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September 2021

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The journal of The Hong Kong
Chartered Governance Institute
香港公司治理公會會刊



Enforcement update

HKEX enforcement policy
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The Hong Kong Chartered Governance Institute (HKCGI, the Institute) 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 the mainland of China (the Mainland).

HKCGI was first established in 1949 as an association of Hong Kong members of The Chartered Governance Institute (CGI). In 1994 HKCGI became CGI's Hong Kong Division and, since 2005, has been CGI's China Division.

HKCGI is a founder member of Corporate Secretaries International Association (CSIA), which was established in March 2010 in Geneva, Switzerland. Relocated to Hong Kong in 2017, where it operates as a company limited by guarantee, CSIA aims to give a global voice to corporate secretaries and governance professionals.

HKCGI has over 6,600 members, and more than 300 graduates and 3,000 students.

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Regulatory philosophy: an update

This month's journal updates us on the latest developments in regulation and enforcement in Hong Kong. This is a timely theme following the adoption of enhanced disciplinary powers and revised enforcement policies by Hong Kong's frontline regulator of listed companies – The Stock Exchange of Hong Kong Ltd (the Exchange) – but also as it coincides with our Institute's Enforcement Series of webinars that have been running since June this year.

This series has featured speakers from the Competition Commission, Financial Reporting Council and Hong Kong Exchanges and Clearing Ltd, together with professional practitioners, who have provided valuable updates on the major enforcement regimes and themes that governance professionals need to be aware of. More information on this series, including the details of its last session to be held later on 5 October 2021, is available in the CPD section of our website: www.hkcgj.org.hk.

Our cover story this month focuses on the Exchange's new disciplinary powers and enforcement policies, highlighting a theme that has become a crucial part of regulatory philosophy in Hong Kong since July 2017 when the SFC launched its 'front-loaded' approach. This approach focuses not just on enforcing the rules when they

get broken, but on educating the market on how to avoid getting entangled in regulatory snares in the first place. It will come as no surprise to readers of this journal that the best way to do this is to ensure that your organisation has the right compliance and governance culture, and effective internal controls against compliance breaches and misconduct.

Regulators recognise that our work as governance professionals is central to effective compliance and have been reaching out to our profession as a natural ally in their fight against malpractice. The flipside of this, however, is that our work is coming under greater regulatory scrutiny. The revised Enforcement Policy Statement issued by the Exchange in July this year, for example, makes it clear that deficiencies in control systems can lead to disciplinary action even if the deficiencies themselves were not causative of any loss.

Moreover, governance professionals now face greater potential individual liability for breaches of the Listing Rules following Rule amendments implemented on 3 July 2021. The changes extend the ability of the Exchange to impose 'secondary liability' on relevant parties for Rule breaches. There is still some uncertainty as to how this will impact members of our profession. The Exchange has made it clear that company secretaries have a significant role to play in complying with the Rules and are subject to secondary liability, but it has also given assurances that practitioners would need to 'cause or knowingly participate' in any breach to be caught.

Similar themes emerge from our In Profile article this month. Our interviewee, Samuel Chan BBS JP,

Chairman, Competition Commission, emphasises the importance of our work in advising directors about competition compliance and creating an effective compliance framework. Moreover, imposing individual accountability is also a focus for the Commission as a means of driving deterrence and preventing anti-competitive conduct in Hong Kong. In January this year, the Competition Tribunal imposed penalties and ordered a Director Disqualification Order against individuals for the first time, reinforcing the message that individuals face personal liability for their role in any anti-competitive conduct.

Before I go, I would like to give you a quick update on the work in progress on our rebranding and website revamp initiatives. Following the adoption of our Institute's new name in July this year, we have an ideal opportunity to better articulate our brand, vision and long-term purpose and values, and to ensure that our website functions optimally as a primary platform for our Institute to communicate with members, graduates, students and stakeholders.

Work on the website revamp has already begun and the first phase of our rebranding exercise has now been completed. Our working group is now considering the brand narrative, tagline and new logo proposed by the rebranding agency. We hope to have the new website up and running in January 2022 and to launch our new tagline and logo at our Annual Dinner in that same month.

Gillian Meller FCG FCS(PE)

监管理念之最新发展

本期月刊介绍了香港在监管与执法方面的最新发展。这个话题正当其时，因为香港上市公司的前线监管机构——香港联合交易所有限公司（联交所）已经决定强化纪律处分权力，并修订了执法政策。此外，公会自今年六月以来，连续举办了多场执法专题网络讲座，也与本期的主题遥相呼应。

公会举办的执法系列网络讲座的讲者来自竞争事务委员会、证券及期货事务监察委员会（证监会）、财务汇报局、香港交易及结算所有限公司、香港金融管理局，以及业界专业人士，他们就治理专业人员需要注意的主要执法制度和主题发表了真知灼见。关于这一系列讲座的更多信息，包括将于2021年10月5日举行的最后一次讲座的详情，请浏览公会网站“CPD”专栏：www.hkcgj.org.hk。

本月的封面故事聚焦于联交所的纪律处分权力和执法新政。自证监会于2017年7月实行“前置式”监管模式以来，这一主题已经成为香港监管理念的重要组成部分。除了在规则被破坏时出手执法，前置监管模式的重中之重，是教育市场从源头上避免落入监管陷阱。对于本刊的读者来说，要想做到这一点，最好的办法就是确保你的组织拥有正确的合规及治理文化，针对违规和不当行为采取有效的内部控制。

监管机构认识到，治理专业人员是确保有效合规的核心，并一直倚重公会的专业力量，将公会会员视为打击不良行为的得力伙伴。与此同时，我们的工作也正面临更多的监管审查。例如，联交所今年七月发布了修订后的《执法政策声明》，当中明确指出，即使控制系统缺陷本身并非造成损失的原因，仍有可能因此遭受纪律处分。

此外，《上市规则》的相关修订已于2021年7月3日起生效，今后治理专业治理人员如违反《上市规则》，将会面临更大的个人法律责任。该等修订扩大了联交所对违规者追究“次要责任”的权力。这对公会会员究竟有何影响，目前尚不确定。联交所已明确表示，公司秘书在遵守《上市规则》方面发挥着重要作用，并要承担次要责任，但联交所也保证，只有那些“导致或明知而参与”违规行为的从业人员才会承担相应责任。

本月的“人物专访”专栏也讨论了类似的主题。我们采访了竞争事务委员会主席陈家殷先生BBS JP，他从构建有效的合规框架，以及就竞争合规事宜向董事会建言献策的角度，强调了我们工作的重要性。追究个人责任是竞争事务委员会所关注的另一个重点，以此来威慑和防止香港的反竞争行为。今年一月，竞争事务仲裁处首开个人罚单，并颁布取消董事资格

令。此举有力地表明，任何人都会因为其在反竞争行为中的作用而承担个人责任。

最后，我想简要介绍一下公会在品牌重塑和网站改版方面的工作进展。以七月份的更名为契机，公会准备重塑品牌、愿景、长远目标和价值观，改进网站功能，使之成为公会与广大会员、毕业学员、学员和利益相关者沟通交流的良好平台。

网站改版现已启动，品牌重塑工作的第一阶段已告完成。工作小组现正审议品牌推广机构提呈的品牌说明、标语和新标志。预计新网站将于2022年1月建成上线，新标语和新标志也将于当月举行的公会年度晚宴上亮相。



马琳 FCG FCS(PE)

Enforcement update



CSj provides a summary of recent updates to the enforcement policies and disciplinary powers of The Stock Exchange of Hong Kong Ltd relevant to governance professionals in Hong Kong.

Listing Rule amendments enhancing the disciplinary powers and sanctions of The Stock Exchange of Hong Kong Ltd (the Exchange), a wholly owned subsidiary of Hong Kong Exchanges and Clearing Ltd (HKEX), came into effect on 3 July 2021. Subsequently, the Exchange has published statements updating the market on its revised approach to enforcement and disciplinary matters. This article highlights the key implications for governance professionals in Hong Kong of these latest changes to the Exchange's enforcement policies and powers.

Secondary liability for senior managers

A key message for governance professionals is that the Listing Rule amendments that came into effect on 3 July 2021 broaden the reach of the Exchange's disciplinary powers. In particular, sanctions can be imposed on members of senior management within listed companies and their subsidiaries if they cause or knowingly participate in a breach of the Listing Rules. Senior management explicitly includes company secretaries.

The Exchange, in its conclusions paper to the consultation proposing the latest Listing Rule changes, emphasised that this 'secondary liability' for members of senior management would only arise where the relevant individual was under a duty to act, but failed to do so. Moreover, the conclusion paper makes it clear that this secondary liability would not extend to cases where a breach of the Listing Rules resulted from the board overruling the correct advice of a senior manager.

The latest Listing Rule amendments also widen the range of disciplinary sanctions available to the Exchange. At this year's Annual Corporate and Regulatory Update (ACRU) webinar, held by the Hong Kong Chartered Governance Institute (the Institute) on 11 June, Jon Witts, Head of Enforcement, Listing Division, HKEX, described the Listing Rule changes as opening a new chapter in the regulator's enforcement work. 'The new range is going to help us to distinguish more clearly between different levels of misconduct,' he said.

Sanctions available to the Exchange range from a private reprimand, a public statement involving criticism and public censure, or a statement that the Exchange considers a person's retention of office to be prejudicial to investors' interests (PII Statement) up to a cancellation of listing. The latest Listing Rule amendments lower the threshold for the Exchange to issue a PII Statement. Previously such statements could be issued where there was evidence of 'wilful or persistent failure' by individuals

to discharge their responsibilities under the Listing Rules. The reference to 'wilful or persistent failure' has been removed and the Exchange can now issue a PII Statement where the occupying of office by an individual (whether a director or a member of senior management) 'may cause prejudice' to investors' interests. Moreover, a PII Statement can be made whether or not an individual remains in office at the time of the statement.

In addition, the Listing Rules amendments also include enhanced disclosure requirements for directors and senior managers subject to public sanctions, as well as enhanced follow-on actions in relation to public statements regarding individuals.

Greater focus on enforcing individual accountability

Pursuing individual accountability is a theme that has been shared by many regulatory bodies, both locally and globally. Since the global financial crisis of 2008, regulatory regimes around the world, including in Hong Kong, have sought to

Highlights

- evidence of a good governance and compliance culture, together with effective internal controls, are considered mitigating factors by the Exchange in its sanctions decisions
- a failure to respond to, or cooperate with, the Exchange in its investigations will be viewed as serious misconduct and the resulting sanctions will typically be amongst the most severe available
- the principle of collective and individual responsibility of directors for compliance is a cornerstone of the Exchange's enforcement regime

“
a key priority behind the Exchange’s enforcement actions is to ensure that those individuals who are responsible for discharging duties in connection with listing matters, and those who are culpable of failures and misconduct, are held to account
”

Revised Enforcement Policy Statement, The Stock Exchange of Hong Kong Ltd



increase the personal accountability of directors and senior management.

The latest enforcement policy issued by the Exchange makes it clear that the imposition of individual accountability for misconduct will be a key priority for the Exchange. The revised Enforcement Policy Statement (Policy Statement), issued in July 2021, replaces enforcement themes that had been in place since 2017 and describes the areas in which the Exchange is targeting its enforcement resources.

'Listed issuers are, by definition, companies. But these companies can only operate under the control, and through the acts, of individuals. A key priority behind the Exchange's enforcement actions is to ensure that those individuals who are responsible for discharging duties in connection with listing matters, and those who are culpable of failures and misconduct, are held to account,' the Policy Statement says.

The Policy Statement also makes clear that this does not only apply to executive

directors. While executives may have the clearest individual liability in cases of misconduct, the principle of collective responsibility means that non-executive directors (including independent non-executive directors) ultimately share the same responsibility to procure the company's Listing Rule compliance. 'The principle of collective and individual responsibility of directors for compliance is a cornerstone of the Exchange's enforcement regime,' the Policy Statement says.

