



August 2024

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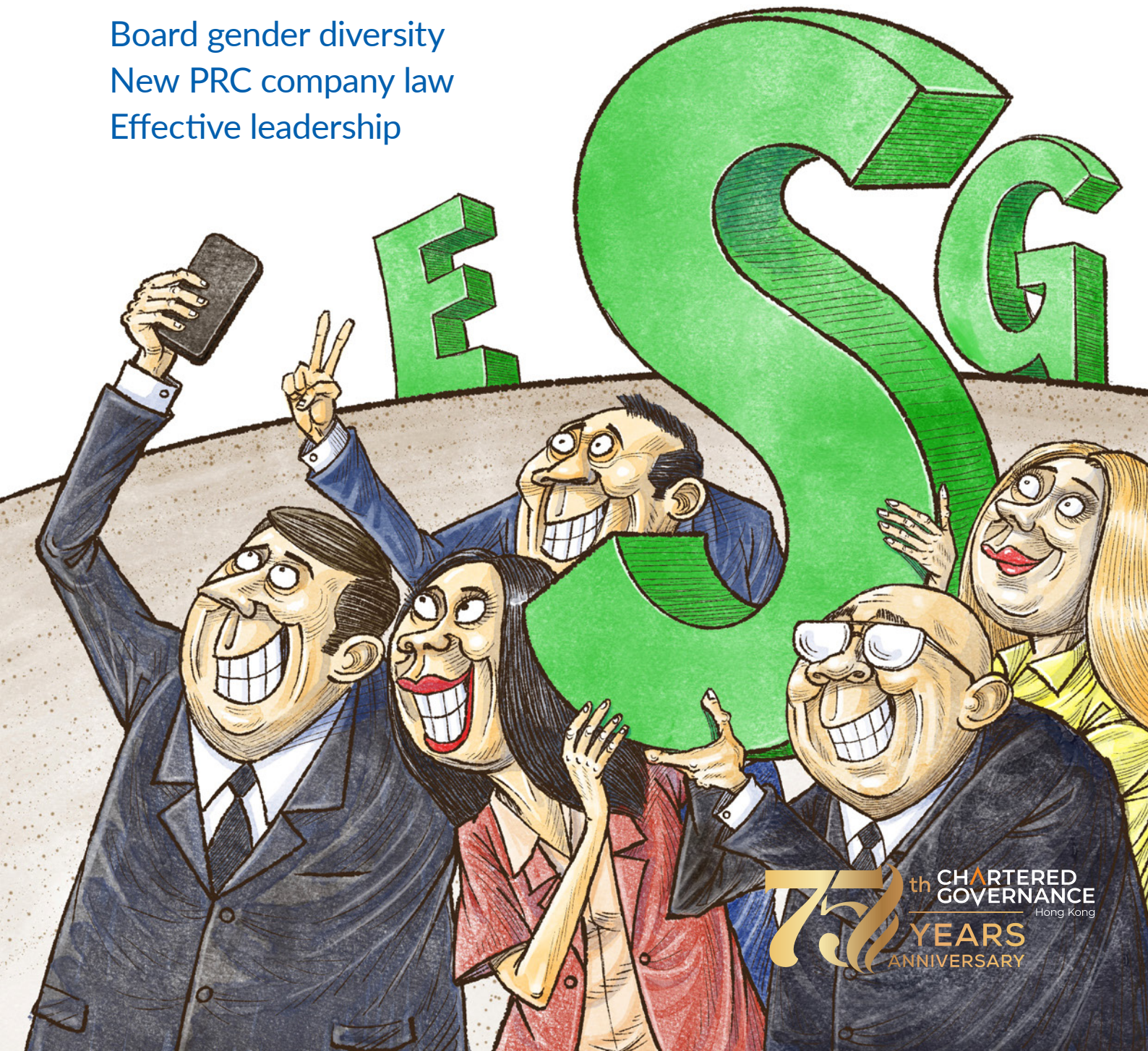
卓越治理 更佳未來

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

## 'S' is for social

### Rethinking the social aspects of ESG

Board gender diversity  
New PRC company law  
Effective leadership



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(Based on Hong Kong practice)

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This Course will give you the Certification that your employer and those working with you can trust regarding your competencies in understanding ESG and sustainability, and the process and procedures leading to ESG reporting under the HKEX Listing Rules.

## A Certificate that matters

Those who complete the Certification course, meet the attendance requirements (between October and November 2024) and pass the final assessment in December 2024 will receive two years of accreditation (from 1 January 2025 to 31 December 2026). During this time, they can use the post-nominal 'HKCGI Cert: ESG', and will be listed on the Institute's dedicated webpage for potential employers and public searches.

