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July 2019

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The journal of The Hong Kong  
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The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, as well as the development of the profession of the Chartered Secretary 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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## July 2019

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I would like to take the opportunity of my President's Message this month to update you on our Institute's work in this very special double anniversary year. This year we are celebrating 70 years of The Institute of Chartered Secretaries and Administrators (ICSA) in Hong Kong and 25 years of our Institute's status as an independent local professional body.

Perhaps I should start with the ongoing restructuring of our profession under the governance banner. We commenced awarding the new Chartered Governance Professional (CGP) designation, bundled with the existing Chartered Secretary (CS) designation, to eligible members in September 2018. Some 4,734 (77%) of our local membership now have both the CS and CGP designations.

We are also on course to launch the New Qualifying Programme (NQP), replacing the International Qualifying Scheme, on 1 January 2020. Our Secretariat team has been working closely with academics at various universities and with our examiners and assessment review panel members to ensure that there is a smooth transition to the NQP. We will continue to hold meetings, briefings and forums for current Institute students to help them with the transition.

The ICSA Professional Standards Committee (PSC) granted full accreditation of our Quality Assurance Framework for our NQP in September 2018 with no conditions attached until the end of 2021, other than the provision of an annual report to the

## Work in progress

PSC. This is a great achievement for our Institute.

The work described above is additional to our usual workload but we cannot afford, particularly in the current environment, to lose focus on our ongoing operations. I am pleased to report that our professional development work continues to go from strength to strength on two main fronts – publications (you can catch up with our latest guidance notes, consultation submissions and research reports on our website) and events. There continues to be a strong demand for our regular ECPD seminars and our latest Annual Corporate and Regulatory Update (ACRU) conference drew a new record-high attendance level, with some 2,000 attendees packing out one of the main halls at the Hong Kong Convention and Exhibition Centre on 5 June. This month's cover stories highlight the main takeaways of the day's discussions.

We do not only work in Hong Kong, of course, and last month I visited the Shenzhen Stock Exchange, Shenzhen Public Companies Association and the Nanshan Association for Public Companies to update our neighbours in Mainland China on the recent developments of our Institute and the ICSA. We also had very productive discussions about possible collaborative opportunities going forward.

Moreover, in March this year, we held our first-ever corporate governance conference in collaboration with ICSA International and key stakeholder organisations in Taiwan. The Practical Corporate Governance Conference 2019 provided a venue to share international practices and to promote our profession in Taiwan.

On the international front, ICSA intends to formally launch the new name 'The Chartered Governance Institute' and brand

sometime in September/October this year. Our Institute is also considering changing our name and brand. Your Council set up a working group in 2017 to look into and discuss this matter. We shall update you regularly on developments.

Last but not least, we have also been expanding our member and student services. Having received positive feedback from members attending our networking lunches, we plan to launch a new Stakeholder Networking Luncheon, which will help us promote the CS and CGP qualifications to stakeholders in the human resources and recruitment fields. We are also planning to hold more leadership series lunches, inviting leaders in different fields to share their expertise with our members.

So, as you can see, we have a very full and productive agenda in this double anniversary year, and I would like to express my gratitude to the many people, inside and outside our Institute, who have contributed to our work. I would also urge any members and students not yet involved to join us and play a part in our evolving governance profession.

Before I go, I should also mention that we still have a lot to look forward to in the second half of this calendar year, culminating in our second Corporate Governance Week to be held from 16 to 21 September and our first Community Services Month to be held in October. Watch this space for more details nearer the time.

A handwritten signature in black ink, appearing to read 'David Fu'. The signature is fluid and cursive, written on a white background.

David Fu FCIS FCS(PE)

# 工作进展

今年是特许秘书及行政人员公会 (ICSA) 在香港成立组织70年，也是香港特许秘书公会成立为本地独立专业团体25周年。藉着今期的会长的话，我想向大家报告公会在这一特别的双周年的工作进展。

首先报告特许秘书行业在管治旗下重组的进程。2018年9月，我们开始向合资格并已拥有特许秘书资格的会员颁授新的Chartered Governance Professional 专业资格。至今共有4,734位香港会员（占77%）兼具特许秘书及Chartered Governance Professional 称号。

由2020年1月1日起，新的国际专业资格评审考试将取代国际专业知识评审考试，相关筹备工作进展顺利。秘书处员工一直与大学学者、主考人员及考试评审团成员紧密联系，确保顺利过渡至新专业资格评审考试。我们将继续为公会的现有学员安排会议、简介会和论坛，帮助他们过渡。

2018年9月，ICSA专业标准委员会全面认可公会的新专业资格评审考试的质量保证制度，不附带任何条件，直至2021年底，其间只须每年向专业标准委员会提交年度报告。这是公会的重大成就。

上述工作是公会日常运作以外的额外工作，但我们不能忽略公会的日常营运，在目前的环境下尤其如此。我很高兴告诉大家，公会的专业发展工

作在出版（最新的指引、谘询回应书和研究报告可在公会网站阅览）和活动两大方面均表现出色。一如既往，各界对定期举行的强化持续专业发展讲座需求殷切，最新一届的公司规管最新发展研讨会出席人数打破历届纪录，6月5日香港会议及展览中心的一个主要演讲厅满满坐着约2,000名参加者。今期的封面故事介绍了当天讨论的内容重点。

公会当然不只在香港工作。上月份，我拜会了深圳证券交易所、深圳上市公司协会和深圳市南山区上市企业协会，向中国内地的同业介绍公会和ICSA的最新发展。我们也讨论了日后的合作机会，成果丰硕。

此外，今年3月，公会首次与国际ICSA和台湾的主要持份者机构合办了首个公司治理研讨会。2019年公司治理实务研讨会让参与者互相交流，参考国际做法，也让公会在台湾推广特许秘书及公司治理专业。

在国际层面，ICSA拟于今年9月或10月正式采用The Chartered Governance Institute 新名称及品牌。公会也正考虑更改名称及品牌，理事会在2017年成立工作小组，研究和讨论此事。我们将定期向会员报告进展。

最后，公会亦扩充了会员和学员服务。鉴于参与公会交流午餐会的会员反应

正面，我们计划推出新的持份者联系午餐会，向人力资源和人才招聘业界推广特许秘书和Chartered Governance Professional资格。我们也计划举办更多领袖系列午餐会，邀请不同行业的领袖与会员分享专业知识。

由此可见，公会为这双周年准备了丰富的事项和活动。我谨向公会内外曾为公会的工作努力的人士衷心致谢，并促请尚未参与的会员和学员参加各项活动，投入这个演化中的管治专业。

特别在此一提，今年下半年还有许多其他活动，高潮是9月16至21日的第二届企业管治周，以及10月的首个社区服务月。详情请留意本刊届时的报道。

傅溢鸿

傅溢鸿 FCIS FCS(PE)



# ACRU 2019 review – part one

## The critical role of internal controls





Regulators attending the Institute's latest Annual Corporate and Regulatory Update (ACRU), held on 5 June at the Hong Kong Convention and Exhibition Centre, highlighted the role of governance professionals in building and maintaining effective internal controls to ensure listing rule compliance.

The 'police and thieves' version of capital market dynamics focuses on the battle between fraudsters out to make illicit gains and regulators trying to make sure they don't get away with it. Most of the time, however, something far more mundane is going on. Tom Butlin, Head of Enforcement, Listing Department, Hong Kong Exchanges and Clearing Ltd (HKEX), pointed out in his ACRU presentation that many breaches of the listing rules are the result of poor internal controls rather than deliberate fraud.

'Things can go wrong even in the best of companies,' he said. He characterised the market as falling into three worlds – green, red and orange. In companies in the green world, directors and management display conduct that supports and fosters full compliance with the listing rules. In companies in the red world, their conduct is non-compliant. But between these two worlds there lies a third – the orange world. In the orange world, Mr Butlin said, directors and management display 'conduct that creates an environment for non-compliance.'

This, of course, is where governance professionals come in. The work of governance professionals focuses on creating an environment for compliance and key to this is building and maintaining effective internal controls. Mr Butlin pointed out that internal control reviews should be strategically planned with a real focus on identifying deficiencies, rather than a box-ticking exercise. He added that governance professionals should be reading and

making use of the various enforcement press releases and the *Enforcement Newsletter* published by HKEX to keep up to date with compliance and enforcement issues.

#### Who is responsible for listing rule compliance?

The low level of awareness among some directors of their responsibilities and duties, Mr Butlin said, is one of the biggest hurdles to better listing rule compliance. Once again, governance professionals, in particular company secretaries, should be playing a critical role.

Mr Butlin acknowledged that the role and status of company secretaries can vary among different issuers, but he emphasised that they should be playing a key role in ensuring listing rule compliance. He pointed out that the listing rules require issuers to 'appoint an adequately qualified company secretary with the requisite knowledge and experience, who is capable of discharging the functions of a company secretary.'

He also highlighted the provisions of Section F of the Corporate Governance Code, which is devoted to the role of company secretary. For example, Section F makes it explicit that company secretaries are responsible for governance matters, should have day-to-day knowledge of the issuer's affairs and should support the board by ensuring policies and procedures are followed.

'Good corporate governance relies on company secretaries being involved in governance and compliance matters,' Mr Butlin said. He added that he regards the most important parts of Section F to be the provisions stating that all directors should have access to the advice and services of the company secretary to ensure that board procedures, and all applicable laws, rules and regulations are followed, and that the company secretary should facilitate the induction and professional development of directors.

'The skill is identifying deficiencies in the knowledge of directors and proactively

### Highlights

- the work of the governance professional focuses on creating an environment for compliance and key to this is building and maintaining effective internal controls
- effective compliance with Hong Kong's inside information regime requires, first and foremost, a robust internal controls system for escalating price-sensitive information to the board
- inside information is an enforcement priority for the SFC – and officers, including company secretaries, have been fined for inside information disclosure breaches

“  
**good corporate  
 governance relies on  
 company secretaries  
 being involved in  
 governance and  
 compliance matters**  
 ”

Tom Butlin, Head of Enforcement,  
 Listing Department, Hong Kong  
 Exchanges and Clearing Ltd



engaging to get them the professional development they need', Mr Butlin said. He added that, at the very least, company secretaries should be ensuring that directors are aware of their fiduciary duties of skill, care and diligence. Directors are required to act honestly and in good faith in the interests of the issuer as a whole. They should:

- be answerable to the issuer for the application or misapplication of its assets
- avoid conflicts of interest and duty
- disclose fully and fairly their interests, and
- apply such degree of skill, care and diligence as may reasonably be expected of persons of their knowledge and experience.

'If you are involved in listing rule compliance, I want you to feel slightly uncomfortable in my talk', Mr Butlin said. He reminded ACRU attendees that

directors sign an undertaking before taking up their roles to the effect that they will comply to the best of their ability with the listing rules, use their best endeavours to procure the issuer's rule compliance and cooperate in any investigation by the HKEX.

Mr Butlin emphasised the importance of cooperating with HKEX investigations by responding openly and directly to enquiries. He indicated that 'conduct during an investigation can be just as important as the conduct that gave rise to the investigation in the first place'. He cited some cases of failure to cooperate with HKEX investigations he had come across in his enforcement work. For example, when asked to provide HKEX with copies of its internal control policies and procedures, one issuer answered: 'Please find attached a copy of the listing rules. This represents our internal control policies and procedures'. This was clearly not an appropriate response to the question posed.