Thus, even where non-executive directors are not personally involved in misconduct, the Exchange will look at whether they exercised their independent judgement and followed up anything untoward that came to their attention.

Looking beyond the board, the Exchange will also be seeking to impose individual accountability on a broader range of individuals, including company secretaries. This was another key point highlighted in Mr Witt's presentation at the Institute's ACRU webinar in July this year. He pointed

out that guarding against corporate misconduct is the work of many different individuals. 'There are plenty of people, no matter where they are within an issuer, who we think have a responsibility to help ensure that the market remains orderly, informed and fair. We all have our part to play,' he said.

A key feature of this higher liability risk is the principle that, while individuals may delegate specific tasks, they cannot delegate their responsibility for personal oversight of those tasks. Where directors seek professional advice, for example, they cannot put unquestioning reliance on the advice received and will still be expected to apply their own independent judgement to the relevant matters.

Generally, the Exchange expects to see a culture of proactivity and vigilance in listed companies. Individuals will need to be able to show that they took appropriate steps to minimise the risk of breaches and wrongdoing. 'Assuming that "someone else will deal with it" has led many individuals into enforcement investigation

and disciplinary action. If we perceive that individuals are passive to risk, or are indifferent to issues which warrant inquiry or action, then that suggests those people have not understood or discharged their responsibilities,' the Policy Statement says.

Mr Witts put this succinctly in the Exchange's latest Enforcement Bulletin – 'Never let down your guard, speak up if you see something troubling and always aspire to better corporate governance.'

Good governance culture and controls are mitigating factors

On a more positive note, the work of governance professionals, where it is

successful in creating a compliance culture within organisations and building effective internal controls, can be a major mitigating factor for the Exchange when it is considering whether to impose sanctions.

The Exchange's revised Enforcement Sanctions Statement (Sanctions Statement), also published in July this year, makes it clear that the Exchange considers a broad range of factors when considering whether to impose disciplinary sanctions. As you might expect, these factors include the seriousness of the misconduct, the size of any financial benefit gained by the

guilty parties and the potential loss or injury caused to other parties. Perhaps less obvious, however, is the range of mitigating or aggravating factors that are also relevant to the Exchange's sanctions decisions.

Among these factors, the Exchange will look at the relevant company's internal culture and controls relevant to ensuring Listing Rule compliance and good corporate governance. It will look, for example, at the compliance history of the company and parties involved. Was the misconduct an isolated instance or did it occur over an extended period of time? Was it a repeated offence? Did it evidence

The salutary effects of good governance

The Exchange's revised approach to enforcement, as set out in its revised Enforcement Policy Statement (Policy Statement) published in July this year, reinforces the importance of the work of governance professionals in a number of key areas of their function. The Policy Statement highlights a number of aspects of good governance practice relevant to the Exchange's enforcement work. In particular:

1. building and maintaining effective internal controls against regulatory breaches and misconduct
2. ensuring that directors and managers receive sufficient briefings and professional development necessary to ensure that they have a proper understanding of the issuer's operations and business, and

3. ensuring the proper keeping of books and records.

The Policy Statement points out that having effective internal controls in place, and regularly reviewed for effectiveness, is a basic requirement and deficiencies in control systems can lead to disciplinary action, even if the deficiencies themselves were not causative of any loss. When considering enforcement action, the Exchange looks at a listed company's compliance and governance culture and any deficiencies in internal controls will be taken as a red flag. The Exchange also looks at whether individuals in the company are encouraged to raise areas of potential risk or concern and whether these issues are then properly addressed.

Another factor is whether directors and managers have been kept up-

to-date through ongoing training and professional development. Regarding the second point above, the Exchange expects directors and managers to have a sound knowledge and understanding of the Listing Rules, as well as their own responsibilities under the relevant regulations and legislation.

Regarding the third point above, the Policy Statement points out that enforcement investigations will often request documentary evidence of steps taken by individuals and listed issuers to discharge duties and comply with the Listing Rules. 'The absence of such evidence will call into question whether those steps have been taken, the adequacy of the listed issuer's controls and compliance culture, and whether duties have been properly discharged,' the Policy Statement says.

“
**never let down your guard, speak up if
 you see something troubling and always
 aspire to better corporate governance**

”

Jon Witts, Head of Enforcement, Listing Division, Hong Kong Exchanges and Clearing Ltd

an intentional, wilful or reckless disregard for the Listing Rules?

Another key factor here, is whether the companies and individuals involved cooperate with the Exchange's enquiries or investigation. The latest Listing Rules amendments enhancing the Exchange's disciplinary powers and sanctions include an explicit obligation for listed companies to provide accurate, complete and up-to-date information and explanation to the Exchange when responding to its enquiries or investigations. The Sanctions Statement also makes it clear that good cooperation will be considered a mitigating factor in sanctions decisions; conversely, any lack of cooperation will be considered an aggravating factor.

This message is backed up in other policy statements issued by the Exchange, including the Policy Statement discussed above and the Exchange's updated Disciplinary Procedures issued in June 2020. Amongst other things, the updated Disciplinary Procedures now include a 'fast-track' approach for dealing with cases involving non-cooperative individuals. The Exchange's Listing Committee now has the ability to determine such cases without convening a hearing attended by the non-cooperative parties. This allows the cases to be

concluded and public sanctions imposed on such individuals more speedily and efficiently. Since the adoption of the updated Disciplinary Procedures, a number of non-cooperation proceedings have adopted this fast-track approach.

In addition to cooperation in its investigations, the Exchange also looks favourably on parties seeking to settle enforcement actions, particularly at an early stage, since this speeds up the enforcement process and saves on both cost and time. The Exchange's revised Settlement Statement, also published in


Regulatory cooperation

Another theme of particular relevance to governance professionals in Hong Kong is the trend for greater cooperation among regulatory bodies. The Exchange and the Securities and Futures Commission (SFC), together with other regulatory bodies and law enforcement authorities, have stepped up the level of cooperation in their enforcement work concerning listed companies and relevant individuals.

In particular, the Exchange and the SFC are intensifying their joint efforts to tackle misconduct and improper

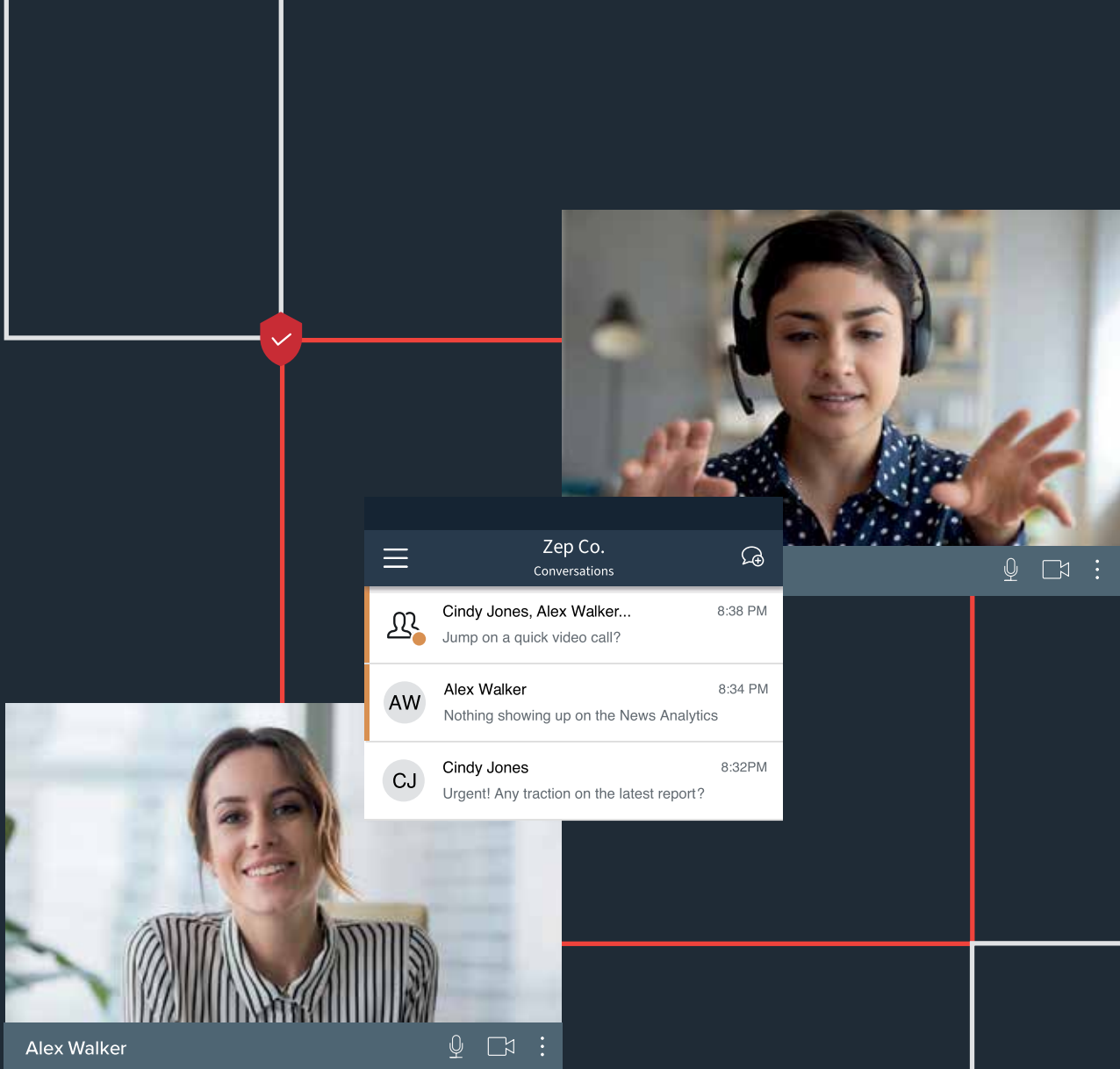
behaviour related to new listings. A joint statement by the two regulators released in May 2021 notes some problematic issues in recent initial public offerings (IPOs) which suggest the lack of genuine investor interest and call into doubt the existence of an open, orderly and fair market in the shares.

June 2020, sets out guidance on its approach to settlement of enforcement action.

'We recommend to all parties involved in enforcement action that they read the Settlement Statement and consider contacting the Enforcement Department at an early stage if they wish to take advantage of an agreed resolution. In doing so, parties should remember that the settlement terms must result in a fair overall regulatory outcome, and any proposal should be formulated with this in mind,' the Settlement Statement says. 

More information is available on the Exchange's website: www.hkex.com.hk. The Institute's ECPD programme has been running a series of webinars dedicated to updating governance practitioners on enforcement issues since June this year. The final webinar of the series will be held in October 2021. More information is available on the Institute's website: www.hkcgj.org.hk.

The Joint Statement on IPO-related Misconduct is available from the websites of the Exchange and the SFC (www.hkex.com.hk and www.sfc.hk).



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Competition compliance

Samuel Chan BBS JP, Chairman, Competition Commission (the Commission), highlights the need for directors, and the governance professionals advising them, to understand their exposure to competition law risks and to instill a competition compliance culture across all levels of the business from top down.



The first year of your tenure as Chairman has been highly active on the enforcement side – what are the Commission's enforcement strategies in Hong Kong?

'As with all competition authorities, it is important to make efficient use of the Commission's resources in order to be as effective and far-reaching as possible in our enforcement mission. We are also conscious that as a relatively young agency the precedents we set at this stage of our development may have particularly enduring effects in not only building the foundations for future enforcement cases, but also providing greater clarity to the business and legal communities.