## Topic Covered

In line with the new climate-related disclosure requirements, the ESG Reporting Certification Course will cover:



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New climate-related disclosure Rules



Governance structure for ESG and climate-related disclosures



Setting strategy, materiality assessment, and identifying risks and opportunities



Setting metrics and targets



Data collection, report drafting, timeline



Workshops - ESG report writing, sector specific KPIs and alignment with international standards

## Government Funding (for the 5th Cohort)

This programme is eligible for the Pilot Green and Sustainable Finance Capacity Building Support Scheme (Scheme) (<https://greentalent.org.hk/>). Eligible applicants can apply for a subsidy of 80% of the enrolment fees (\$2,800 for members and \$3,500 for non-members). Full-time students can apply for a subsidy of 100% of the enrolment fee.

Programme Provider: **The Hong Kong Chartered Governance Institute**

Identification Code: **GTP-919235**

Effective date under the Scheme\*: **2023/04/28**

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## Good governance comes with membership

### About The Hong Kong Chartered Governance Institute

The Hong Kong Chartered Governance Institute (HKCGI, the Institute) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies, as well as the development of the profession of the Chartered Secretary and Chartered Governance Professional in the Chinese mainland and Hong Kong.

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

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

HKCGI has over 6,800 members, more than 300 graduates and around 3,000 students.

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## August 2024

CGJ, the journal of the Institute, is published 12 times a year by Ninehills Media and is sent to members and students of the Institute and to certain senior executives in the public and private sectors.

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 ISSN 1023-4128

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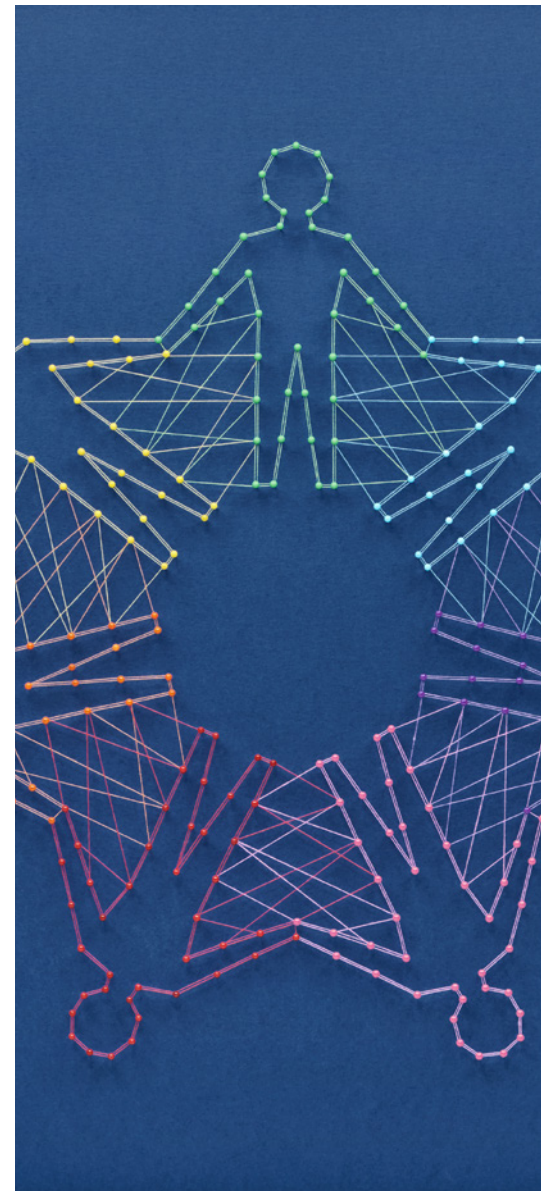
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在本月的新一代治理系列中，CGj 采访了前中国香港场地自行车代表队运动员，中国香港残疾人奥委会执行高级体育项目主任罗子骏先生。



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## Window on the future

As many readers of this journal will know, at the end of last month we launched our Sustainability Governance Academy at the HKEX Connect Hall, following our Climate-related Disclosure Update seminar. I mentioned the launch of the Academy in my message last month, but I would like to return to this here because I believe it represents a window on our individual and collective futures.

At the individual level, both the seminar and the Academy are indicative of how macro changes have been impacting our professional roles. One salient aspect of that has been the broadening of the types of issues that governance professionals need to address. The popularity of our ESG Reporting Certification Course, for example, is a clear indication of how far sustainability issues have climbed the governance professionals' agenda. Launched in February last year, the course has now completed its fourth cohort and has over 1,400 graduates. An updated version of the course incorporating the new ESG Code will be launched later this year. Moreover, in addition to overseeing organisations' sustainability disclosures, governance professionals also contribute to digital transformation strategies and risk management frameworks.

