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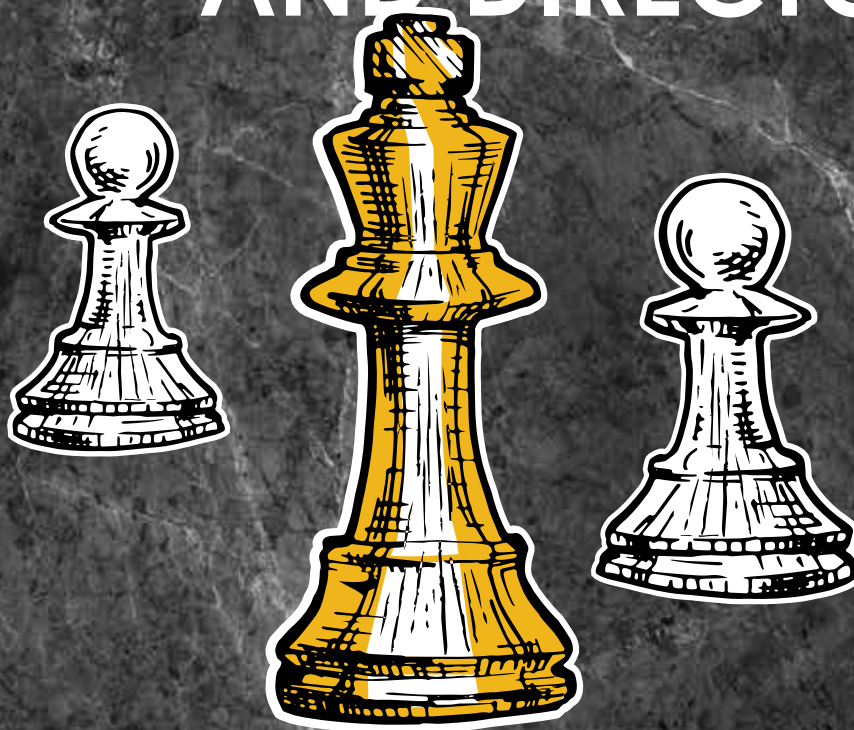
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The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, as well as the development of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

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Integrated reporting

This month's journal looks at integrated reporting. Our cover story (pages 6–10) looks at the companies who have successfully adopted integrated reporting in Hong Kong as potential role models for the rest of the market. As you are no doubt aware, the number of such companies is not yet into double digits, and in my President's Message this month I would like to address the notion that integrated reporting is only relevant to a tiny percentage of companies at the very top of the market.

If the relevance of integrated reporting were to be solely calculated on the basis of the number of companies around the world reporting strictly according to the Framework established by the International Integrated Reporting Council (IIRC), then it would have to be regarded as a minority concern. The current tally yields a total of around 1,500 such companies. This figure is deceptive however, since the true significance of the integrated reporting movement is the way it has transformed our perception of organisations' disclosure obligations and the value of the reporting process.

It has not done this alone of course – the integrated reporting movement is part of a general shift from 'financial' to 'inclusive' capitalism. Over the last decades we have seen a gradual

expansion in the perceived responsibilities of companies not only towards a wider group of stakeholders but also to a much broader set of goals – including environmental protection, employee health and safety, respect for human rights, anti-corruption and bribery, diversity on boards of directors, etc. Integrated reporting is a logical extension of this thinking since it broadens the kinds of disclosures companies are expected to make. An integrated report does not only inform stakeholders about the financial health of the organisation, but about the organisation's use of, and impact on, the six capitals – financial, manufactured, intellectual, human, social and relationship, and natural.

So if you want a true measure of the influence of the integrated reporting movement, you should look not just at the incidence of integrated reporting but also at the influence of 'integrated thinking'. Integrated thinking involves senior management and the board having a more holistic view of the activities of their organisations, and their place in the value chain and the societies in which they operate. It necessitates an assessment of the connectivity and interdependencies between the different capitals and business units. It leads to a switch from a short-term, narrow conception of financial return to a broad

understanding of the value creation process. I believe that this is why the integrated reporting movement, despite the absence of regulatory obligations (currently only South Africa has made it a listing requirement) is being felt across all markets, sectors and types of companies.

So, will integrated reporting become the future standard corporate reporting model? I think in many ways that future has already arrived and members of our profession can play a key role in alerting boards to the new reality. We may be a long way away from regulatory requirements relating to integrated reporting – if at all. Producing an integrated report according to the IIRC Framework may not be right for every organisation, but the competitive advantages of integrated thinking and the recognition of the new social contract for businesses in the 21st century would be very costly to ignore.

A handwritten signature in black ink, appearing to read 'Ivan Tam', with a stylized flourish at the end.

Ivan Tam FCIS FCS

综合报告

本期月刊的主题是综合报告。封面故事（第6至10页）介绍香港成功采纳综合报告模式的公司，这些公司可以成为其他公司的模范。大家想必知道，这类公司数目不足十家；本文着重探讨综合报告只与市场上少数顶尖的公司相关联的这个观点。

假如纯粹以全球各地严格按照国际综合报告委员会所订框架编制报告的公司数目来衡量，则综合报告只属少数公司需要关心的课题。目前这类公司约有1,500家。不过，我们不应只看数字，因为综合报告运动的重要性，在于改变了人们的观念，使人们对机构作出披露的责任和报告编制过程的价值有了不同看法。

当然，这改变并非仅由综合报告运动所造成；综合报告运动只是「财务」资本主义转变为「包容」资本主义的整体趋势当中的一环。过去数十年，公司的责任在人们心目中有所扩大，不仅涵盖更多持份者，而且涉及更广泛的目标，包括环境保护、雇员安全及健康、尊重人权、防止贪污贿赂、董事会多元化等。综合报告是这种想法的合理延伸，显示人们期望公司披

露更广泛的资料。综合报告不仅向持份者报告机构在财务上是否健全，也报告公司如何运用六种资本——财务资本、制造资本、智慧资本、人力资本、社会与关系资本和自然资本，以及对这些资本所造成的影响。

因此，若要真正衡量综合报告运动的影响，就不应只看综合报告的数量，而应考虑「综合思维」的影响。所谓综合思维，就是高级管理层和董事会须对机构的活动、以及机构在其所处的价值链和社会中的位置有更全面的看法，要求他们评估各类资本和业务单位之间的连系和互相依存的程度。这涉及观念上的改变，不仅只狭窄地看短期的财务回报，而应在更广阔的层面了解创造价值的过程。尽管法规上没有综合报告的规定（目前只有南非把综合报告列为上市条件），但全球各地的不同界别和公司都感受到综合报告运动的存在，相信正是这种观念改变的结果。

这样一来，综合报告会否成为将来企业报告的标准模式？我相信在许多方面，这已成为事实，而特许秘书可发挥关键作用，提醒董事会留意这个新

现象。现在距离修改规例规定采取综合报告模式的日子尚远，最终也未必引入这样的规定。虽然按照国际综合报告委员会的框架编制综合报告的方式未必适用于所有公司，然而，采纳综合思维、认识21世纪营商的新社会契约，有其竞争优势；假如忽略这点，代价将会很大。



谭国荣 FCIS FCS

Integrated reporting: redrawing the bottom line

FINANCIAL
manufactured
INTELLECTUAL
HUMAN
social and relationship
NATURAL

Integrated reporting hopes to redraw the corporate bottom line with its measurement of non-financial 'capitals'. While only a few listed Hong Kong companies have adopted its principles, the International Integrated Reporting Council, under new leader Richard Howitt, believes that integrated reporting is already shaping the future of corporate reporting.

It was Peter Drucker, the celebrated American management guru, who reportedly declared, 'if you can't measure it, you can't manage it'. An oft-repeated mantra in the 1970s, Drucker's call for pertinent data seemed reasonable back then. Today, executives realise that so much of their decision-making is based on immeasurable data, whether it's the abilities of a new hire, the effectiveness of a leadership meeting, or consumer tastes of the future.

So too with the corporate bottom line: profit and loss is not the only performance metric. A broader picture would look at a company's governance and strategy, and the effect of a company on workers and the environment – elements not easily measured by traditional financial reporting methods.

Many movements to make companies more accountable for their environmental and overall societal impact emerged along with the environmental crusades of the 1960s. Industrial and environmental disasters – in particular the Union Carbide chemical poisoning of thousands in Bhopal, India, in 1984 – galvanised global protests.

The 1980s saw the popularisation of corporate social responsibility and the emergence of frameworks covering the environmental, social and governance (ESG) performance of companies. The raised expectations on companies' ESG performance and reporting standards were first thought of as an expensive burden but by the early 1990s, such

concepts – and the idea that the ability to identify issues that materially affect a business model or the ability to create long-term value would improve risk management – had become 'sustainability'.

In 2002, a Danish biotechnology company, Novozymes, produced the first example of what is today known as an integrated report. 'Our decision to bring everything together in one report is a natural consequence of business and sustainability moving ever closer together, and of various stakeholders asking for a wider overview of the business,' Steen Riisgaard, a biofuels pioneer who was its chief executive officer until 2013, said at the time.

The idea of codifying integrated reporting into a single set of principles emerged in South Africa and the International Integrated Reporting Council (IIRC) was formed in London in 2009. Today, about 1,500 companies worldwide have switched to integrated reporting as set down by the IIRC Framework, launched at the end of 2013.

'The IIRC Framework is a set of principles that covers an organisation's value creation beyond financial and manufacturing capital,' says Wendy Yung FCIS FCS, Founder of Practising Governance, a consultancy that focuses on companies' capacity building for corporate governance, and the Institute's Council member.

Driving adoption

At the core of the integrated reporting movement is the concept of the six capitals:

1. financial
2. manufactured
3. intellectual
4. human
5. social and relationship, and
6. natural.

Highlights

- today, about 1,500 companies worldwide have switched to integrated reporting as set down by the International Integrated Reporting Council Framework, launched at the end of 2013
- integrated reporting requires integrated thinking – the active consideration by an organisation of the relationships between its various operating and functional units and the capitals that the organisation uses and affects
- integrated thinking is a core competence of company secretaries

Together they represent stores of value that are the basis of an organisation's value creation.

Only a few Asia-Pacific companies publish reports based on the IIRC Framework and in Hong Kong the adoption of integrated reporting by listed companies is a voluntary exercise. Among those that do are CLP Group, HSBC, Link REIT, Pacific Basin, Swire Pacific and a Mainland utility company, CGN Power.

'Sadly, the great majority of Hang Seng Index companies have not taken up integrated reporting,' notes Robert Gibson, an adjunct professor at The Hong Kong University of Science and Technology (HKUST) who teaches sustainability and environmental social and governance management and reporting.

Yet Calvin Lee Kwan, General Manager of Sustainability at Link REIT and a leading advocate of integrated reporting in Hong Kong, says integrated reporting is more common than widely thought. 'A lot of Asian companies are family businesses and some of the most sustainable businesses I know are family businesses,' he says. 'They have long been aware of concepts such as treating employees well. They have been doing it for years.'

Mr Kwan believes integrated reporting will grow organically in Hong Kong because there is motivation. 'Listed companies such as Link REIT, Swire and CGN Power are now adopting integrated reporting as awareness of the importance of pre-financial information grows,' he says. 'It is a way of telling people how you do business and helps businesses understand their business better.'

Two factors have raised the profile of integrated reporting in Hong Kong. The first

was the amendment to the Companies Ordinance to require issuers to include a business review in their annual reports, reporting on environmental and employee matters that have a significant impact on the company. This is in line with international trends to promote corporate social responsibility.

The second was the introduction by Hong Kong Exchanges and Clearing Ltd (HKEX) of its *Environmental, Social and Governance Reporting Guide*. The Guide was originally introduced under the listing rules as a recommended practice in 2012. In 2015 the Guide was revised upgrading many recommended disclosures to 'comply or explain'.

'Given the recent ESG disclosure requirement by the Hong Kong Stock Exchange, we do hear clients taking further steps towards integrated reporting,' says Ivan Tong, Climate Change and Sustainability Services Partner at EY China.

