Ng Shuk Yee	Yeung Hong Chit
Chan Sau Mei	Edono Chiharu	Lee Ching Yee, Jenny	Ng Yee Ling	Yeung Wan Mei
Chan Sze Kei, Maggie	Feng Jie	Lee Kin Ngai, Kenneth	Pang Siu Cheung, Victor	Yeung Yin Kwan
Chan Tsz Kin	Fong Chui Yin	Lee Kwok Lun	Qin Yunshan	Yip Hiu Man
Chan Tsz Yan, Jean	Fung Kwai Ying, Karen	Lee Leong Yin	Sher, Wendy	Yip Wai Man
Chan Wing Ki	Fung Pui Kuen, Alexander	Lee Man Wa	Shi Ying	Yu Wai Chim
Chan Wing Ting	Fung Sze Man	Lee Pui Pui, Crystal	Sin Hey Yu	Yuan Yaqin
Chan Wing Yu	Fung Wai Hang	Lee Suk Yi	So Chi Ho	Yuen Pik Kwan
Chan Yim Ling	Fung Wing Sum	Leung Lok Fan	Sun Yirong	Yuen Wai Kin
Chau Shun	He Lina	Leung Mui Yin	Tam Ho Yin	Yung, Tiffany
Chen Ximing	Heng Kai Neng, Keith	Leung Tsun Yu, Derek	To Pui Kei	Zhao Hailin
Cheng Man Hin	Ho Po Ki	Leung Yuk Ching, Linda	Tsang Chi Ka	Zhu Yongmin
Cheng Mei Ting	Ho Suet Yi	Li Aosi	Tsang Ho Pong	
Cheng Wing Sum	Hong Tao	Li Chiu Chun	Tse Chin Fung	
Cheung Chun Yin, Alexander	Hu Rukun	Li Hoi Chuen	Tse Ka Wing	
Cheung Ho Yiu	Huang He	Li Hoi On	Tso Hon Biu	
Cheung Kin Yan	Huang Tianbo	Li Ka Yan	Tsui Kwan Yi	
Cheung Oi Yiu, Agnes	Hui Chi Wing	Li Kwai Wah	Wan Yau Mei, Maggie	
Cheung Yu Man	Jin Dan	Li Yijun	Wang Zheng	
Ching Yuet Ha, Betty	Kam Ka Yee	Lin Ka Man	Wong Hoi Man	
Chiu Pak Kin	Kwan Yau Kuk, Edith	Lin Sze Wan	Wong Ka Chung	
Chiu Pui Yan	Kwok Sin Hang	Liu Hoi Shan	Wong Man Wa	
Choi Fung Lam	Kwong Suk Ping	Liu Wai Wa	Wong Shun Wah	
Chow Chit Ming, James	Lai Tsz Yin	Lo Kim Kam, Irene	Wong Yik Huen	
Chow Fuk Wai	Lam Ka Tsun	Lu Rui	Wu Di	
Chow Shing Lung	Lam Ming Ki	Ma Li	Wu Tak Yiu	
Chow Shui Fong, Connie	Lam Sai Hoi	Ma Ting Chi	Wu Zhengrong	
Chow Suet Fung	Lam Shuk Wai, Ida	Man Ching Yu	Xu Ruirui	

Membership (continued)

New Fellows

The Institute would like to congratulate the following Fellows elected in November 2018.

Chu Yin Man FCIS FCS

Mr Chu is currently the Director and Chief Financial Officer of Prince Jewellery and Watch Company Ltd, responsible for finance, accounting, legal, compliance, company secretarial service and information technology. He has a bachelor's degree in accountancy and a master's degree in business administration. Mr Chu is also a certified public accountant registered under the Hong Kong Institute of Certified Public Accountants and a fellow member of the Institute of Chartered Accountants in England and Wales. He is also a member of the Hong Kong Institute of Directors.