Mr Butlin showed slides detailing the upward trend in enforcement cases and

sanctions against directors between 2016 and 2018. He added that this doesn't necessarily mean that the market has been heading towards lower standards, but nevertheless HKEX is looking for more attention to listing rule compliance among listed issuers and for those involved to take a more proactive and strategic approach to avoid potential breaches.

**Why controls matter**

The usefulness of systematic internal controls is perhaps most apparent in the tough compliance assignment of inside information disclosure. Benjamin Cheuk, Director, Corporate Finance Division, Securities and Futures Commission (SFC), focused his presentation on this area. Effective compliance with Hong Kong's inside information requirements, he pointed out, requires first and foremost an effective internal controls system for escalating price-sensitive information to the board.

Of course, any internal controls system cannot work if relevant information is not being generated in the first place. Mr Cheuk therefore emphasised the need for the production of management accounts on a monthly basis. This should be a part of basic corporate governance, he said, since these accounts are a crucial part of companies fulfilling their obligation to disclose inside information, make corporate announcements and issue profit warnings or alerts in a timely manner.

He also warned that, from a liability perspective, not producing management accounts is not an excuse for failing to disclose inside information. Inside information is information which has, or which 'ought reasonably to have', come to the knowledge of an officer in the course of performing his or her functions. Regulators will deem that officers 'ought reasonably to



“  
my job is not to enable all  
colleagues to identify specific inside  
information, but to create a system  
whereby those who come across  
something suspicious can escalate the  
information to the relevant parties  
”

Edith Shih, International President, Institute of Chartered Secretaries and Administrators



have' come across relevant price-sensitive information via management accounts.

Mr Cheuk also shared with ACRU participants some best practice tips on how to approach management accounts. These accounts should be prepared on a monthly basis, include all key operating subsidiaries, preferably in consolidated accounts, and be ready for review no later than two weeks from the end of the month.


#### How good is your system?

The importance of internal controls for inside information disclosure was also explored in a new addition to the ACRU formula this year – the 'Practitioner Practical Sharing' session. Following the SFC session, ACRU attendees were given the practitioner perspective on how to build an effective inside information disclosure regime. The presenters were Edith Shih, International President, ICSA, and Institute Past President, and Mark Hughes, Partner, Slaughter and May, Hong Kong. The session was moderated by Gillian Meller, Institute Vice-President.

Ms Shih further elaborated on a point raised by Mr Cheuk – the need to have an effective system to capture relevant information. Ms Shih shared with ACRU attendees the system devised by CK Hutchison Holdings to ensure effective inside information disclosure. Given the size of CK Hutchison Holdings, this system is highly elaborate and complex, involving many layers by which information is escalated to the board. Ms Shih emphasised that some elements of the system may not be relevant to other organisations, it should nevertheless be useful as a model from which organisations can devise their own systems.

She also discussed the company secretary role in building and maintaining internal control systems. 'My job', she pointed out, 'is not to enable all colleagues to identify specific inside information, but to create a system whereby those who come across something suspicious can escalate the information to the relevant parties.'

Gillian Meller asked the two 'Practitioner Practical Sharing' speakers about how company secretaries can persuade directors to give inside information disclosure the attention it needs. Ms Shih emphasised that it may be a good idea to highlight specific cases where things have gone wrong – 'scare tactics work', she quipped. Ms Meller agreed, pointing out that the threat of personal liability can be a very persuasive argument for any undecided directors.

Mr Hughes also backed this point up. He highlighted the fact that inside information is an enforcement priority for the SFC and that officers, including company secretaries, have been fined for inside information disclosure breaches. 

*The 20th Annual Corporate and Regulatory Update (ACRU) of The Hong Kong Institute of Chartered Secretaries was held on 5 June 2019 at the Hong Kong Convention and Exhibition Centre.*

# ACRU 2019 review – part two

## Your guide to the issues at the top of the governance agenda







This second part of our review of the Institute's latest Annual Corporate and Regulatory Update (ACRU) takes a look at the guidance offered by regulators on the issues at the top of the agenda for governance professionals in Hong Kong.

The agenda of this year's ACRU demonstrates that the governance environment in Hong Kong continues to grow in complexity. Speakers from four regulatory bodies discussed new developments relating to:

1. listed issuer regulation
2. environmental, social and governance (ESG) reporting
3. anti-money laundering and counter-terrorist financing (AML/CTF) compliance, and
4. proposed reforms to Hong Kong's Mandatory Provident Fund system.

#### 1. Listed issuer regulation

The regulation of listed issuers was a central focus for speakers from Hong Kong Exchanges and Clearing Ltd (HKEX). Kenneth Chan, Senior Vice-President, Listed Issuer Regulation, Listing Department, HKEX, emphasised that listed issuer regulation was at the heart of maintaining market quality.

'We believe maintaining market quality is the key to market growth and sustainability and leads to a virtuous cycle,' he said. He displayed a graphic to illustrate the way market quality leads to increased investor confidence, which in turn increases order flow and market liquidity, which in turn attracts quality listed issuers. He warned that where corporate governance standards are low the opposite can be true – the market goes into a vicious cycle where poor market quality leads to reduced investor confidence, order flow and market liquidity, which in turn results in quality listed issuers avoiding the market.

Mr Chan emphasised that maintaining market quality is not just a question for regulators – directors, both collectively and individually, need to fulfil their fiduciary duties and duties of skill, care and diligence.

He added that HKEX regards having an effective mechanism to delist poor quality issuers as critical for maintaining market quality. In this regard, he

### Highlights

- directors, both collectively and individually, need to fulfil their fiduciary duties and duties of skill, care and diligence
- environmental themes featured more prominently in this year's ACRU than in any previous year
- whether issuers can successfully manage climate-related risks and opportunities is likely to be of increasing importance for their future survival

“  
we believe maintaining  
market quality is the key  
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to a virtuous cycle  
”

Kenneth Chan, Senior Vice-President,  
Listed Issuer Regulation, Listing  
Department, Hong Kong Exchanges and  
Clearing Ltd



highlighted the HKEX delisting rule amendments which became effective in August 2018. The new regime is designed to facilitate efficient and orderly exits of poor quality issuers; provide certainty to the market on the delisting process; incentivise suspended issuers to act promptly towards resumption; and deter material breaches of the listing rules.

He emphasised that HKEX expects a suspended issuer, for trading resumption purposes, to promptly identify the relevant issues, and to devise a resumption plan with remedial actions and a timetable.

#### **Sufficiency of operations and assets**

Patrick Yu, Senior Vice-President, Listed Issuer Regulation, Listing Department, HKEX, focused his ACRU presentation on another market quality issue – the misuse of shell companies. The listing rules require listed issuers to maintain sufficient operations, or to have assets of sufficient value, to warrant their continued listing. HKEX has been cracking down on shell companies – where companies divest much of their business

but maintain their listing only motivated by the value of their listed status – by tightening the application of the rules on sufficiency of operations and assets.

Mr Yu pointed out that HKEX applies a qualitative not a quantitative test when assessing the sufficiency of operations and assets. HKEX does not apply a prescribed threshold for 'sufficiency', but looks for evidence as to whether the issuer's business is viable and sustainable, and whether the business has substance. He warned that HKEX will suspend trading where issuers are deemed to have breached the sufficiency test, for example, where there is a very low level of operating activities and revenue, which is not the result of a temporary downturn in the market, or where assets do not generate sufficient revenue and profits.

#### **Material intangible assets disclosures**

Steve Ong FCA FCPA, Senior Vice-President, Head of Accounting Affairs, Listing Department, HKEX, also addressed listed issuer regulation in his ACRU presentation. His focus was on disclosures

relating to 'material intangible assets' – one of the most challenging areas for issuers. Intangible assets – such as goodwill, customer relationships, research and development costs, software, technology know-how, trademarks, patents and licences – can form a significant part of issuers' assets and disclosures relating to these assets have been drawing increasing investor interest.

Mr Ong emphasised that such disclosures should include information on management's judgements and estimates relating to intangible assets. The provision of this information is key to proper financial reporting to enhance shareholders' value whereby investors can readily obtain the required information to assess the company, he said.

He highlighted the findings of the *HKEX Review of Issuers' Annual Report Disclosure – Report 2018* (the HKEX Review) in the following three areas below.

1. Disclosures on reasonableness of financial budgets and assumptions



used in determining recoverable amounts on impairment testing for goodwill, particularly for loss-making segments.

2. Disclosures on assessment of intangible assets with indefinite or long useful lives.
3. Disclosures on accounting for business combinations, in particular whether intangible assets had been properly identified, separately recognised and measured at fair value.

In addition, the audit committee should get involved in reviewing judgements and estimates relating to intangible assets. Moreover, issuers should not rely solely on professional valuers or other experts without carrying out sufficient due diligence on valuations. Directors should also assess the competence, capabilities, objectivity and qualifications of professional valuers or other experts.

He emphasised that company secretaries have a great role to play to ensure that the ecosystem relating to financial reporting works for the listed issuer in enhancing shareholders' value.

## 2. ESG performance and disclosure

Environmental themes featured more prominently in this year's ACRU than in any previous year.

### ESG compliance

Katherine Ng, Head of Policy, Listing Department, HKEX, discussed Hong Kong's evolving ESG reporting framework and the current compliance standards of listed issuers. HKEX regularly assesses the ESG disclosure of Hong Kong listed issuers and its latest

assessment report – *Analysis of ESG Practice Disclosure 2016/2017* – found that, while overall compliance with the HKEX *ESG Reporting Guide* (Appendix 27 of the listing rules) (ESG Guide) is high, it is of 'varying quality'.

The HKEX Review identified some areas of weakness – in particular, ineffective governance structures for the management of ESG issues and the lack of reporting on issuers' materiality assessment process. In this regard, Ms Ng highlighted the HKEX proposals put forward in its *Consultation Paper on Review of the ESG Reporting Guide and Related Listing Rules* (ESG Consultation) published in May this year.

The ESG Consultation proposes revisions to the ESG Guide to require disclosure of a statement from the board in their ESG Reports setting out, among other things, the board's oversight of ESG issues and how the board reviews progress made against ESG-related goals and targets. Issuers would also need to provide details of their materiality assessment process, including a description of:

- the significant stakeholders identified
- the process and results of the issuer's stakeholder engagement (if any), and
- the criteria for the selection of material ESG factors.

Ms Ng pointed out that company secretaries should be playing a key role in improving listed issuers' management of ESG risks and opportunities – for example, ensuring that ESG issues get board level attention, identifying a list

of potential ESG issues and coordinating stakeholder engagement.

Finally, Ms Ng urged ACRU participants to make use of the resources available on the HKEX website, such as the new 'E-training on ESG Governance and Reporting'.

### Environmental and climate change-related disclosures

Environmental disclosure also featured highly in the Securities and Futures Commission (SFC) presentations at ACRU 2019. Kenneth Lau, Director, Corporate Finance Division, SFC, focused his presentation on climate change-related disclosures.

He started by sharing the news about the recent bankruptcy of a US gas and power company, which was reportedly the first major bankruptcy case attributable to climate change. This case illustrates how climate change can pose serious operational and financial risks to companies, and why disclosure of environmental issues should no longer be confined to pollution. Investors are expecting more disclosure of how a business might be affected by environmental or climate-change related issues.