As regards enforcement priority, disrupting hardcore cartel conduct under the First Conduct Rule (FCR) of the Competition Ordinance (the Ordinance) has been the Commission's top priority so far, particularly where such conduct reflects ingrained industry practice. This strategy is not only consistent with the Commission's enforcement policy, but it is also supported by the complaints and queries we receive from consumers and businesses in Hong Kong, which predominantly feature concerns over cartel conduct such as price fixing, bid rigging, and market sharing and output control in a variety of sectors. Apart from cartels, abuses of substantial market power involving exclusionary behaviour by incumbents under the Ordinance's Second Conduct Rule (SCR) are also among the forms of anti-competitive conduct which the Commission will accord priority to.

To carry out its enforcement work effectively and efficiently, the Commission has been bolstering deterrence on one hand and encouraging cooperation on the other. To bolster deterrence, besides companies, we will continue to pursue liability against individuals where appropriate. We will also hold a parent company accountable for contraventions committed by its subsidiary over which it exercises decisive influence. On the other hand, we encourage cooperation by putting in place a clear and transparent leniency and cooperation framework attracting cartelists, both companies and individuals, to come forward, thus improving detection and strengthening enforcement.

The Commission's enforcement strategies have been working well and we have been able to bring six cartel cases under the FCR and one abuse of substantial market power case under the SCR to the Competition Tribunal (the Tribunal). The Commission was successful in all five cases already ruled by the Tribunal, except as against one respondent in one of the earlier cases. The other two cases are yet to be heard!

What's your view of the effectiveness of using such strategies as your leniency policy and the use of Section 60 commitments?

'Under the Ordinance, the Commission has a range of enforcement responses at its disposal. These can range from initiating proceedings before the Tribunal for the most serious contraventions, to issuing Warning Notices, Infringement Notices or accepting Commitments to resolve competition concerns, or even issuing compliance reminders where the concerns are less troubling.

The enforcement response to cartel conduct, being the most egregious and blatant competition violation, will generally be the commencement of proceedings before the Tribunal against both the undertakings and individuals concerned. By their nature, cartels are often carried out in secret and are therefore difficult to detect. An effective leniency programme is therefore an essential detection and investigation tool that enables the Commission to pierce the veil of secrecy with the assistance of an insider who decides to break ranks and do the right thing, in exchange for immunity from sanctions.

The Commission has received leniency applications over the years and the enforcement actions we took in the IT cartel case last year are solid testimony to the importance of leniency in detecting and combating cartels. Leniency is a key tool in the Commission's enforcement toolbox and is now available for both undertakings and individuals. The benefits for successful applicants are significant, as can be seen from the level of penalties being imposed by the Tribunal on perpetrators of cartel conduct.

Highlights

- imposing individual liability is an important means of driving deterrence and, ultimately, prevention of anti-competitive conduct in Hong Kong
- company secretaries are in a good position to advise companies about competition law and assist the board in putting compliance measures in place
- companies need to pay particular attention to the competition risks arising from employees' conduct and produce training materials to help employees understand the consequences of contraventions of competition law

Section 60 commitments are also an effective enforcement outcome in appropriate cases. They are not suitable in cartel cases in general because they do not entail the imposition of a fine or other sanction, which are essential elements of deterrence for such serious violations. They are, however, a very effective tool in speedily restoring competitive conditions in a market, providing a forward-looking remedy that can be enforced before the Tribunal should the commitment be breached. Although they do not entail the imposition of a sanction, commitments are no easy way out for the companies involved as they often require a significant change in business behaviour with potentially substantial financial consequences. In some cases, such as the Seaport Alliance matter, in addition to legal costs, the parties may also have to bear the costs of a monitoring trustee who is appointed to monitor their compliance with the commitments as required by the Commission.

Having accepted Section 60 commitments in two matters last year, the Commission believes that the business and legal communities may benefit from additional guidance on this particular enforcement outcome, the procedure involved and the types of commitments that may be considered appropriate. Towards this end, we are working on issuing a Guidance in due course!

Last year saw the Commission's first case relating to an alleged abuse of substantial market power – is this an area the Commission will be more active in?

'In accordance with its Enforcement Policy, the Commission will direct its resources to investigations and enforcement actions that result in the greatest overall benefit to competition and consumers in Hong Kong. In addition to cartels, abuses of substantial market power involving exclusionary behaviour by incumbents are among the forms of anti-competitive conduct which the Commission will accord priority to. If the Commission obtains evidence that such abusive conduct is occurring, it will not hesitate to pursue those companies. Apart from the first abuse of substantial market power case we brought to the Tribunal last December, the Commission has other active investigations of the SCR cases underway.'

The Commission has also been active in advocacy and educational work – do you think these measures, along with the enforcement actions, are effectively getting the message out there about the importance of competition compliance?

'In building and sustaining a robust competition regime, both enforcement and advocacy have a critical and mutually reinforcing role. While enforcement is important in deterring

anti-competitive conduct, advocacy also plays an integral part in fostering a competitive culture through the engagement with, and education of, consumers and businesses.

As a result of the Commission's outreach and advocacy efforts, concrete changes in business practices and culture have been observed in Hong Kong. Upon the full implementation of the Ordinance, there were noticeable price drops in sneakers, electronic goods and other retail items which may have been due to the elimination of resale price maintenance. Various trades and businesses, including small and medium enterprises, have taken steps to review and change their trade practices with a view to complying with the Ordinance, while many trade associations have changed their behaviour upon the Commission's compliance project.

Over the past few years, there has been an increasing awareness and understanding of the Ordinance in the community reflected by the growing number and depth of the complaints and enquiries received by Commission. The advocacy efforts have also been effective in bringing cases and relevant evidence to the Commission's attention. Advocacy and enforcement have been complementing each other, with advocacy bringing in complaints and cases, and enforcement outcomes generating public attention. As a matter of fact, almost all of our cases brought before the Tribunal so far have been complaints-driven, which is a solid testimony to the effects of our advocacy and education work.'

What is your top message for the directors of businesses in Hong Kong?

'I cannot emphasise more the importance for directors to bring competition compliance to the board's attention, assess the business' exposure to competition law risks and instill a corporate compliance culture across all levels of a business from top down. It is also a good practice to have a system in place for staff members to report suspected anti-competitive conduct in the company.

When assessing competition risks, directors should ask themselves: Am I confident that employees are not having conversations with competitors that may involve sharing of pricing or other commercially sensitive information? Am I sure any trade associations that my company participates in are not acting as a forum to share information that ought not be shared? Will any employee, if asked to do a favour for a friend, submit a cover/dummy bid in response to tender

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No company is immune from competition law risks. Directors need to understand what those risks are and put in place measures to address them.
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invitation? These activities could seem innocuous but may result in significant sanctions including not only fines against the company, but also disqualification orders against the directors.

Directors should also bear in mind that the Commission provides a leniency regime which allows companies (including its employees and directors) to avoid sanctions if the company is the first one to report its involvement in a cartel to the Commission and cooperates in any subsequent investigation and enforcement action. Those who might have already engaged in anti-competitive practices are encouraged to approach the Commission for leniency, as they are able to ascertain whether the company or the individual concerned can benefit from the leniency programme on an anonymous basis first.

To sum up, no company is immune from competition law risks. Directors need to understand what those risks are and put in place measures to address them!

In January this year, the Competition Tribunal made its first Director Disqualification Order – will the imposition of personal accountability for compliance breaches be a trend to watch?

'The Commission believes that individual liability is an important means of driving deterrence and, ultimately, prevention of anti-competitive conduct in Hong Kong. As a matter of fact, the Commission has named at least one individual as a respondent in each of our last five cases brought to the Tribunal. Last year, the Tribunal imposed penalties and ordered a Director Disqualification Order against individuals for the first time, driving home the message that not only companies, but individuals involved in anti-competitive conduct may face severe consequences. The Commission will continue to pursue the liability of individuals, where appropriate, to strengthen deterrence.'

Do you have advice for company secretaries and governance professionals regarding their work relating to competition compliance?

'Company secretaries and governance professionals have a key role to play in building a culture of compliance, not just within their own organisations, but in Hong Kong as a whole.

While the board has the overall responsibility for instilling a compliance culture and making the strategic decisions, company secretaries and governance professionals overseeing the day-to-day operations also need to understand and comply with the competition rules. They are in a good position to advise the company about the legislative framework and assist the board in putting compliance measures in place. Depending on the size of the business, they may also seek external legal advice for conducting competition risk assessment or make use of the materials published by the Commission to formulate a compliance programme.

If you wish to be better equipped to understand competition law, I would strongly encourage you to join the Chinese University of Hong Kong Faculty of Law (CUHK LAW) Workshop on Competition Law and Policy to be coorganised by the Commission this November. This training will not only cover the basics of competition law in Hong Kong, but will also explain how the law works in practice, what compliance efforts can be taken by a company to mitigate risks and how a company should respond to the Commission's investigations. Following the success of a similar training for lawyers last year, we are excited to extend this for the benefit of company secretaries and governance professionals this year.'

What would be on your wish list in terms of changes to the Competition Ordinance and the powers of the Commission? In particular, do you think the merger rule should be expanded to all sectors of the economy?

'We understand that there are concerns over some aspects of the Ordinance, including the statutory body exemption, private action and cross-sector merger control. The Commission is working with the HKSAR Government on the review of the Ordinance, but it is for the administration to decide on the scope and the timeline of the review.

Regarding merger control, this is often considered to be one of the pillars of competition enforcement in most jurisdictions, and a cross-sector merger rule would certainly help the economy to



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 governance professionals have
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 within their own organisations,
 but in Hong Kong as a whole**
 ”

become more diverse and innovative. Having said that, numerous jurisdictions have adopted a competition law that initially did not consist of a merger rule, which was only added later on when the need became more apparent or the competition agency became more experienced!

Some sectors in Hong Kong, for example the electricity market, are still subject to constraints on competition – what do you believe is the best way forward to remedy this?

'With our extensive and proactive engagement with policymakers and the public sector over the past few years, competition consideration has been playing an increasingly important role in the formulation and execution of public policies and schemes. The Commission has been gratified to see a continuous increase in the awareness and capability of the public sector in integrating competition principles into policymaking, and it will continue its work in this regard.

A good example is the Commission's submission made to the Environment Bureau in response to the Bureau's Public Consultation on the Future Development of the Electricity Market in 2015. In its submission, the Commission recommended various measures with a view to facilitating the introduction of competition into Hong Kong's electricity market.'

Companies with a base of operation in Hong Kong have received large fines from Mainland competition regulators. Will there be any investigation conducted in Hong Kong, and are there collaborations with those regulators? Also, are there particular sectors of concern, for example, tech retail in the Mainland?

'The fact that a sizeable portion of commerce in Hong Kong is going digital means that the Commission anticipates there will

be more and more cases involving digital markets. We are aware that digital markets have features that may impact on the types of anti-competitive conduct that can arise, as well as how such conduct is to be investigated. Towards this end, the Commission has invested in training and systems that enhance our capability in this respect. At the same time, we are working to develop good sector knowledge in key markets for the Hong Kong economy, including the finance and fintech sectors.

The Commission is keeping abreast of the recent actions of the State Administration for Market Regulation in the digital sector in the Mainland, as well as those of overseas competition agencies, paying particular attention to any Hong Kong element in those cases. We have good relationships with other agencies, which allow us to effectively collaborate in cases of common interest. We do have some investigations underway in the digital sector, some of which are promising, but I cannot comment further at this stage.'

Looking more broadly, competition law compliance is becoming a lot more complex globally – what are the future trends to watch?

'The core of competition law compliance is straightforward: understand the risks that your company is facing and take appropriate actions to mitigate the risks. But one of the most common risks is employees' individual conduct. For example, if divvying up fruitful bidding opportunities with a competitor helps a sales director obtain a bonus, they might do so intuitively without giving any serious thoughts to its legal implications. However, the company would be liable and has to bear the consequences. So there has been a trend to produce compelling training materials in order to help individual employees understand the consequences of contraventions of competition law.