Hui Chung Ying FCIS FCS

Mr Hui, FCCA, CPA, is currently Group Financial Controller and Company Secretary of The Wharf (Holdings) Ltd (Stock Code: 4) and Wharf Real Estate Investment Company Ltd (Stock Code: 1997), overseeing management and financial accounts, secretarial practice and community affairs. He is also a Director and Company Secretary of Harbour Centre Development Ltd (Stock Code: 51) and Company Secretary of Joyce Boutique Holdings Ltd (Stock Code: 647). Mr Hui started his career in accounting with KPMG and became a qualified accountant in 1986. He is presently the Vice-President of The Taxation Institute of Hong Kong and a committee member of Project WeCan, a business-in-community initiative to empower students who are disadvantaged in learning. Mr Hui joined Wheelock and Wharf group in 1986 and has gained extensive experience in financial management and reporting control, auditing, taxation, secretarial practice and risk management, and corporate governance development.

Leung Ho Yee FCIS FCS

Ms Leung is the Chief Financial Officer, Company Secretary and authorised representative of World-Link Logistics (Asia) Holding Ltd (Stock Code: 6083). She is responsible for financial reporting, financial planning, internal control and company secretarial matters. She was promoted from Financial Controller to Chief Financial Officer in November 2017. Ms Leung has extensive experience in providing services to listed companies and multinational corporations, including financial management, risk management, internal control, services in relation to initial public

offerings and auditing. Ms Leung is a member of the Hong Kong Institute of Certified Public Accountants.

Leung Lok Hang, Daniel FCIS FCS(PE)

Mr Leung is the Group Company Secretary and Senior Legal Manager of Prince Group Holdings Ltd with over 10 years of experience in legal, regulatory compliance, corporate structuring, merger and acquisition, initial public offering, taxation and corporate governance. Mr Leung is a fellow of both The Institute of Chartered Secretaries and Administrators (ICSA) and The Hong Kong Institute of Chartered Secretaries (HKICS), as well as a holder of the Practitioner's Endorsement issued by HKICS. He is a Chartered Secretary and Chartered Governance Professional awarded by both the ICSA and HKICS. He is also a solicitor admitted in Australia and a qualified accountant. Mr Leung obtained a master of laws degree from The University of Hong Kong, a master's degree in criminal justice from University of Leicester, a bachelor's degree in risk management science from The Chinese University of Hong Kong and a bachelor of laws degree from City University of Hong Kong. Mr Leung has written various articles in the legal and compliance fields and acted as a speaker in seminars concerning company law and commercial law.

Lo Yuan Shan, Kyna FCIS FCS

Ms Lo is currently the Senior Group General Counsel of the Company Secretarial Department of CK Asset Holdings Ltd (Stock Code: 1113). Ms Lo spent the early years of her legal career at a number of major international law firms before taking the role of General Counsel at a global private equity firm. She has over 13 years of experience in the legal and company secretarial field, covering a broad range of investment and financing matters. Ms Lo received her bachelor of laws degree from the University of Hong Kong. Ms Lo is admitted as an attorney in the State of New York and as a solicitor in England and Wales.

Suen Mung Lam FCIS FCS

Ms Suen is the Senior Manager of Tricor Japan Ltd, which is a global professional service provider, where she is focused on supporting multinational companies to enter the Japanese market. She has over 13 years of solid experience in the business services industry in both Japan and Hong Kong. She also leads different business process re-engineering projects in Hong Kong to increase organisational efficiency and optimise

team profitability. Ms Suen obtained a bachelor's degree in international business from City University in Hong Kong and a master's degree in corporate governance from The Hong Kong Polytechnic University.

Wong Chiu Kwai FCIS FCS

Mr Wong is the Executive Director and Head of Risk Advisory of Baker Tilly Hong Kong, an affiliate of Baker Tilly International, which is one of top ten international accountancy networks. With 30 years of professional experience, he works on internal control review, enterprise risk assessment and ESG reporting for listed companies. He obtained a bachelor's degree in economics, and master's degrees in business administration and commerce. He also pursued continuing professional development via professional examinations and is a Fellow of Association of Chartered Certified Accountants, Chartered Institute of Management Accountants, CPA Australia and The Hong Kong Institute of Certified Public Accountants. He is also a Certified Banker of the Hong Kong Institute of Bankers, a Certified Internal Auditor of the Institute of Internal Auditors, and a Certified Information Systems Auditor, Certified Information Security

Manager and a holder of the Certified in the Governance of Enterprise IT qualification of the Information Systems Audit and Control Association.