Critical role model

Integrated reporting, according to Ms Yung at Practising Governance, is not just a reporting process. 'It is a whole new way of seeing the value creation process and there are some inspiring concepts,' she says.

'Company secretaries are members of management and they must keep the board updated on trends and the underlying drivers,' says Ms Yung. 'They play a key role in corporate reporting and should advise the board on the best way to articulate its story. Company secretaries can further enhance their own strategic role at the same time.'

The introduction of ESG reporting requirements by the Hong Kong Stock

“
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in the way it reports
”

Richard Howitt, Chief Executive Officer,
International Integrated Reporting
Council

Exchange captured the attention of company secretaries, says Mr Kwan. Whether that will lead to integrated reporting is a matter of debate. 'They have a lot to do already,' he adds. 'I don't think integrated reporting is at the top of their list.'

At this relatively early stage, the decision on whether to adopt integrated reporting – or some elements of the IIRC Framework – may well depend on the sector. 'In a sector like mining for example, ESG goes to the heart of the business. Without bearing the name "integrated thinking", the company may already think beyond financial inputs for its business model,' Ms Yung says. 'In this case, it seems to be a natural progression to consider integrated reporting.'

Company secretaries will have to work closely with other departments to monitor the preparation for, and introduction of, integrated reporting. 'You will see a lot of



investors ask about integrated reporting,' says Mr Kwan. 'Sometimes the corporate communications or the sustainability teams will be very interested as well. When someone asks what is necessary, what is required, that's when the company secretary input comes in.'

He agrees that forward-thinking company secretaries hold the key. 'We have to find the cutting-edge company secretaries – the ones willing to be pioneers. They are the ones who can really help drive integrated reporting.'

Hybrid developments

The IIRC has entered a new phase with the appointment in November 2016 of Richard Howitt, a former member of the European Parliament, as the IIRC's Chief Executive Officer. He succeeds founding CEO Paul Druckman. 'Integrated reporting is about a behaviour change within an organisation and the way it strategises, thinks and acts, not just in the way it

reports,' Mr Howitt tells *CSj* in an interview from his London office.

He says the organisation's current public consultation, which ended on 30 April, is aimed at 'listening to and learning from the market' by inviting public feedback on both incentives and barriers to applying the Framework. 'The IIRC's short but ambitious history has been based on consultation,' he says. 'It was something we did via a pilot programme that involved more than 150 businesses and investors testing and developing the Framework.'

The consultation is not expected to result in a modified Framework, Mr Howitt adds. 'It could lead to the IIRC issuing new guidance or technical practice notes if we identify particular difficulties of understanding or implementation from the feedback we receive. What we want to do is better understand this learning process.'

The IIRC will be hoping that the public consultation period will reaffirm the Framework's validity. 'For the integrated reporting approach to be more convincing, solid evidence is needed to endorse the approach,' says Mr Tong at EY China.

Integrated reporting's fundamental ideas are spreading. 'Perhaps the IIRC's biggest achievement lies in the influence it had on the development of the strategic report in the UK,' says Matt Chapman, Senior Manager for Better Business Reporting at KPMG in London (see 'The UK strategic report' below). 'The terminology may be different and more business-focused but all the key concepts are present.'

Reports under the UK Financial Reporting Council's *Guidance on the Strategic Report* might not be called integrated reports but nevertheless fit the criteria to some extent. 'Companies can consider different ways of implementation,' says Ms Yung at Practising

The UK strategic report

Since 2013, most companies in the UK (only those companies qualifying as 'small companies' are exempt) must prepare a strategic report as part of their annual reports. The strategic report, which replaces the business review in the directors report, should provide insight into the entity's business model and its main strategy and objectives. It should also describe the principal risks the entity faces and how they might affect its future prospects.

More information is available on the UK Financial Reporting Council's website: www.frc.org.uk (see 'Guidance on the Strategic Report')

Governance. 'For instance, integrated reporting stresses linkages between strategy and risks. This is something all good reports should address.'

As in the UK, some Hong Kong companies are looking to cherry-pick from integrated reporting and other frameworks. The Hongkong and Shanghai Hotels, for example, describes its last report as 'moving towards an integrated reporting style.'

The IIRC's Mr Howitt says he has no problem with such hybrid reports. 'Under my leadership,' he says, 'integrated reporting will retain a principles-based approach and I welcome the practice where some companies choose additional metrics from one of the sustainability reporting or other frameworks, where they find that helpful.'

Better reporting

Integrated reporting, to an extent, was developed as a response to annual reports becoming not fit for purpose, according to Professor Gibson at HKUST who described them as exercises in complying with regulations rather communicating how companies were creating value. 'They also focused on the financial capital of a company when the majority of many company's share price was justified by the social and natural capital it controlled,' he says.

Annual reports had also become physically unwieldy. Professor Gibson cites HSBC's infamous 2007 annual report, which weighed 1.47 kilograms, as a low point. Britain's Royal Mail limited the number of copies that postal workers could carry to four at a time. Integrated reporting, he says, set out to create concise communication to its financial capital providers on how a company creates value.

“
it's not just a reporting process, it's a whole new way of seeing the value creation process”

Wendy Yung, Founder, Practising Governance



'Some companies, such as CLP, have done excellent work explaining their business models,' Professor Gibson says. 'But they have published integrated reporting material as part of their statutory annual report,' he adds. 'The resulting combined report is further than ever from the objective of a concise report providing the most important issues affecting the value of the company.'

Professor Gibson looks more to Link REIT's model, citing its 68-page strategic report prepared to IIRC Framework standards supported by a 172-page annual report that includes full financial statements and corporate governance disclosures required by regulators.

The future for integrated reporting in Hong Kong is unclear. 'The problem is the great majority of Hong Kong companies are not going to do it without a regulatory push,' Professor Gibson says. Despite its ESG guidelines, the Stock Exchange is unlikely to mandate adoption in the foreseeable future. HKEX declined to comment, but so far it has

only 'taken into consideration' aspects of integrated reporting.

Furthermore, companies are under pressure to adopt a number of similar and competing frameworks issued by such organisations as the Sustainability Accounting Standards Board, MSCI, Global Reporting Initiative and Carbon Disclosure Project. 'They ask all the same questions,' says Mr Kwan. 'It certainly would help if these organisations were all aligned.'

There is another, more significant, obstacle. 'Integrated reporting calls for forward-looking statements and for discussing items such as social and natural capital which are difficult to value,' Professor Gibson points out. 'Worries about being sued for statements that later turn out to be misleading might stop many companies and assurers from reporting fully. Legislation is therefore necessary to limit liability.'

George W Russell
Journalist



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Mergers and acquisitions: further guidance for practitioners



The Institute's Takeovers, Mergers and Acquisitions Interest Group launched a new series of guidance notes earlier this year designed to help company secretaries navigate the complexities involved in managing and advising on merger and acquisition (M&A) transactions. CSj takes a look at the second guidance note in this series which addresses the structuring of M&A deals commonly conducted in Hong Kong.

The Institute's Takeovers, Mergers and Acquisitions Interest Group published its first guidance note on M&A transactions in January this year. Following that broad-based introduction to M&As, the second guide in the series, available on the Institute's website: www.hkics.org.hk, gives detailed guidance on the structuring of M&A transactions.

Structuring options

M&A deals can take many different forms and preparing for a potential M&A deal will require a very careful look at the pros and cons of the types of M&A structures available to ensure that the process has the best chance of success. The new guidance note sketches out the basic differences between the types of transactions commonly seen in Hong Kong and provides a detailed review of the considerations relevant for practitioners involved in the decision of how to structure the M&A transactions, both from the perspective of the buyer and the seller.

Broadly speaking, mergers involve the absorption of one company into another and acquisitions involve, usually, share acquisitions or asset transfers. Where buyers purchase shares, they acquire the customer base, the distribution network and the intangible assets (such as trademarks) of the target company, but also the assets, liabilities and obligations of the target company. By contrast, in an asset acquisition, the buyer acquires only

specific, identified assets and liabilities. 'An asset purchase is therefore preferable to the buyer if it is concerned about certain liabilities of the target, for example ongoing litigation, bad debts, employee claims, or any unquantified or unknown liabilities,' the guidance states.

Negotiating options

From the perspective of the seller, a major issue which needs to be considered in M&A transactions is which negotiation method to opt for. While there are obvious advantages for the seller in using an auction process, the guidance warns that there are potentially significant risks involved.

'The competitive nature of an auction process is perhaps its greatest advantage as it tends to be regarded as affording a seller the best opportunity of maximising potential sale proceeds,' the guidance states. It adds, however, that it is difficult, if not impossible, to maintain secrecy

about an auction process. 'Plans to dispose of the business are likely to become known to trading partners, employees and competitors. In the case of a listed seller, public knowledge of the auction may affect the price of its shares and an announcement of the intended sale may be required,' the guidance states.

Moreover, it may not be easy during an auction process to compare competing bids where potential buyers have very different requirements as to structure, conditionality, regulatory approvals, employees, and of course in relation to the drafting of documentation. Other potential disadvantages of an auction process highlighted by the new guidance note include:

- the cost to the seller is usually higher
- a greater degree of planning and process management is required

Highlights

- preparing for a potential M&A deal will require a very careful look at the pros and cons of the types of M&A structures available to ensure that the process has the best chance of success
- while there are obvious advantages for the seller in using an auction process, the new guidance warns that there are potentially significant risks involved
- the process of obtaining shareholder and regulatory approvals as well as third-party consents will usually have a significant impact on the timetable of the transaction

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company secretaries play a prominent role in the shareholder approval process, including identifying the relevant shareholder approval requirements, presenting the shareholder circular, notice of the shareholder meeting and related documentation, and arranging the shareholder meeting
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- the process can exert a more significant drain on management time and attention, and
- the risk of leaks of confidential information are higher.

The guidance also warns of the negative consequences if the auction process fails. In particular, the public knowledge of the failed attempt may damage the business and will prejudice the prospects of a future sale. 'Sellers should therefore assess and balance these difficulties against the perceived benefit of the maximisation of the price,' the guidance states.

Compliance considerations

A highly useful aspect of the new guidance is its detailed discussion of the compliance issues that commonly arise in M&A deals in Hong Kong.

Shareholder approvals

Company secretaries play a prominent role in the shareholder approval process, including identifying the relevant shareholder approval requirements, presenting the shareholder circular, notice of the shareholder meeting and related documentation, and arranging the shareholder meeting.

The articles of association or any shareholders' agreement that relates to a buyer or seller that is an unlisted company may include provisions preventing directors from making substantial acquisitions or disposals (whether of shares or assets) without shareholder approval. If the buyer or seller is a company listed in Hong Kong, the Hong Kong listing rules will require shareholder approval if the transaction is of a particular size or is with (or involves) a connected person.

The guidance provides a useful summary of the rules that apply to 'notifiable transactions' (in Chapter 14 of the Hong Kong listing rules) and those that apply to 'connected transactions' (in Chapter 14A of the Hong Kong listing rules). Often referred to as the 'size tests', these rules are designed to ensure that shareholders are informed about significant transactions and transactions involving connected persons and, in certain circumstances, allowed to vote on them. Similar rules apply to companies listed on other stock exchanges.

Regulatory approvals

The particular nature of the target business may require the buyer to obtain approval from a sectoral regulatory authority, whether for a share or asset purchase. Acquisitions of businesses in sectors such as financial services, broadcasting and telecommunications will typically

require approval from one or more sectoral regulatory authorities. A key regulatory consideration in M&A transactions is whether any merger control filing in any relevant jurisdiction will be required. This will require a detailed analysis of the turnover of each relevant party and the markets involved and, if filing is required, preparing and submitting the subsequent filing.

Third-party consents

On a share sale, the consent of certain third parties such as the target company's major customers, suppliers or financiers may be required where key contractual arrangements with those third parties are subject to change of control provisions. The guidance points out that the buyer will usually be keen to ensure that it is purchasing a company with the benefit of those key contracts and so has an interest in seeing that such consents are obtained.