At the collective level for the profession, the seminar and the Academy are indicative of how our Institute here in Hong Kong is responding to the changes discussed above. First and foremost, we have focused on developing our role as the go-to professional body for anyone wanting to build capability and expertise in areas relevant to the wider governance arena. We do this of course via our professional qualification examinations, our professional development services and our thought leadership initiatives, but our ESG Reporting Certification Course and our Sustainability Governance Academy represent a new approach to this mission. By launching complementary certifications and networking groups, we can diversify our services and expand our professional community to those working outside company compliance – the traditional focus of our membership base.

You will find further discussion of this in our In Profile column next month. I was in the interview chair and the discussion focused on the strategic priorities discussed at the Institute's annual strategy review session held earlier this year.

I would like to thank everyone who contributed to both our climate

disclosure seminar and the launch of the Academy. That includes of course the speakers at both of these pivotal events, but it also includes our spectacular Secretariat team, headed by our Chief Executive Ellie Pang FCG HKFCG(PE). Our CE and the Secretariat team have played a key role in both devising and implementing the strategic direction discussed above.

Before I go, I would like to say a few words about the theme of this month's journal. CGj is of course an integral part of building the market capability I mention above, and this month's edition grapples with a sustainability theme that has received far less attention than environmental concerns. This month's cover stories show how societal challenges (the 'S' in ESG) are intertwined with the more widely recognised environmental ones, and how they deserve more consideration if organisations want to achieve long-term value creation.

David Simmonds FCG HKFCG

# 展望未来

如本刊的许多读者所知，上月底，由公会主办的气候相关信息披露最新发展研讨会于香港交易所大厅举办，研讨会之后，公会推出了可持续发展治理学院。我在上个月的会刊中提到了“学院”的启动，但我想在此再次提及，因为我相信它是我们个人与群体展望未来的一个窗口。

就个人而言，该研讨会的举办和学院的成立都体现了宏观变化是如何影响我们的专业角色的。其中一个突出的方面是，治理专业人员需要解决的问题类型不断扩展。例如，我们的“环境、社会和企业管治报告证书课程”广受欢迎，这清楚地表明了可持续发展问题在治理专业人员工作内容中的重要性。该课程于去年2月推出，目前第四期课程已经结束，共有1400多名毕业生。该课程的更新版将于今年晚些时候推出，其中纳入了新的《环境、社会和企业管治守则》。此外，除了监督企业的可持续发展信息披露，治理专业人士还为数字化转型战略和风险管理框架做出了贡献。

在行业的群体层面上，该研讨会的举办和学院的成立体现了公会是如何应对上述变化的。首先，我们将重点放在发展我们作为专业机构的角色上，为那些

希望在更广泛的治理领域建立能力和专业知识的人士提供服务。当然，我们通过专业资格考试、专业发展服务和思想引领计划来实现这一目标，但我们的环境、社会和企业管治报告证书课程和可持续发展治理学院展示了实现这一使命的新途径。通过推出互补的证书课程和联络沟通群，我们可以使我们的服务多样化，并将我们的专业社区扩展到那些在公司合规工作之外的人士—合规是传统上公会会员群体的主要工作重点。

下个月的“人物专栏”将对此进行进一步讨论。我是这次采访活动的主席，讨论的重点是今年早些时候举行的公会年度战略会议上讨论的战略重点。

我要感谢为我们的气候信息披露研讨会和学院启动仪式做出贡献的所有人。这当然包括在这两次重要活动中的演讲者，也包括由我们秘书处总裁彭京玲女士FCG HKFCG(PE)领导的出色的秘书处团队。总裁和秘书处团队在制定和实施上述战略方面发挥了关键作用。