Mr Lau then went on to review some of the key developments globally and locally in this space. For example, the Task Force on Climate-Related Financial Disclosures (TCFD), established by the Financial Stability Board, published a set of recommended disclosures in 2017, which provide a good framework that helps companies prepare climate change-related disclosures and identify climate-related risks, including physical risks and transitional risks. He explained that the

“  
 one of our priorities is to work on ways in which asset managers make it clear to investors how and to what extent they factor environmental criteria into their investment processes and risk assessments  
 ”

Linda Yiu, Director, Intermediaries Supervision Department, Intermediaries Division, SFC



TCFD Recommendations are not only about the disclosure of specific risks, but also more broadly, how climate risks are managed such that investors can assess whether the company is well prepared for the impact of climate change.

Mr Lau then turned to developments here in Hong Kong. In September last year, the SFC published a paper setting out a strategic framework for the development of green finance in the Stock Exchange of Hong Kong. One of the SFC's priorities is to enhance listed companies' environmental disclosure. The SFC has been working closely with the Stock Exchange on this front, including providing guidance and consulting the market on enhancing the listing rules requirements. He then reviewed the relevant disclosure requirements under the listing rules, the Companies Ordinance and the Securities and Futures Ordinance. He emphasised, however, that companies should be thinking beyond the compliance mandate because whether issuers can successfully manage climate-related risks and opportunities is likely to be of increasing importance for their future survival.

Mr Lau further explained how a business may be affected by climate change and shared some examples of multinational companies which received high ratings for their climate disclosures. These examples show that climate change can bring both risks and opportunities that have a significant financial impact on a business which is quantifiable in dollar terms.

#### **Sustainable investing**

Another key driver for better ESG integration and disclosure is the rising pressure from ESG-orientated investors. Linda Yiu, Director, Intermediaries Supervision Department, Intermediaries Division, SFC, focused her ACRU presentation on this issue. She emphasised that rising investor interest in ESG disclosures means that issuers with higher ESG standards will not only benefit from better risk management and potential returns but also better access to capital.

She acknowledged, however, that sustainable investing still faces many challenges. For example, there is a lack of quality and comparability of ESG data

and insufficient disclosure of whether and how asset managers conduct sustainable investing. The SFC has various initiatives to contribute to the development of green finance in Hong Kong. 'One of our priorities is to work on ways in which asset managers make it clear to investors how and to what extent they factor environmental criteria into their investment processes and risk assessments,' she said. This is to minimise the possibility of loss of trust in green finance due to the perception of green-washing.

The SFC issued a circular in April 2019 to provide guidance to fund management companies on enhanced disclosures for SFC-authorized green or ESG funds.

The SFC has also launched a survey of asset managers in the Hong Kong market to better understand how asset managers integrate environmental and climate change factors into their investment and risk management processes. It intends to conduct a similar survey of asset owners and the survey outcomes will be taken into consideration in the formulation of appropriate policies, codes and guidelines.

### 3. AML/CTF compliance

High on the agenda of governance professionals in Hong Kong has been the implementation of Hong Kong's new anti-money laundering and counter-financing of terrorism (AML/CFT) regime in March 2018. Three speakers from the Companies Registry (CR) discussed different aspects of the new regime for the benefit of ACRU attendees. The speakers made the point that, while the new compliance requirements may be seen as burdensome by some trust and company service providers (TCSPs), they are a crucial part of the endeavour to fulfill Hong Kong's international obligations in AML/CFT compliance and to strengthen Hong Kong's position as an international financial centre.

#### Significant controllers registers

Angelina Mok, Deputy Registry Manager (Registration), CR, addressed market uncertainties and concerns regarding the new requirements for companies in Hong Kong to maintain beneficial ownership information by way of keeping significant controllers registers (SCRs). Since the implementation of the SCR requirements in March 2018, there have been many questions regarding the new requirements. Ms Mok explained the legal definition of 'significant control', 'registrable persons' and 'registrable legal entities' in a chain of ownership and answered some common questions received by the CR. She also provided details of the enforcement actions, including site inspections, taken by the CR. From October 2018 to March 2019, for example, the CR issued 52 summonses for non-compliant cases and 78 default notices. She recommended ACRU participants go to the dedicated thematic section 'Significant Controllers Register' of the CR website ([www.cr.gov.hk](http://www.cr.gov.hk)). In the

meantime, 'please be prepared for our visit and make ready the SCR together with relevant supporting documents for our inspection', she said.

#### Licensing regime for TCSPs

Roger Wong, Deputy Registry Manager (Trust and Company Service Providers), CR, discussed Hong Kong's new AML/CFT requirements for TCSPs. Since the commencement of the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Ordinance 2018 on 1 March 2018, introducing a licensing regime for TCSPs and extending the statutory AML/CFT requirements to them, the Registry for Trust and Company Service Providers has been established and a dedicated website for the licensing regime has been set up.

Three guidelines were published by the CR to provide guidance to TCSPs. Mr Wong reminded ACRU attendees that the guidelines provide guidance in relation to the licensing requirements and AML/CFT requirements for TCSPs. He urged ACRU attendees to familiarise themselves with these guidelines if they are TCSP licensees or intend to apply for a TCSP licence.

Mr Wong also reminded ACRU attendees of the statutory obligations of TCSP licensees and highlighted the enforcement measures being taken by the CR.

#### AML/CFT requirements for TCSPs

Under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap 615) (AMLO), TCSPs also have to carry out customer due diligence (CDD) measures and comply with record-keeping requirements. Christy Yiu, Senior Solicitor (Trust and Company Service Providers), CR, focused her ACRU presentation on

this area. She explained that the CDD measures must be carried out if the TCSP licensee suspects that the customer or the customer's account is involved in money laundering or terrorist financing, and/or when the TCSP licensee doubts the veracity or adequacy of the information obtained during the CDD process. Moreover, CDD needs to be carried out before establishing a business relationship with the customer and/or before carrying out an occasional transaction involving HK\$120,000 or above.

The CDD measures prescribed in Schedule 2 to the AMLO include: identifying the customer and verifying the customer's identity, identifying the beneficial owner and the person purporting to act on behalf of the customer and taking reasonable measures to verify their identities, and obtaining information on the purpose and intended nature of the business relationship, if a business relationship is to be established. Ms Yiu emphasised that, if CDD requirements are not complied with, the licensee must not establish a business relationship or carry out an occasional transaction with that customer. If a business relationship has been established, it must be terminated as soon as reasonably practicable.

She also addressed the need for enhanced due diligence (EDD) in high-risk situations, such as where the customer is not physically present for identification purposes, or the customer or the beneficial owner of the customer is a politically exposed person.

Ms Yiu also highlighted other statutory requirements relating to money laundering, terrorist financing, financial sanctions, financing of proliferation of weapons of mass destruction and



“  
**None of the previous reforms to the Mandatory Provident Fund (MPF) system can compare to the eMPF Platform. This is about moving the MPF system to a new era**  
 ”

John Wan, General Manager (eMPF), Mandatory Provident Fund Schemes Authority



in relation to the obligation to report suspicious transactions.

#### 4. Mandatory Provident Fund system reform

Hong Kong's mandatory retirement system, the Mandatory Provident Fund (MPF), was launched in December 2000 and two speakers from the Mandatory Provident Fund Schemes Authority (MPFA) shared with ACRU attendees the MPFA's proposed major overhaul of the system to bring it into the digital age.

#### eMPF

John Wan, General Manager (eMPF), MPFA, pointed out that in today's world consumers increasingly embrace digital solutions in their daily activities. MPF scheme administration needs to keep up with this trend. MPF scheme administration is still predominantly paper-based, involving a considerable amount of manual work and is costly to operate. These problems are exacerbated by the vast number of scheme participants and MPF accounts – there are about 4.3 million scheme members, 9.8 million accounts in 30 MPF schemes and around 430 MPF funds. The fragmented user experience may demotivate many scheme members

to actively review, manage and consolidate their MPF accounts.


To address these problems, the MPFA was entrusted by the HKSAR Government to design, develop and operate a user-centric eMPF Platform (Platform), which will standardise, streamline and automate MPF administration processes. The efficiencies to be gained by moving to the Platform should reduce overall costs, improve the user experience, improve accuracy, reliability and efficiency, and bring greater transparency and member engagement.

This is clearly no small project. The estimated cost of building the Platform infrastructure is around HK\$3.4 billion. Once in operation, the estimated financial savings generated will be in the region of HK\$22.5 billion to HK\$23.6 billion over 20 years.

One of the critical success factors for the initiative is to have as many employers and members handling their MPF matters via the Platform. Mr Wan called upon ACRU participants to make more use of the existing electronic tools and services provided by MPF trustees and go digital in order to make the transition to the Platform in future more seamless.

'None of the previous reforms to the MPF system can compare to the eMPF Platform,' Mr Wan said. 'This is about moving the MPF system to a new era.'

#### MPF tax concessions

Germaine Lee, Senior Manager (Policy Development), MPFA, focused her ACRU presentation on the government's newly launched tax concessions on tax deductible voluntary contributions (TVCs) to encourage voluntary savings for retirement. Ms Lee explained the key features of TVC and the tax savings that can be made by making TVCs to MPF schemes under the new legislation – the Inland Revenue and MPF Schemes Legislation (Tax Deductions for Annuity Premiums and MPF Voluntary Contributions) (Amendment) Ordinance 2019, which was enacted on 29 March 2019. The tax concessions for TVCs were implemented on 1 April 2019. 

*The 20th Annual Corporate and Regulatory Update (ACRU) of The Hong Kong Institute of Chartered Secretaries was held on 5 June 2019 at the Hong Kong Convention and Exhibition Centre.*

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# The tech challenge

Tech is not just for Cyberport, says Dr George Lam, Chairman, Hong Kong Cyberport Management Company Ltd, tech is for everybody, including governance professionals.



*Do you think people in Hong Kong are aware of just how radical the transformation of our lives and work will be as the result of technological innovation?*

'Over the past three years, you can see fundamental changes in Hong Kong. Three years ago, when discussing the economy, people were mostly talking about real estate and stocks. Now people talk about innovation and technology, about unicorns, start-ups and tech entrepreneurs. The whole mindset and the whole cultural shift is now moving towards Hong Kong as the leading international innovation and technology centre for China and Asia.

We are living in a really exciting and interesting time – the fourth industrial revolution. Now data is the new currency and artificial intelligence (AI) is the new software. The next wave of major productivity gains will come from AI, which will be embedded in a lot of different products, as tiny as our electric toothbrushes or as big as our commercial jets. In this new era, digital is the so-called "new English", because young people need to be digital savvy to get a good job – or even to find their future spouse or partner, or to enjoy education that can help them develop further.

But the digital divide is still as wide and dangerous as ever, so we need to put more effort and investment into education. You cannot just have smart cities supporting smart economies without having smart citizens – education is key.

*Do you think Hong Kong has adopted the right strategy to respond to these changes?*

'In the future, the most important assets will be digital assets. The traditional

economy was all about physical assets, such as buildings, cars and equipment, but the most valuable asset in the new economy is data.

Hong Kong is already the number one asset management centre in the world for traditional assets, but going forward, it is important for Hong Kong to be the digital asset management centre. I think we are well positioned for the data-driven innovation era because of our One Country, Two Systems governance framework. We have an excellent foundation of the rule of law, an excellent British common law tradition, and perhaps the best protection for intellectual property, privacy, commercial contracts and personal freedom – everything that is needed for a smart economy.

Hong Kong also has one of the best digital infrastructures on earth, be it fibre optic cable network and satellite systems, or internet data centres and telecom towers, or near-perfect power supply stability and continuity, which is a key competitive advantage in the digital era. So, with all these competitive advantages, Hong Kong is the best place to store, safeguard, manage, transact and apply data. This is why we are the general terminal of the digital Silk Road and the international data hub for the Belt and Road.'