On an asset sale, the assets do not pass to the buyer with an acquired entity as

they would under a share sale. Instead they are individually acquired and there is a change in ownership of the assets themselves rather than of the company that owns the assets, as on a share sale. Consent to that change of ownership may be required from, depending on the asset in question, third parties such as landlords.


The buyer and the seller may also need approval from any of their own financiers, for example if the terms of their own financing arrangements contain restrictions on their ability to buy or sell assets or companies.

Timing

The new guidance also addresses the important issue of the timetable for M&A transactions. Public M&A transactions (such as the acquisition of a controlling stake in, or the privatisation of a listed company), will be subject to a timetable prescribed by the relevant takeover rules

(being the Takeovers Code in Hong Kong's case) and by the court in the case of a court-sanctioned scheme of arrangement. There are no rigid rules that mandate a particular timetable for a private M&A transaction, however.

In general, parties involved in an M&A transaction will want to execute the transaction as quickly as possible, but the guidance points out that there are many potential obstacles to a speedy execution. Negotiations between the parties, for example, may be protracted. The scope of the due diligence exercise conducted can also elongate the transaction timetable prior to signing. Moreover, there may be delays to the buyer putting in place sufficient funding for an acquisition.

Finally, of particular relevance to company secretaries, the process of obtaining shareholder and regulatory approvals as well as third-party consents (described above) will usually have a significant impact on the timing of the transaction. The guidance urges practitioners to give careful consideration to this point. 'The process of obtaining the approval of the shareholders of a listed company and preparing any requisite accountants' report and valuation report (in particular in the case of a mining business) can impact the timetable of the transaction,' it points out. 'It is prudent to identify these requirements and plan the related workstreams at the outset of the transaction with a view to ensuring an efficient and smooth transaction.' 

The Institute's Interest Groups

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

The members of the Takeovers, Mergers and Acquisitions Interest Group are: Michelle Hung FCIS FCS (Chairman), Dr David Ng FCIS FCS, Henry Fung, Kevin Hoi, Lisa Chung and Philip Pong. Mohan Datwani FCIS FCS(PE), Institute Senior Director and Head of Technical & Research, serves as secretary.

The six other Interest Groups cover the following areas: company law; competition law; ethics, bribery and corruption; public governance; securities law and regulation; and technology. In addition to the two guidance notes on M&A transactions, three other guidance notes (on public governance, technology and competition law) are available from the Publications section of the Institute's website: www.hkics.org.hk.

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

The 'Mergers and Acquisitions Guidance Note: Part 2: Structuring of M&A Transactions' will be published in May 2017 and is available on the Institute's website: www.hkics.org.hk.

Towards an inclusive governance – part one

The winning paper of the Institute's Corporate Governance Paper Competition 2016 argues in favour of an inclusive stakeholder approach to corporate governance.

This submission advocates an inclusive stakeholder model for the implementation of better corporate governance. In particular, it departs from the traditional emphasis on the key internal stakeholders of a corporation. A step-by-step approach is adopted here to highlight the interdependence of our five-stage inclusive stakeholder model of corporate governance. This submission aims to unite all the internal and external stakeholders to shoulder their share of responsibility and to contribute to better corporate governance through collective action.

Defining corporate governance

It is central to our submission that the ideal state of corporate governance should be inclusive of all stakeholders. In this submission, corporate governance is defined as the relationship between the

internal and external stakeholders that have influence on the operations of a corporation. The definition stated here is modified in three ways. Firstly, external non-shareholding stakeholders, such as market intermediaries and regulators, are included. Secondly, more internal stakeholders, such as management and staff, are included. Thirdly, a new arena, other than the regulatory and market spheres, should be constructed to bring together the forces of activist bodies, media and the community at large.

Having adopted an inclusive stakeholder model, what are the model's implications for corporate governance? The first implication is that different stakeholders may hold varied opinions on the meaning of corporate governance. Although corporate governance as a process seeks

to involve all stakeholders, corporate governance as a standard consists of universal values. The World Bank has defined corporate governance succinctly as generating 'long-term economic value for its shareholders, while respecting the interest of stakeholders and society as a whole'. As a result, achieving better corporate governance is about striking a sustainable balance between stakeholders and should not be compromised by any individual powerful stakeholder.

Another implication is that corporate governance is more than corporate regulation. There is often a gap between regulatory standards and recommended practices for achieving good corporate governance – in particular, the ideals of corporate social responsibility and ethical governance cannot be provided for by legislation.

What are the universal values encapsulated by the notion of corporate governance? The Organisation for Economic Co-operation and Development's (OECD) Principles of Corporate Governance 2004 identify transparency, accountability, fairness and responsibility as the four pillars of corporate governance. The OECD Principles also determine that the four pillars translate into the following elements – the rights and the equitable

Highlights

- the winning paper advocates a more inclusive approach to corporate governance, as opposed to the traditional focus on primary stakeholders
- the authors suggest that the way forward is to broaden the concept of corporate governance to achieve corporate social responsibility and ethical governance through corporate governance
- the authors urge the Hong Kong government to concentrate on attracting high-quality investors by elevating the benchmarks of corporate governance rather than watering down compliance standards to expand the market



Institute Council member and Education Committee Chairman David Fu FCIS FCS(PE) presenting the champion paper award to the winning team

treatment of shareholders; timely and accurate disclosure of material matters; accountability; and the effective oversight of the board of directors.

While there is wide agreement on these four pillars, there is still disagreement as to the means of implementing corporate governance through internal and external forces. This submission adopts a more inclusive approach as opposed to the traditional focus on primary stakeholders. Moreover, we suggest that the way forward is to broaden the concept of corporate governance to achieve corporate social responsibility and ethical governance through corporate governance.

The importance of corporate governance to different stakeholders

The inclusive stakeholder model we propose only makes sense if sound corporate governance brings value to all stakeholders or, alternatively, feasible incentives can be created. In this section we evaluate the value of corporate governance to internal stakeholders,

shareholders, non-shareholding external stakeholders, and the community at large.

Internal stakeholders

Internal stakeholders, including directors, managers, company secretaries and employees, benefit from the improved business reputation and firm performance that results from good corporate governance. Most studies suggest a positive correlation between stock returns and the state of corporate governance in a company. Moreover, good governance provides a company with access to lower capital costs.

External stakeholders

For non-shareholding stakeholders such as creditors and suppliers, the compliance with good corporate governance practices gives a reliable indicator of the risk of default. As a result, these stakeholders value sound governance as they know that this helps to reduce due diligence costs and builds up business confidence.

Good corporate governance also appeals to institutional investors. They place strong

emphasis on governance indicators and companies with better governance standards often have a higher proportion of foreign ownership. This in turn relates to the value of corporate governance to Hong Kong as an international financial centre. To maintain Hong Kong's status as an IPO centre, the government should focus on the quality and not the quantity of listings. The policy direction should concentrate on attracting high-quality investors by elevating the benchmarks of corporate governance rather than watering down compliance standards to expand the market.

Core problems in Hong Kong

The existing problems of corporate governance in Hong Kong can be summarised as follows.

- imbalance of shareholding structure – concentration in shareholding, lack of minority shareholder protection and low shareholder activism
- loopholes and the obstacles in the legal/regulatory framework – particularly with regard to

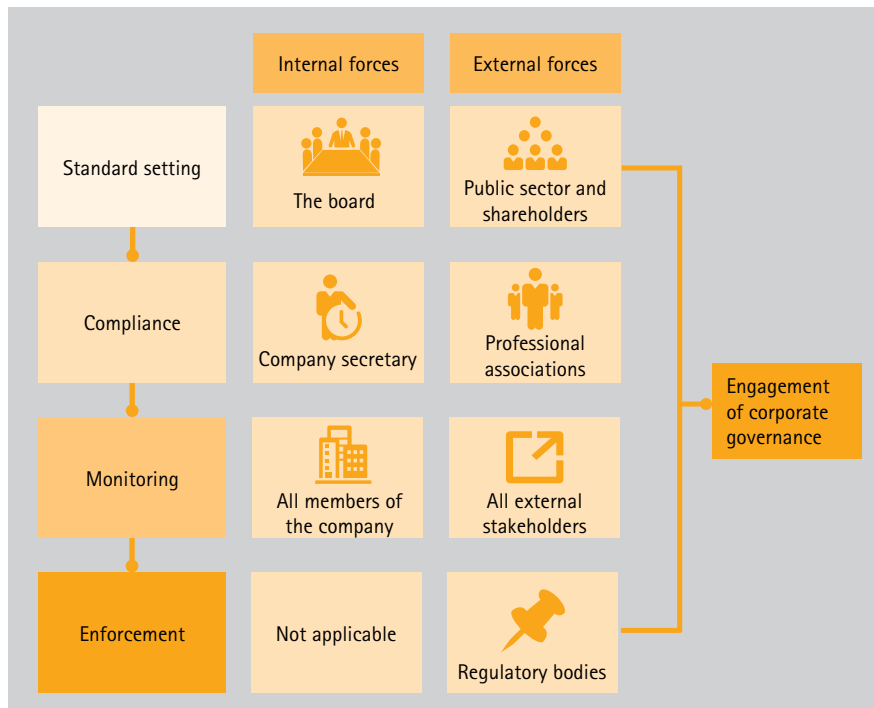
predominance of Hong Kong-listed companies with an overseas domicile

- insufficient disclosure and transparency
- insufficient independence of directors, and
- over-reliance on governmental regulation with little emphasis on public and market involvement.

The problem of the under-representation of public interest and limited public discussion of governance issues is prevalent in Hong Kong. A public activist group is the most cost-effective way to represent the interests of minority shareholders. In Hong Kong, the minimum public float is only 25% for listed companies; this limits the room for minority shareholders to exercise their rights and powers. Given the predominance of controlling shareholders and prevalence of family cross-shareholdings in Hong Kong, there is surprisingly no minority shareholder activist group. Also, there is no institutionalised public lobbying – just one vocal activist, David Webb. Furthermore, in spite of a relatively sound regime of shareholders' remedies as in the availability of derivative action and other remedies, minority shareholders cannot afford to resort to legal action because of the costs and time delay.

The Minority Shareholder's Watchdog Group in Malaysia is a successful example of a developing public watchdog group. The functions of the watchdog group are to make inquiries into the company about market misconduct and to demand reasonable explanations. To achieve minority shareholder protection, a cost-

Inclusive stakeholder model



effective and time-efficient protection is needed to tackle the problems of limited resources and insufficient bargaining power. The failure of companies to give adequate reasons for non-compliance or simply no response is a powerful weapon that may attract public scrutiny and investors' suspicion. It is also likely that a public watchdog group could gain bargaining power following active enquiries.

The inclusive stakeholder model

Our inclusive stakeholder model of corporate governance adopts a step-by-step approach by dividing corporate governance into five stages (see the graphic 'Inclusive stakeholder model' above). The five stages – standard setting, compliance, monitoring, enforcement and engagement – are interrelated and mutually reinforcing. The graphic above highlights the key internal and external

stakeholders for each stage, although each of the five stages are designed to be as inclusive as possible.

In this first part of the article, we look at the first standard setting stage of the model. This first stage means the construction of a legal and voluntary framework that consists of benchmarks and the standards for compliance. As corporate governance has to balance the interests of stakeholders and society, in order to elicit compliance from all stakeholders, the corollary is that the opinion of all stakeholders should be welcomed and respected in the process. In other words, the relatively dominant stakeholder should not marginalise the voices of others. An inclusive stakeholder model is desirable for the standard setting stage because effective corporate governance requires the collaboration of both internal and external forces.

“ the interest of minority shareholders and the general public are given disproportionately low representation as compared to that of vested interests ”

The notion of corporate governance concerns not only the must-dos, but also the should-dos. In this respect, external stakeholders play a key role in elevating and broadening the standard and expectations of corporate governance. External stakeholders bridge the gap between the minimum standards prescribed by the law and best practice. It is argued that the unbalanced representation of various stakeholders is the root cause for the core problems in standard setting. Specifically, the interest of minority shareholders and the general public are given disproportionately low representation as compared to that of vested interests.