There is also a growing realisation that it is important not only to think about compliance in terms of cartel conduct, but also anti-competitive vertical restraints and abuses of substantial market power. These may not be as clear cut as horizontal price fixing, but contraventions involving such conduct can have significant and severe consequences for the companies involved!

Finally, can you talk about your own background and training?

'I was born and educated in Hong Kong and I was fortunate enough to know I wanted to pursue my career as a barrister ever since I was young. I have been in private practice for more than 30 years and my exposure to the various facets of the business and commercial world has helped me immensely in my past and current positions of public service.

My experience in various advisory and statutory bodies, especially my long-time involvement in the work of the

Consumer Council, has also shaped my current role as the Chairman of the Competition Commission. I was honoured to have served the Consumer Council for some 15 years, during which I chaired the Legal Protection Committee and the Management Committee of the Consumer Legal Action Fund, and eventually became the Council's Vice-Chairman before the end of my term. Besides consumer protection, I was also appointed as a member of the Equal Opportunities Commission, and I am currently serving as a non-executive director of the Insurance Authority and Deputy Chairman of the Town Planning Appeal Board as well.

In May 2016, I was appointed as a Member of the Competition Commission and I was privileged to take up the chairmanship last May, a challenging yet rewarding position where I can further contribute to promoting a free, innovative and dynamic economy in Hong Kong! 🇭🇰

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The Companies Register's new inspection regime

Ada Chung FCG FCS, Privacy Commissioner for Personal Data, Office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD), supports the rationale behind limiting the disclosure of personal data in the Companies Register.



Given its impact on the work of governance professionals, the HKSAR Government's new inspection regime for the Companies Register has attracted considerable discussion and interest in the governance profession. Back in 2012, the relevant provisions of the Companies Ordinance (Cap 622) (CO), namely, inter alia, Sections 47, 49 to 59 thereof, have already provided for the new inspection regime when the rewritten company law was enacted. Nonetheless, on account of the diverse views expressed by relevant stakeholders at the time, these provisions were not brought into operation in 2014.

Following the completion of the legislature's scrutiny of the seven pieces of commencement notices and subsidiary legislation introduced by the HKSAR Government, the new inspection regime has been, or is to be, implemented in the following phases.

1. Starting from 23 August 2021, companies may withhold the usual residential addresses (URA) of directors and full identification numbers (IDN) of directors and company secretaries that are contained in their own registers from public inspection.
2. From 24 October 2022 onwards, the Companies Registry (CR) will withhold from public inspection the URA and full IDN of directors, company secretaries and liquidators, etc, which are contained in all the documents filed for registration.
3. Starting from 27 December 2023, the individuals concerned may apply to the CR for withholding their respective URA and full IDN

contained in the documents already registered with the CR prior to 24 October 2022 from public inspection.

The new inspection regime is designed to enhance the protection of privacy in relation to personal data of various company officers. Whilst company secretaries have already been allowed to provide their correspondence addresses instead of URA for public inspection under the CO since 2014, the significance of the new inspection regime lies primarily in the removal of the unrestrained public access to obtain the URA and full IDN of individual company officers contained in the Companies Register, thus providing enhanced protection to sensitive personal data.

Under the new regime, for all the documents which are newly registered, only:

- the correspondence addresses of directors (other than the correspondence addresses of company secretaries), and
- the partial IDN of directors, company secretaries and other relevant individuals

will be made available for public inspection. Upon application made to the CR, the URA and full IDN of those individuals will only be made accessible to different groups of authorities or persons as specified in the subsidiary legislation (specified persons), except for certain circumstances where such disclosure by the CR is permissible with an order of the Court or under the CO. Similar protection will also be available for the URA and full IDN contained in documents previously registered with the CR and the company officers concerned may apply for withholding the disclosure of the same to the public.

The legislative history

The new inspection regime can be traced back to 2009 when, as part of the rewrite exercise, the HKSAR Government consulted the public on the draft clauses of the Companies Bill. In December 2009, public views were sought in the First Phase Consultation of the draft Companies Bill as to whether the URA and full IDN of company officers, including company secretaries, on the Companies Register should continue to be made available for public inspection.

Highlights

- the new inspection regime removes unrestrained public access to the residential addresses and full ID numbers of individual company officers contained in the Companies Register
- the new regime is designed to enhance the protection of privacy in relation to personal data of various company officers
- under the present mechanism, governance professionals who are trust or company service provider licensees would continue to enjoy unrestricted access to the personal data on the Companies Register

The proposed changes were indeed discussed and considered by the relevant Advisory Group formed for the rewrite exercise and the Standing Committee on Company Law Reform in 2007/2008 and then in 2012/2013, with substantial positive feedback from their members, including representatives of the then Hong Kong Institute of Chartered Secretaries.

Consequently, provisions that reflected the new inspection regime were included in the Companies Bill for scrutiny by the legislature, and the new CO, which contained the aforesaid provisions, was enacted in July 2012.

Nevertheless, given the lack of consensus by relevant stakeholders at the time, after the enactment of the primary legislation, the draft Companies (Residential Addresses and Identification Numbers) Regulation was not introduced into the legislature in 2013.

Aiming to elevate its efforts to strengthen the protection of the personal data contained in the Companies Register, the HKSAR Government revived the proposals earlier this year.

PCPD supports the new regime

From the perspective of protecting privacy in relation to personal data, I welcome, and have no hesitation in supporting, the new inspection regime which will undoubtedly strengthen the protection of the personal data contained in the Companies Register.

As a matter of fact, the arrangements of the new inspection regime reflect the recommendations made by my Office, the Office of the Privacy Commissioner for Personal Data (PCPD), in our report on the Survey of Public Registers Maintained by

Government and Public Bodies published in July 2015.

Among others, we recommended operators of public registers to explore, when providing personal data of a sensitive nature (such as identification document numbers and residential addresses) for public access, less privacy-intrusive means of disclosing the same. For example, by providing partial instead of full identification document numbers and by providing correspondence addresses instead of full residential addresses.

I am pleased to see that the above-mentioned recommendations have been taken into account in the new regime.

Quite contrary to the views expressed in some quarters, in my view the move is of particular importance in the present situation of Hong Kong as there has been a significant increase in the number of doxxing cases since mid-2019, coupled with a worsening trend of cybercrimes and telephone scams that involved the unlawful use of personal data unveiled for the past two years.

This situation is exacerbated by the rapid development of digitalisation and the ease of collecting different kinds of personal data from the public domain, whether from online platforms, internet searches, public registers or the like. It is worth noting that if the personal data available in the public domain is disclosed without appropriate safeguards, or used without regard to the original purpose of collecting the data, it could pose significant risks to privacy, thus jeopardising the interests of the data subjects. This is so especially in the case of sensitive personal data such as full IDN and URA, which practically anyone

may obtain from any public register with relative ease nowadays.

In this regard, I have grave concerns that personal data has been weaponised by some in Hong Kong and utilised in ways to intimidate, silence or harm others for whatever reasons.

The wave of doxxing that has swelled in Hong Kong since mid-2019 has tested the limits of morality and the law, and should be stopped. Between June 2019 and June 2021, my office has handled over 5,800 doxxing-related complaints and cases discovered proactively by us through our online patrols. Among these cases, 945 of them involved wrongful disclosure of the victims' identification numbers and/or residential addresses. The figures cry for immediate and effective actions to call the matter to a halt.

In the words of the Honourable Mr Justice Jeremy Poon, the Chief Judge of the High Court, 'doxxing should not and cannot be tolerated in Hong Kong if we still take pride in our city as a civilised society where the rule of law reigns... The damage of widespread doxxing goes well beyond the victims. It seriously endangers our society as a whole... If doxxing practices are not curtailed, the fire of distrust, fear and hatred ignited by them will soon consume the public confidence in the law and order of the community, leading to disintegration of our society.'

While the Personal Data (Privacy) (Amendment) Bill 2021 was gazetted by the HKSAR Government on 16 July 2021 to introduce a new offence for doxxing and broaden my enforcement powers under the Personal Data (Privacy) Ordinance to deal with doxxing



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“ I have grave concerns that personal data has been weaponised by some in Hong Kong and utilised in ways to intimidate, silence or harm others

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cases more effectively, I believe that strengthening the protection of the personal data contained in public registers will assist in addressing the problem at root.

Similar arrangements in overseas jurisdictions

In this regard, Hong Kong is not alone in taking measures to accord more protection to sensitive personal data that appears in the Companies Register. In the UK, for example, company officers' personal identification numbers are not made available by the Companies House for public inspection on the companies register. For over a decade only their correspondence addresses (better known as service addresses) are made available to the public. Information on directors' residential addresses is kept on a separate register with restricted access.

Similarly, in Singapore an alternate address instead of the URA may be provided for disclosure on the companies register by company officers, though the full numbers of their Singpass (Singapore citizens' and residents' digital ID) are disclosed. On the other hand, in Australia, while identification document numbers are not on the register, under specified circumstances, alternate addresses may be included, for instance, when the Australian Securities and Investments Commission considers that the inclusion

of the URA in public records would put the personal safety of the relevant officer and/or his/her family members at risk.

Thus, it is not unorthodox for measures to be taken by regulatory authorities to strengthen the protection given to sensitive personal data in a public register if circumstances warrant.

Addressing stakeholders' concerns

While advocating the importance of the protection of privacy in relation to personal data, I recognise the importance of allowing access to the Companies Register for legitimate purposes of the Register, which are fully set out under Section 45 of the CO.

Not surprisingly, various stakeholders have raised different concerns on the original proposal. Most of the concerns, as I see it, are related to the possible confusion, however slight, that may arise when the full IDN and URA are not available to readily identify the individual concerned, whether for forensic investigation, due diligence checks or other legitimate purposes.

Some refinements to the original proposal have been introduced by the HKSAR Government in response. These include, for example, expanding the scope of specified persons to cover solicitors and foreign lawyers, trust or

company service provider licensees (TCSP Licensees), certified public accountants (practising), etc; providing particulars of cross-directorships and introducing administrative measures (such as providing more digits in the IDN) to remove confusion when the disclosure of partial IDN leads to confusing search results.

Way forward for governance professionals

Undoubtedly, a reasonable balance has to be struck between protecting personal data privacy on the one hand and allowing access to the Companies Register for the legitimate purposes of the Register on the other. Governance professionals are singularly placed in the balance as they bear the brunt, and the advantage, on either side.

The present mechanism, as refined, apparently takes into account the need for some professionals, including TCSP Licensees, to carry out due diligence checks of company officers in their daily work. Hence, governance professionals who are TCSP Licensees would continue to enjoy unrestricted access to the personal data on the Companies Register while at the same time, under the new regime, the disclosure of their full IDN is restricted.

Notwithstanding the unrestricted access to the Companies Register, TCSP Licensees should be mindful of the restricted use of the data obtained from the Register, namely that their use is confined to the very purposes of the setting up of the Register, as reflected in Section 45 of the CO and the terms of use of the CR's electronic search service.

Ada Chung FCG FCS

Privacy Commissioner for Personal Data, PCPD



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TCFD transitional risks

What every director should know

Theodora Thunder, Managing Director, Streeter Strategic Ltd, highlights the transitional risks that companies face as a result of climate change and recommends that they align themselves with the Taskforce for Climate-related Financial Disclosures (TCFD) reporting framework.



As a governance professional, acquainting yourself with the TCFD reporting framework is a smart move. Regulators, in response to Hong Kong's 2050 carbon neutral commitment, are moving towards mandatory environmental, social and governance (ESG) reporting, aligning to the TCFD framework. While the framework is focused on climate change, regulators recognise its broader application as an informative tool and platform that moves across jurisdictional restrictions and strengthens standards-specific reporting.

This article focuses on the transitional risks defined by the TCFD that arise when adapting to a climate-challenged future. These risks are of significant interest to Hong Kong's services-based organisations as they directly affect boardroom governance and decision-making. We examine what directors need to know and be prepared for when formulating their response to shareholders on the ESG consequences of climate change.