最后，我想简单谈一下本月会刊的主题，公会会刊CGj是我上文提到的市场能力建设不可分割的一部分，而本月份

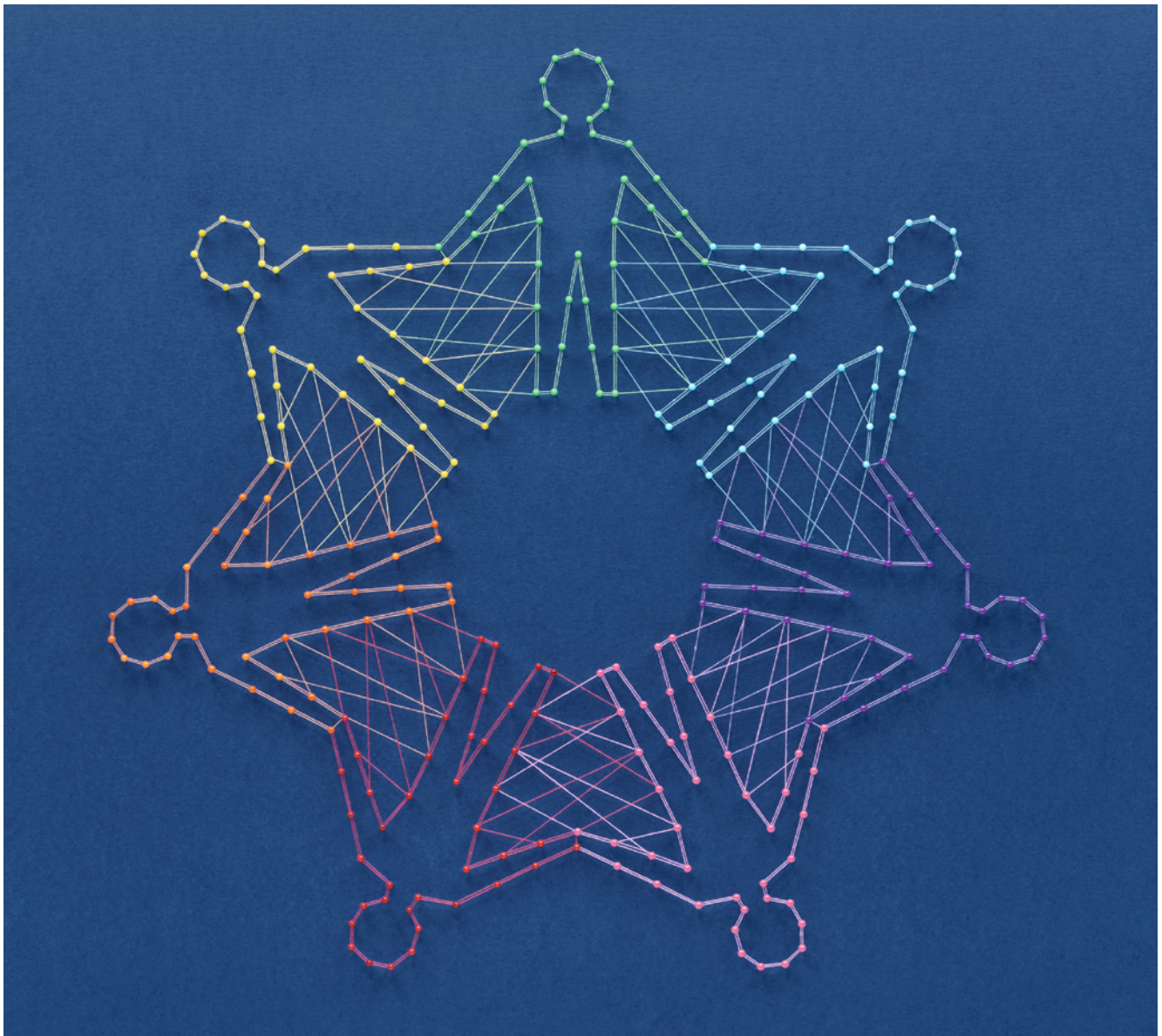
刊探讨的可持续发展主题受到的关注远远少于环境问题。本月的封面故事阐述了社会挑战（ESG中的“S”）是如何与更广为人知的环境挑战交织在一起的，以及如果企业想要实现长期价值创造，为什么它们值得更多关注。



司马志先生 FCG HKFCG

# The rise of social ESG

The crucial role of the 'S' in ESG: exploring emerging social trends and strategies for companies to drive positive impact





Patricia Hui FCG HKFCG(PE), lawyer and governance professional, looks at the social dimension of ESG and provides practical guidance for companies to help them adapt to changing social dynamics.

*‘We are faced not with two separate crises, one environmental and the other social, but rather with one complex crisis which is both social and environmental.’*

*Laudato Si 139*

In recent years, environmental, social and governance (ESG) criteria have become increasingly important for evaluating a company’s sustainability, ethical practices and value. There has been a significant shift towards incorporating ESG considerations and practices into corporate governance frameworks and business operations worldwide.

While the ‘S’ – or social dimension – has traditionally lived in the shadows of the ‘E’ and the ‘G’, business leaders are starting to recognise that environmental and societal challenges are intertwined, and that the ‘S’ is equally crucial for driving long-term value creation. The regulatory landscape is evolving, with countries like Australia and Canada, as well as the European Union, incorporating social elements into their reporting criteria.

### The importance of the ‘S’ in ESG

The ‘S’ in ESG is about human rights and equity – an organisation’s relationships with people and its policies and actions that impact society, communities, employees and other stakeholders. It involves assessing all people’s interactions

based on principles of ethics and justice, and a consideration for well-being. Internally, this includes employee relations, health and safety practices, and talent management within the company. Externally, it encompasses stakeholder management, human rights considerations and community relations.

Companies that prioritise the social dimension of ESG demonstrate a commitment to upholding ethical standards, respecting human rights and making positive contributions to society. This, in turn, can enhance their reputation, attract top talent, build trust with stakeholders and mitigate social risks. Ultimately, this contributes to their long-term sustainable growth and success. It is essential for companies to prioritise the ‘S’ in ESG and to align their strategies with emerging social trends to foster a more inclusive and sustainable future.