Standards of independence

The presence of independent non-executive directors (INEDs) forms an integral part of corporate governance in a company. The INEDs should play the role of a 'watchdog' to safeguard the interests of the minority shareholders. Their importance is highlighted in the requirement that each board of directors must include at least three INEDs. In order to further ensure the authority of the INEDs, they must represent at least one-third of the entire board. This practice averts the possibility of the

power of the executive directors going unchecked.

There have been concerns that, where independent directors serve several companies simultaneously, questions should be raised as to whether they can spare sufficient time to oversee the corporate governance of the company. Another issue regarding the board is that some companies employ INEDs just to meet the statutory requirements and even elect INEDs without adequate financial or management knowledge to serve on the audit committee. Every member of the audit committee should possess the required standard of knowledge on auditing and management.

Standards of disclosure and transparency

Audits, whether by the internal or external auditors, or by the audit committee, can play a significant role in monitoring corporate disclosures. Their primary role is to ensure the corporate information released is relevant, reliable, timely and accurate. Establishing pertinent standards of disclosure are of vital importance for auditors in executing a fair audit of organisations. Although there are existing standards from external regulatory bodies such as the Securities and Futures Commission, those standards usually merely satisfy the minimum legal requirement.

'SMART' standards

When there is a gap between legal requirements and ethical standards, a company should establish its own disclosure standard that is above the legal requirements. The standard should be 'SMART' as set out below.

Specific – the standard should specifically state what information has

to be disclosed other than the minimum legal requirements.

Measurable – the standard should be measurable so that the company can constantly measure its progress and improve its disclosure.

Attainable – the standard should be reasonable so that the company has room to keep certain business information private.

Relevant – the company should disclose relevant information that affects the public interest.

Time-framed – the disclosure should be released in a timely manner.

A bottom-up approach is suggested so as to enable the minority stakeholders to have a say on the standards. This can help resolve the problem of unbalanced representation and minimise the gap between legal requirements and ethical standards.

Publicly initiated standards

Besides relying on the company's self-discipline, public activists can also help to push the development of information disclosure and for the better corporate governance. They can publish some recommended standards for the company's reference. As outsiders, they can probably suggest fairer standards without being driven by private interests. Therefore, the company could refer to publicly initiated standards and improve their own standards as well, which could be a possible external force for better corporate governance.

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E-signatures: your questions answered

Zoe Chan So Yuen FCIS FCS, LLM, Solicitor, reviews relevant e-signature legislation and guidelines in Hong Kong and around the world, and brings readers up to date with best practice recommendations on the use of e-signatures.



As increasing numbers of organisations are looking to digital solutions to improve their document control processes, readers of this journal, in their capacity as in-house legal counsels and company secretaries, may well have been quizzed by management about the enforceability of electronic signatures (e-signatures). This article reviews the compliance aspects of the use of e-signatures in Hong Kong and globally, and looks at how e-signatures can reduce risk and strengthen enforceability of signed records.

E-signature legislation and practice notes

Mobile devices – including mobile telephones, PDAs, laptops and notebook computers – are now used for a wide range of e-business transactions executed daily, and digital signatures have become increasingly important for the rapid development of mobile telephone commerce and social media transactions (m-commerce). This increasing use of digital signatures in m-commerce will require mobile digital signature sophistication to be integrated into the mobile devices to enable users' identification and authentication in their contractual transactions.

Many countries adopt a two-tier regulatory regime governing electronic signatures, including minimalist and prescriptive laws. The minimalist approach accepts all, or most, electronic signatures on a technology-neutral basis, while prescriptive laws dictate specific technical methods to electronically sign a document.

UK law

English law has long been a popular choice for international parties entering into Hong Kong commercial contracts.

The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 and the Practice Note issued by the City of London Law Society provide the latest rules and guidance for the execution of documents using e-signatures. E-signatures can be used by companies incorporated under the UK Companies Act 2006 (UKCA). For example, if the minutes of directors' or general meetings, or written resolutions, are signed by one of the company's authorised persons by an e-signature, those records will have been sufficiently authenticated.

An e-signature is different from the concept of 'virtual execution' or 'virtual signing' of a legal document as stated in *Mercury Tax Group v HMRC* [2008] EWHC 2721. Virtual execution of Hong Kong contracts cannot be relied on with certainty as the Mercury case has never been tested in a Hong Kong court.

The UK Electronic Communications Act broadly allows e-signatures to take a wide range of forms, including an authorised person signing by:

- i. typing his/her name into the document
- ii. using a stylus on a touchscreen device, and

- iii. applying unique digital coding to a document as a form of identification (collectively known as 'digital signatures').

US law

In practice, not all e-signatures and their contractual risk management rules are treated equally around the globe. The governing laws relating to e-signatures in the US are contained in the Electronic Signatures in Global and National Commerce Act and the Uniform Electronic Transactions Act.

HK law

In Hong Kong, The Electronic Transactions Ordinance (Cap 553) provides legal frameworks for electronic records and e-signatures. Most government services advocate the use of digital certificates issued by certification authorities which facilitate efficiency and service delivery of commercial transactions. On the other hand, commercial and banking services in Hong Kong use various forms of e-signatures, including digital signatures supported by digital certificates issued by certification authorities.

European Union (EU) and Brexit

The EU Regulation No 910/2014 on Electronic Identification and Trust Services for Electronic Transactions in the Internal Market, go further than the

Highlights

- compliance professionals are recommended to formulate corporate 'best practice' policies for the use of e-signatures
- the use of digital signatures can have drawbacks and possible loopholes for fraud
- Brexit will create uncertainty regarding the effectiveness of English law to govern e-contracts in Hong Kong

Get the FAQs

<p>1. Are there any formalities required when using e-signatures for simple contracts?</p>	<p>No – unless formalities are agreed by the parties, there is no need for contracts to be in a particular form for a simple contract with an e-signature of an individual acting in a personal capacity or as the authorised representative of a company.</p>
<p>2. How can proof of an e-signature be submitted in writing?</p>	<p>An e-signature is valid if:</p> <ol style="list-style-type: none"> i. the signatory inserts his/her signature in the execution section provided with the intention of signing that document ii. case law also confirms that typing a name into an e-mail can satisfy the statutory requirement for a document to be signed, and iii. the contract can be represented and shown on screen (including a desktop, laptop, tablet or smartphone) as long as the intended contracting party can read the terms properly.
<p>3. What is a valid proof of the witnessing formality? Is a track of the IP addresses of principal signatory and witness sufficient?</p>	<p>IP addresses may be inconclusive as it is possible to re-route addresses and other evidence may be available to show an individual's actual physical location. Always ensure that electronic channels are secure, to prevent unauthorised third parties signing and witnessing documents.</p>
<p>4. Can e-signatures be used in specialty contracts such as deeds?</p>	<p>No – it appears unlikely under the current companies' law to be possible to execute a deed by the affixing of a common seal electronically.</p> <p>It would be hard to prove that the deed was signed in the presence of a witness who genuinely observed the signing and attested to the signature.</p>
<p>5. How to address a conflict of law between parties from different jurisdictions?</p>	<p>See the above case analysis of Brexit for UK and EU contracts using e-signatures. It remains best practice when dealing with an overseas company (however it is executing the document) to seek local legal advice on the formalities for execution and other related issues. This includes Scotland, which has different rules on execution of e-contracts under UK law.</p>
<p>6. What is the approach of the Hong Kong government to e-signatures?</p>	<p>Most government services advocate the use of digital certificates issued by certification authorities. The Lands Registry and the Land Charges Registry currently require a wet-ink signature on a paper version of any document (including deeds) submitted to them for registration. Although the Lands Registry is researching an electronic mortgage service in the future, it is a good practice to keep up to date with the latest information.</p>
<p>7. How to prove contractual authorisation and authentication when using e-signatures?</p>	<p>Review the latest information as part of your vetting/execution process and fraud-related checks for routine e-contracts.</p>
<p>8. What potential problems regarding the effective date of an e-contract need to be considered?</p>	<p>A time stamp could demonstrate that a witness signed the document before the principal signatory (which might invalidate the witnessing) or lead to disputes as to the effective date of the contract.</p>
<p>9. What information security risks and computer fraud problems need to be considered?</p>	<p>If multiple documents can all be signed using the same user log-in details (for example, to sign on behalf of a company), the possibility of large-scale fraud could increase if those log-in details fall into the wrong hands.</p>

“ digital signatures have become increasingly important for the rapid development of mobile telephone commerce and social media transactions ”

UK regulations to define the concepts of 'electronic seals' and 'qualified electronic seals'. But these definitions have no linkage with the concept of a 'common seal' as set out in Section 44(1)(a) of the UKCA. Again, Hong Kong has no judicial interpretation of this.

In practice, courts and business communities have widely recognised the use of e-signatures in Europe. But it is a matter for each country to enact its national laws and recognise any local forms of e-signatures. Brexit will create uncertainty regarding the effectiveness of English law to govern e-contracts in Hong Kong. For example, the EU rules require member states to respect a choice of law, regardless of whether the contracting parties are EU-domiciled or whether the chosen law is that of a member state. Will EU countries, post Brexit, uphold the e-signature law in UK and Hong Kong? Given the uncertainties arising from Brexit, it is highly recommended for organisations to seek local professional advice to confirm whether an electronically signed document can be relied on in any jurisdiction outside the UK.

Common pitfalls and ways to avoid them

With the rapid spread of information communications technology (ICT) around the globe, e-signature laws in overseas jurisdictions may be in conflict with existing electronic contracts regulations in Hong Kong. Compliance professionals are recommended to formulate corporate 'best practice' policies for the use of e-signatures.

Since individual parties can always agree what will be an acceptable form of signature, they should appreciate the benefits of having good degree of flexibility in developing their contracting processes. A recent survey published by the *Journal of Experimental Social Psychology* revealed that e-signatures do not carry the same weight as the traditional pen-on-paper version. 'A person's unique handwritten signature is a symbolic extension of the self – that is a profound bond for one's honesty' the journal states. E-signatures may not always be effective in preventing dishonesty which is one of the essential purposes of a handwritten signature.

As illustrated in the 'Get the FAQs' table above, the use of digital signatures can have drawbacks and possible loopholes for fraud. Firstly, from the perspective of information security enforcement, digital signers need to rely on computer equipment, tools and software that may or may not be trusted to perform as requested. Secondly, handwritten signatures have an original that is distinguishable from copies while digital signatures do not. In some cases, handwritten experts need to be summoned to testify the authenticity of the handwritten signatories in legal documents. This is because certain

handwritten signatures can hardly be copied. But the digital signature copies produced by a stolen key are completely authentic. Practical IT and contractual strategies for using e-signatures will be required on a case-by-case basis.

Defined e-contract policy and e-document control solutions

Businesses and compliance professionals can determine their own e-document control policies, specifying what type of documents and e-signatures they will use. All in all, they are recommended to take into account the reliability, risks, simplicity and accessibility of the type they choose to adopt. It may be possible to have multiple originals of a document in both electronic and hard copy form.

For good contractual risk management, the contracting parties should agree in advance on what steps are to be taken before the e-document is circulated and executed, for example, ensuring witness availability, the extent of authority checks to be undertaken and engaging with potential counterparties as to their acceptance or otherwise with the use of e-signatures.

E-signatures validly authenticate documents. The courts can rely on the similar test for a wet-ink signature to authenticate an e-signature on case-by-case basis. With the widespread adoption of ICT, sophisticated digital signature services will emerge allowing stronger authentication, clearer and consistent intent tracking, a detailed audit trail and customisable e-disclosure and consent to create digital signatures that make it not only legal, but also legally defensible.

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Solicitor

Dual class shares

Singapore proposes a listing framework for dual class share structures



In June 2015, the Securities and Futures Commission opted not to allow dual class share structures for primary listings in Hong Kong on the basis that such structures would be too risky from the point of view of investor protection. Eng Leng Ng, Senior Partner; and Grace Ong, Partner; of Dentons Rodyk in Singapore, look at the safeguards proposed by the Singapore Stock Exchange as part of its proposed listing framework for dual class share structures.