*Could we discuss your current work and your aspirations as Chairman of Hong Kong Cyberport Management Company Ltd?*

'While we are 100% owned by the HKSAR Government, we are managed professionally as a company governed by an independent board and day-to-day managed by a professional team. Because of this unique framework, we are very entrepreneurial – indeed we are like a start-up ourselves, we are starting up a new phase of development for Hong Kong.

Cyberport is a complete tech ecosystem with over 1,300 tech companies and start-ups, including one of the largest fintech clusters in Asia, with over 350 fintech start-ups covering everything that you can think of, including e-wallet, robo-advisory, robo-trading, high-frequency trading, virtual banking, virtual insurance, e-ID (electronic identity), e-KYC (electronic Know Your Customer), blockchain, cybersecurity, AI and big data.

It is important to have clusters. For example, in the old days, if you wanted to find a wedding card, you would go to Wanchai where all the wedding card shops could be found. If you want to do fintech, you come to Cyberport. A cluster brings together critical mass, a lot of collaboration, synergy and cross-

## Highlights

- digital is the so-called 'new English' because young people need to be digital savvy to get a good job
- Cyberport operates like a start-up itself – starting up a new phase of development for Hong Kong
- Hong Kong has the potential to make the Greater Bay Area the world's new Silicon Valley

fertilisation. It brings like-minded people to work together without having to re-invent the wheel, and gets them a lot of attention from key stakeholders such as tech investors and the media.'

*What would be on your wish list of things to help Cyberport in its work?*

'Well, the list is long but I should start with people. We need to get the best people (top-calibre tech experts, tech entrepreneurs and tech investors) to Hong Kong, and we also need to train and to develop our people. Look at Silicon Valley's history – it became a success because of its open-mindedness and its very open immigration policy. If you were good at tech, whatever your nationality, you were invited to join. We need to be even more open and open-minded than Silicon Valley was then, and we can do it because multicultural and multilingual Hong Kong is in every aspect Asia's world city and free port.

So we have to bring in the best talent from around the world and their families – if you don't have the families coming as well, they are passers-by. We need them to feel like they are at home here and we must strengthen our support infrastructure (such as schools and housing). Once they are here, English is our working language, so they will have no problem. Moreover, it's only 30–45 minutes to the Greater Bay Area. So we are like Silicon Valley, plus Boston, New York City, Austin, San Francisco, Los Angeles, Vancouver, Toronto, Dublin and London all together.

This will also create quality jobs for Hong Kong people, which is the ultimate impact we want to achieve. If we attract the best tech companies and talent to come to Hong Kong, they can work

alongside and train up our people and give our people the chance to realise their dreams. That will also enrich our DNA, our gene pool. After all, our only capital in Hong Kong is talent.

In addition to getting the right people, we also need to strengthen our role and our capabilities as Asia's leading venture capital hub. The success of Silicon Valley wasn't only down to the tech entrepreneurs and the start-ups, but also the vibrant venture capital industry there. So we need to attract more world-class venture capital, both people and organisations, to Hong Kong, to have abundant risk capital to fund our start-ups.

In the current environment under the trade war uncertainties, I think we should take matters into our own hands and further build up our own infrastructure and our own ecosystem by investing more in innovation, technology and talent. Hong Kong is already doing that. If you look at successive HKSAR Government budgets over the past three years, you can see that the capital allocated to the innovation and technology sector came from a very modest base to some very respectable numbers in just three years or so. This is a very good momentum and my forecast is that this will continue to increase.'

*Do you think that Hong Kong has been slow to establish a regulatory environment to encourage new fintech businesses?*

'HKSAR Government policies and regulations also have to evolve. We have only just started in the past three years in a big way. I think we have good momentum, but we need to keep that up and quicken the pace, otherwise we will have a very challenging phenomenon where the entrepreneurs are embarking

on a 200-metre sprint but the regulators are taking a slow walk after dinner. They need to be in tandem.

I think the key now is to maintain the current strategy of working closely with the start-up community, because the start-up community is actually the key driver for reform. We have a tech talent entry scheme that means, for example, if you come to Cyberport and you need talent to build your business successfully, you can potentially put your applications through a green channel to get the relevant work permits faster. Another example is the easy landing scheme which helps to attract top-calibre tech organisations to come to Cyberport to add to our ecosystem.

We have also been talking to Hong Kong Exchanges and Clearing Ltd (HKEX), lobbying for more green channels for capital market access. Now, biotech companies that are at the pre-revenue stage can list on the Hong Kong stock market, but what about digital-tech companies – if they are pre-revenue and have good growth potential can they also list? These are the things that we have been lobbying for, so the entrepreneur community in Hong Kong is a catalyst for policy and law reform in the digital era.'

*But is there also another side of that debate – perhaps the regulators need to be going at a slower pace because those regulations are there to protect investors?*

'I think we need to find the optimal balance, but if you look at fintech, 90% of the time innovators are stretching the envelope, or perhaps going into an area that the existing regulations are not detailed or updated enough to cover. That's why Cyberport's connections and

communication channels with regulators are something that entrepreneurs really value. Our connections mean that, when entrepreneurs stretch the envelope, we can help them to communicate, clarify and consult with regulators. The chance that an entrepreneur is breaking the law is therefore minimised, while the chance for improving that law is maximised.

The whole world is undergoing digital transformation, including regulators. So the regulators themselves are under pressure to become more tech-savvy. After all, digital tools and digital solutions can make a regulator's life easier and more successful. Tech is not just for

Cyberport, tech is for everybody, we all need to become tech-savvy!

### *Does that include governance professionals?*

'Certainly. These days we are in the era of e-governance and this is transforming the work of governance professionals. A lot more organisations in the world are now governed digitally – how many people in the world these days put in time sheets, or leave or overtime applications? Everything is done digitally. Auditors, company secretaries, financial controllers, internal audit managers, internal control managers, chief compliance officers – all of these important roles are now actually in the digital age.

So governance professionals need to be tech-savvy, they cannot afford to lag behind. There are many tech tools to help governance professionals function better. If you want to fly a plane, you have to know how to use the instruments, but even if the plane is largely automated the pilot's judgement, experience, discipline, skills and training are still important. AI has been improving the diagnosis and treatment process but experienced skilled doctors are still indispensable – AI only makes them more productive and impactful and their life easier. Likewise, ongoing developments in regtech and legaltech (which are two new hot areas being targeted by Cyberport's

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fintech cluster) will make governance professionals more productive and impactful and their life easier. So there will always be a good job opportunity waiting for a well-prepared, tech-savvy governance professional!

*Lastly, can we discuss your own career background?*

'I studied maths and computer science at university, and got my master's in systems science. Then I joined one of the biggest companies in Canada – Bell Canada, the largest telecommunications company in the country then. I became a manager and then went to business school to get my Master of Business Administration (MBA). In my work, I became very involved in dealing with regulators, pressure groups and the HKSAR government, so later I studied to get my Master of Public Administration (MPA), a PhD at the University of Hong Kong Centre for Asian Studies and professional qualifications in law.

I came back to Hong Kong and became the youngest general manager working for Hong Kong Telecom. After a few years, I was invited to join A.T. Kearney, a Chicago-

based American international management consulting firm, as the youngest partner. Then I had the opportunity to join Singapore Technologies Telemedia, a tech business of Singapore sovereign fund Temasek Holdings, in Singapore. I was executive director of telemedia, so I was involved in acquisitions, mergers and direct investment across Asia.

After Singapore, I came back to Hong Kong and went into investment banking. I joined the Bank of China group's investment banking business and became Chief Operating Officer (COO), and later Vice-Chairman, for the investment banking division. After a few years there, I joined Macquarie, where I have been for 12 years in various non-executive advisory roles covering the Asia region. First I was in investment banking, now in the asset management area. The firm is now one of the largest asset management companies in the world, particularly in the infrastructure business.

So I moved from tech into management, and from management into management consulting, and then banking and finance.

But over the past 15 years or so, I have been doing more and more public service and getting involved in international affairs, because I decided that making money and building a career is fine, but what is more important to me now is helping the younger generation and my community. That's why I have served in various volunteer/advisory roles such as the HKSAR Government's Central Policy Unit, the Financial Services Development Council New Business Committee, the Legal Aid Services Council, the Education Bureau School Allocation Committee, the Commission on Smoking and Health, the Hong Kong Trade Development Council, the Belt and Road Committee and Digital Silk Road Working Group, the United Nations ESCAP Sustainability Business Network and the Pacific Basin Economic Council, and so on, and now Cyberport and the HKSAR Government's Committee on Innovation, Technology and Re-industrialisation.

I believe in team work. That's why my role at Cyberport is perfect for me. I like round tables, I like teams. I like engagement and partnership. I also think it is important for Hong Kong to move decisively into the innovation and technology era, and I fully support the HKSAR Government's strategic policy decision to significantly increase our effort and investment in innovation and technology. I hope Hong Kong will continue to do more in this direction. It's important to ensure the creation of a digital Hong Kong. Going forwards, I would like to ensure that Hong Kong can play an excellent role in making the Greater Bay Area the world's new Silicon Valley' 

*Dr Lam was interviewed by Kieran Colvert, Editor, CSj, and Mohan Datwani, Solicitor, and the Institute's Senior Director and Head of Technical & Research.*

# Rewarding the Extraordinary



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# The impact of blockchain technology on compliance

Blockchain technology is being touted as 'the new internet'. Chris Grundy, Director of Marketing at SelfKey and KYC-Chain, explains what blockchain technology is, how it can help and how it impacts compliance issues.





Compliance is undergoing radical change in 2019 and likely in the years to come. The demands of international legislation designed to fight money laundering and the financing of terrorism are significant, and governance professionals everywhere are feeling the impact.

Over the past 10 years, regulators have handed out fines totalling US\$26 billion to global financial institutions for failing to comply with anti-money laundering (AML) and know your customer (KYC) requirements. Ouch.

Technology plays an increasingly important role. Automated sanction screenings, facial recognition and state-of-the-art fraud detection are just a few recent innovations to help us with day-to-day KYC and AML.

Looking at the big picture, blockchain technology represents the biggest leap since the internet. But what exactly is it and what impact will it have on the world of compliance?

### What is blockchain technology?

The first thing to understand is that a blockchain typically operates as a decentralised, time-stamped record of transactions.

You can think of it as a distributed ledger. If you look at the notepad on your desk, imagine that same notepad lying on the desk of every member of your network. Whenever a transaction is performed, everybody's ledger is updated in real time, 365 days a year, with no downtime and without the need for a bank or service provider.

Every transaction is checked, validated and added to the blockchain by network members incentivised to ensure its integrity.

The network topology is such that members entering and exiting the network can be easily dealt with, making the whole system impressively robust.

Of course, the word you hear all the time in association with blockchain technology is 'cryptography'. Cryptography plays a vital role in the peer-to-peer transactions processed on the blockchain. Cryptocurrency addresses typically comprise two cryptographic keys: public and private.

The private key, the one required to access and send funds, is under the complete control of the individual. This makes the token holder the ultimate beneficial owner with similar capabilities to a fully fledged bank.

Crucially, blockchain technology is open source and publicly visible, meaning the codebase can be audited and many transactions can be viewed.

### Enjoy unprecedented transparency

With this in mind, blockchain technology has the capacity to be transparent and easily auditable. Risk teams and regulators

can easily study the recorded data, including transactions, lending activity and more to get an impressively clear and comprehensive picture about where the money is coming from.