## Highlights

- companies prioritising the social dimension of ESG demonstrate a commitment to upholding ethical standards, respecting human rights and making positive contributions to society
- driving positive social impact requires a multifaceted approach that starts with unwavering leadership commitment and extends to every level of the organisation
- embracing these emerging trends and embedding the principles into business operations will be pivotal for shaping a more sustainable, inclusive and equitable future for society and the planet

### Emerging social trends

Social trends are expected to influence the business landscape and shape companies’ ESG strategies as we progress. These emerging trends highlight the evolving expectations of stakeholders and the need for companies to adapt to changing social dynamics. Some of the critical social trends to watch include the following.

### Diversity, equity and inclusion (DEI)

The Global Gender Gap Report 2024, recently released by the World Economic Forum, reveals that the global gender gap score in 2024 is 68.5%, which means that 31.5% of the gap remains unaddressed. Progress has been extremely slow, with only a 0.1% improvement from 2023. At the current pace, it will take a staggering 134 years – five generations from now – to achieve full gender parity. Women’s workforce representation lags behind men’s across nearly every industry

and economy, at 42% overall and only 31.7% in senior leadership roles.

The focus on DEI has slowed due to ongoing economic uncertainty and corporate budget cuts. However, companies will face heightened pressure to not only promote gender equality, but also to advance DEI initiatives across various dimensions to nurture a more diverse and inclusive workplace. These initiatives include, among other things, supporting diverse gender identities and expressions, removing unconscious bias in the workplace, and ensuring fair and unbiased processes and outcomes for all individuals (the 'E' in DEI). Stakeholders such as employees, customers, investors and regulators will seek transparency, accountability and measurable progress in addressing systemic inequalities and championing equal opportunities.

### **Mental health and well-being**

The latest data from Gallup reveals that, in 2023, global employee engagement stagnated, overall employee well-being declined and worker stress levels reached a historic high, resulting in a global economic cost of \$8.9 trillion, or 9% of GDP. These developments are causing hiring costs to climb and performance to decline, thus reducing creativity and innovation. The World Health Organization famously stated: 'There is no health without mental health.' Businesses increasingly acknowledge the decisive role of mental health and well-being in boosting productivity, morale and retention, leading to a more engaged and resilient workforce and a more positive corporate culture.

Climate mental health is a social trend that focuses on the psychological effects of climate change on people and communities. As the world encounters more environmental challenges, such as natural disasters, extreme weather events and ecosystem disruptions, many individuals are feeling anxiety and stress related to climate change. This growing recognition of climate mental health underscores the need to address not just the physical, but also the emotional and psychological aspects of environmental issues.

### **Digital transformation**

The impact of digital transformation is multifaceted and profound, touching virtually every aspect of our lives. It is marked by global connectivity, greater convenience and accessibility of information and services, and expanded access to education, e-commerce, e-government, smart cities and digital entertainment and media platforms. However, this amplified reliance on digital technology has also raised concerns about data privacy, cybersecurity, digital inclusion and the impact on traditional industries and employment. It requires continuous adaptation, education and collaboration amongst individuals, businesses and communities to manage these rapid changes.

### **Leadership skills for a changing world**

In today's rapidly changing and interconnected global landscape, leadership skills must continue to develop in order to more effectively address the complex challenges and opportunities that arise. As traditional top-down, hierarchical organisational

“  
as the social dimension of ESG continues to gain prominence, simply treating stakeholder engagement as a box-ticking exercise is no longer sufficient  
”

structures give way to more collaborative and inclusive models, leaders are increasingly required to adapt their leadership styles to foster a culture of innovation and creativity. This involves not only honing their emotional intelligence to navigate intricate interpersonal dynamics, but also inspiring and nurturing their teams toward a shared vision and cultivating a culture that encourages and develops great leaders at every level of the organisation.

Moreover, influential leaders must remain agile and open-minded in the face of constant change, continually learning and growing to stay competitive in a fast-paced market. Success in such an environment demands that leaders embody the qualities of visionaries, strategists and motivators, capable of leading with both foresight and compassion to drive their teams toward sustained success amidst perpetual evolution.

### **Personal data privacy**

As artificial intelligence (AI) continues to expand and permeate various aspects of our daily lives, the volume of data being shared and generated

online is growing exponentially. Given this trend, it is imperative to emphasise and prioritise the safeguarding of personal data privacy. The primary goals are to ensure that individuals retain complete control over their personal data, including its usage and accessibility, to protect them against potential harm such as theft or fraud and to prevent any misuse of personal data for manipulation or discrimination.