Chen Cong FCIS FCS

Assistant President and General Manager of Capital Market, Xinyuan Real Estate Company Ltd (NYSE Stock Code: XIN).

Kwan Yuk Yin FCIS FCS

Assistant Company Secretary, Shunten International (Holdings) Ltd (Stock Code: 832).

Lee Kit Ching FCIS FCS(PE)

Senior Company Secretarial Manager, Rich Goal Ltd.

Lee Tsui Shan FCIS FCS

Director, Uni-Tech Business Consultants Company Ltd.

Lu Hong Yu FCIS FCS

Director of Board Secretary Officer, Kingsoft Corporation Ltd (Stock Code: 3888).

Members' activities highlights: December 2018

15 December
Fun & Interest
Group – Organic
Farm Day-tour in
Sha Tau Kok



Forthcoming membership activities

Date	Time	Event
5 January 2019	10.15am–12nn	Community Service – 良局兒童探訪
17 January 2019	6.30pm–10pm	Double Anniversary Gala Dinner

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

Advocacy

The Institute donates used office equipment

On 6 November 2018, the Institute donated used desktops, LCD monitors and printers to the Caritas Computer Refurbishment Project organised by Caritas Hong Kong. The project aims to reduce computer waste and benefit many needy families. The Institute is delighted to support the community and the protection of the environment through this collaboration with Caritas Hong Kong.

Second Anniversary Dinner of the Shanghai–Hong Kong Coalition of Professionals (沪港专业人士联合会)

The Institute was invited to participate in the second anniversary dinner of the Shanghai–Hong Kong Coalition of Professionals (沪港专业人士联合会) (SH–HK CP), which was held in Shanghai on 30 November 2018. Institute member Milton Wong FCIS FCS who is based in Shanghai attended the dinner.

The Director, Hong Kong Economic and Trade Affairs in Shanghai of the Hong Kong SAR, Victoria Tang, President of SH–HK CP Dr Tony Leung, Deputy President Susanna Chiu and other guests shared the latest developments of their organisations at the dinner.



At the dinner

CE attends HKU SPACE CBF Business Advisory Board Meeting

Institute Chief Executive Samantha Suen FCIS FC(PE) was invited by The University of Hong Kong School of Professional and Continuing Education (HKU SPACE) to join their College of Business and Finance (CBF) Business Advisory Board (the Board) as a member for two years with effect from 1 July 2018. The members of the Board, who are selected individuals with a good reputation within the community and strong relations to industry areas related to CBF, are invited to help CBF act as an interface with the public and private sectors and the community at large with a view to develop and promote its subject areas. A kick-off meeting was held in April 2018.

On 27 November 2018, a CBF Business Advisory Board meeting was held. Shih Wing Ching, Founder, Centaline Group and Professor N R Liu, Deputy Director (Business and China), HKU SPACE, gave welcome remarks as Chair and Member of the CBF Business Advisory Board, respectively. Ms Suen joined the discussion with other members from the accounting and finance sectors on topics relating to talent needs, impact of technology, penetration of the small and medium enterprise (SME) and non-governmental organisation (NGO) markets, development of new areas such as innovation and hospitality, and possible collaboration with professional bodies.

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:

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- continuing professional development
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Advocacy (continued)

The 8th Golden Bauhinia Hong Kong Summit and Award Ceremony

The Institute participated in the 8th Golden Bauhinia Hong Kong Summit and Awards Presentation Ceremony organised by Hong Kong Ta Kung Wen Wei Media Group Ltd on 5 December 2018 as one of the joint organisers. Institute Past President Ivan Tam FCIS FCS was one of the officiating guests. He delivered a speech and presented the 'Best Board Secretaries of Listed Companies' awards (最佳上市公司董事会秘书奖项) at the ceremony. Institute Council member Bernard Wu FCIS FCS and Chief Executive Samantha Suen FCIS FCS(PE) also attended this event.