Innovative blockchain analytics platforms are now emerging to take this a step further, providing incredibly detailed information on wallet addresses. This data can then be used to meet AML and KYC compliance obligations by monitoring the cryptocurrency-related activities of your customers. The level of detail surpasses that provided by global financial institutions.

For governance professionals, the ability to enjoy real-time transparency on customer activity is a game-changer. Compliance solutions can be set up to receive this kind of data and use it to generate risk scores for customers.

### Identify customers faster

KYC procedures are arduous for users and resource-intensive for businesses. According to Forbes, spiralling KYC requirements were responsible for a 16% increase in the cost of onboarding new customers in 2018 – an unacceptable amount.

## Highlights

- blockchain technology represents the biggest leap since the internet, and can be utilised to meet anti-money laundering (AML) and know your customer (KYC) compliance obligations much more effectively and quickly than current systems
- innovative blockchain analytics platforms are emerging that will assist risk teams and regulators to study financial data in great detail and with real-time transparency
- blockchain technology has the power to fundamentally change how businesses verify their customers' identities, saving the customer time and the business valuable resources

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**blockchain-based innovations will turn identity management on its head, fundamentally changing compliance requirements as we know them today**  
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Blockchain technology has the power to fundamentally change how businesses verify their customers' identities. New blockchain-based identity management systems are being built that will allow users to own and manage KYC information. And with the arrival of smart contract-enabled blockchain technology, network members will be able to pass all relevant personal data to a third party service with the click of a button. Using state-of-the-art cryptography, the transfer is not only much faster than a normal KYC procedure, but it is also much safer.

In this case, blockchain technology is a win-win, saving the customer time and the business valuable resources. All KYC information can be collected from the customer in an easy, machine-readable way.

In addition to the advantages mentioned above, it solves another crucial issue – data collected by most financial institutions today is held in siloed databases. However, they are incredibly limited in how they can communicate with the outside world and represent the last refuge of a soon-to-be-gone era.

Instead, distributed ledger technology has the power to combine all data onto one cryptographically secure platform. With the help of sophisticated data governance models, institutions could use this large array of inter-institutional data to identify fraud more quickly and fight financial crime more effectively.

**Sensitive data and blockchain technology**

Over 4 billion sensitive records have been exposed so far in 2019 alone. News of data breaches, hacks and leaks comes to light every day and it seems clear that our current approach to data management is broken.

Blockchain technology offers an innovative approach that puts the individual back in control of their personal data and relieves some of the data management burden from businesses. More specifically, I'm speaking of zero-knowledge proofs (ZKPs), which allow users to provide vital information without sharing any data.

If ZKPs fulfil their enormous potential they could massively reduce the amount

of sensitive data that is shared between individuals and corporations. Who knows, 100 years from now it may be possible for businesses to operate in a fully compliant manner without actually storing or accepting any personally identifiable information. Watch this space.

**Conclusion – the impact of blockchain technology on compliance**

I believe that the impact of blockchain on compliance will be twofold. First, innovators working with blockchain-based self-sovereign identity (SSI) ecosystems will improve on the current system by introducing a decentralised, trustless identity layer. This is the first step to enhancing the privacy of the customer while minimising the burden on the business.

As we have seen, a distributed public ledger has the power to significantly enhance transparency with regulators and subsequently improve the reporting process. The unalterable record of transactions is perfectly suited for audits and should be greeted with open arms by regulators.

In the long term, ZKPs and other blockchain-based innovations will turn identity management on its head, fundamentally changing compliance requirements as we know them today.

**Chris Grundy, Director of Marketing  
 SelfKey and KYC-Chain**

*Chris Grundy previously worked as the AML Officer for a growing fintech platform in Berlin, working with regulators to ensure that strict compliance standards were met. More information is available on the websites of SelfKey and KYC-Chain: <https://selfkey.org>, and <https://kyc-chain.com>.*

The Hong Kong Institute of Chartered Secretaries  
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# Corporate Governance Week 2019

**CG** week  
16-21 September 2019

The Hong Kong Institute of Chartered Secretaries (the Institute) is a professional body which qualifies and trains Chartered Secretaries and Chartered Governance Professionals, who are governance professionals, in Hong Kong and Mainland China.

The Institute is hosting its second Corporate Governance Week (CG Week) from 16 to 21 September 2019 with the following activities:



16  
September

Stakeholder Networking Luncheon



17  
September

Corporate Governance Forum

18-20  
September

Enhanced Continuing Professional Development Seminars, Lanzhou, Mainland China



21  
September

Corporate Governance Paper Competition and Presentation Awards



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# New guidance notes

CSj highlights the latest additions to the Institute's guidance note series, updating members on information technology risk, initial public offering due diligence and the latest changes to the Companies Ordinance.

The Institute's guidance notes, available from the publications section of the Institute's website, keep practitioners up to date with the latest issues in governance, compliance and company secretarial practice. In June 2016, the Institute set up seven interest groups under its Technical Consultation Panel to issue guidance notes in their areas of expertise. In the three years it has been running, this project has added a substantial body of guidance to the Institute's website for the benefit of the Institute's members and the wider profession and community. This article highlights three new additions to this series.

## 1. Overseeing IT risk

Overseeing information technology (IT) risk has some special characteristics

that make it a tough assignment for directors. Firstly, and most obviously, the consequences of getting it wrong have become a lot more severe as threats – such as cyber attacks, malware, data breaches, or simply the danger of falling behind the competition in the degree to which the company harnesses new technology – proliferate and escalate.

Secondly, the capacity of the board to address IT risks has often not advanced with the same rapidity as the threat level they involve. In the past, directors were rarely chosen for their IT skills and awareness, and while that is changing, many directors and executive level management don't have an adequate grasp, at least at a technical level, of the nature of the threats or even their organisation's own IT system.

## Highlights

- the capacity of the board to address IT risks has often not advanced with the same rapidity as the threat level they involve
- the new guidance note issued by the Institute's Securities Law and Regulation Interest Group updates practitioners on the many changes to Hong Kong's listing regime over the last two years
- the new guidance note issued by the Institute's Company Law Interest Group updates practitioners on the changes to the the Companies Ordinance implemented in February this year



The new guidance note published in June this year by the Institute's Technology Interest Group (the third in the series) hopes to arm directors and those tasked with managing risk, including company secretaries, with some tools for understanding the key IT concepts and systems that make up a standard corporate network.

## Do you know your LAN from your WAN?

The new technology guidance note, now available on the Institute's website, gives a primer in the basic infrastructure of a typical corporate IT network. Generally, corporate networks will have a number of local area networks (LANs) – the local network of computers and other electronic devices – each with their own access rights and privileges.

It is when you start connecting your LAN to a wide area network (WAN) – the internet or other office locations – that the fun starts. The guidance note points out that 'connecting a LAN to a WAN is like opening a door where there was once a wall'. Ideally, file servers and databases



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containing important data should be on networks that are not connected or accessible from other networks and certainly not open to the internet.

For networks where an external connection is a necessity, protecting your LAN from external intrusions is the job of a firewall. This will filter the data arriving on the WAN connection that is destined for a device on the LAN. If the data is flagged by the filters on the firewall, it won't be allowed through. Firewalls can also work in the opposite direction (data going from LAN to WAN) enabling companies to control how its employees connect to websites, whether and what type of files are allowed to leave the company over the network and so on.

#### **Upgrading – the hardware vs software debate**

The board will often be involved in assessing the need for an IT upgrade. The guidance note makes the point that the board needs to understand the relative merits of upgrading hardware (the physical computers and electronic devices in your IT system) or software (the code

or computer programmes that enable the hardware to perform specific tasks).

Often the assumption is that an upgrade is all about buying better gear (hardware), but the guidance note emphasises the fact that your hardware is only as good as the software running on it. 'Your organisation may get better performance from the same database server for example with faster hardware. However, it may get even better performance and more security features without needing to upgrade the hardware if your organisation was instead to upgrade the database server (that is, the database programme) or use a different one altogether,' the guidance note states.

The distinction between hardware and software is equally valid when it comes to your operating system (OS) – the computer programme running on the hardware that manages the hardware itself. Here the key recommendation is to keep your OS updated. When vulnerabilities or bugs in the OS are found, OS software developers release patches to fix them. 'Upgrading to the

latest and greatest hardware won't make an organisation any more secure if it is running the same OS as the old hardware,' the guidance note points out.

#### **Are you storing too much data?**

Not all decisions required of the board when overseeing IT risk will involve technical IT knowledge. The new technology guidance note points out that one risk mitigation measure companies can take is simply to avoid storing more data than you need. 'The probability of a breach increases as the amount of data stored grows,' the guidance note states. This is particularly true for companies holding types of data that are more vulnerable to attack – the prime targets for hackers are large companies holding personally identifiable information (PII), health, financial and credit card information.

'In the quest to store everything forever and as the price of digital storage has continued to go down, boards should insist on a comprehensive audit of what data their organisation stores and why. This should be done in the context of your organisation's knowledge

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**good governance is  
 key to a successful  
 IPO and governance  
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 company public**  
 ”



management practices and needs,' the guidance note states.

#### The IT challenge

The foregoing makes it clear that effective oversight of IT risk should be high on the agenda of directors and the governance professionals advising them. 'Gone are the days when it was acceptable to be oblivious and ambivalent to the technology infrastructure installed in our organisations', the guidance note states. The new technology guidance note will be a useful resource for directors and practitioners seeking to upgrade their understanding of the basic concepts in data security technology and the resilience of their company's IT system.

#### 2. Due diligence for IPOs

The due diligence process required to take a company public in Hong Kong is a long and complex one. The regulations relevant to initial public offerings (IPOs) seek to maintain market quality and listing applicants are therefore required to demonstrate their financial viability, the character, experience and integrity of their directors, their independence from the controlling shareholder, etc. Listing applicants are also subject to disclosure

requirements to ensure that prospective investors can access the information they need to assess whether the company is a good investment.

In this context, good governance is key to a successful IPO and governance professionals, whether as part of the in-house team or as corporate service providers, will have a key role in taking a company public. The first guidance note issued by the Institute's Securities Law and Regulation Interest Group in September 2017 provided practitioners with an essential primer in IPO due diligence. The second guidance note in this series, published in May this year, updates the guidance to take into account the many changes to Hong Kong's listing regime in the intervening two years – notably, the new listing regime for emerging and innovative companies that came into effect on 30 April 2018.

One of the most useful aspects of the first guidance note was the single page synopsis of the IPO listing process. This 'Flowchart of IPO process and vetting procedures', which has been updated to the new requirements, still forms the centrepiece of the IPO guidance note. It

represents graphically the various stages of the IPO process and the Hong Kong Exchanges and Clearing Ltd (HKEX) vetting procedures relevant to each stage of the process, providing practitioners with a step-by-step reference resource for IPO due diligence.

The latter part of the new guidance note is devoted to the new exemptions and requirements relevant to certain types of companies. It includes four additional riders setting out the new exemptions and requirements applicable to:

1. mineral companies
2. infrastructure project companies
3. biotech companies, and
4. companies with weighted voting rights (WVR).

The latter two categories have been the subject of consultations and a lot of media debate in the year since 2018. While the primary intention was to be enabling – allowing pre-revenue biotech companies and companies with WVRs to list – a complex raft of



new requirements has been added to the listing regime to ensure a quality market and the protection of investors. The new guidance note highlights these new requirements and will be a useful resource for compliance and governance professionals working in this area.