The TCFD approach

Financial markets and investors need clear, comprehensive and high-quality information on the impacts of climate change. In 2017, the Financial Stability Board, under the stewardship of Mark Carney and Michael Bloomberg, created the TCFD to improve and increase reporting of climate-related financial information. The TCFD approach proposes a more transparent, universally aligned and comprehensive format to guide reporting. This includes the threats and opportunities presented by rising temperatures, climate-related policy and emerging technologies in our changing world.

TCFD is now the rising *nom de guerre* in global ESG reporting. In Hong Kong, while endorsed at high levels in the HKSAR

Government, only 19 organisations are registered supporters of the TCFD, 15 of which are either professional or financial services organisations. This hardly inspires the proactive approach that Hong Kong seeks to leverage in its role as an international financial centre or to meet the HKSAR's 2050 carbon neutrality goal.

In keeping with these goals and in step with global regulatory trends, the Green and Sustainable Finance Cross-Agency Steering Group has published a five-point strategy (see 'Online links') for Hong Kong, which includes climate-related disclosures aligned with the TCFD recommendations as mandatory for relevant sectors no later than 2025.

It is important to note that the purpose of the TCFD is to help companies understand, measure, manage and report on the impact climate change imposes on the company. In other words, TCFD focuses on the external climate-related risks that affect a company's sustainable development. This fundamentally differs from the current ESG risk assessment reporting required, but also complements other well-established reporting standards such as the Global Reporting Initiative (GRI), CDP and the Sustainability Accounting Standards Board (SASB). These standards measure the

impacts generated by the company. This change in approach to risk assessment and management brings the TCFD conversation to the board and executive team where strategic risk decisions are made.

The TCFD, as a reporting format, brings into sharp focus how public companies are using shareholder money in the areas of climate change. How does the executive team deploy the resources of the company in these areas? What liabilities are generated and can climate impacts be insured against? Is management taking a position to restrict allocation of resources to climate change mitigation as the impact on such actions are significantly beyond the quarterly or annual earnings report?

Board oversight of transitional risks

Measuring and managing the physical and transitional risks identified by the TCFD (see 'Transitional risks – are you prepared?') requires a critical rethink on strategy, policy and procedures. Current disclosure requirements in Hong Kong address only carbon emissions generated by the internal organisational footprint. With TCFD reporting, consideration of external impacts often beyond the company's control changes the risk management landscape. Within Hong Kong's largely services-based economy, an individual service company

Highlights

- regulators in Hong Kong are moving towards mandatory environmental, social and governance reporting, aligning to the Taskforce for Climate-related Financial Disclosures (TCFD) framework
- shareholders want defined assurances from the board on responsive climate change risk management and strategy planning
- measuring and managing the physical and transitional risks identified by the TCFD requires a critical rethink on strategy, policy and procedures

(whether in fintech, professional legal and accounting services or financial services) may have a physical risk footprint that is generally quite small and quantifiable, but exposure to transitional risks can be of significant impact on future corporate development and strategy.

Boards need to be versed in the transition risks that can arise from the process of adjustment towards the low-carbon economy to which Hong Kong has signed up as part of its commitment to the Paris Agreement. Addressing such risks requires adopting the longer-term thinking that drives board governance decision-making. This includes policy and regulatory

changes, reputational impact, shifts in market preferences, changing social norms, new technologies and potential liability exposure and credit risk.

The reality of these risks is already witnessed in tightening energy efficiency standards and carbon emissions caps, and rapid technology changes that create asset/product obsolescence. Any failure to mitigate, adapt or disclose the financial risks from climate change thus exposes companies to possible climate-related litigation, limited capital market access and the impacts on the supply chain resulting from pandemic responses. Landmark shareholder voting and the

European Union court rulings against big European fossil fuel conglomerates are a case in point. More recently in the US, three directors were voted off the board of Exxon Mobil by shareholders sending a serious message to the organisation that change is on the horizon.

Under TCFD-aligned reporting, the board's understanding of, and oversight of, transition risks and its response preparedness should be discussed as part of the Management Discussion and Analysis disclosures in annual reports. A recent survey of FTSE 100 companies undertaken by PwC (see 'Online links') observes that while 76% of companies have a board-level committee with climate change oversight, only 10% describe the board's competencies in this area and 17% disclose that board training is in progress. Hong Kong is no doubt further down the leader board on this. This calls for serious scrutiny of local competencies, the commitment to managing climate risks and whether current actions represent proper duty of care.

It is the board's responsibility to put the shareholder in the seat of the CEO and show that shareholder how the enterprise is being shepherded today, tomorrow and well into the future when it comes to climate change risks and opportunities. By 2025, the board should be asking at minimum the following questions in regards to transitional risks and should be in command of the answers.

- What is our appetite to run transitional risk? Are we thinking long term enough? Climate risk materialises over periods of time as short as two years and as long as 20 to 30 years and, as the stewards of the company, do we have the confidence to make decisions now that will have the desired impact well past our tenure?

Transitional risks – are you prepared?

The Taskforce for Climate-related Financial Disclosures (TCFD) distinguishes between the 'acute' physical risks from extreme weather events and the 'chronic' risks arising from changing weather patterns, and rising mean temperature and sea levels. The TCFD approach is particularly useful, however, in its emphasis on the need to also consider the transitional risks resulting from climate change and the shift to a carbon neutral future. As stated in the main article, these transitional risks are likely to be far more relevant to Hong Kong's service-based companies. The TCFD highlights the aspects of transitional risks set out below:

Policy and legal

- carbon pricing and reporting obligations

- mandates on, and regulation of, existing products and services, and
- exposure to litigation.

Technology

- substitution of existing products and services with lower emissions options, and
- unsuccessful investment in new technologies.

Market

- changing customer behaviour
- uncertainty in market signals, and
- increased cost of raw materials.

Reputation

- shift in consumer preferences
- increased stakeholder concern/negative feedback, and
- stigmatisation of sectors.

“
an individual service company... may have a physical risk footprint that is generally quite small and quantifiable, but exposure to transitional risks can be of significant impact on future corporate development and strategy

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- What is our exposure to transition risks? How are we informed about these risks? In which sectors will transition risks emerge more quickly, and will they present possible nearer-term stranded asset risk?
- In our supply chain, which of our business partners are doing well at assessing their own transition and physical risks, and which are further behind? What are the potential exposures? How are we educating and helping them to manage these risks?
- What is our methodology to identify, manage, measure and report transition risk? How are responsibilities assigned to management/committees and how are they reported back? How often should we review our risk responses in connection with TCFD?
- Do we have a clear understanding of our roles, and the accountabilities and responsibilities to manage these risks and do we have the correct skills to do this? Would the company consider making senior-level compensation conditional to performance on climate change?

These last two questions will be of increasing relevance as adoption of the

TCFD reporting framework picks up. Without board competency and the clarity of climate change risks and impacts, and accountability for actions, there is no strategic plan to successfully operate within a climate-challenged future.

Practical recommendations

While there is no substitute for personal experience, there are options that can be learned from current international practices to bridge and facilitate uptake of the TCFD reporting framework. Many companies have already established internal ESG and climate change committees to establish scenario planning under the TCFD. These committees are well positioned to adopt the framework, but require the backing and endorsement of the board to be effective. This assumes a level of climate change competency at the governance level and an informed position on the issues.

Board-level training and regular briefings provide the critical understanding of climate risk as a global issue and the more specific understanding of the transitional and physical risks within the market sector and the company itself. An ESG/climate change expert can be appointed to the board or, at minimum, the executive to develop, oversee and steer strategy and policy. Some companies elect to

set up advisory boards tapping external expertise to support decision-making. These strategies ensure that the necessary understanding and guidance from the most senior levels are in place, together with the supporting operational level systems and competencies for effective implementation.

The bottom line in TCFD reporting is that shareholders want defined assurances from the board on responsive climate change risk management and strategy planning. To quote Blackrock's 2021 letter to CEOs, in which the company wholly endorses TCFD-aligned reporting, 'We are asking you to disclose how this plan is incorporated into your long-term strategy and reviewed by your board of directors'.

Theodora Thunder, Managing Director
Streeter Strategic Ltd

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Online links

- More information on the Green and Sustainable Finance Cross-Agency Steering Group is available from the Hong Kong Monetary Authority website: www.hkma.gov.hk.
- The PwC survey of FTSE 100 companies is available from the PwC UK website: www.pwc.co.uk.

Avoiding organisational entropy

Dennis Wu, Senior Partner, Futu Holdings Ltd, suggests some ways in which employee equity incentives can help to build the motivation of team members and thereby avoid organisational entropy.



The term 'entropy' was originally derived from the second law of thermodynamics, a branch of science dealing with the transference of heat within a closed system. Energy will flow from the area with higher temperature to the part that has lower temperature. The process, called 'entropy', is irreversible, and in a closed system it can only increase. As time goes by, when entropy reaches its highest level, the amount of disorder or chaos in a thermodynamic system also reaches the maximum.

The concept of entropy is also relevant to business management. Over time, there is often a tendency towards inefficiency, rigidity and overstaffing in a company's management system and corporate culture. This trend is referred to as 'organisational entropy' and exists in both traditional and new economy enterprises. Resisting disorder and stimulating organisational vitality have therefore become one of the goals of good corporate governance. The development of digital technology has not only changed the way disorder and inefficiency is manifested in corporate governance, but has also brought new ideas and tools for entrepreneurs to solve this problem.

People as a key asset

Many great entrepreneurs and management experts have proposed ways to resist organisational entropy. For example, Amazon's CEO Jeff Bezos has proposed maintaining the company's agility as it was on day one, which is regarded as a standard by many entrepreneurs; and Ren Zhengfei, the founder of Huawei, often mentions the importance of resisting organisational entropy in Huawei's various internal studies. With the advancement of science and technology, and the improvement of

corporate digitalisation, governance has entered a new stage, providing new ideas for entrepreneurs to resist organisational entropy and improve corporate governance.

There is no doubt that new economy enterprises are replacing traditional companies and have become a major force in the modern business environment. According to PwC's Global Top 100 Companies March 2021 report, within the top 10 companies, 80% are consumer companies driven by technology or innovation.

Emerging growth-oriented new economy enterprises have also attracted capital. From 2018 to 2020, whether in the Hong Kong stock market or the Mainland's A share market, the amount of initial public offering financing in telecommunications, media and technology sectors has far exceeded that of other industries, such as real estate, manufacturing and energy.

New economy enterprises all share one common feature – they are technology-driven. The most important asset behind technology-driven enterprises is people, that is, the company's employees. This differs from traditional enterprises in traditional sectors, such

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for new economy enterprises, the key element to resist organisational entropy is employee motivation”

as manufacturing and energy, where the most important assets tend to be raw materials, production and machinery etc. For new economy enterprises, the key element to resist organisational entropy is employee motivation.

Professor Arthur Yeung, a well-known human resources and organisation management expert, developed the following formula for business success: business success = strategy x organisational capability.

Strategy lies at the top level of corporate governance and organisational capability is the only way to make strategy a reality. Regarding organisational capabilities, Professor Yeung proposed the Yeung Triangle Theory, in which all the essential ingredients relate to employees – employee thinking, employee capabilities

Highlights

- over time, there is often a tendency towards inefficiency, rigidity and overstaffing in a company's management system and corporate culture
- the development of digital technology has brought new ideas and tools for entrepreneurs to implement employee equity incentive plans
- in contrast to the equity incentives of traditional enterprises, which are mainly granted to a small number of core managers, new economy enterprises are adopting more inclusive equity incentives

How to make organisational capabilities support strategy

The Yeung Triangle Theory needs to be supported by three main pillars:

1. **employee thinking** - whether employees demonstrate values, behaviours, and commitment that match organisational capabilities
2. **employee capabilities** - whether employees have the knowledge, skills and qualities required for organisational capabilities, and
3. **employee governance** - whether employees are provided with effective management support and resources to allow them to develop their strengths.



and employee governance. The first item in Yeung's triangle theory is employee thinking, that is, employees' values, behaviour and commitment, which are closely related to employee motivation.