AI technology has the potential to offer numerous benefits, but it also presents a range of unique and unprecedented challenges. Some of these challenges include the higher risk of data breaches due to vulnerabilities in AI security protocols, as well as the potential misuse of data and privacy concerns due to AI's reliance on and accumulation of large information databases. Additionally, there is a risk of perpetuating and exacerbating bias within AI systems, resulting in unfair and discriminatory outcomes in decision-making processes. AI-generated content can also be used in phishing attacks, posing new challenges for cybersecurity. Finally, concerns have been raised about the potential for surveillance overreach and the misuse of AI technology for monitoring and tracking individuals, raising important questions about privacy and civil rights.

#### **Corporate procurement practices**

With human rights violations now being exposed far more often and supply chain practices under intense scrutiny, it is vital for companies to elevate their due diligence process within their corporate

procurement practices. This involves comprehensively examining and evaluating potential suppliers and partners, establishing unequivocal ethical sourcing guidelines that align with international standards, and continuously and proactively overseeing compliance with rigorous human rights criteria throughout each supply chain tier.

Emphasising transparency, traceability and accountability can help companies demonstrate their steadfast dedication to responsible sourcing and ethical business behaviour. This approach also establishes a robust foundation for sustainable and ethical operations that resonates throughout the industry.

#### **Stakeholder engagement and accountability**

Stakeholder engagement is the bedrock of effective corporate governance, facilitating a culture of transparency, accountability and a cohesive alignment of interests between the organisation and its diverse stakeholders. As the social dimension of ESG continues to gain prominence, simply treating stakeholder engagement as a box-ticking exercise is no longer sufficient. Various stakeholders, including employees, suppliers, customers, communities and investors, are advocating for higher standards of transparency, active engagement and robust accountability from the companies with whom they interact.

To build trust and credibility, companies need to actively engage stakeholders in decision-making, seek their input, and address their

concerns and priorities thoughtfully. By embracing diverse perspectives, companies can make better-informed and socially responsible decisions, identify areas for improvement, take proactive steps to tackle social challenges and show their commitment to creating shared values with their stakeholders.

#### **Climate justice and environmental equity**

The Business Guide to Advancing Climate Justice, jointly published by Forum for the Future and B Lab in April 2024, reported that, 'while billions of dollars are invested in climate solutions annually, only a small percentage is allocated to support the communities most vulnerable to its impacts – frontline communities. As climate change intensifies, the most severe harm often falls disproportionately on frontline and underserved communities, who are least able to prepare for and recover from climate disasters. Vulnerability to climate change is exacerbated by extractive forms of capitalism and widespread inequality that marginalises specific communities.'

In the foreseeable future, there will be a stronger emphasis on the convergence of social and environmental concerns, particularly in terms of making certain that actions to address climate change are just and accessible. Companies will be expected to acknowledge and actively work to alleviate the disproportionate impact of climate change on disadvantaged communities. This will involve engaging in climate justice efforts, striving to mitigate environmental

harm through a social equity lens and promoting sustainable practices that benefit all members of society.

### Actions companies can take

Driving positive social impact requires a multifaceted approach that starts with unwavering leadership commitment and extends to every level of the organisation. Securing leadership buy-in is pivotal, not only in establishing the overarching tone and direction, but also in cultivating an environment that stimulates inclusive and creative collaboration and engagement from all involved parties. It is also imperative for organisations to move beyond tokenism and to translate their frameworks, policies and strategies into tangible, consistent actions and results.

### Embedding DEI in the corporate culture

As workplaces become more diverse, organisations should review their existing policies to accelerate inclusion for a broader range of employee needs, going beyond the minimum requirements set by law and regulations. Inclusion programmes targeting biases in hiring, promotions, opportunities and daily interactions can help nurture a culture of belonging and respect. Boosting allyship through affinity-based learning and employee resource groups can foster understanding, empathy, solidarity and positive change throughout the organisation.

### Investing in employee well-being programmes

Developing clear and comprehensive guidelines can significantly assist in creating effective processes for

addressing prevention, identification and support for distress, substance abuse and other mental health issues. Encouraging open and normalised conversations about mental health can play a crucial role in reducing the stigma often associated with these issues. This can help employees feel more empowered and secure in sharing their experiences without fear of judgement. It is also vital for organisations to establish policies that explicitly prohibit harassment and bullying. These rules should be paired with a well-defined process for thoroughly investigating complaints and addressing any discovered violations. Companies must take a strong stance against harassment and bullying by consistently following through on the consequences for those who engage in such behaviours. This ensures that the workplace remains a safe and supportive environment for everyone.

Organisations can support employee well-being by providing mental health resources, upholding work-life balance, authorising flexible work arrangements, implementing holistic wellness initiatives, providing cancer support, offering stress management programmes and setting up a psychologically safe work culture that respects the mental health and well-being of the employees.