### 3. Companies Ordinance update

Hong Kong's Companies Ordinance (Cap 622), which sets forth the statutory framework for the incorporation and operation of companies in Hong Kong, is a core piece of legislation for compliance and governance professionals. In April this year, the Institute's Company Law Interest Group added a third to its series of guidance notes on the changing compliance requirements of Cap 622. The new guidance note seeks to update practitioners on major changes brought in by the Companies (Amendment) (No 2) Ordinance 2018 (the Amendment CO), which was implemented on 1 February 2019.

#### Simplified reporting


Cap 622 allows for some reporting exemptions aimed at relieving the burden of non-public, wholly owned companies and eligible companies from certain disclosure requirements. The Amendment CO extends the scope of companies eligible for simplified reporting and, for ease of reference, the new guidance note provides a table setting out the types of companies/groups now eligible for simplified reporting under the Amendment CO and the new eligibility tests that apply to them.

#### Accounting-related amendments

The Amendment CO also implements changes to Cap 622 designed to better reflect current accounting standards. The definitions of 'holding company' and 'parent undertaking', for example, have been updated in such a way that 'control' is now recognised as a basis for determining whether an entity is a subsidiary of the parent undertaking.

The new guidance note highlights and clarifies these amendments. An undertaking will be deemed to be a parent undertaking of another undertaking if it has 'control' over the other undertaking, or if it is a parent of it under applicable accounting standards. Much depends on the new definition of 'control' and this is defined in the Amendment CO as being the power to govern the financial and operational policies of that other undertaking in order to obtain benefits from that other undertaking's activities.

#### Other amendments

The guidance note provides a table setting out the various amendments to Cap 622 under the Amendment CO designed to clarify the original policy intent of the law, or to remove the ambiguities or inconsistencies in the law. For example, the Amendment CO expressly allows a company's articles to be in electronic form and aligns the penalty level for an offence for making a misleading, false or deceptive statement to an auditor relating to revised financial statements with a corresponding offence relating to original financial statements. It also empowers the Financial Secretary to make regulations for non-Hong Kong companies to provide for the detailed requirements relating to the display of company names and the disclosure of liability status in order to align the obligations of non-Hong Kong companies with those of local companies. 

## A word of thanks

The members of the Technology Interest Group are: Gillian Meller FCIS FCS (Chairman), Ricky Cheng, Philip Miller FCIS FCS, Tommy Tong and Dylan Williams FCIS FCS. Gratitude is expressed to Dylan Williams FCIS FCS as the lead author of the latest technology guidance note.

The members of the Securities Law and Regulation Interest Group are: Daniel Wan (Chairman), Agnes Wong, Bill Wang FCIS FCS, Professor CK Low FCIS FCS, CK Poon FCIS FCS and Dr David Ng FCIS FCS.

The members of the Company Law Interest Group are: Benita Yu (Chairman), Angela Mak FCIS FCS, Cathy Yu FCIS FCS, Loretta Chan FCIS FCS, Susan Lo FCIS FCS(PE) and Wendy Yung FCIS FCS.

*Mohan Datwani FCIS FCS(PE), the Institute's Senior Director and Head of Technical & Research, serves as secretary to the interest groups. Please contact Mr Datwani, if you have any suggestions about topics relevant to these interest groups at: [mohan.datwani@hkics.org.hk](mailto:mohan.datwani@hkics.org.hk).*

*The guidance notes mentioned in this article are available from the publications section of the Hong Kong Institute of Chartered Secretaries website: [www.hkics.org.hk](http://www.hkics.org.hk).*

# Hong Kong IPO update

## The Exchange's new approach to assessing competing business and reliance issues of listing applicants

Peter Brien, Benita Yu and Jing Chen of Slaughter and May review the new approach taken by The Stock Exchange of Hong Kong when assessing reliance and competition, and summarise the impact of the key changes on an applicant's suitability for listing.



The Stock Exchange of Hong Kong Limited (the Exchange) issued guidance in March 2019 detailing its new approach to assessing a listing applicant's: (i) reliance on other parties; and (ii) competition with its controlling shareholder group. This article highlights the key changes and how they impact an applicant's suitability for listing.

In short, it appears there is now more scope for applicants to be listed with a higher degree of competition and reliance provided certain conditions are met.

### Competing business

Under the Listing Rules, where a listing applicant has a controlling shareholder with an interest in a business apart from the applicant's business that competes or is likely to compete (directly or indirectly) with the applicant's business, the disclosures set out under Listing Rule 8.10 must be made – this includes disclosure of facts demonstrating the applicant is capable of carrying on its business independently of the competing business. Competition with and independence from controlling shareholders are therefore interrelated.

Listing decisions LD51-2 and LD51-3 clarified when competition issues might impact an applicant's suitability for listing, and LD52-2 assessed management independence from a controlling shareholder. These listing decisions have now been superseded by the new Guidance Letter on Competition between the Businesses of a New Applicant and its Controlling Shareholder (GL100-19).

### Previous approach

Under the previous listing decisions, competition was seen as a disclosure issue except in 'extreme cases where, in the view

of the Exchange, there were inadequate arrangements to manage conflicts of interest and delineation of businesses'. An extreme case would raise concerns about an applicant's suitability for listing. However, it was not entirely clear if an extreme case referred to a case where there were inadequate arrangements to manage conflicts of interest and/or an extreme degree of competition.

In practice, it became common for applicants to resolve competition issues by delineating the businesses and obtaining an enforceable non-compete undertaking from the controlling shareholder to ensure ongoing delineation. Where delineation was not possible, it was considered that an applicant whose business had a significant degree of competition with the business of the controlling shareholder would unlikely be regarded as suitable for listing.

### New approach

The Exchange makes it clear that where there is competition, its focus will be on how actual or potential conflicts of interest are managed for the purpose of demonstrating that the applicant is capable of carrying on its business independently.

The guidance states the greater the possibility of actual or potential conflicts of interest, the greater the need for enhanced conflict management measures to ensure management independence. The assessment of the possibility of actual or potential conflicts of interest will depend on the facts, including the extent of competition and the relevant industry.

### Non-exhaustive examples of governance measures to manage conflict of interests under the new guidance letter

1. Restricting members of senior management from participating in management of the competing business, and vice versa
2. Limiting number of overlapping directors with executive roles
3. Sufficient number of independent directors with requisite knowledge/expertise to advise on conflicted matters, with overlapping directors abstaining from voting
4. Additional independent consultants to advise independent non-executive directors (INEDs) where needed

## Highlights

- new Guidance Letters GL100-19 and GL68-13 now supersede previous listing decisions on competition and management independence, and on assessing when reliance may raise concerns about suitability for listing, respectively
- for competing businesses, key changes to the Listing Rules indicate that even a material degree of competition with the controlling shareholder group may be acceptable, provided there are robust governance measures in place
- the higher degree of reliance for applicants in internet sectors, accepted by The Stock Exchange of Hong Kong Ltd in July 2018, has now been broadened to all applicants



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The Exchange also confirms there is no competition if there is clear delineation between the businesses of the controlling shareholder group and the applicant. The guidance gives non-exhaustive examples of delineation, which are generally in line with the previous listing decisions (for example, delineation by geographic location, customer-base, non-substitutable products/services in the same industry). The guidance notes that enforceable non-compete undertakings are not mandatory, but are helpful to ensure continued delineation or to limit competition after listing.

#### Key changes

The emphasis is now upon the effectiveness of governance measures to manage conflicts of interest in light of any competing business, rather than necessarily minimising the competition. Therefore even a material degree of competition with the controlling shareholder group may be acceptable, provided there are robust governance measures in place.

#### Reliance

Reliance on another party (whether it is a controlling shareholder, customer, supplier or other party) is primarily a disclosure issue, and there are specific disclosure requirements under the Listing Rules that are intended to give

investors a sense of an applicant's extent of reliance on its controlling shareholder (and close associates), major suppliers and customers. However, reliance may impact an applicant's suitability for listing in certain circumstances.

The Exchange has updated its Guidance Letter on Suitability for Listing for New Applicants (GL68-13) to, amongst other things, set out a new approach to assessing when reliance may raise suitability concerns. Previous listing decisions on reliance issues have been withdrawn.

#### Previous approach

The guidance letter previously stated that suitability concerns would arise if the degree of reliance was excessive. In addition, various listing decisions shed light on how the Exchange would assess this depending on the identity of the counterparty.

For example, reliance on the parent group would involve assessing the applicant's financial, operational and management independence from the parent group. For connected persons and other closely related parties, the Exchange would consider whether the applicant derives a significant portion of its turnover and net profit from connected transactions. For major

customers and suppliers, the Exchange would consider if reliance is extreme by reference to (amongst others) the applicant's ability to find substitute customers, the likelihood for the level of reliance to decrease, the industry landscape, any long-term contracts and whether the reliance is mutual. In listing decision LD107-1, the Exchange took into account factors such as industry landscape, a decreasing trend of reliance and an effort to diversify when assessing whether reliance could be addressed through disclosure.

In July 2018, the Exchange issued a guidance letter for new applicants in the internet technology sector or that have internet-based business models (the Internet Sector Guidance). The Exchange was prepared to accept a higher level of reliance for applicants in these sectors (without the need to demonstrate a decreasing trend of reliance or an effort to diversify) due to the industry landscape being dominated by a few players, provided there are long-term agreements in place, transactions were on normal commercial terms and disclosure was made.

#### New approach

Under the updated guidance, material reliance on another party is considered a matter of disclosure if, in the absence of any red flags to indicate otherwise: (i) the relationship is unlikely to materially adversely change or terminate; or (ii) the applicant is or will be able to effectively mitigate its exposure to the counterparty.

Examples of material reliance under the guidance letter include:

- high customer and/or supplier concentration

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- limited number of distribution channels to market products, and
- dependence on another party for critical functions (e.g. sales, distribution, procurement).

**Non-exhaustive factors for assessing the likelihood that the relevant relationship will materially adversely change or terminate**

1. Whether there is mutual dependence
2. Whether there is an established relationship or long-term agreement

**Non-exhaustive examples of effective mitigation of exposure**

1. Easily procure raw materials from another supplier at a similar price
2. Substitute with another product at a similar price

When assessing mitigation, the Exchange will likely still give weight to cogent steps of mitigation even if they are not yet fully implemented.

The guidance does not specify examples of 'red flag' scenarios. However, a potential example could be the one set out in the Guidance Letter on a Listed Issuer's Suitability for Continued Listing (GL96-18). This guidance highlights that where an issuer's supply and sales are both dominated by the controlling shareholder (or its associates) and those transactions become its sole or primary source of revenue, that issuer may become unsuitable for continued listing. This is due to concerns that it would be a captive company serving the controlling shareholder.

The updated guidance sets out the relevant disclosure requirements for applicants with material reliance, which includes disclosing the basis that the likelihood of the relevant relationship changing/ending is low, or the basis that the applicant is/will be able to effectively mitigate its exposure.

The Internet Sector Guidance has also been updated to reflect the revised approach.

**Key changes**

The Exchange had previously accepted a higher degree of reliance for applicants in internet sectors. It has now broadened this to all applicants.

Under the updated guidance, the Exchange's focus will be on the likelihood that the relevant relationship will terminate or change for the worse and the extent to which such exposure could be mitigated.