Congratulations to the following Institute members and Affiliated Persons who received the 'Best Board Secretaries of Listed Companies' awards (最佳上市公司董事会秘书奖项) (in alphabetical order):

- Huang Wensheng FCIS FCS, China Petroleum & Chemical Corporation
- Kang Jian, Beijing Jingneng Clean Energy Co., Ltd
- Luo Nan, Bank of China Hong Kong (Holdings) Ltd
- Wu Enlai FCIS FCS, PetroChina Company Ltd
- Xie Jilong FCIS FCS, CRRC Corporation Ltd



Ivan Tam at the ceremony



Group photo with the 'Best Board Secretaries of Listed Companies' awardees

HKICS speaks at seminar organised by Agency for Volunteer Service

On 6 December 2018, Institute Council member and Membership Committee Chair Stella Lo FCIS FCS(PE) and Chief Executive Samantha Suen FCIS FCS(PE) spoke about good corporate governance strategy and policies for non-government organisations (NGOs) at a seminar organised by the Agency for Volunteer Service (AVS). The other speaker was former Community Services Secretary of Tung Wah Group of Hospitals, Dr Ivan Yiu.

They shared information relating to the following seminar topics: The Beginnings of Corporate Governance; The Pitfalls for NGOs and How to Avoid Them; Stakeholder Communications and the Brand and Reputation; NGO Board-Executive Relationship – A Dynamic Perspective; Risk Management – the Governance Perspective and Case Study; with about 80 participants.



At the seminar

The Institute thanks AVS for providing the opportunity to share the importance of good corporate governance policies and practices for NGOs with the public.

Activities for Institute Secretariat

As a caring organisation and to create a supportive workplace, the Institute arranged a one-day training workshop and a Christmas lunch party for the Secretariat team in Hong Kong.

One-day training workshop

The Institute tailored a one-day training workshop for the Institute Secretariat team in December 2018. The workshop, which was conducted by two experienced trainers, aimed to enhance the communication and problem-solving skills of the team through engaging interactive activities.

The Institute would like to express its appreciation to Tricor Services Ltd and Vistra (Hong Kong) Ltd for sponsoring the training venues.



At the training



At the training

Secretariat Christmas party

A Christmas lunch party for the Secretariat team in Hong Kong was held on 10 December 2018. Institute President David Fu FCIS FCS(PE) joined the lunch and gave a speech. Thanks



Secretariat Christmas party in Hong Kong

to the generous contributions of lucky draw prizes by the Council, the Chief Executive and Department Heads, the Secretariat team spent a joyous lunch gathering together.

The Institute's Beijing Representative Office (BRO) also held a lunch party on 24 December 2018 in Beijing to welcome the new year.



BRO lunch party in Beijing

Advocacy (continued)

HKICS President and Council for 2019

The Institute held its Annual General Meeting (AGM) on 13 December 2018 with over 30 members attending.

At the Council meeting following the AGM, the Honorary Officers for 2019 were elected with David Fu FCIS FCS(PE) being re-elected as President for the second term. Mr Fu is currently the Company Secretary of John Swire & Sons (H.K.) Limited, Swire Pacific Limited, Swire Properties Limited and Cathay Pacific Airways Limited. Ivan Tam FCIS FCS will continue to serve as a Council member in the capacity of Past President. Dr Maurice WF Ngai FCIS FCS(PE) retired from Council on 31 December 2018 after serving as an ex-officio member for three years. The Institute would like to thank Dr Ngai for his contributions.

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

The Institute invited four members of the Student Ambassador Programme to attend their first AGM. They were given an opportunity to learn about AGM management, as well as to network with Institute members.