The subject of dual class shares (DCS) has given rise to much debate in the context of public listed companies. Briefly, a DCS structure departs from the default one-share, one-vote concept by allowing companies to issue different classes of shares with different voting rights (for example non-voting shares or shares with multiple votes). This results in certain shareholders (typically the founding shareholders) obtaining voting rights disproportionate to their shareholdings and financial investment. The pros and cons of DCS structures have been debated extensively, with proponents advocating that DCS structures allow companies greater flexibility in capital management, and investors a wider range of investment opportunities.

Consultations by the SGX-ST

The Singapore Exchange Securities Trading Ltd (SGX-ST), in April 2016, sought the advice of the Listings Advisory Committee (LAC) on whether companies with a DCS structure – where shares in one class carry one vote each (OV shares) while shares in another class carry multiple votes each (MV shares) – should be permitted to list on the SGX-ST, and if so, the safeguards to be adopted. While voting in favour of permitting DCS structures to list on the SGX-ST, the LAC nevertheless identified the following key risks with DCS structures:

- entrenchment risks, where owner managers entrench management control of the company

- expropriation risks, where owner managers seek to extract excessive private benefits from the company, to the detriment of minority shareholders
- risks of poor quality listings, and
- risk of lack of clarity when investors invest in DCS structures.

Subsequently on 16 February 2017, the SGX-ST released a consultation paper on *Possible Listing Framework for Dual Class Share Structures*, seeking to explore whether such a listing framework for DCS structures should be introduced and, if so, what safeguards might be appropriate. This consultation paper comes in the backdrop of recommendations from the Committee on the Future Economy for the Singapore government to permit DCS structures for listed companies,

particularly given that DCS listings are increasingly being considered for industries such as information technology and life sciences.

Proposed safeguards

Additional listing criteria for DCS structures

To address the risks of poor quality listings, the LAC proposed to admit companies with a compelling reason for adopting a DCS structure, based on a holistic assessment, taking into account the listing applicant's 'industry, size, operating track record and raising of funds from sophisticated investors.'

Once the SGX-ST has assessed the applicant as suitable for listing, the LAC proposes that the SGX-ST refers such applications to the LAC for a second-stage review. It is envisaged that such a second-stage review will

Highlights

- the Listings Advisory Committee (LAC) of the Singapore Stock Exchange favours the adoption of dual class share (DCS) structures for listed companies
- the LAC has nevertheless identified key risks with DCS structures, such as the risk that owner managers use DCS structures to entrench their control of the company and to extract private benefits from the company to the detriment of minority shareholders
- the latest consultation on DCS structures by the Singapore Stock Exchange proposes a number of safeguards designed to mitigate the potential risks of DCS structures

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”



continue for an initial period after implementation of the listing framework. The restriction to new listing applicants aims to prevent existing listed companies from circumventing this restriction by engineering corporate restructurings, spin-offs or reverse takeovers.

Possible additional listing criteria supplemented by the SGX-ST include restricting listings to new issuers with a minimum market capitalisation of S\$500 million for primary listings on the Mainboard of the SGX-ST and requiring issuers to have raised funds from sophisticated investors.

Safeguards against entrenchment risks

- Maximum voting differential between each MV share and OV share to be 10 to 1, where each MV share carries up to 10 votes and each OV share carries one vote – to minimise the concentration of voting rights in owner managers.
- Restriction on issuance of MV shares post-listing, except in the

event of a rights issue – to prevent further entrenchment of voting rights in owner managers, or further dilution of voting rights of existing shareholders.

- Automatic conversion of MV shares in the event:
 - a. the owner manager sells or transfers his MV shares (with such transfer being restricted to another owner manager, an executive director or an executive officer); or
 - b. where an owner manager no longer holds the position of the executive chairman or the chief executive officer or equivalent, in both cases unless shareholders approve otherwise in a general meeting where the voting is on the basis that one MV share is limited to only one vote (Enhanced Voting Process) – to ensure that MV shares are solely for owner managers

to retain control to facilitate business decisions, and not to make their shares more valuable than OV shares.

- Sunset clauses providing for the automatic conversion of MV shares into OV shares at a fixed future date post-listing – to ensure that special rights are only available for an incubation period during which founding shareholders have the flexibility and security to plan for and make strategic business decisions on the future and growth of the company.

Safeguards against expropriation risks

- Independence element on the board – to provide assurance of independent scrutiny on owner managers' actions.
- Enhanced Voting Process on appointment of independent directors – to ensure that holders of OV shares have a greater say on the appointment of independent directors.
- Independent risk committee of directors – to oversee the company's risk management framework and policies.
- Coat-tail provision in the event there is a change of control of the DCS company – to ensure that holders of OV shares are able to participate in a take-over offer on an equal footing with holders of MV shares, by ensuring that where an offer is made to holders of MV shares, a concurrent and commensurate offer is made to holders of OV shares.

Measures to increase clarity to investors

To complement the safeguards against entrenchment risks and expropriation risks, listing applicants with DCS structures would be required to comply with the disclosure requirements specified in the Companies Act (Chapter 50) of Singapore, regardless of their place of incorporation.

These disclosure safeguards include requiring shareholders' approval by way of a special resolution for issuance of shares with different voting rights, setting out information on the voting rights of each class of shares in the notice of meeting,

and setting out in the constitution of the issuer the rights for different classes of shares. The SGX-ST would also require issuers to disclose holders of MV shares at the point of listing and in the issuer's annual report.

On the other hand, the SGX-ST will clearly demarcate, on trading screens, the securities of issuers with DCS structures.

Issues and alternative safeguards

The proposed safeguards are not without flaws. One key issue with the minimum market capitalisation of S\$500 million is that if DCS structures were intended

to support the growth of start-up companies, emerging companies in nascent industries (for example fintech) would be unlikely to satisfy this requirement. Alternatives to using a quantitative indicator may be to introduce DCS listings under Catalyst instead, or restrict access to only institutional investors and qualified retail investors.

There is also scope to explore expanding the Enhanced Voting Process to cover more trigger events, for example in board nominations (and not just limited to independent directors), winding up proposals, proposals to vary the rights of



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The Environmental, Social and Governance (ESG) reporting obligations are 'comply or explain', and the upgrade of the Key Performance Indicators (KPIs) under "Subject Area A: Environmental" of the ESG Reporting Guide to "comply or explain" will come into effect for issuers' financial years beginning on or after 1 January 2017.



“
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 ”

non-voting shares. These trigger events need not apply uniformly to all issuers with DCS structures and the means of implementing these may vary. For example, companies may exclude special rights entirely for certain transactions, or require that an independent committee of directors be set up and/or independent financial advisers be engaged for deliberating and advising shareholders on specified transactions. Taking one step further, if a corporate action is rejected by shareholders after a specified number of times, an additional safeguard may be to restrict any proposals for the same corporate action for a fixed duration after.

To align the interests of owner managers with the issuer, the SGX-ST may also consider imposing a minimum equity threshold to be held by founding shareholders through a moratorium period.

Lastly, the proposed review of, and changes to, the Code of Corporate Governance to strengthen corporate

governance practices and to enhance board independence, would dovetail with and complement the proposed listing framework for DCS structures.

Conclusion

As with the introduction of any new regulatory framework, the listing framework for DCS structures continues to be a work in progress depending on market reactions, investor appetite and investor environment – but it is a start.

What the SGX-ST needs to grapple with, and what investors in Singapore need to understand and appreciate, is finding the optimal balance between promoting Singapore as an attractive investment destination for IPO listings and protecting investors in Singapore from the very issuers that the SGX-ST hopes to attract. Too many safeguards would prove inimical to this pursuit.

The discussions on a listing framework are part of a bigger, evolving conversation on

the investor environment in Singapore. The hope is that with time, shareholders are given the options, and are empowered to make informed, investment decisions, without a regulatory big brother's oversight. In the context of DCS structures, factors such as an initial discounted share price, the long-term share price potential and the presence of investors other than the founding shareholders, would be relevant considerations to each individual investor depending on his/her investment priorities.

Ng Eng Leng, Senior Partner, Corporate; and Grace Ong, Partner, Corporate

Dentons Rodyk Singapore

The authors can be contacted at: engleng.ng@dentons.com; and grace.ong@dentons.com, respectively. More information is available online at: <http://dentons.rodyk.com>.

行政人員文憑/證書《中國企業管理》 Executive Diploma / Executive Certificate in PRC Corporate Administration

行政人員文憑《中國企業管理》有四個單元，學員只要成功完成單元一至單元四，並在持續評估中的個案分析取得合格成績，將獲發行政人員文憑《中國企業管理》。學生如成功完成單元一（中國公司行政）及其他任何一個單元，並在持續評估中的個案分析取得合格成績，將獲發行政人員證書《中國企業管理》。具體如下：

單元一 中國公司行政 Corporate Administration in PRC
單元二 中國公司治理 Corporate Governance in PRC
單元三 中國稅務 Taxation in PRC
單元四 中國公司法律 Corporate Law in PRC

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單元三 中國公司行政 Corporate Administration in PRC

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講者簡介

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- 工學學士、法學碩士、經濟學博士
- 十六年授課經驗，服務範圍包括：大學、國企企業、上市公司、政府、社區

上課時間及地點

課程為期一個月
授課時間：4堂，每堂6小時，共24小時
上課時間：週六14:00 – 17:00及18:00 – 21:00
授課地點：港島區其中一所教學中心

授課日期

2017年6月3日、6月10日、6月17日及6月24日（校方保留更改及調動課堂時間之權利）

每單元課程學費

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Best practices in entity management

Rudy Escalante, Chief Operating Officer – Global Services, ICSA Software International, looks at the advantages for company secretaries of having a centralised database within an entity management system providing a single source for all entity-related information.

Accurate entity information is crucial to a company's business function and timely compliance. While managing entity information may seem like a simple task, an ever-changing compliance and regulatory environment requires complicated entity management with coordination of information across time zones, languages and departments.

With limited back-office and in-house resources, many organisations rely on a network of decentralised systems that often result in an inconsistent approach to governance and regulatory compliance across jurisdictions. With separate entity management systems, recent changes may not be entered, data may not be symmetrical, and the entire compliance effort may be doubled or tripled in scope. No company should be expected to manage entity information without a centralised, custom-built entity management system.

However, a comprehensive entity management system is not the end goal. It is simply a starting point to facilitate compliance, acting as a destination and source for all entity-related information. The main objective of an entity management solution is the establishment of a single source for all entity-related information and the implementation of processes and procedures to ensure its precision, accuracy and timeliness.

To achieve this goal, users should have confidence that the entity management system accurately represents the information from all jurisdictions in which the company operates. Moreover:

- processes should be in place to ensure those who are the

source of the information are able to communicate it through the system

- the system should track the effective dates of all transactions, it should know the date a company was incorporated, but also the original purpose for the entity and the dates when everyone approved its formation
- processes should be implemented to ensure a regular review of all the core entity information – at a minimum, all the information should be reviewed annually to ensure that it is current and accurate
- an entity management system should serve as the official, central source for all entity information across all departments and should meet the needs of inter-departmental users, and
- the most effective solution will enable information to be shared among core applications and should synchronise between the entity management system and other applications to ensure accuracy.

Global entity management should begin with data input and management at the level that is most appropriate (local, regional, national, departmental, operating division and business unit). Data is then entered into the entity management system where it is consolidated with other entity-related information. A system designed from the bottom-up ensures the greatest accuracy by precisely capturing all the subtleties of the local entity information. Users can then be confident that the system is correct for their location and use.

For example, local variations such as titles and positions must be captured and recorded accurately. An effective entity management system should identify whether an appointment position can be filled by another legal entity or whether it must be filled by a natural person. To achieve the efficiencies and effectiveness of a global, unified system, details like date formats, currencies, company types, appointment titles and ownership information must be accurately and consistently represented.