**Peter Brien, Benita Yu and Jing Chen; Partners, Slaughter and May**

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*More information on the new approach taken by The Stock Exchange of Hong Kong to assessing issues of a listing applicant's reliance and competition can be found on the Hong Kong Exchanges and Clearing Ltd website: [www.hkex.com.hk](http://www.hkex.com.hk).*

## Professional Development

### Seminars: April–May 2019

25 April

Company secretarial practical training series: share capital and capital raising: practice and application



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

3 May

Company secretarial practical training series: notifiable transactions: practice and application



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

29 April

Risk management beyond compliance



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

Speaker: Patrick Rozario, Managing Director, Moore Stephens Advisory Services Ltd

6 May

Directors & officers' duties in various situations (re-run)



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

Speaker: Ricky Ho, Director, Risk Advisory Services, AVISTA Group

30 April

Hong Kong's perspectives of green finance – from ESG integration of equities to green bond issuance



Chair: Grace Wong FCIS FCS(PE), Institute Company Secretaries Panel member, and Company Secretary and General Manager, Investor Relations Department, China Mobile Ltd

Speakers: Anthony Cheung CESGA HKIoD.GD, Managing Director, Hamon Asset Management; and Chaoni Huang, Vice President & Secretary General, Hong Kong Green Finance Association

7 May

Company secretarial practical training series: dissolving a Hong Kong company and restoration thereof



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

Speaker: Frances Chan FCIS FCS, Institute Professional Services Panel member, and Founder and Director, K. Leaders Business Consultants Ltd

9 May

**Low & simple? Dispelling common myths about Hong Kong tax**



*Chair: Richard Leung FCIS FCS, Institute Past President, and Barrister-at-law, Des Voeux Chambers*  
*Speaker: Stefano Mariani, Counsel, Deacons*

10 May

**Improving the disclosures in annual reports of Hong Kong listed companies – key financial reporting matters for company secretaries (re-run)**



*Chair: Terry Wan FCIS FCS, Group Company Secretary, Li & Fung Ltd*  
*Speaker: Ernest Lee FCIS FCS(PE), Partner, Audit & Assurance, Deloitte China*

17 May

**Company secretarial practical training series: connected transactions: practice and application**



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

21 May

**Introduction to Exchange Traded Fund (ETF)**



*Chair: Dr Davy Lee FCIS FCS(PE), Institute Past President, and Group Company Corporate Secretary, Lippo Group*  
*Speakers: Pinky Siu, Senior Associate; and Eve Leung, Funds & Regulatory Senior Manager; Deacons*

21 May

**Shareholders' disputes – practical tips on the rights & remedies**



*Chair: Wendy Ho FCIS FCS(PE), Institute Education Committee member, and Executive Director of Corporate Services, Tricor Services Ltd*  
*Speakers: Vivian Wong, Partner, Litigation and Dispute Resolution Department; Kenny Chun, Consultant, Litigation and Dispute Resolution Department; and Ronald To, Senior Associate, Litigation and Dispute Resolution Department; W K To & Co*

21 May

**Regulatory investigations: what you need to know**



*Chair: Gillian Meller FCIS FCS, Institute Vice-President and Professional Development Committee Chairman, and Legal and European Business Director, MTR Corporation Ltd*  
*Speaker: Jill Wong, Partner, Howse Williams*



## Professional Development (continued)

22 May

**Managing corporate risks – introduction to COSO enterprise risk management framework**



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

*Speaker: Michael Chan, Institute Qualification Development Panel member, and Senior Consultant, Cheng & Cheng Ltd, and Chief Executive, C&C Advisory Services Ltd*

23 May

**Golden handshakes & directors duties in Hong Kong and would a statutory business judgment rule help directors sleep better at night in Hong Kong?**



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

*Speaker: Professor CK Low FCIS FCS, Institute Council member, and Associate Professor in Corporate Law, The Chinese University of Hong Kong Business School*

### ECPD forthcoming seminars

Date	Time	Topic	ECPD points
23 July 2019	6.45pm-8.15pm	Execution of company documents under the Companies Ordinance (Cap 622) and proof of due execution for use in Hong Kong & overseas	1.5
24 July 2019	6.45pm-8.15pm	Nip conflicts in the bud: effective corporate governance tools for family business succession	1.5
29 July 2019	6.45pm-8.15pm	Practical guide to implementing AML/CTF internal policies, procedures and controls	1.5
1 August 2019	6.45pm-8.15pm	Formation and administration of companies limited by guarantee for charitable purpose (re-run)	1.5
7 August 2019	6.45pm-8.15pm	Economic substance in the offshore jurisdictions	1.5

For details of forthcoming seminars, please visit the CPD section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).

### Online CPD (e-CPD) seminars

For details, please visit the CPD section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk). For enquiries, please contact the Institute's Professional Development Section: 2830 6011, or email: [ecpd@hkics.org.hk](mailto:ecpd@hkics.org.hk).

## Membership

### New Associates

Congratulations to our new Associates listed below.

Chan Chee Ting, Fiona	Hung Chun Hing	Li Yee Ching	Tian Tian
Chan Hei	Kam Chui Ling	Lo Shuk Yee	Tse Kit Ying
Chan Koon Yan	Ko Yin Chun	Lo Sin Ying, Joyce	Tse Yik Chun
Chan Lai Yee	Ku Cheuk Tung	Lo Siu Ting	Wan Pui Ka, Kerry
Chan Nga Ching	Kwok Yan Ting, Jennis	Mak Man Ling	Wong Chun Yin
Chang Kwan Yip, Quillan	Lam Ka Yi	Mo Yuen Yee	Wong Fung Man
Chau Ying Mei, Hilda	Lam Wai Ying	Ng Ching Hang	Wong Man Hei
Chau Yuet Man	Lau See Heng	Ng Kwai Fa	Woo King Yan
Cheung Yan Yan	Lau Wai Chi	Ng May Chi, Sandra	Yau Ching Mei
Cheung Yee Wa	Law Hoi Dik	Pak Ka Yee	Yeung Lai Kwan, Acima
Chiu Kei Fung	Lee Choi Hei	Pau So Yi	Yu Man Yan
Chu Mei Yi	Lee Mei Shan	Poon Tsz Yan	Yuen Ka Man
Chun Pui Sze	Lee Siu Kwan	Sam Yuen Sze	Yuen Lai Sheung
Chung Yuk Mei	Leung Winnie	Sin Yuk Yan, Maria	Zeng Zhao
Ho Ka Wai	Li Chung Yin	So Chit Fun, Lydia	Zhang Tao
Hon Wan Sin, Olivia	Li Hoi Lam, Ellen	Tam Wai Yan	Zheng Xiao Lin, Kevin
Huang Zijing	Li Ka Ming	Tang Wai I	Zhou Danqing

### New Fellows

The Institute would like to congratulate the following Fellows elected in May 2019.

#### Professor Faung Kai-lin FCIS FCS

Professor Faung is currently a tenured professor of the Law School of Chengchi University in Taiwan. She served as Vice-Chairman and CEO of the Steering Committee of the Company Act Reform, a non-governmental institution responsible for revision proposals in Taiwan. She also serves as the Standing Director of the Governance Professionals Institute of Taiwan, which is established to train governance officials and build the relevant infrastructure. Professor Faung was also a member of the Steering Committee on Trust Law Promulgation of the Ministry of Justice, a member of the Listing Committee of Taiwan Stock Exchange

Corporation and a member of the Review Committee of the Development Fund Programme in Taiwan.

#### Wang Jian FCIS FCS

Mr Wang is the Corporate Secretary of China Eastern Airlines Company Limited (Stock code: 670), the Chairman of Eastern Airlines Industry Investment Company Limited and Director of Eastern Air Logistics Company Limited.

Mr Wang began his career in the aviation industry in 1995 and has rich experience in corporate governance, strategic investment, capital operation and management. He designed and carried out a number of capital and strategic projects for China Eastern. In April 2012, Mr Wang was appointed as Corporate Secretary of

China Eastern Airlines Company Limited and President of Eastern Airlines Industry Investment Company Limited, a wholly owned subsidiary of the listed company.

Mr Wang graduated from Shanghai Jiao Tong University with a bachelor's degree in engineering and a master's degree in business administration. He also holds a postgraduate degree from East China University of Science and Technology, as well as an Executive Master of Business Administration degree from Tsinghua University.

## Membership (continued)

### Members' activities highlights: April and May 2019

28 April 2019  
Sai Kung DB Lovers 2019



11 May 2019  
Fun & Interest Group –  
Balloon Twisting Workshop



15 May 2019  
Welcome Drinks for New Members and  
Graduates



### Forthcoming membership activities

Date	Time	Event
6 July 2019	10.45am–1.00pm	Community Service – 服務智障人士技巧工作坊
20 July 2019	9.45am–12.30pm	Mentorship Training – Manage Conflicts and Development Positive Relationship (By invitation only)

For details of forthcoming membership activities, please visit the Events section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).

### Membership/graduateship renewal for the 2019/2020 financial year

The membership/graduateship renewal notices for the 2019/2020 financial year were posted to members and graduates in early July 2019. Members and graduates should settle the payment, as well as complete and return the personal data update form to the Institute as soon as possible, but no later than Monday, 30 September 2019.

Failure to pay by the deadline will constitute grounds for membership or graduateship removal. Reinstatement by the Institute is discretionary and subject to payment of outstanding

fees, and with levies determined by the Council. For details of the fee structure for the 2019/2020 financial year, please refer to the May edition of *CSj* (pages 39–40) or visit the Membership section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).

*Members and graduates who have not received the renewal notice by the end of July 2019 should contact the Institute Membership section: 2881 6177, or email: [member@hkics.org.hk](mailto:member@hkics.org.hk).*

### Donate as you spend with Chartered Secretaries AMEX credit card

Institute members, graduates and students are encouraged to apply for the Chartered Secretaries AMEX credit card to enjoy a range of exclusive privileges. In addition, purchases made with the Chartered Secretaries AMEX credit card will have a positive contribution to The Hong Kong Institute of Chartered Secretaries Foundation Limited, which was established by the Institute in 2012.

*For credit card details, benefits and the relevant application forms, please visit the Membership section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).*

*For details of the Hong Kong Institute of Chartered Secretaries Foundation Ltd, please visit the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk)*

### Notice of Disciplinary Tribunal decision

The penalty of removal from the membership register was imposed by the Disciplinary Tribunal on the following two members for CPD non-compliance for the year 2018/2019:

Choy Chung Wah  
Tsui Chi Keung, Wilfred

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## Advocacy

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### Best Board Secretary/Company Secretary Awards

Congratulations to the Institute Fellow and Affiliated Persons (APs), who received the 'Best Board Secretary/Company Secretary Awards' at the 2019 China Financial Market Listed Companies Awards Ceremony on 21 June 2019. The event was organised by *China Financial Market*, a financial magazine, and the Institute was one of its associate organisers. Institute Council Member Bernard Wu FCIS FCS presented the 'Best Board Secretary/Company Secretary Awards' at the presentation ceremony.

The eight Institute members and APs who received the 'Best Board Secretary/Company Secretary Awards' are listed below (in alphabetical order).