HKICS Council 2019

Honorary Officers

David Fu FCIS FCS(PE)	President (re-elected to Council)
Dr Gao Wei FCIS FCS(PE)	Vice-President
Gillian Meller FCIS FCS	Vice-President
David Simmonds FCIS FCS	Vice-President
Ernest Lee FCIS FCS(PE)	Treasurer (re-elected to Council)

Council Members

Professor Alan Au FCIS FCS	Natalia Seng FCIS FCS(PE) (re-elected to Council)
Dr Eva Chan FCIS FCS(PE)	Bernard Wu FCIS FCS
Loretta Chan FCIS FCS (re-elected to Council)	Xie Bing FCIS FCS (re-elected to Council)
Arthur Lee FCIS FCS	Wendy Yung FCIS FCS (re-elected to Council)
Stella Lo FCIS FCS(PE)	
Professor CK Low FCIS FCS (newly elected)	

Ex-officio

Ivan Tam FCIS FCS	Past President
-------------------	----------------



Members voting at the AGM



At the AGM



Group photo



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Studentship

Professional Seminar at The Hong Kong Polytechnic University

Institute member Edmond Chiu FCIS FCS(PE) conducted a professional seminar on 'Roles and Duties of Company Secretaries' to over 50 Year 3 students of BBA (Hons) in Accountancy at The Hong Kong Polytechnic University on 14 November 2018.



At the professional seminar

Professional Seminar at Hong Kong Shue Yan University

Institute members Natalia Seng FCIS FCS(PE) and Wendy Ho FCIS FCS(PE) delivered a professional seminar on the topic 'Generation – Millennials' to around 120 Year 4 BBA students at Hong Kong Shue Yan University on 23 November 2018.



Institute representative with speakers

HKICS Academic Advisory Panel luncheon

The Institute held the 2018 Academic Advisory Panel luncheon on 16 November 2018. The luncheon was hosted by Council Treasurer and Education Committee Chairman Dr Eva Chan FCIS FCS(PE); Education Committee Vice-Chairman Polly Wong FCIS FCS(PE); and Council member and Education Committee Vice-Chairman Bernard Wu FCIS FCS; accompanied by Institute Chief Executive Samantha Suen FCIS FCS(PE). Academic Advisory Panel members (AAP members) or their representatives attended the luncheon. The Institute's recent developments and other educational matters were shared among the AAP members during the luncheon.

AAP members (listed by surname in alphabetical order):

Professor David C Donald, Professor, Faculty of Law, The Chinese University of Hong Kong

Professor YK Ip, Associate Vice-President (Academic Support and External Links), The Open University of Hong Kong

Dr Peter Lau, Associate Dean, School of Business, Hong Kong Baptist University



At the luncheon

Ms Joey Lee, Associate Head and Senior Lecturer, Department of Accountancy, The Hang Seng University of Hong Kong

Dr Mark Ng, Assistant Professor, Department of Business Administration, Hong Kong Shue Yan University

Dr Raymond Wong, Associate Dean, Associate Professor, Department of Accountancy, City University of Hong Kong

Dr Susana Yuen, Professor and Rita Tong Liu, Dean, School of Business and Hospitality Management, Caritas Institute of Higher Education

International Qualifying Scheme (IQS) examinations

Syllabus update – Corporate Administration

The topic of 'Hong Kong Competition Law' has been included in the Corporate Administration syllabus (effective from the December 2018 examination diet). Students may refer to the 'IQS Syllabus' under the International Qualifying Scheme section of the Institute's website and Chapter 14 of the Corporate Administration study pack for this new topic (Hong Kong Competition Law).

IQS Study Packs (online version)

The updated version of the IQS study pack for Corporate Secretaryship has been made available from 24 August 2018. Updated versions of the other three study packs (Corporate Governance, Corporate Administration and Hong Kong Corporate Law) are also available online. A summary of the updates for each study pack can be viewed under the 'News' section of the Institute's website and the PrimeLaw platform. For further questions regarding the online study packs, please contact Leaf Tai: 2830 6010, or email: student@hkics.org.hk. For technical questions regarding PrimeLaw, please contact WoltersKluwer Hong Kong's customer service by email: HK-Prime@wolterskluwer.com.

May 2019 diet examination schedule

	Tuesday 28 May 2019	Wednesday 29 May 2019	Thursday 30 May 2019	Friday 31 May 2019
9.30am–12.30pm	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
2pm–5pm	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

New Qualifying Programme (NQP)

With effect from 1 January 2020, the New Qualifying Programme (NQP) will replace the current IQS. The first examination of the NQP will be held in June 2020. The NQP will comprise seven modules with two electives. Please find the details below:

- Hong Kong Company Law
- Corporate Governance
- Corporate Secretaryship and Compliance
- Interpreting Financial and Accounting Information
- Strategic Management
- Risk Management
- Boardroom Dynamics or Hong Kong Taxation (electives)

The Institute will announce details of the syllabus, reading lists, study packs and pilot papers for all the modules in the NQP to all students in the near future.