Furthermore, in jurisdictions such as Hong Kong, Japan and Greece, company and individual names and addresses must be represented in the local language. The

Highlights

- a centralised, custom-built entity management system can provide a single source for all entity-related information
- this will ensure a greater level of accuracy and consistency for regulatory reporting and global corporate compliance
- such a system can also synchronise the many different data streams within an organisation, such as tax and legal entity data, to guard against discrepancies and inaccuracies

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 ”

system should easily maintain the native alphabet for individual names, entity name and local addresses, in addition to the English representation of that same information. Since translation inaccuracies are commonplace, translation of this information into English and back is not an option. Native information must be stored in a separate field that accepts the native language.

Global systems that do not meet the requirements of local users in all jurisdictions will create many problems. The accuracy of your information will always be suspect. When the global system fails, local data managers will no longer use it and will create or buy a secondary system or simply update a spreadsheet to keep their own information. This secondary (real) source of data can create long-term problems for the organisation. If secondary systems are allowed to exist, accuracy and overall effectiveness of the entity management system will suffer dramatically, and the overarching quality of transparency and reporting will become substantially compromised. Organisation charts and reports produced by multiple

systems will be incomplete and inaccurate because errors are cumulative, and the overall problem only grows and becomes worse over time.

Entity-related solutions

Obtaining the basic entity information: ownership, appointments and other core entity information is often considered the end goal. But entity management should not end there, it should provide the framework for all other compliance functions that require entity information. In fact, the entity management system should examine the uses of entity-related information throughout the company.

Many functions are entity-related but are not part of the core information area. The company benefits from extending the system to include other information and processes because a multifunctional system increases efficiency and allows costs to be spread over multiple areas. Moreover, the overall quality of the information improves for everyone. The entity name is consistently used in all applications.

All departments can help identify changes to core information, and an address change or a director of a subsidiary leaving the company can be reported quickly and more consistently if all departments are using the same system.

Entity management and tax solutions

Taxation compliance relies heavily on entity information. In many companies, tax has its own database of entities that duplicates much of the information found in the company's other system(s). When two systems with similar information are utilised at once, the quality of the information will be compromised. This problem can be addressed by synchronising the databases and bringing the tax information into the entity management system, creating a unified system for use by all departments.

Compliance surveys

There are many instances where the officers/directors of the organisation need to be surveyed for compliance or conformance with company policy. These surveys can be managed and the answers tracked as part of the entity management system. Compliance with the US Foreign Corrupt Practices Act is also facilitated by an entity management system.

Advanced business alerts

Proactive, automatic email notifications to individuals or groups are critical to the success of business process management. Notifications may be triggered based on:

- changes to entity information
- pending events launched by other people or systems
- approaching compliance, review or due dates

- escalation issues where designates have failed to respond, and
- exceptions such as vacant fields or other parameters.

Document automation

A well-conceived, well-built system is a 'compliance engine' that automatically creates jurisdiction-specific documents such as minutes, consents, resolutions, resignation letters, forms and reports. Using the entity management system to generate these documents ensures consistency and compliance with local requirements. For example, when

appointing a director, the system can generate jurisdiction-specific resolutions and forms, queue a pending event and wait while the resolution is signed by the shareholders or other representatives. Using the system to generate forms creates additional value for users.

History and audit trails

An audit trail provides historical perspectives and offers review and remediation of entity transactions and processes. An audit trail ensures that the system automatically records time, date and name for actions taken (that is, additions, changes, deletions, etc).

Reporting

Timely and effective decision-making, regulatory reporting and process management rely on effective reporting. Users need an intuitive yet powerful ad-hoc report writer to explore and find answers to critical questions without deep technical knowledge. Therefore, an inbuilt ad-hoc report writer is necessary to empower users to create and save searches and reports. Security should be essential to the ad-hoc report writer so users cannot bypass the security mechanisms built into the system when running ad-hoc reports.

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Organisational charts

Regulatory reporting and global corporate compliance rely heavily on the accurate and timely representation of organisation charts which must conform to a wide variety of users' needs. Generating these reports manually is labour intensive and prone to error. The process can and should be automated. Organisation charts which automatically roll up from share or capital ownership help reconcile legal and tax information and ease auditing.

Entity life cycle management

Entities typically have a life cycle: formation, activity and dissolution. When a new entity is formed, it is important to record who requested the new entity and why, who approved the entity and who was informed that the entity was created. Once created, a review process may periodically ask individuals or groups (the business owners, local managers, interdepartmental staff, record managers,

etc) to verify that the information is current and accurate. Finally, when it is time to de-activate the company, the system should assist by assuring that all facets of the entity, like contracts and ledgers, are properly closed.

Implementing a best practice process will incorporate all stages of an entity's life cycle. All actions impacting an entity will be recorded in its history, from who first had the idea of creating the entity to the entity's final dissolution.

In addition to conducting a basic entity information review, this is an excellent opportunity for the company to learn more about the entity by asking questions like whether the business purpose for this entity is still justified and/or valid. This process often identifies entities that are expensive to maintain or are no longer necessary and, thus, can be closed.

Integration with other systems

Major data integrity issues arise when changes to the data occur without the entity systems' knowledge. For example, what happens when a senior employee who lives in a foreign country and also an officer/director of several subsidiaries suddenly leaves the company? People within the organisation will struggle to get this information and it is often not communicated across all departments. The company then generates inaccurate reports showing this individual as an officer/director for weeks or months after they have left the company.

To improve accuracy and timeliness, the entity management system should exchange information with other internal systems. For example, information captured from your human resources/ payroll system may alert you when officers/directors have left the company.

The entity management system should query the human resources/payroll system daily to look for employees who have left the company. When there is a match of the name and employee number of an individual who has left the company with the name and employee number of an officer/director in the system, the entity management system should automatically:

- create a pending event to review that officer/director in the system
- add a calendar task for follow up, and
- send an email alert instructing the custodian of that individual's record to review the officer/director status.

In today's highly regulated corporate environment, it is critical that the tax and legal ownership structures are synchronised for accurate financial and compliance reporting. Historically, separate tax and legal entity systems were rarely synchronised, meaning both systems had incomplete and inaccurate information. Sometimes this meant that companies were missing information from one of the systems. But more often, the tax system had incomplete or abbreviated company names and the legal system was missing or had inaccurate tax identification numbers, among other anomalies. Manually reconciling records takes large blocks of time away from the relevant departments

and creates significant additional work for auditors.

Building a link to synchronise the two systems ensures that changes are accurately reflected in both systems. Periodic reports of discrepancies can assist in process remediation as users work to understand the source of any further inaccuracies.

Rudy Escalante

Chief Operating Officer – Global Services, ICSA Software International

For more information, please contact Charles Overs at: charles.overs@icsasoftware.com.

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Professional Development

Seminars: March to April 2017

22 March Change management



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

Speaker: Roy Fung, Managing Director, Tricor Consulting Ltd

23 March The role of Hong Kong notaries public in helping business and citizens



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

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

6 April China reforms inbound foreign investment laws



Chair: Duffy Wong BBS JP FCIS FCS, Institute Past Chairman, and Consultant, Ho, Wong & Wong, Solicitors & Notaries

Speaker: Betty Tam, Partner, Mayer Brown JSM

7 April Practical tips to company secretaries: bridging the gap between the board and journalists in media interviews



Chair: Dr Eva Chan FCIS FCS(PE), Institute Treasurer and Membership Committee Chairman, and Head of Investor Relations, C C Land Holdings Ltd

Speaker: Divya Gopalan, Principal Consultant, Media Training and Crisis Communication, Recruitment and Education Business, South China Morning Post Publishers Ltd

10 April Safeguard the board from email scams: asset recovery and protections



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

Speakers: Anna Chan, Partner, Dispute Resolution; and Jonathan Lam, Associate, Dispute Resolution; Oldham, Li & Nie Lawyers

11 April Practical guide on ESG reporting



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

Speakers: Angus Chan, Consultant – Sustainability Services, Environmental Division; and Dr KW Shek, Assistant Manager, Environmental Division; CMA Testing and Certification Laboratories

Online CPD (e-CPD) seminars

The Institute has launched a series of e-CPD seminars in collaboration with The Open University of Hong Kong (OUHK). Through the online learning platform of OUHK, members, graduates and students are able to easily access selected video-recorded seminars with any smart device anytime, anywhere. The launch of e-CPD seminars enables members, graduates and students to schedule their professional learning more flexibly.

Details and registration are available at the CPD courses section of the OUHK website: <http://ecentre.ouhk.edu.hk>. For enquiries, please contact the Institute's Professional Development section at: 2830 6011, or email: ecpd@hkics.org.hk.

Seminar fee discount for HKICS registered students

Effective from 1 January 2017, registered students of the Institute can enjoy a 30% discount for the Institute's regular ECPD seminars.

Seminar duration	Regular seminar rate	Discounted rate for registered students
1.5 hours	HK\$320	HK\$230
2 hours	HK\$400	HK\$280
2.5 hours	HK\$480	HK\$340

Key update on the revised MCPD policy

Revised MCPD Policy (effective from 2016/2017 CPD year)	
Extended coverage of CPD activities	<ul style="list-style-type: none"> a. participation in Institute activities as a mentor/coach for the Institute or other professional associations or institutions b. being an external examiner/assessor for the Institute or other professional associations or institutions for the promotion of education or professionalism in the key areas of learning c. participation in committees of the Institute other than technical committees of the Institute or committees of other professional associations or institutions for the promotion of education or professionalism in the key areas of learning <p>A maximum of five CPD points in each CPD year can be earned in each category under (a)-(c), excluding activities of members/graduates' own occupation.</p>
Full exemption from MCPD compliance	<p>Full exemption from the MCPD requirements would be granted for the following reasons:</p> <ul style="list-style-type: none"> • long-term illness • pregnancy • period of unemployment for over six months, or • retirement. <p>Applications, with proof, should be submitted to the Institute by 31 July each year.</p>

Professional Development (continued)

MCPD requirements

Members are reminded to observe the MCPD deadlines set out below. Failing to comply with the MCPD requirements may constitute grounds for disciplinary action by the Institute's Disciplinary Tribunal as specified in Article 27 of the Institute's Articles of Association. Graduates who acquired graduate status before 1 August 2016 are required to comply with the Institute's MCPD requirements.

CPD year	Members who qualified between	MCPD or ECPD points required	Point accumulation deadline	Declaration deadline
2016/2017	1 January 1995 - 31 July 2016	13.5* (at least 2.5 ECPD points)	30 June 2017	31 July 2017
2017/2018	On or before 30 June 2017	15 (at least 3 ECPD points)	30 June 2018	31 July 2018

*pro-rata for 2016/2017 as a result of the Institute's year-end date change.

ECPD forthcoming seminars

Date	Time	Topic	ECPD points
23 May 2017	6.45pm – 8.15pm	Practical tips for privacy compliance and the impact of GDPR	1.5
25 May 2017	4.00pm – 5.30pm	The Competition Ordinance – what we've learned so far and what's next	1.5
12 June 2017	6.45pm – 8.15pm	Listed companies: emerging from suspension	1.5
19 June 2017	6.45pm – 8.45pm	Directors' liabilities and responsibilities – the new Companies Ordinance and beyond	2
20 June 2017	6.45pm – 8.15pm	AML/CFT risks, compliance standards and tools	1.5
27 June 2017	6.45pm – 8.15pm	Company secretarial practical training series: handling a difficult AGM	1.5

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

Membership

New graduates

Congratulations to our new graduates listed below.

Siu Ka Pik
So Yin Fai
Wong Kwan Yeung
Wong Yu

Membership advancement to associateship and fellowship

The Institute encourages graduates and associates to apply for election to associateship and fellowship. Interested graduates and associates are welcome to visit the Membership section of the Institute's website: www.hkics.org.hk for details.

Note: According to ICSA Byelaws 18 and 19, and the Institute's Article 10, a graduate is not a member of the Institute and shall seek election to membership within 10 years of becoming a graduate.