Chen Fuxiang (陈福香), Qingdao Port International Co., Ltd

Guo Chuan (郭川), Beijing North Star Company Ltd

Hu Aibin (胡爱斌), China Nonferrous Mining Corporation Ltd

Lee Kin (李健) FCIS FCS, CGN New Energy Holdings Co, Ltd



Best Board Secretary/Company Secretary Awards

Lian Baohua (廉保华), Huishang Bank Co, Ltd

Sun Feixia (孙飞霞), Harbin Bank Co, Ltd

Yu Lina (于丽娜), YTO Group Cooperation

Zhou Feng (周峰), Air China Ltd

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### HKICS speaks at a programme on Corporate Governance organised by HKMA

The Institute's Senior Director and Head of Technical & Research, Mohan Datwani FCIS FCS(PE) was invited by a co-hosted three-day programme of The Hong Kong Management Association's Institute of Advanced Management Development and the Malaysian Institute of Management ('MIM') to speak about 'Best Corporate Governance Practices' of the Anti-Corruption programme on 25 June 2019.

In the programme, participants acquired knowledge in the development of anti-corruption practice in Hong Kong, explored the development of ethics in corporations and some best practices, and understood the framework, practice and education of governance and related issues. Delegates also visited the Hong Kong Business Ethics Development Centre of Independent Commission Against Corruption and The Hong Kong General Chamber of Commerce. The programme was concluded by a round table discussion chaired by Dr Victor Lee, Executive Director of the Hong Kong Management Association.



# A bird's eye view

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## International Qualifying Scheme (IQS) examinations

	Tuesday 3 December 2019	Wednesday 4 December 2019	Thursday 5 December 2019	Friday 6 December 2019
9.30am–12.30pm	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
2.00pm–5.00pm	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

### IQS study packs (online version)

The updated version of the IQS study packs for Corporate Secretaryship, Corporate Governance, Corporate Administration and Hong Kong Corporate Law subjects are available online. For details of the updates, please refer to the News section of the Institute's website and the PrimeLaw platform for the study packs online version. Students are encouraged to register and read the study packs online.

For enquiries regarding the online study packs, please contact Leaf Tai: 2830 6010, or email: [student@hkics.org.hk](mailto:student@hkics.org.hk). For technical questions regarding PrimeLaw, please contact WoltersKluwer Hong Kong's customer service by email: [HK-Prime@wolterskluwer.com](mailto:HK-Prime@wolterskluwer.com).

### 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.

### HKU SPACE Examinations Preparatory Course

The Institute has endorsed HKU School of Professional and Continuing Education (HKU SPACE) to organise the IQS examination preparatory courses, to assist students with the IQS examinations preparation. Apart from the regular face-to-face examination preparatory courses, HKU SPACE is going to launch an online mode of the Corporate Governance paper in mid-July 2019.

The HKICS Examinations Preparatory Programme – Corporate Governance (e-learning programme) is a new online course designed for students wishing to take the HKICS Corporate Governance paper in the December 2019 examination diet. The

tuition will be by means of video lectures and 10 hours of real-time, interactive webinar consultation. Assessment will be via take-home assignments and self-assessment tests. A statement of achievement will be issued to students who have attained a pass mark of 50% in the take-home assignments. The course will also help students with examination techniques and teaching materials will be provided by the lecturer.

*For enquiries regarding the online mode of examination preparatory course, please contact HKU SPACE: 2867 8317 or email: [hkics@hkuspace.hku.hk](mailto:hkics@hkuspace.hku.hk).*



## Studentship

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### HKICS seminar for Collaborative Course students

The Institute organised a seminar for Collaborative Course students and HKICS students on 22 June 2019 at The Open University of Hong Kong. Ernest Lee FCIS FCS(PE), Institute Treasurer and Education Committee Vice-Chairman and Partner, Audit & Assurance of Deloitte China, delivered the topic of 'Better Disclosures of Financial Information' to over 40 students at the seminar.



### Governance Professionals Information Session

A Governance Professionals Information Session was held on 26 June 2019 for individuals interested in joining the Chartered Secretary and Chartered Governance Professional profession. The Institute Registrar, Louisa Lau FCIS FCS(PE) introduced the history of ICSA and HKICS, and the career prospects for governance professionals. Institute members Polly Wong FCIS FCS(PE) and Ellen Li ACIS ACS shared their experience and routes to the dual qualification. The participants found the sharing useful and inspiring.



## Studentship (continued)

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### Recruitment – Examiners/Reviewers/Markers of examination papers

The Institute is now looking for subject experts who would like to contribute to the Institute's qualifying programme as examiners/reviewers/markers of examination papers.

Requirements:

1. Sound knowledge and experience in the related module(s)
2. Strong editing and writing skills
3. Experience in setting postgraduate level of examination papers and marking schemes
4. Relevant academic and/or professional qualification in the related module(s)
5. Experience as published writer is an advantage
6. Member of HKICS/ICSA is an advantage

Interested parties please email full resume to: [recruit@hkics.org.hk](mailto:recruit@hkics.org.hk) and quote 'EE\_2019'.

*For details, please visit the News section of the Institute's website at [www.hkics.org.hk](http://www.hkics.org.hk).*

*(Data collected will be used for recruitment purpose only).*

### New Qualifying Programme (NQP) – reminder

With effect from 1 January 2020, the New Qualifying Programme (NQP) will replace the current International Qualifying Scheme (IQS). The first examination diet of the NQP will be held in June 2020. The NQP will comprise seven modules including two electives:

- 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 syllabuses, reading lists, study materials and pilot papers for all the modules in the NQP to students in the near future.

*For details, please visit the Studentship section of the Institute's website at [www.hkics.org.hk](http://www.hkics.org.hk).*

*If you have any queries, please contact the Education and Examinations Section at 2881 6177 or email: [student@hkics.org.hk](mailto:student@hkics.org.hk).*

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### Policy – payment reminder

#### Exemption fees

Students who received exemption confirmation letters issued in April 2019 are reminded to settle the exemption fee by Tuesday 23 July 2019.

#### Studentship renewal

Students whose studentship expired in May 2019 are reminded to settle the renewal payment by Tuesday 23 July 2019.

## ICAC and SFC crack down on bribery, corruption and fraud

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In a joint operation, the Securities and Futures Commission (SFC) and the Independent Commission Against Corruption (ICAC) have searched the offices of two sponsor firms. The SFC conducted the search using its powers under the Securities and Futures Ordinance (SFO).

The ICAC has announced that it searched a number of other premises, including the offices of two listed companies and a financial printing company. A former Joint Head of the IPO Vetting Team of the Listing Department of Hong Kong Exchanges and Clearing Limited (HKEX) and two of his associates have been arrested by the ICAC for suspected corruption and misconduct in public office in relation to the vetting of listing applications of the two listed companies.

As part of these coordinated actions, the SFC is conducting a specific review of the manner in which The Stock Exchange of

Hong Kong Limited (SEHK) has administered or dealt with listing and other matters which may be relevant to the investigations.

The SFC is the statutory regulator with responsibility under the SFO to supervise, monitor and regulate the activities of HKEX and SEHK.

The ICAC has also been taking a series of enforcement actions to crack down on bribery in the private sector. Although these have related to low value bribes, they have resulted in jail time for the defendants, sending another strong message to the business sector that private sector bribery will not be tolerated in Hong Kong.

*Further details are available on the websites of the ICAC: [www.icac.org.hk](http://www.icac.org.hk), and the SFC: [www.sfc.hk](http://www.sfc.hk).*

## Display of company names

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A new regulation designed to align the obligations of non-Hong Kong companies with those of Hong Kong companies in the display of company names and disclosure of liability status will commence operation on 1 August 2019. The regulation – The Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members' Limited Liability) Regulation (Cap 622M) re-enacts the existing provision of Section 792 of the Companies Ordinance (Cap 622) and aligns the disclosure obligations of non-Hong Kong companies with those of Hong Kong companies. It follows the implementation of the Companies (Amendment) (No. 2) Ordinance 2018 (the Amendment Ordinance) in February this year. The Amendment Ordinance added new provisions to the Companies Ordinance (Cap 622) to empower the Financial Secretary to make regulations to require non-Hong Kong companies to disclose prescribed information and to set out

the criminal consequences of failure to make such disclosures. Pursuant to the new section 805A of the Companies Ordinance, the Financial Secretary has issued the Cap 622M regulation.

Detailed requirements for a non-Hong Kong company on the display of its company name and place of incorporation, the disclosure of members' limited liability and related matters are provided in Cap 622M.

*Further information is available in the Companies Registry External Circular No 2/2019 available on the Companies Registry website: [www.cr.gov.hk](http://www.cr.gov.hk). The full text of Cap 622M is available at the thematic section on the Amendment Ordinance on the website of the Companies Registry at [www.cr.gov.hk/en/companies\\_ordinance2018/](http://www.cr.gov.hk/en/companies_ordinance2018/).*



## SFC and CSRC hold high-level enforcement cooperation meeting

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The Securities and Futures Commission (SFC) and the China Securities Regulatory Commission (CSRC) recently held their eighth regular high-level meeting in Nanning to discuss a range of matters concerning cross-boundary enforcement cooperation.

At the meeting, the SFC and the CSRC reached an agreement on a cooperative framework to facilitate coordinated investigations into cases of mutual concerns, under which they may jointly tackle high-impact or urgent cross-boundary cases.

The two regulators also explored ways to further strengthen cross-boundary enforcement cooperation, including:

- a notification mechanism for cases involving companies listed both in Hong Kong and Mainland China (issuers of A+H shares), and an evidence-sharing mechanism under The International Organization of Securities Commissions (IOSCO) Multilateral Memorandum of Understanding, and
- organising thematic joint training and case study workshops to share investigation techniques and experiences.

The SFC and the CSRC appreciated the assistance rendered to each other in tackling cross-boundary market misconduct. In light of the development of the Mainland China–Hong Kong mutual access programme, the SFC and the CSRC recognised the importance of enhancing their collaboration in enforcement, with a view to ensuring orderly market operations and safeguarding investor interests in both markets.

## Data ethics

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The Hong Kong Monetary Authority (HKMA) and The Hong Kong Association of Banks (HKAB) have been engaging with the Office of the Privacy Commissioner for Personal Data (PCPD) to provide more guidance to financial institutions on the proper use of personal data in the digital age.

The HKMA has issued a new circular to authorised institutions encouraging the adoption of the Ethical Accountability Framework (the Framework) issued by the PCPD for the collection and use of personal data. The research to develop the Framework saw participation from some 20 organisations in Hong Kong from various sectors – including banking, insurance, telecommunications, healthcare services and transportation. The project was aimed at achieving ethical and fair processing of personal data and in advanced processing activities such as artificial intelligence and machine learning, by fostering a culture of ethical data governance and addressing the personal data privacy risks brought about by technology.

Earlier this year, the HKMA and HKAB also jointly organised a seminar at which Stephen Kai-yi Wong, the Privacy Commissioner for Personal Data, outlined the Framework and shared industry good practices, including the adoption of 'privacy by design' and 'privacy by default' when developing fintech initiatives.

*Further details, together with the PCPD Ethical Accountability Framework, are available on the PCPD website: [www.pcpd.org.hk](http://www.pcpd.org.hk).*

## Disclosure of internal investigations

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The SFC has issued frequently asked questions (FAQs) regarding the obligation for firms to disclose internal investigations, a measure which was introduced in February 2019 to stop the 'rolling' of 'bad apples' within the financial industry. The obligation requires licensed corporations and registered institutions to provide the SFC with extra information about the circumstances of a licensed employee's departure. This includes whether the individual was subject to an internal investigation in the six months prior to his/her departure.

The new FAQs cover (amongst other things):

- the scope of the disclosure obligation
- the level of detail required for a disclosure, and
- how the SFC will treat the confidentiality of the information disclosed.

*Further details can be found on the SFC website: [www.sfc.hk](http://www.sfc.hk).*



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