Students who successfully complete the NQP will be admitted as graduates of the ICSA and HKICS and, upon achieving eligibility to be elected as Associates, will be awarded the dual designation of Chartered Secretary and Chartered Governance Professional (see Note 1).

All students under the current IQS will transit to the NQP with effect from 1 January 2020. They will also be awarded the dual designation of Chartered Secretary and Chartered Governance Professional when they are elected as Associates, after completing either the IQS or the NQP (or a combination of both) and after becoming graduates of the ICSA and HKICS.

Transitional arrangements

The last examination under the current IQS will be the December 2019 examinations. Students who have not completed their IQS

International Qualifying Scheme (IQS) examinations (continued)

examinations following the release of the IQS December 2019 examination results will transit to the NQP.

The transitional arrangements from the existing IQS to the NQP are as follows:

IQS	NQP
Strategic and Operations Management	Strategic Management
Hong Kong Corporate Law	Hong Kong Company Law
Hong Kong Financial Accounting	Risk Management
Hong Kong Taxation	Hong Kong Taxation (elective)
Corporate Governance	Corporate Governance
Corporate Administration	Boardroom Dynamics (elective)
Corporate Secretaryship	Corporate Secretaryship and Compliance
Corporate Financial Management	Interpreting Financial and Accounting Information

The Institute will communicate with all students who will transit to the NQP about the outstanding module(s) they will be required to complete under the NQP in January 2020.

Admission Requirements

Similar to IQS, only recognised degree and/or professional qualification holders will be eligible to apply for registration as new students under the NQP. Exemptions may be granted to relevant degree and/or professional qualification holders as appropriate. Further details of the Exemptions Policy under the NQP will be made available to all students in due course.

Examinations

From 1 January 2020, examinations will be held in the first week of June and the last week of November each year. The first examination for the NQP will be held in June 2020.

Existing students have two IQS examination diets (May 2019 and December 2019) to complete their outstanding papers under the IQS.

If you have any queries, please contact the Education and Examinations Section: 2881 6177, or email: student@hkics.org.hk.

Note 1:

Disclaimer: Membership of ICSA, as referred to in this document, is conditional upon agreement and contractual relations between HKICS and ICSA. Such agreement and contracts are subject to change and/or termination by either party and therefore, notwithstanding anything to the contrary in this document, HKICS cannot provide any assurance that membership of HKICS will lead to automatic membership to the ICSA or can HKICS be held responsible if membership of ICSA is not granted even following completion of the IQS or NQP and/or qualifying procedures being met.

Policy – payment reminder Studentship renewal

Students whose studentship expired in November 2018 are reminded to settle the renewal payment by Wednesday, 23 January 2019.

Exemption fees

Students whose exemption was approved via confirmation letter in November 2018 are reminded to settle the exemption fee by Friday, 15 February 2019.

Cross-boundary regulatory cooperation

The Securities and Futures Commission (SFC) has announced progress in key areas of cross-boundary regulatory cooperation with the China Securities Regulatory Commission (CSRC).

Enforcement cooperation

The two regulators have conducted in-depth discussions on market surveillance workflows and procedures, updated each other on the progress of high-priority cases, and discussed important cross-boundary enforcement policies.

At the seventh regular, high-level meeting in Hong Kong last month to discuss a range of matters concerning cross-boundary enforcement cooperation, both sides explored ways to further strengthen cross-boundary enforcement cooperation, including:

- enhancing a coordinated investigation mechanism for emerging types of cross-boundary illegal activity
- discussing a notification and evidence-sharing mechanism for cases involving dual listed companies in both markets, and
- organising further joint training and case study workshops.