Talent incentives in the new economic era

In the process of corporate governance, there are many ways and tools to stimulate employee motivation, such as promoting corporate culture and building employee growth systems. Another important tool is employee equity incentives.

Increasing numbers of enterprises are now implementing equity incentives to achieve the consistency of interests between the enterprise and its employees. In contrast to the equity incentives of traditional enterprises, which are mainly granted to a small number of core managers, new economy enterprises are adopting more inclusive equity incentives.

For example in 2016, to celebrate the 18th anniversary of the creation of the Tencent Group, the company issued commemorative stocks to every employee. This was widely reported and discussed in

social media since no Mainland company had ever issued equity incentives to employees on such a wide scale. In addition to Tencent, other large internet companies in the Mainland, including Alibaba, Baidu and ByteDance, have been using equity incentives to motivate employees and compete for talent.

The Mainland market has widely accepted this mechanism of equity incentives. According to PwC's China Overseas Listed Companies Equity Incentive Trends Survey, published in 2019, 40% of Chinese overseas listed companies adopted equity incentives before listing and 52% have implemented equity incentives after listing.

However, although the original intention of the company is to stimulate the motivation of employees and enhance the vitality of the organisation through equity incentives, insufficient attention to the actual employee experience during the implementation of these schemes can sometimes mean that the incentive effect not only fails, but may even produce the opposite effect.

Technology stimulates organisational vitality

Companies have never put so much emphasis on employee experience as they do now. In the era where people are seen as the core asset of a company, people born after the 1990s and 2000s are now entering job markets. They have lived in the internet age since they were born and are accustomed to mobile internet and instant messaging services.

All aspects of life in the Mainland, including getting food, clothing, housing and transportation, can now be done completely online, led by internet companies such as Taobao, Meituan Dianping, Ctrip, Didi, etc. However, the efficiency of online-centric workplaces are slightly slower and employees complain about the company system from time to time. The Covid-19 pandemic has sped up the transition to tech-centric enterprises and the rate of online meetings and online document collaboration has increased a lot during the pandemic.

As mentioned above, in order to stimulate employee motivation and

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 increasing numbers of
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 consistency of interests
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 and its employees

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enhance organisational vitality through equity incentives, it is essential to enhance the employee experience. Some corporate managers lack the necessary communication and visualisation tools on the employee side when adopting employee incentives, which causes employees to doubt the authenticity of the incentives and the sincerity of the company. On workplace social networks, we have also seen employees complaining that the options granted by the company are nothing but a 'bad cheque'.

The online management of equity incentives is just one way to stimulate organisational vitality. The digital transformation of enterprises will continue to happen, reducing communication costs between employees and improving operational efficiency. Online systems will allow technology to play a more important role in stimulating organisational motivation.

Dennis Wu, Senior Partner
Futu Holdings Ltd




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抵抗组织熵增

富途控股高级合伙人邬必伟提出了一些方法避免组织熵增，如以员工股权激励帮助建立团队成员的积极性。

熵增，是热力学第二定律。该定律引入了“熵”的概念，用来描述一种不可逆的过程，即热量从高温部分流向低温部分是不可逆的，孤立系统中熵的值只能增大，不能减少，随着时间推移，最终达到熵的最大状态，也就是系统最混乱无序的状态。熵增定律无论在传统企业还是新经济企业中都存在，因此抵抗无序，激发组织活力是公司治理永远存在的命题。数字科技的发展既改变了公司治理中无序、低效等问题的表现形式，又给企业家解决熵增问题带来新思路和新工具。

熵增作为一种自然规律，在企业经营管理中也有所体现——企业的组织管理制度和企业文化建设起来之后，经历一段时间的运转，总是有一种走向效率低效、机制僵化、人浮于事的趋势，这就是所谓的组织熵增。组织熵

摘要

- 随着时间的推移，公司的管理体系和企业文化往往会出现效率低下、僵化和人员过剩的趋势
- 科技的发展为创业者实施员工股权激励计划带来了新的思路和工具
- 与传统企业股权激励主要授予少数核心管理人员不同，新经济企业正在采取更具包容性的股权激励

增出现在传统企业，也出现在新经济公司，如何抵抗组织熵增与激发员工活力，变成许多企业管理层都不得不面对和思考的问题。科技的发展不仅改变了公司治理无序、低效的表现方式，也为创业者解决这一问题带来了新的思路和工具。

新经济时代企业组织能力关键：人

许多伟大的企业家和管理学大家提出了抵抗熵增的心法。例如亚马逊的贝佐斯提出了要保持Day One的状态，被许多创业者奉为圭臬；华为的创始人任正非也经常在各种组织内部学习中提到抵抗团队熵增。随着科技进步和企业数字化渗透率提升，企业商业模式和公司治理走向新的阶段，也为企业家抵抗公司治理中的熵增提供了新的思路。

毫无疑问，新经济公司已经替代传统企业，成为现代商业社会的主角：据普华永道发布的2021年全球市值百强企业报告(Global Top 100 companies - March 2021)显示，排名前十的公司80%是科技或科技驱动的消费企业。

不仅如此，新兴成长型的新经济企业还吸引了绝大部分的社会资源。近三年(2018-2020)，无论是港股市场还是A股市场，TMT行业的IPO融资金额都远远超过其他行业，如地产、制造、能源等。

新经济企业都有一个共同特征，那便是技术驱动，而技术驱动的背后最重要的是人，即企业员工。这是技术驱动的新经济企业与传统企业的显著



差异。如制造业、能源行业等传统行业，企业中最重要资产是生产原材料、生产机械等，而新经济企业最重要的资产便是员工。因此对于新经济企业而言，抵抗熵增的关键要素也是员工。

知名人力资源与组织管理专家杨国安教授曾帮助腾讯完成公司的组织架构调整，他提炼出以下企业成功的公式。

战略是公司治理的顶层建设，而组织能力则是让蓝图变为现实的唯一方法。针对组织能力，杨国安教授提出了“杨三角理论”，这个理论中所有的支柱都来自员工——员工思维、员工能力、员工治理。杨三角理论中的第一条就是员工思维，即员工的价值观、行为和投入度，这与员工的积极性息息相关。

更加普惠的股权激励

在公司治理过程中，有多种方式、工具可以激发员工积极性，例如宣导企业文化、搭建员工成长体系等，还有一种重要的工具就是员工股权激励。

“
对于新经济企业而言，抵抗熵增的关键要素是员工
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越来越多企业实施股权激励，实现企业与员工的利益一致性。与传统企业的股权激励不同，传统企业的股权激励主要授予极少数核心管理层，而新经济企业正在采用更普惠的股权激励。

2016年是腾讯集团成立第18年，为了纪念“成人礼”，腾讯给每一位员工都发了纪念性股票。从未有一家企业给如此大规模的员工发放股权激励，这也引起广泛的社会讨论和媒体报道。

不仅是腾讯，阿里巴巴、百度、字节跳动等大型互联网企业也在用股权激励员工、争夺人才。

中国的人才市场已经广泛接受了股权激励这种机制。据普华永道的报告《2019中国海外上市企业股权激励趋势调研》显示，中国海外上市企业中，有40%的企业在上市前就采用了股权激励，52%的企业在上市后实施了股权激励。

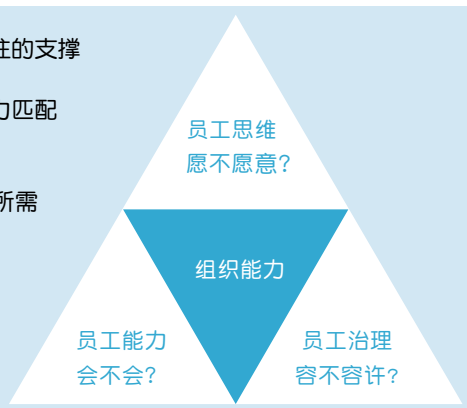
如何系统打造支持战略实施的组织能力？

杨三角理论认为，它必须三个支柱的支撑

员工思维 员工是否展现与组织能力匹配的价值观、行为和投入度？

员工能力 员工是否具备组织能力所需的知识、技能和素质？

员工治理 公司是否提供有效的管理支持和资源，容许员工充分发挥所长？



但是我们也观察到，虽然公司本意是希望通过股权激励激发员工积极性，提升组织活力，但由于实际操作中缺乏对员工体验的关照，有时候激励效果不但不能达成，还会产生反向效果。

科技激发组织活力

在以人为企业核心资产的新经济时代，企业从未像现在这样如此重视员工体验。这与90后、00后成为企业员工主要构成部分息息相关。中国的80后、90后从一出生便生活在互联网时代，习惯了移动互联网以及即时响应的服务。

中国内地居民的所有生活场景，包括衣食住行各个方面，都被淘宝、美团点评、携程网、滴滴等互联网公司彻底线上化，相比之下，工作场景的线上化的节奏稍显缓慢，因此员工抱怨企业系统不友好的情况时有发生。新冠来袭给企业的在线化转型按下快进键，在线会议、在线文档协同办公的普及率也增加了许多。

如上文所提及，希望通过股权激励达到激发员工积极性、提升组织活力的目的，提升员工体验是必不可少的。有的企业管理者在授予员工激励时，缺乏必要的沟通以及员工侧的可视化工具，会导致员工对激励的真实性、公司的诚意有怀疑。在职场社交网络上，也会看到员工抱怨公司授予的期权不过是一张“空头支票”。

企业的数字化转型还会不断深化，通过在线系统降低员工之间的沟通成本、提升运营效率，将让技术在激发组织积极性过程中发挥更重要的作用。

邬必伟

富途控股高级合伙人

Professional Development

Seminars: July 2021

6 July

The future of corporate energy affairs governance: three massive transitions – ESG, energy transition & climate change



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

Speakers: Robert Allender, Managing Director, EnergyUse Strategy Advisors; Calvin Kwan, Head of Risk Governance and Sustainability, Link REIT; and Ferheen Mahomed, Founder & CEO, C&TM Ltd

8 July

Being stuck because of COVID-19 – did you think of the tax consequence?

Chair: Ernest Lee FCG FCS(PE), Institute Vice-President, Audit Committee Chairman, Mainland China Focus Group member, and Technical Partner, Deloitte China

Speakers: Chee Weng Lee, Global Head of Tax, and May Li, Senior Tax Manager, Tricor Services Ltd

14 July

Enforcement series – SFC enforcement



Chair: Ellie Pang, Institute Chief Executive
Speaker: Alan Linning, Partner, Mayer Brown

21 July

Board performance evaluation: winning in uncertain times – best governance practice of listed companies under the Listing Rules

Chair: Stella Lo FCG FCS(PE), Institute Council member and Education Committee Vice-Chairman, and Group Company Secretary, Guoco Group Ltd

Speaker: Melissa Fung, Partner, Deloitte Advisory (Hong Kong) Ltd

23 July

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

Chair: Ricky Lai FCG FCS(PE), Company Secretary, China Renewable Energy Investment Ltd

27 July

Role of governance professionals in the face of corruption, conflicts of interest and ethical issues



Chair: Loretta Chan FCG FCS, Institute Council member, Professional Development Committee Chairman, Professional Services Panel member and Technical Consultation Panel – Company Law Interest Group member, and Partner, Tax – Corporate Services, PricewaterhouseCoopers Ltd

Speaker: Mabel Chu, Senior Community Relations Officer, Hong Kong Business Ethics Development Centre, Community Relations Department, ICAC

Video-recorded CPD seminars

Some of the Institute's previous ECPD seminars/webinars can now be viewed on Hong Kong Metropolitan University's online e-CPD seminars platform.