### Empowering the workforce in the age of AI

The rise of AI presents incredible opportunities to transform how organisations operate and empower their workforce. By aligning AI initiatives with humanistic values and involving employees in the

early stages of implementation, organisations can create strategies that maximise the benefits and minimise the potential negative impacts. As the nature of work evolves, it is essential for companies to invest in upskilling and reskilling programmes to enable their employees to adapt to the changing landscape. One practical approach is for organisations to subsidise online certification courses in fields such as machine learning and AI engineering, and to collaborate with training and development specialists to tailor the learning content to meet their specific needs. By reinforcing a culture of continuous learning, companies can ensure that their employees are prepared to embrace technological advancements and navigate the dynamic nature of the modern workforce.

### Essential leadership skills to learn

The role of leadership is not static. Leaders and managers at all levels and in every function need to continuously learn and adapt to the changing requirements of leadership. Organisations should provide employees with the tools, resources, training and support needed to develop and enhance their leadership skills. This involves embracing change, viewing challenges as opportunities for growth, developing emotional intelligence, recognising and addressing biases, respecting differences, promoting inclusive work environments, demonstrating empathy and communicating effectively to empower, inspire and motivate. While technological change requires new employee skills, leadership style must also evolve to

be AI-ready, focusing on coaching rather than micromanaging, facilitating collaboration, cultivating diversity and measuring impact versus output.

### **Protecting data privacy in the age of AI**

In June 2024, the Office of the Privacy Commissioner for Personal Data, Hong Kong issued Hong Kong's first set of personal data protection guidelines for businesses using AI services. According to the framework set out in the guidelines, companies using AI solutions should take various measures to protect personal data, including conducting risk assessments, deciding on the level of human oversight and minimising the personal data collected to train the model. Organisations should have an internal AI governance strategy to demonstrate the commitment of top management to ethical and responsible procurement, implementation and use of AI. They should also establish a governance committee, led by a C-level executive, that reports directly to the board.

### **Enhancing supply chain transparency and ethical sourcing practices**

Companies should map their supply chains to understand the various stages and entities involved in enhancing supply chain transparency. Once this is done, they can conduct comprehensive risk assessments to identify potential vulnerabilities or ethical concerns. Auditing suppliers is vital to make sure they adhere to standards and practices that align with the company's values.

Furthermore, applying ethical sourcing practices involves engaging with suppliers and encouraging them to adhere to human rights standards and environmental regulations. When companies ensure that their supply chains comply with these standards, they can minimise risks, improve their reputation and contribute to positive social impact by supporting ethical and sustainable practices.

### **Engaging with stakeholders and listening to their feedback**

Effective stakeholder engagement requires establishing and maintaining transparent and open communication to actively address the interests and concerns of diverse groups, setting up effective feedback mechanisms and fostering collaboration. Leveraging digital platforms can significantly enhance the reach and impact of stakeholder engagement efforts. Companies should look to reduce their carbon footprint through stakeholder engagement. By integrating stakeholder engagement as a fundamental consideration in all business decisions, companies can create more sustainable, adaptable and inventive business models that align with the needs and expectations of all stakeholders involved.

### **Advancing climate justice**

The Business Guide to Advancing Climate Justice has identified four key insights that the private sector should consider as it works to advance climate justice. These are: 'prioritise trust-building with frontline communities', 'adopt a new mindset', 'offer immediate and sustained support to meet frontline community needs', and 'consider your spheres

of control and influence'. The report also offers guidance on taking action through community partnerships, internal engagement, internal operations and value chains.

### **Conclusion**

From the rise of sustainability initiatives and digital transformation to the emphasis on diversity and inclusion, companies are now at the forefront of social innovation and progress. As we navigate the complexities of modern societal challenges, embracing these emerging trends and embedding these principles into business operations will be pivotal for shaping a more sustainable, inclusive and equitable future for society and the planet. The path forward may be challenging, but with creativity, collaboration and a commitment to positive social impact, we have the potential to lead the way towards a brighter, more sustainable tomorrow.

### **Patricia Hui FCG HKFCG(PE)**

*Lawyer and governance professional*

*Ms Hui has extensive experience advising various industries, boards, management teams and stakeholders on legal, regulatory and compliance matters, corporate governance and strategy across different regions. She has worked as an in-house General Counsel and Company Secretary for a Fortune 500 US multinational corporation, a prominent listed conglomerate and an international insurtech startup, roles that have equipped her with a deep understanding of the complex legal and governance issues that companies face.*

# Sustainability and board gender diversity

Do companies with more women on boards achieve better sustainability performance?



Dr Agnes KY Tai, Director of Great Glory Investment Corporation and Senior Advisor of iPartners Holdings Ltd, reviews the empirical evidence for the benefits of board gender diversity, including whether a higher female presence on boards influences climate action or contributes to better environmental, social and governance (ESG) outcomes.