Both regulators acknowledged that their long-standing close cooperation and collaboration on enforcement work has played a crucial role in combating cross-boundary market misconduct and maintaining the smooth and orderly operation of the Mainland-Hong Kong mutual market access programme.

'With the increased connectivity between Hong Kong and the Mainland, we will continue to broaden and deepen our enforcement cooperation with the CSRC in the interests of both markets and those who invest in them,' said Thomas Atkinson, the SFC's Executive Director of Enforcement.

Exchange of information

The SFC and CSRC also signed a new a Memorandum of Understanding (MoU) regarding the cooperation and exchange of information in connection with the supervision and oversight of regulated entities of the CSRC, or the SFC, that operate on a cross-boundary basis in Hong Kong and Mainland (cross-boundary regulated entities).

The MoU facilitates the CSRC and the SFC to cooperate with each other in the interest of fulfilling their respective mandates, particularly in the areas of investor protection, promoting the integrity and financial prudence of cross-boundary regulated entities, fostering fairness of markets, reducing systemic risk and maintaining financial stability.

Exchange of information under Stock Connect

The two regulators have also strengthened their cooperation to enhance the exchange of information under Mainland-Hong Kong Stock Connect programme. This programme provides for mutual stock market access between Hong Kong and the Mainland.

The enhancements are part of arrangements for the implementation of the investor identification regime for both northbound and southbound trading under Stock Connect. An investor identification regime for northbound trading was launched on 26 September 2018 and the investor identification regime for southbound trading is planned to be introduced by the end of the first quarter of 2019.

The regime helps enhance market surveillance and combat cross-boundary market misconduct under Stock Connect.

Joint training on digital forensics

The two regulators also hosted a joint enforcement training in Shenzhen on digital forensics. This is the third joint training event of its kind. It was held in the China Capital Market Institute in Shenzhen, following the previous one in Xiamen in December last year.

Around 40 enforcement officers from the SFC and over 80 investigators from the CSRC participated in the training session and shared their insights and experience on topics including:

- legal and technical issues related to digital forensics in the process of data retrieval, recovery, analysis and presentation
- practical case studies on a new forensic equipment and analysis platform, and
- application of big data in law enforcement.

'The acceleration in the pace of technological advancement coupled with an increasingly complex financial landscape have transformed the way markets operate, bringing new challenges to our enforcement work. It is essential for market regulators to have up-to-date techniques and tools to cope with these

changes effectively,' Mr Atkinson said. 'We will also deepen our cooperation with the CSRC and other market regulators as interconnectivity among global markets continues to grow.'

More information is available on the SFC website: www.sfc.hk.

E-training resources for directors

The Stock Exchange of Hong Kong Ltd (the Exchange), a wholly-owned subsidiary of Hong Kong Exchanges and Clearing Ltd (HKEX), has introduced new e-training resources for directors on its website. The e-training is part of the Exchange's ongoing commitment to promote and maintain good corporate governance standards and practices amongst issuers.

The e-training comes as new amendments to the listing rules on corporate governance took effect on 1 January 2019, following the Exchange's publication of its *Consultation Conclusions on Review of the Corporate Governance Code and Related Listing Rules*.

The first e-training course covers six topics that will take around 45 minutes to complete:

1. corporate governance update 2018
2. appointment of independent non-executive directors (INEDs)

3. INEDs' role
4. directors' attendance at meetings and dividend policy
5. weighted voting rights issuers' corporate governance requirements, and
6. key messages and conclusions.

'Our first e-training is designed to help directors of companies listed on the Exchange understand our new corporate governance requirements,' said David Graham, HKEX's Head of Listing. 'Directors should participate in training to develop and refresh their knowledge and skills so as to ensure that their contribution to the board remains informed and relevant. We will continue to look for innovative ways to provide training for directors.'

The e-training resources are available on the HKEX website: www.hkex.com.hk.

Company convicted of carrying on company service business without a licence

The Companies Registry has carried out its first prosecution of a company under Sections 53F(1) and (2) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO) for carrying on a company service business without a licence.

HKKS Company Service Ltd (the Company) pleaded guilty at Shatin Magistrates' Courts and was fined a total of HK\$50,000

for the charges. In addition, the court also disqualified the Company from holding a licence for a period of six months.