For details of the Institute's video-recorded CPD seminars, please visit the CPD section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact the Institute's Professional Development Section: 2830 6011, or email: cpd@hkcgj.org.hk.

ECPD forthcoming webinars

| Date | Time | Topic | ECPD points |
|-------------------|---------------|---|-------------|
| 23 September 2021 | 6.45pm–8.45pm | Competition Ordinance (Cap. 619) – development of the First Conduct Rule enforcement actions in Hong Kong | 2 |
| 29 September 2021 | 3.00pm–4.00pm | The ABCs of Economic Substance Regime in the British Virgin Islands | 1 |
| 11 October 2021 | 4.00pm–5.30pm | Tax risk management for corporate governance enhancement | 1.5 |
| 20 October 2021 | 4.00pm–5.30pm | Artificial intelligence – legal and governance perspectives | 1.5 |

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

Membership

Membership/graduateship renewal for the financial year 2021/2022 – final call

The renewal notice, together with the debit note for the financial year 2021/2022, was sent to all members and graduates by email at the beginning of July 2021 to their registered email address. All members and graduates are encouraged to settle their annual subscription online via their user account on or before Thursday 30 September 2021.

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 the outstanding fees, and with levies determined by the Council.

For enquiries, please contact the Membership Section: 2881 6177, or email: member@hkcg.org.hk.

New Fellows

The Institute would like to congratulate the following Fellow elected in July 2021.

Ling Michael Hin Yau FCG FCS

Mr Ling is the Deputy Company Secretary at CLP Holdings Ltd (Stock Code: 2). He oversees the day-to-day functions of CLP Group Corporate Secretarial and works closely with the Board of Directors of CLP Holdings and the Board committees. He holds a Bachelor of Laws and Bachelor of Commerce double degree from the Australian National University.

New graduates

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

| | | |
|------------------------|---------------------------|--------------------|
| Au Siu Chung | Li Ka Yee | Wei Hon Sum |
| Chan Tak Hing, Kenji | Liu Cheng | Wong Ka Yan |
| Chan Yiu Wing | Mu Lingxia | Wong King Sum |
| Cheng Chi Chung | Ng Mo Chun | Wong Pui Ki, Doris |
| Cheung Ting Hong | Ng Weng Sin | Wu Naijia |
| Cheung Yiu Kuen | Ng Yin Ting, Joyce | Yeung Yin Ping |
| Fok Po Yi | Ng Yuen Kiu | Yu Wing Yan |
| Kwan Shu Sum | Pao Ting Ting, Nicole | Zhang Liyuan |
| Kwong Hon Keung, Gerry | Pow Chun Ching, Johnathan | Zheng Shaoqin |
| Kwong Yuk Pui | Tam Man Sang | Zhou Yi |
| Lau Man Shan, Polly | Wai Jonathan Robin | |
| Law Kim Fai | Wang Jiao | |

Membership (continued)

Forthcoming membership activities

| Date | Time | Event |
|-------------------|---------------|---|
| 17 September 2021 | 1.00pm–2.00pm | Protect your vision – keep your eyes healthy (free webinar) |
| 5 October 2021 | 6.00pm–9.30pm | Annual Convocation 2021 (by invitation only) |

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

Membership activities: July and August 2021

24 July

Mentorship Programme training – skills for effective intergenerational communication



31 July

Fun & Interest Group – perfume-making workshop



2 August

What a company secretary should know about occupational safety during Covid-19 (free webinar)



7 August and 14 August

Full body workout for office workers (free webinar)



16 August

A solid tackle on protecting privacy of directors and officers – let's aim for a home run (free webinar)



Doing Business in China Series

China's economy is vast. A myriad of national laws, local regulations and implementing measures makes doing business complex. In the post-pandemic world, more than ever, businesses need to innovate and focus on emerging opportunities and regulatory compliance. HKCGI is delighted to present a Doing Business in China series from August to November 2021 in which senior professionals will discuss China's economic transformation, foreign investment policies, business location incentives, as well as regulatory compliance covering issues from commencing to exiting investments. Interested parties are encouraged to join any or all of the following six sessions:

| Session | Date/Time | Topic | Speaker(s) |
|---------|--|--|---|
| 1 | 31 August 2021 6.45 pm - 8.15 pm | Onboarding Requirements, Considerations and Case Studies | Ms Sharon ZM Chen, Director of Commercial, Corporate Services, Vistra Group |
| 2 | 24 September 2021 4.30 pm - 6.00 pm | Strategies on Corporate Changes and Restructuring | Ms Shirley Sung, Director, Corporate Services, Tricor China Ms Mavy Zhao, Tax Manager, Tricor China |
| 3 | 12 October 2021 6.45 pm - 8.15 pm | Civil Code - Issues for Commercial Contracts | Mr Tom Fu, Partner, Mayer Brown Ms Rosalyn Han, Counsel, Mayer Brown |
| 4 | 26 October 2021 6.45 pm - 8.15 pm | Finance Operations & Compliance - Best Practice | Mr Donald Tsang, Executive Director, Head of Corporate Services of Greater China, Intertrust Group Hong Kong |
| 5 | 16 November 2021 6.45 pm - 8.15 pm | M&A - Execution and Control | Mr Kenneth Lee, Director & Head of Global Entity Management, TMF Hong Kong Limited |
| 6 | 30 November 2021 6.45 pm - 8.45 pm | Voluntary Liquidation of WFOE - Professionals' Roles In Action | Accounting & Treasury - Vistra Group Company Secretarial - Intertrust Group HR & Payroll Services - Tricor China Tax Clearance - TMF Group |

Language: Chinese (Cantonese/Putonghua)

Venue: Webinar session. No physical attendance is required.

HKCGI Accreditations: 1.5 ECPD points each for Sessions 1 to 5; 2 ECPD points for Session 6

| | Sessions 1 to 5 | Session 6 |
|-------------|--------------------------------------|-----------|
| Fee: | HKCGI member HK\$320 per session | HK\$400 |
| | HKCGI student HK\$230 per session | HK\$280 |
| | Non-member HK\$420 per session | HK\$500 |

For enquiries, please contact Professional Development Section: 2881 6177 or cpd@hkcg.org.hk.

For details and registration, please visit CPD section of Institute's website: www.hkcg.org.hk.

Register Now!



Membership (continued)

Maintaining professional standards

Member, graduate and student discipline

The Institute requires its members, graduates and students to comply with the requisite standards of professional ethics and conduct, as well as the Institute's regulations. The Investigation Group, Disciplinary Tribunal and Appeal Tribunal are the Institute's independent disciplinary bodies, as stipulated in the Byelaws of The Chartered Governance Institute and the Articles of Association of the Institute.

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 2020/2021:

- Cheung Wang Fat, Joseph
- Wang Choi Fung

For details of member, graduate and student disciplinary matters, please visit the Discipline page under the Membership section of the Institute's website: www.hkcg.org.hk.

Advocacy



Congratulations

The Institute is delighted that Edith Shih FCG(CS, CGP) FCS(CS, CGP)(PE), CGI Immediate Past International President and Institute Past President, Executive Director and Company Secretary, CK Hutchison Holdings Ltd, has been elected as a member of the Commercial (First) Election Committee 2021. All elected members are deemed to have made significant contributions to the long-term economic development of Hong Kong.

The Hong Kong Chartered Governance Institute 2021 Annual General Meeting – call for nominations for election to Council

Members are invited to nominate candidates for election to Council of the Institute at the 2021 Annual General Meeting (AGM). The Articles of Association of the Institute provide that Fellows who are ordinarily resident in the Divisional Territory are eligible to stand for election. More details are available on the Institute's website: www.hkcg.org.hk.

Duly completed and signed nomination forms must be returned to the Institute's Secretariat in person or by post no later than 6.00pm on the nomination closing date of Tuesday 5 October 2021.

For enquiries, please contact the Membership Section: 2881 6177, or email member@hkcg.org.hk.

Advocacy (continued)

Nominations for the HKCGI Prize 2021

The Institute takes great pleasure in calling for nominations for The Hong Kong Chartered Governance Institute Prize 2021. This award celebrates the outstanding achievements of governance professionals who have made significant contributions to the Institute, and to the Chartered Secretary and Chartered Governance profession as a whole, over a considerable period.

We have a vibrant community of over 6,000 members in Hong Kong and the Mainland. Celebrating the achievements of leaders in the Chartered Secretary and Chartered Governance profession not

only champions those at the forefront of our profession, it also inspires others to play their part in moving the profession forward. In view of this, you are cordially invited to nominate one or more candidates who have made ongoing and important contributions to the Institute and our profession. These may include:

- contributions to the Institute's technical and research, education and examinations, or professional development work
- contributions to the development of the profession and/or the Institute in Hong Kong and the Mainland

- work that significantly enhances the status of the Chartered Secretary and Chartered Governance Professional within the local community, the Mainland and/or internationally, and
- a track record of outstanding contributions to the Institute that have brought identifiable credit to the governance profession.

The nomination deadline is Thursday 30 September 2021. Submit your nominations now!

For enquiries, please contact Melani Au: 2830 6007, or email: member@hkcgi.org.hk.

The Institute participates in the Business Environmental Council climate change webinar

The Business Environment Council Ltd held a webinar, titled Corporate Governance for Climate Resilience – Trends and Opportunities for Hong Kong, on 4 August 2021. Institute Deputy Chief Executive Mohan Datwani FCG FCS(PE) participated as one of the panellists and discussed the importance for listed issuers of having sufficient diversity of thought to avoid groupthink in order to address environmental, social and governance (ESG) issues and climate change. Also at the webinar were representatives from CLP Holdings Ltd and the Hong Kong Institute of Certified Public Accountants.



The Institute attends the 2021 Policy Address consultation session on financial services

On 2 August 2021, The Honourable Mrs Carrie Lam Cheng Yuet-ngor GBM GBS, Chief Executive, and The Honourable Paul Chan Mo-po GBM GBS MH JP FCG FCS, Financial Secretary, of the HKSAR Government, as well as other government officials, consulted relevant industry stakeholders on thoughts for the 2021 Policy Address in respect of areas related to financial services. The Honourable Christopher Hui Ching-yu JP, Secretary for Financial Services and the Treasury, the HKSAR Government, gave an insightful presentation.

Institute Chief Executive Ellie Pang attended the consultation session related to Hong Kong's position as an international financial centre. The HKSAR Government is conducting some 30 consultation sessions to listen to views and suggestions from members of the Legislative Council and representatives of a wide range of sectors and stakeholders, as well as the general public, prior to the upcoming Policy Address. The Institute is pleased to have made a contribution to governance-related views on financial services.

Advocacy (continued)

Student Ambassadors Programme summer internship 2021

The Institute invited companies and organisations to offer summer internship positions to undergraduates participating in its Student Ambassadors Programme (SAP), with the aim of promoting the role of Chartered Secretary and Chartered Governance Professional to the younger generation in Hong Kong. The internship lasted for a maximum of eight weeks, from June to August 2021. This year, a total of 19 undergraduates from five

local universities – City University of Hong Kong, Hong Kong Baptist University, Hong Kong Metropolitan University, The Chinese University of Hong Kong, and The Hang Seng University of Hong Kong – received internship offers from 13 companies, listed below in alphabetical order.

- Baker & McKenzie
- BDO Ltd
- Boardroom Corporate Services (HK) Ltd
- CK Hutchison Holdings Ltd
- Companies Registry
- K. Leaders Business Consultants Ltd
- Lenovo Hong Kong
- MTR Corporation Ltd
- Reanda EFA Secretarial Ltd
- Sino Corporate Services Ltd
- SWCS Corporate Services Group (Hong Kong) Ltd
- The Hong Kong Chartered Governance Institute
- Tricor Services Ltd

The Institute would like to thank the companies for their support of the programme.



Important – change of bank details

With effect from 6 September 2021, the name of the Institute's bank account was changed to The Hong Kong Chartered Governance Institute. All payments made to the Institute shall be made under the new name.