For enquiries, please contact Vicky Lui at: 2830 6088, or Melani Au at: 2830 6007, or email: member@hkics.org.hk.

Membership (continued)

New associates

Congratulations to our new associates listed below.

Au Roi Sang	Chu Ka Wa	Leung Cho Yi	To Hoi Yi
Au Wing Sze	Fong Chin Man, Ada	Leung Lai Yan, Charles	Tsang Chun Tung
Chan Cheuk Wing, Cherrie	Fu Mei Yan	Leung Tung Tung	Tse Kar Keung
Chan Choi Fong	Ho Hung Sing	Leung Yi Kok	Tse Kong Hang
Chan Chui Man	Ho Kam Ho	Li Pui Ha	Wong Ching Ki, Michelle
Chan Hiu Fung	Ho Siu Tong, Jerry	Liao Shaoling	Wong Hiu Ying
Chan Ieok Mun	Hung Yan Ting	Lin GuoXin	Wong Kai Chun, Philemon
Chan Ka Lun	Ip Pui Fan, Olivia	Ling Shing Ping	Wong Kwong Fai
Chan Kam Chuen	Jiang Yang	Lo Ka Hei	Wong Ngai
Chan Pik Yeng, Fiona	Kuang Yihao	Lo Man	Wong Shun Ling
Chan Siu Kei, Ken	Kwan Shan	Lui Ting Yan	Wong Suk Kuen
Chan Sze Man	Kwok Ngar Sze	Luk Nga Ying, Louise	Wong Sze Lok
Chan Wan Woon	Kwok Yuen Yi	Ma Mei Kwan	Wong Yuen Ting
Chan Yu Choi	Lai Kwok Fung	Man Shing Chun	Yap Shee Lai
Cheng Chi Leung	Lai Wing Yin	Ng Shun Tak, Derrick	Yeung Chor Pui
Cheung Hing Shing	Lam Chak Ling	Ng Sui Man	Yip Sau Wa
Cheung Hoi Ue	Lam Chak On	Poon Nga In	Yu Chor On
Cheung Ka Ming	Lam Chui Fong	See Hiu Fung	Yu Hong Chai
Cheung Lai Ching	Lam Hiu Man	Shum Cheuk Pui	Yu Pik Yan
Choi Wai Hung, Keith	Lam Yick Man	Siu Kit Mei	Yu Wing Sze
Chow Chun Fung	Lau Mei Yee, Anita	Suen Mei Kwan	
Chow Yue Hin, Terence	Lau Wai Man	Sum Wai Man	

New fellows

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

Chan Wai Kam, Caroline FCIS FCS

Ms Chan is the First Vice-President and Senior Legal Counsel of Fubon Bank (Hong Kong) Ltd. She is responsible for providing legal advisory services to user units within the bank including general banking, general corporate/commercial banking, consumer banking and mass market, wealth management and financial markets group. She also needs to liaise and co-ordinate with the relevant business units, company secretary and compliance division on contentious and non-contentious matters. Ms Chan holds a bachelor's degree in arts and a postgraduate certificate in law from

The University of Hong Kong; and master's degrees in laws from the University of London and Renmin University. She is qualified to practice as a solicitor in Hong Kong and is also a member of the Chartered Institute of Arbitrators.

Cheung Sau Shing FCIS FCS

Mr Cheung is the Director of Services and Board Secretary of the Estate Agents Authority, a statutory body established to regulate the practice of the Hong Kong estate agency trade. He is responsible for overseeing the Authority's finance, human resources, administration, corporate communications, professional development and board secretariat matters. Mr Cheung has over 20 years of experience in auditing, accounting, financial management, corporate affairs, corporate governance

Membership (continued)

and company secretarial areas. He holds an executive MBA degree (distinction) and a bachelor's degree in arts from The City University of Hong Kong. He is a fellow member of the Hong Kong Institute of Certified Public Accountants and the Association of Chartered Certified Accountants. Mr Cheung is keen on joining volunteer and mentoring services to help the younger generation to grow, identify their potential and achieve success in their future career.

David John Simmonds FCIS FCS

Mr Simmonds is the Group General Counsel, Chief Administrative Officer and Company Secretary of CLP Holdings Ltd, a Hong Kong listed power company with operations in Greater China, India, South East Asia and Australia. He has been with the company for over nine years and is currently based in Hong Kong. Mr Simmonds has extensive experience in strategic acquisitions and divestments, projects and construction, corporate structuring, regulatory issues and competition laws. He holds two bachelor's degrees in law and in commerce from the University of Melbourne.

Fung Wai Ying FCIS FCS

Ms Fung is the Head of the Company Secretarial Department of Corporate Management Services Ltd and is responsible for corporate secretarial consultation, business development, compliance, corporate structuring and corporate governance matters. She has over 18 years of experience in corporate

secretarial services and has experience in working for private commercial companies, listed companies and large accounting firms. Ms Fung has held senior management positions for over 10 years and had previously worked in the company secretarial department of Ernst & Young. She holds a professional diploma in company secretaryship and a bachelor's degree in business studies with first honours from the National University of Ireland.

Lau Tung Ni FCIS FCS

Ms Lau is the Company Secretary of Allied Group Ltd (Stock Code: 373), Allied Properties (Hong Kong) Ltd (Stock Code: 56) and APAC Resources Ltd (Stock Code: 1104). She is responsible for company secretarial, corporate governance and compliance matters for the listed groups.

Dr Lau Mun Yee, Irene FCIS FCS

Chairman, Corporate Social Responsibility TV Channel

Lui Yu Shan FCIS FCS

Assistant Vice-President, Company Secretarial in Legal and Corporate Communications, Fubon Bank (Hong Kong) Ltd

Tang, Cordelia FCIS FCS

Deputy Director, Company Secretarial, Moore Stephens Associates Ltd

Forthcoming membership activities

Date	Time	Event
17 May 2017	6.30pm – 8.30pm	Welcome drinks for new graduates and associates 2016/2017 (by invitation only)
20 May 2017	9.45am – 11.30am	Mentorship training – appropriate language in the workplace (by invitation only)
26 May 2017	7.00pm – 8.30pm	Young Group – flower art arrangement (full)
6 June 2017	6.30pm – 8.30pm	Community Service – knowing breast cancer: early detection saves lives
13 June 2017	6.30pm – 8.30pm	Members' Networking – 办公室健康管理

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

Members' activities highlights: March – April 2017

30 March

Members' Networking – acupressure for self-treatment
(‘穴’按愈松)



At the workshop

1 April

Young Group – bowling with coach



At the bowling lanes

22 April

Community Service – beach cleaning on Earth Day



A total of seven bags filled with 580 pieces of trash and debris, weighing an estimated total of 32kg, were collected at this Lung Kwu Tan beach cleaning activity.



Membership (continued)

HKICS fee structure 2017/2018

The Institute's Council has resolved the following new arrangements for annual subscription which will be effective from the 2017/2018 financial year onwards.

i. New rate – senior rate

The Institute is pleased to introduce a new senior subscription rate to members who have reached the age of 70 or above before the beginning of the financial year (that is 1 July 2017 for the 2017/2018 financial year). The rate is set as \$100 per year and will be applied to all eligible members automatically without the need for prior application.

ii. New deadline for subscription payment from 2017/2018 financial year onwards

From the 2017/2018 financial year onwards, the Institute's financial year will run from 1 July to 30 June. The annual subscriptions for members and graduates will be due on 1 July each year; and from 2017/2018 onwards, members and graduates will be granted a three-month grace period to settle their subscription payment. The new deadline for the annual subscription payment will fall on 30 September each year.

The Council, having taken into consideration the current financial resources of the Institute, has resolved to maintain the annual subscription fee for members and graduates the same as in 2013/2014, and the registration and renewal fees for students the same as in 2014/2015.

The membership renewal notice for the 2017/2018 financial year, together with the demand note, will be posted to members and graduates in July 2017. Members and graduates should settle the payment as soon as possible, but no later than Saturday 30 September 2017. Failure to pay by the deadline will constitute a ground for membership or graduateship removal.

Members/graduates

Items	Amount (HK\$)
Annual subscription	
Fellows	2,510
Associates	2,150
Senior rate (note 1)	100
Graduates (holding the status for less than 10 years, that is, on or after 1 August 2007)	1,850
Graduates (holding the status for more than 10 years, that is, before 1 August 2007)	2,510
Concessionary subscription	
Retired rate (note 2)	500
Reduced rate (note 2)	500
Hardship rate (note 2)	1
Election fees	
Fellows (note 3)	1,000
Associates	1,950
Graduate advancement fee	1,900
Re-election fees	
Fellows	3,200
Associates	2,650
Graduates	2,100
Other fees	
Membership card replacement	200
Certificate replacement	200
Membership confirmation	250
Transcript application	200 per copy

Mainland Affiliated Persons Programme

Items	Amount (HK\$)
Annual subscription	2,200
Registration fee (for new Affiliated Persons who registered between 1 July and 31 December)	2,200
Registration fee (for new Affiliated Persons who registered between 1 January and 30 June)	1,100

Students

Items	Amount (HK\$)
Registration fee	1,250
Re-registration fee	1,450
Renewal fee	780
Late studentship registration administration charge (note 4)	600
Examination fee	1,100 per subject
Examination postponement fee	850 per subject
Examination appeal fee	2,200 per subject
Exemption fee	1,100 per subject
Exemption re-application administration charge (note 5)	700 per application
Transcript application	200 per copy
Examination technique workshop	500 per subject
HKICS study online	350 per copy
ICSA study text	800 per copy
Study pack	470 per copy
CCA late registration charge	450 per month

Notes:

- The senior rate is automatically granted to eligible members by the Institute. No application is required.
- Members are eligible to apply for concessionary rates (retired, reduced or hardship) if they have fulfilled the respective requirements and subject to the Membership Committee's approval. Application forms can be downloaded from the Membership section of the Institute's website: www.hkics.org.hk. The application deadline for retired, reduced and hardship subscription rates for the 2017/2018 financial year is Monday 31 July 2017.
- The special rate for the fellowship election fee at HK\$1,000 will continue to be applicable during the 2017/2018 financial year.
- An administration charge is applied to late studentship registrations for taking the corresponding examinations in June and December.

Late studentship registration period	Examination diet
1-15 August 2017	December 2017
1-15 February 2018	June 2018

- An administration charge for each exemption re-application will be applied to students who do not settle the exemption fee within the designated period of time following the approved exemption.

For enquires, please contact the Institute's secretariat at: 2881 6177, or email: member@hkics.org.hk, or student@hkics.org.hk.

Advocacy

The third ACSAN meeting in Kuala Lumpur

The ASEAN Corporate Secretaries Associations Network (ACSAN), which brings together the Institute and four other professional and industry bodies from Indonesia, Malaysia, Singapore and Thailand, held its third meeting in Kuala Lumpur on 6 April 2017. Institute President Ivan Tam FCIS FCS and Chief Executive Samantha Suen FCIS FCS(PE) attended the meeting with the other ACSAN representatives. They discussed ACSAN's action plan for the next three years (2017–2019) and the Corporate Governance Conference to be organised by the Indonesia Corporate Secretary Association in Jakarta in November 2017. A networking dinner, hosted by The Malaysian Institute of Chartered Secretaries and Administrators (MAICSA) for ACSAN representatives and MAICSA Council members, was arranged after the meeting.

On 7 April 2017, ACSAN organised a roundtable on minority shareholders' rights with the participation of 120 MAICSA members, graduates and affiliates. The roundtable, which was moderated by MAICSA's Immediate Past President Chua Siew Chuan FCIS, explored shareholders' rights legislation for private and listed companies. Institute President Ivan Tam FCIS FCS gave a presentation on minority shareholder protection in Hong Kong. A lunch, sponsored by Diligent APAC Board Services Ltd, was also arranged for the participants after the roundtable.