The new licensing regime for trust or company service providers under the AMLO, which commenced on 1 March 2018, requires companies to apply for a licence from the Registrar of Companies before they can provide trust or company services

as a business in Hong Kong. Any person who carries on a trust or company service business in Hong Kong without a licence commits an offence and is liable on conviction to a fine up to HK\$100,000 and imprisonment for up to six months.

'The ruling helps disseminate a strong message to all that the Companies Registry will rigorously enforce the licensing regime

for trust or company service providers,' a spokesman for the Registry said.

More information is available on the Companies Registry website: www.cr.gov.hk.

SFC concludes consultation on OTC derivatives and conduct risks

The Securities and Futures Commission (SFC) has released consultation conclusions on proposals to enhance the over-the-counter (OTC) derivatives regime and to address conduct risks posed by dealings with group affiliates and other connected persons.

On 20 December 2017, the SFC launched a consultation on:

1. the OTC derivatives regime for Hong Kong – proposing refinements to the scope of regulated activities, requirements in relation to OTC derivative risk mitigation, client clearing, record-keeping and licensing matters, and
2. proposed conduct requirements to address risks posed by group affiliates.

The SFC received written submissions from industry associations, asset management firms, professional services firms, market participants and other stakeholders. Respondents generally agreed with the proposed requirements.

The consultation conclusions only cover the proposed requirements under the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (Code of Conduct). The consultation conclusions on amendments to the Securities and Futures Ordinance and subsidiary legislation with respect to the new Types 11 and 12 regulated activities will be published separately.

Under the proposals, which the SFC will implement, licensed corporations that are contracting parties to non-centrally cleared OTC derivative transactions, or are licensed for Type 9 (asset management) regulated activity, will be subject to risk mitigation requirements. Licensed corporations providing client clearing services for OTC derivative transactions will be subject to segregation, portability and disclosure requirements.

In addition, licensed corporations which have dealings with group affiliates and other connected persons will be subject to conduct requirements to ensure that risks are properly managed, they act in clients' best interest and appropriate risk disclosure is provided.

'These requirements enhance Hong Kong's regulatory regime for OTC derivatives activities by protecting investors and strengthening the management of conduct and financial risks in dealings with related parties,' said Ashley Alder, the SFC's Chief Executive Officer.

The amendments to the Code of Conduct have been gazetted. The risk mitigation requirements will become effective on 1 September 2019, while the client clearing requirements will become effective when the new Types 11 and 12 regulated activities take effect. The conduct requirements to address risks posed by group affiliates and other connected persons will become effective six months after the gazettal of the Code of Conduct amendments.

More information is available on the SFC website: www.sfc.hk.

SFC concludes consultation on amendments to the Code on Unit Trusts and Mutual Funds

The Securities and Futures Commission (SFC) has released consultation conclusions on proposed amendments to the Code on Unit Trusts and Mutual Funds (UT Code).

The SFC received 29 written submissions to the consultation, which ended on 19 March 2018. The SFC will implement the proposals set out in the consultation paper with some modifications and clarifications. These include modifications to the calculation method for funds' derivatives investments and clarification of the enhanced obligations of trustees and custodians.

Key amendments include strengthening requirements for key operators (management companies, trustees and custodians), providing greater flexibility and enhanced safeguards for funds' investment activities (particularly in relation to derivatives, securities lending, and repo and reverse repo transactions), and introducing new fund types such as active exchange-traded funds.

'These changes will ensure that our regulations governing public funds are fit for purpose and fully aligned with international standards,' said Ashley Alder, the SFC's Chief Executive Officer. 'A robust regulatory regime that adapts to the opportunities and risks presented by financial innovation and market development is key to foster the growth of the retail fund industry in Hong Kong.'

Consequential amendments to the SFC Code on MPF Products, Code on Pooled Retirement Funds and Code on Investment-Linked Assurance Schemes will also be implemented, with appropriate modifications. The SFC will publish frequently asked questions to provide further guidance to the industry regarding the implementation and transition arrangements for the revised UT Code.

More information is available on the SFC website: www.sfc.hk.



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