The Hong Kong Chartered Governance Institute Foundation Ltd

Following the Institute's name change to The Hong Kong Chartered Governance Institute 香港公司治理公會 (HKCGI) in July 2021, the name of its charitable foundation was also changed and, effective from 31 August 2021, is now known as The Hong Kong Chartered Governance Institute Foundation Ltd 香港公司治理公會基金有限公司.

The Hong Kong Chartered Governance Institute

Corporate Governance Paper Competition and Presentation Awards 2021

The Annual Corporate Governance Paper Competition and Presentation Awards organised by The Hong Kong Chartered Governance Institute aims at promoting the importance of good governance among local undergraduates and providing them with an opportunity to research, write and present their findings and opinions on the selected theme.

Theme

Is it possible to tie governance with a sense of purpose given the myriad of stakeholders' interests?

Awards

- Best Paper HK\$11,000
- Best Presentation HK\$6,000
- Audience's Favourite Team HK\$2,000

... and
more
prizes

Local undergraduates of all disciplines in Hong Kong are eligible to enrol for this competition in a team of two to four members.

| | |
|--|-------------------------|
| Enrolment deadline | Friday 25 June 2021 |
| Paper submission deadline | Saturday 31 July 2021 |
| Presentation Competition (for the six finalist teams) | Saturday 9 October 2021 |

Scan
for
details



For enquiries, please contact Lily Or: 2830 6039 or email: student@hkcgi.org.hk

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Chartered Governance Qualifying Programme (CGQP)

June 2021 examination diet

The examination results of the June 2021 diet were released on 13 August 2021. Candidates can access their examination results from their accounts on the Institute's website. The examination papers, mark schemes and examiners' reports are also downloadable from the Login area of the Institute's website.

A summary of the pass rates for the CGQP June 2021 examination diet is set out below:

| Module | Pass Rate |
|---|-----------|
| Part One | |
| Corporate Governance | 33% |
| Corporate Secretaryship and Compliance | 32% |
| Hong Kong Company Law | 40% |
| Interpreting Financial and Accounting Information | 49% |
| Part Two | |
| Boardroom Dynamics | 58% |
| Hong Kong Taxation | 52% |
| Risk Management | 9% |
| Strategic Management | 33% |

The Institute is pleased to announce the following module prize and merit certificate awardees for the June 2021 examination diet. The module prizes are sponsored by The Hong Kong Chartered Governance Institute Foundation Ltd – formerly known as The Hong Kong Institute of Chartered Secretaries Foundation Ltd. Congratulations to all awardees!

| Module prize awardees | Module |
|-----------------------|-----------------------|
| Yim Kwan Yin | Corporate Governance |
| Cheung Ho Yin | Hong Kong Company Law |
| Hui Yuk Ting | Hong Kong Company Law |

| Merit certificate awardees | Module |
|----------------------------|--|
| Weng Weilin | Boardroom Dynamics |
| Cheung Gigi Yee Ming | Corporate Governance |
| Lam Chin Hei | Corporate Governance |
| Yeung Lok Yan | Corporate Governance |
| He Chen | Corporate Secretaryship and Compliance |
| Lee Wai Shan | Corporate Secretaryship and Compliance |
| Lee Yan Yin | Corporate Secretaryship and Compliance |
| Chan Nga Shan Claudia | Hong Kong Company Law |
| Fung Chui Shan Tracy | Hong Kong Company Law |
| Hui Yuen Ki Yuki | Hong Kong Company Law |
| Wong Ka Yin | Hong Kong Company Law |
| Lung Yi | Hong Kong Taxation |
| Ng Ka Ying Kathy | Hong Kong Taxation |
| Yeung Suet Ying | Hong Kong Taxation |
| Kwok Wai Ming | Interpreting Financial and Accounting Information |
| Law Hei To Vela | Interpreting Financial and Accounting Information |
| Lee Shui Kam | Interpreting Financial and Accounting Information |
| Leong Chi Fung | Interpreting Financial and Accounting Information |
| Siu Ut Kun | Interpreting Financial and Accounting Information |
| Wong Man Ying | Interpreting Financial and Accounting Information |
| Chung Ho Chai | Corporate Governance & Interpreting Financial and Accounting Information |
| Ho Hoi Fu | Hong Kong Company Law & Interpreting Financial and Accounting Information |
| Qin Yingshi | Corporate Secretaryship and Compliance & Hong Kong Company Law |
| Tong Chiu Yu | Hong Kong Taxation & Strategic Management |
| Wong Cho Lun | Corporate Secretaryship and Compliance & Interpreting Financial and Accounting Information |

November 2021 examination diet

Timetable

The CGQP November 2021 examination diet will be held between 16 November and 26 November 2021.

Week one

| Time | 16 November Tuesday | 17 November Wednesday | 18 November Thursday | 19 November Friday |
|-----------------|------------------------|--------------------------|---|--|
| 9.15am–12.30pm* | Hong Kong Taxation | Hong Kong Company Law | Interpreting Financial and Accounting Information | Corporate Secretaryship and Compliance |

Week two

| Time | 23 November Tuesday | 24 November Wednesday | 25 November Thursday | 26 November Friday |
|-----------------|------------------------|--------------------------|-------------------------|-----------------------|
| 9.15am–12.30pm* | Corporate Governance | Risk Management | Strategic Management | Boardroom Dynamics |

* Including 15 minutes reading time (9.15am–9.30am).

Key dates

| Key dates | Description |
|---------------------|--|
| 13 September 2021 | Closing date for the CGQP November 2021 examination diet enrolment |
| 13 September 2021 | Closing date for examination technique online workshops enrolment |
| 12 October 2021 | Pre-released case study for the CGQP November 2021 examination diet |
| Early November 2021 | Release of examination admission slips for the CGQP November 2021 examination diet |
| 17 December 2021 | Closing date for examination postponement application for CGQP November 2021 examination diet |
| Mid-February 2022 | Release of examination results for the CGQP November 2021 examination diet |
| Mid-February 2022 | Release of examination papers, mark schemes and examiners' reports for the CGQP November 2021 examination diet |
| Late February 2022 | Closing date for examination result review application for the CGQP November 2021 examination diet |

The Institute reserves the right to change the dates and details without prior notice.

For details, please visit the Examinations page under the Studentship section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact Leaf Tai: 2830 6010, or email: exam@hkcgj.org.hk.

Chartered Governance Qualifying Programme (CGQP) (continued)

Corporate Governance Paper Competition and Presentation Awards 2021

The annual Corporate Governance Paper Competition and Presentation Awards, organised by the Institute, is designed to foster appreciation of corporate governance among local undergraduates. The theme this year asks applicants to evaluate the question: 'Is it possible to tie governance with a sense of purpose given the myriad of stakeholders' interests?'

The submitted papers will be reviewed and assessed by a panel of judges comprising the following academics and practitioners (in alphabetical order):

| Reviewer's name | University/Institution |
|-------------------------|--|
| Prof Dennis Chan | The Hong Kong University of Science and Technology |
| Dr Derek Chan | The University of Hong Kong |
| Prof David Donald | The Chinese University of Hong Kong |
| Ian Drew | The Hongkong and Shanghai Banking Corporation Ltd |
| Dr Lisa Goh | The Hang Seng University of Hong Kong |
| Carmen Lam FCG FCS | Hong Kong Metropolitan University |
| Dr Lubanski Lam | Hong Kong Shue Yan University |
| Dr Bruce Li FCG FCS(PE) | The Hong Kong Polytechnic University |
| Dr Raymond Wong | City University of Hong Kong |
| Tommy Wong | Caritas Institute of Higher Education |
| Dr Davy Wu | Hong Kong Baptist University |

Full Names of the Paper competition's panel judges

Joyce Lau FCG FCS
 Angel Sze FCG FCS
 May Tsue FCG FCS(PE)

The Institute is pleased to announce the six finalist teams. These teams will present their papers on Saturday 9 October 2021 to compete for the Best Presentation Award and the Audience's Favourite Team. Members, graduates and students who are interested in observing the presentation competition are welcome to attend.

| | |
|-------------------|---|
| Theme | Is it possible to tie governance with a sense of purpose given the myriad of stakeholders' interests? |
| Date | Saturday 9 October 2021 |
| Time | 10.00am–1.00pm |
| Fee | Free of charge |
| Venue | Webinar session; no physical attendance is required. |
| CPD points | 2 |

For details of the competition, please visit the Events section of the Institute's website: www.hkcgj.org.hk.

Finalist teams



Learning support for CGQP examination preparations

The Institute provides a variety of learning support services for students to assist them with preparing for the CGQP examinations.

For details, please visit the *Learning Support* page under the *Studentship* section of the Institute's website: www.hkcgj.org.hk.

Studentship activities:

12 August 2021

Student Ambassadors Programme (SAP): experience sharing on paper research and presentation skills



Forthcoming studentship activities

| Date | Time | Event |
|-------------------|----------------|---|
| 29 September 2021 | 1.00pm–2.00pm | Governance Professionals Information Session |
| 9 October 2021 | 10.00am–1.00pm | Corporate Governance Paper Competition and Presentation Awards 2021 |

Fast Track Professional route

From 1 January 2021, a new Fast Track Professional route became available for qualified lawyers or accountants (including those recognised by The Chartered Governance Institute and its divisions in other jurisdictions) who wish to become Chartered Secretaries and Chartered Governance Professionals.

For details, please visit the *Fast Track Professional* page under the *Studentship* section of the Institute's website: www.hkcgj.org.hk.

Chartered Governance Qualifying Programme (CGQP) (continued)

Student Ambassadors Programme 2021/2022 – recruitment of mentors

Our Student Ambassadors Programme (SAP) is an effective platform for introducing the dual qualification of Chartered Secretary and Chartered Governance Professional to local undergraduates. One of the key features of SAP is the Mentorship Programme, which gives our student ambassadors the chance to learn from experienced members of the profession.

We would like to cordially invite Institute members to join the SAP Mentorship Programme. Your participation as a mentor in the programme gives you the opportunity to contribute to the profession by sharing your professional experience and knowledge with mentees.

For details of SAP, please visit the Student Ambassadors Programme page under the Studentship section of the Institute's website: www.hkcgj.org.hk.

For enquiries, please contact Shalom Li: 2830 6001, or email: shalom.li@hkcgj.org.hk.

Policy – payment reminder – final call

Studentship renewal

New policy effective from 1 July 2021
Students whose studentship expires in July, August or September 2021 should have received a renewal notice by email on 1 July 2021. Please be reminded to settle the renewal fee by Thursday 30 September 2021.

Failure to pay the renewal fee by the deadline will result in the removal of studentship from the student register.

Featured Job Openings

| Company name | Position |
|----------------------------------|---|
| Lai Sun Development Co Ltd | Company Secretarial Officer |
| Gary Cheng Secretaries Ltd | Corporate Services Manager/ Assistant Manager |
| Greater Bay Airlines Company Ltd | Company Secretary |
| Greenheart Group | Company Secretarial Manager |

For details of job openings, please visit the Job Openings section of the Institute's website: www.hkcgj.org.hk.

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Pre-IPO

- VIE structure setup ²/Incentive plan design
- Employee incentive plan execution
- Tax planning
- Trust setup

IPO

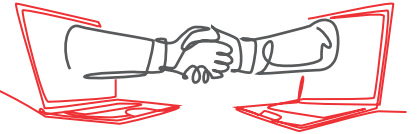
- Pre-IPO warm-up
- IPO retail distribution, international placement,
friends and family shares ¹
- Marketing promotion during subscription period

Post-IPO

- Investor relations IR/PR
- Foreign exchange filing ^{1,2}
- Tax withholding ^{1,2}
- Share vesting and allocation ¹
- Share sale /repatriation ^{1,2}

Note: 1.Service will be provided by licensed subsidiaries of FUTU
2.If they have an entity or plan to setup an entity in Mainland China

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