At the third ACSAN meeting



From left to right: Ivan Tam; Indonesian Corporate Secretary Association Chairman Dr Ir Hardijanto Saroso; Dato' Heng Ji Keng; Chua Siew Chuan; Chartered Secretaries Institute of Singapore Chairman Dr Tan Wee Liang FCIS; and Thai Corporate Secretaries Club representative Rongrak Phanapavudhikul



At the roundtable

New collaborative course with HKBU

The Hong Kong Baptist University (HKBU) School of Business will launch a Master of Science in Corporate Governance and Compliance (MScCGC) programme in September 2017. This 18-month part-time programme is custom-made for qualified talents in the field of corporate governance, corporate secretaryship, risk management, and compliance. Graduates from this programme will be eligible to apply for full exemption from the International Qualifying Scheme examinations of both the Institute and The Institute of Chartered Secretaries and Administrators.

On 19 April 2017, Institute Council member and Education Committee Chairman David Fu FCIS FCS(PE) signed the agreement for this new collaborative course with the Dean of HKBU School of Business, Professor Edward Snape, at a signing ceremony held at the HKBU campus. Institute Council member and Education Committee Vice-Chairman Bernard Wu FCIS FCS; Education Committee members Richard Law FCIS FCS; and Jerry Tong FCIS FCS; Chief Executive Samantha Suen FCIS FCS(PE); and secretariat staff also attended the ceremony.

The application deadline for this MScCGC programme is Wednesday 31 May 2017. For details, please visit the HKBU website: bus.hkbu.edu.hk/msccgd. For enquiries, please contact HKBU at: 3411 5281, or email: msccg@hkbu.edu.hk.



David Fu (right) and Professor Edward Snape (left)



Group photo

Resignation of Paul Moyes from Council

Institute Council member Paul Moyes FCIS FCS(PE) resigned from Council and all other positions in the Institute with effect from 1 May 2017 due to his relocation from Hong Kong. Paul Moyes was first elected to Council in 2012. Immediately before his resignation, he was the Chairman of the Institute's Professional Services Panel and AML/CFT Work Group, as well as a member of the Technical Consultation Panel (Company Law Interest Group). He served as the Chairman of the Professional Services Panel from 2015. Also, he served on the Institute's Audit Committee as a member in 2012 and 2016 and as the Chairman in 2015. In 2007 and 2012, he was a member of the Institute's Membership Committee. Furthermore, he served on a working group for the Companies Ordinance rewrite. A vote of thanks was given to Paul Moyes for his valuable contribution to the Institute during his period of service.



External appointment

Institute President Ivan Tam FCIS FCS will serve as a member of the Steering Committee of the Asian Financial Forum (AFF) 2018 to be held on 15 and 16 January 2018. The Committee, which will be chaired by the Chairperson of the Hong Kong Trade Development Council Financial Services Advisory Committee, and comprise senior representatives from the government of the HKSAR, regulatory bodies, industry associations and leading financial institutions, will act as the advisory body for the preparation of the AFF.

Brainstorming session with the Financial Secretary

On 5 April 2017, Institute President Ivan Tam FCIS FCS was invited to attend a brainstorming session hosted by the Financial Secretary's Office of the government of the HKSAR with the Financial Secretary Chan Mo-Po, Paul FCIS FCS GBS MH JP. During the session, two initiatives announced in the 2017-2018 budget, including the establishment of a Tax Policy Unit and Hong Kong's strategy on re-industrialisation, were discussed.

International Qualifying Scheme (IQS) examinations

June 2017 diet schedule

	Tuesday 6 June 2017	Wednesday 7 June 2017	Thursday 8 June 2017	Friday 9 June 2017
9.30am – 12.30pm	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
2.00pm – 5.00pm	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

IQS study packs go green

The Institute launched an online version of four IQS study packs on 9 January 2017. This new service, which is free to all registered students, is to enable students to schedule their professional learning and studies more flexibly, economically and in an environment-friendly manner. Student are highly encouraged to activate their online account and obtain access to the study packs for examination revision as soon as possible. Detailed arrangements have been sent to students for information via email.

For further questions regarding the online study packs, please contact Karin Ng at: 2830 6010, or Ruby Ng at: 2830 6006, or email: student@hkics.org.hk. For technical questions regarding the PrimeLaw account, please contact Wolter Kluwer's customer service: HK-Prime@wolterskluwer.com

Studentship

HKICS professional seminar

The Institute organised a professional seminar for the students of Centennial College to promote the Chartered Secretarial profession on 5 April 2017. Institute Past President Dr Davy Lee FCIS FCS(PE) gave a presentation to the students on the role of the company secretary and corporate governance.



From left to right: Dr Davy Lee; Edward Chiu, Associate Professor, and Professor Joseph Yau, Professor, Centennial College

Student Ambassadors Programme – visit

The Institute organised a visit for its student ambassadors to the Companies Registry (CR) on 31 March 2017. The students learned about the corporate services, company formation services of CR during the visit.

The Institute would like to thank CR for its support of the programme.



Visit to the Companies Registry

Academic Advisory Panel Luncheon

The Institute held an Academic Advisory Panel Luncheon on 27 March 2017 with representatives from local tertiary educational institutions. Institute Council member and Chairman of the Education Committee David Fu FCIS FCS(PE); Council member and Vice-Chairman of the Education Committee Bernard Wu FCIS FCS; Vice-Chairman of the Education Committee Polly Wong FCIS FCS(PE); Chief Executive Samantha Suen FCIS FCS(PE); and Education and Examinations Director Candy Wong; hosted the lunch. They discussed the recent developments and future activities of the Institute with the guests listed opposite (in alphabetical order).



Group photo

- 1 Dr Derek Chan, Associate Dean, Faculty of Business and Economics, The University of Hong Kong
- 2 Professor Ip Yiu Keung, Associate Vice-President (Academic Support & External Links), President's Office, The Open University of Hong Kong
- 3 Dr Peter Lau, Associate Dean and Programme Director, BBA (Hons), Hong Kong Baptist University
- 4 Professor CK Low, Associate Professor in Corporate Law, The Chinese University of Hong Kong
- 5 Dr Mark Ng, Associate Head, Department of Business Administration, Hong Kong Shue Yan University
- 6 Professor Richard Simmons, Professor of Teaching, Department of Accountancy, Faculty of Business, Lingnan University
- 7 Dr Sunny Sun, Assistant Professor, School of Accounting & Finance, The Hong Kong Polytechnic University
- 8 Dr Claire Wilson, Associate Head, Department of Law and Business, Hong Kong Shue Yan University
- 9 Dr Brossa Wong, Acting Dean, School of Business, Hang Seng Management College

HKICS/HKU SPACE programme series: Corporate Administration in PRC (new module)

The HKICS/HKU SPACE programme series in PRC corporate practices offers a new module – 'Corporate Administration in PRC'. Up to 18 HKICS ECPD points will be awarded to participants who attain 75% or more attendance.

For more information, please contact HKU SPACE at: 2867 8317, or email: prcprogramme@hkuspace.hku.hk

Date and Time:	3, 10, 17, 24 June 2017 (Saturdays) 2.00pm – 5.00pm and 6.00pm – 9.00pm
Venue:	HKU SPACE Learning Centre on Hong Kong Island (to be confirmed)
Speaker:	Dr Liu Juan (刘娟博士) Associate Professor, College of Public Management, South China Agricultural University

Networking Day 2017 at Lingnan University

The Institute participated in the Lingnan University Networking Day on 29 March 2017 and promoted the Chartered Secretarial profession and Student Ambassadors Programme to the recruiters and students.



At the Networking Day

Policy – payment reminder

Studentship renewal

Students whose studentship expired in March 2017 are reminded to settle the renewal payment by Friday 26 May 2017.

Exemption fees

Students whose exemption was approved via confirmation letter in February 2017 are reminded to settle the exemption fee by Saturday 20 May 2017.

AML/CTF consultation conclusions

The Financial Services and the Treasury Bureau has published consultation conclusions regarding legislative proposals to enhance anti-money laundering and counter-terrorist financing (AML/CTF) regulation in Hong Kong. By the end of the consultation period, which ran from 6 January to 5 March 2017, the government received a total of 200 submissions on the proposal to amend the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) to prescribe statutory customer due diligence and record-keeping requirements for designated non-financial businesses and professions, and a further 58 submissions on the proposal to amend the Companies Ordinance to require companies incorporated in Hong Kong to maintain beneficial ownership information.

'We are pleased to note that the respondents generally agreed with the overall direction and principles as well as the broad framework of the legislative proposals. We will fine-tune the proposals as appropriate taking into account the valuable comments and suggestions from respondents,' a government spokesman said.

The consultation conclusions are available on the website of the Financial Services and the Treasury Bureau at: www.fstb.gov.hk.

The government will prepare legislation based on the consultation conclusions with a view to introducing two amendment bills to the AMLO and the Companies Ordinance into the Legislative Council by July 2017.

The Institute's submissions to the consultations are available on the Institute's website: www.hkics.org.hk. Next month's CSj will cover the government's proposed new AML/CTF legislation in more detail.

Companies Registry highlights common errors in prospectuses

The Companies Registry has issued a circular (No 3/2017) to remind companies to avoid some common errors found in prospectuses and related documents delivered for registration pursuant to Sections 38D and 342C of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32), with a view to facilitating timely registration of prospectuses.

The Cap 32 Ordinance sets out the requirements relating to prospectuses and the need for such prospectuses to be registered by the Registrar of Companies. The circular highlights a number of common errors that have been found in some of the prospectuses and related documents delivered for registration. Examples include the omission to include the reference to Section 38D or 342C of the Ordinance pursuant to which the prospectus has been registered; incorrect translation of the term 'Registrar of Companies' in the Chinese version of the prospectus; and inaccurate descriptions of material contracts in the prospectus. The circular also offers suggestions on how to avoid such errors.

The circular also notes that prospectuses and related documents are sometimes delivered to the Registrar for registration within a very tight timeframe before they are scheduled to be published. The Companies Registry urges companies issuing prospectuses and their advisers to ensure error-free and timely registration of prospectuses and related documents.

External Circular No 3/2017 is available on the Companies Registry website: www.cr.gov.hk.

SFC's CEO reappointed for another three-year term

Ashley Alder JP has been reappointed as the Chief Executive Officer of the Securities and Futures Commission (SFC) for another three-year term effective from 1 October 2017. Mr Alder was first appointed as the SFC's CEO on 1 October 2011. His current term will end on 30 September 2017.

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

Want to manage your disputes efficiently and effectively? Why not advance your knowledge in the area of conflict resolution by enrolling in the LLMArbDR at City University of Hong Kong!

Nowadays, dispute resolution is not only carried out in the courtroom through litigation, but also by arbitration and mediation, which are increasingly popular and well-respected alternative dispute resolution (ADR) techniques. Given ADR's obvious advantages, CityU launched the Master of Laws in Arbitration and Dispute Resolution (LLMArbDR) in 1991. The programme provides an understanding of the theoretical, practical and ethical problems relating to arbitration, mediation and other forms of dispute resolution.



The pioneer programme has now achieved worldwide acceptance as a programme of the highest reputation and quality. It provides a stepping stone for professionals to become more involved in arbitration, mediation and other forms of alternative dispute resolution (ADR). Many graduates are now prominent figures in the international arbitration and mediation community.

The programme has achieved recognition from a variety of professional bodies, allowing graduates to practice in the fields. For further details about the requirements, eligibility for professional recognition and accreditation, please visit http://www6.cityu.edu.hk/slwa/academic/postgraduate_llmarbdr.html#LLMArbDR_03 for further details.

Apart from the professional recognitions, LLMArbDR students with law background may also obtain an additional degree from our partner institution at the University of Paris 1, Panthéon-Sorbonne in France upon satisfying the programme requirements.

The programme is offered in both full-time and combined modes, thus allowing students to have the flexibility of planning their studies as they deem fit. As of 2017, the School of Law is offering admission scholarships to potential students based on their merits.

The programme welcomes applications from both law and non-law degree holders. We are now inviting applications for 2017 entry.

Apply now at

<http://www.sgs.cityu.edu.hk/programme/P41>

Application deadline

Local applications: **30 June 2017**





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