Although the overall percentage of board seats held by women has been on the increase (see Figure 1), regulators from developed to developing markets are still pushing for greater board diversity. In 2022, the European Union (EU) stipulated that women are to hold at least 40% of non-executive director positions, or 33% of total director positions (non-executive and executive), by 2026. In May 2022, the International Finance Corporation (IFC) reported that Kazakhstan was targeting a 25% representation of women in local joint-stock companies at the decision-making level by 2023. South Korea instructed all listed firms with 2 trillion Korean won or more in total assets to appoint at least one female director by the end of 2023.

In 2021, Hong Kong Exchanges and Clearing Limited (HKEX) mandated the end of single-gender boards after 31 December 2024. As of June 2024, at the half-way point of the year, 16% of the 2,624 listed issuers have yet to comply, while 19% of issuers have 30% or more female directors. Hang Seng Bank Ltd is the front-runner with 80% of board members being female.

#### Board gender diversity and firm performance

While gender is only one among several attributes that make up a cognitively diverse board, studies show a positive correlation between board gender diversity and financial performance in European companies.

A study of FTSE 100 firms in the UK found a positive and significant relationship between gender diversity and firm performance. Moreover, the results revealed that post-appointment financial performance is positively related to female age, level of education and where female board members also hold executive director positions.

In Asia, correlations between gender diversity and firm performance range from positive in Pakistan to neutral in India, while – in complete contrast – research demonstrates a significantly negative correlation in Japan. In terms of sector, a recent study of 444 firms from 2017 to 2020 across Asia shows that the presence of female board members has a positive

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a 2023 report from the European Investment Fund shows that women-led firms have higher ESG scores than other companies  
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effect on the financial performance of transportation and logistics companies at a certain level.

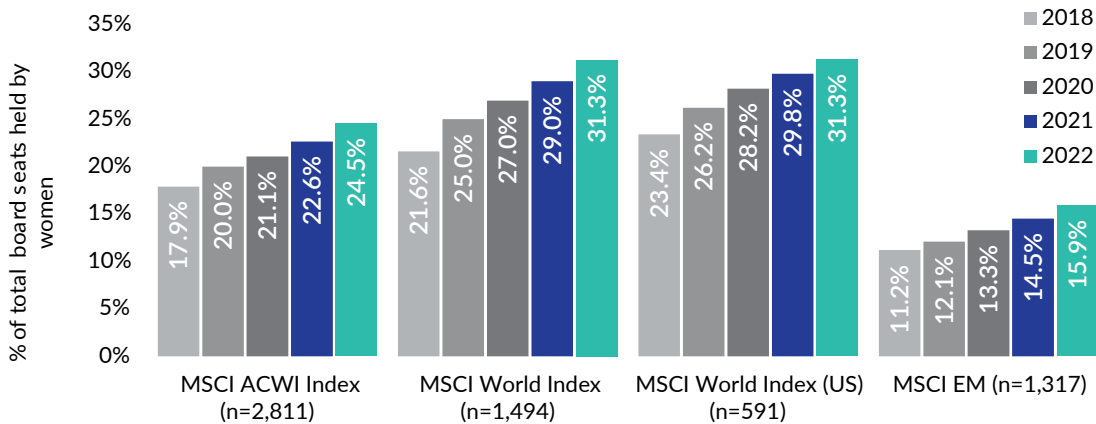
#### Board gender diversity and sustainability performance

But what about sustainability performance? Does a higher female

### Highlights

- single-gender boards in Hong Kong will no longer be possible from the end of 2024, but as of June this year, 16% of listed issuers have yet to comply with HKEX's mandate, despite the evidence for the benefits of board gender diversity
- a study of Fortune 1500 companies since 1992 suggests that companies with one or more women on their boards are significantly more likely to have improved sustainability practices, while those with at least three female board members show better ESG performance
- evidence demonstrates that more cognitively diverse boards, with gender being a significant contributor, can potentially improve ESG performance, better integrate climate action into strategy and best practices, raise board effectiveness, increase resilience of the company and improve financial performance

Figure 1. Overall percentage of board seats held by women 2018–2022



The chart shows the percentage of director seats held by women from 2018 to 2022 among constituents of the MSCI ACWI Index, MSCI World Index, US-domiciled constituents of the MSCI World Index and MSCI Emerging Markets (EM) Index (index constituents as of October of each corresponding year). Boards of directors (one-tier board structure) and supervisory boards (two-tier board structure) are both considered in this assessment.

Source: MSCI ESG Research, November 2022

presence on corporate boards influence climate action or result in better ESG outcomes?

With Covid-19 only just behind us, many businesses are facing the complex uncertainties of climate change, geopolitical tensions, interest rate directions, deglobalisation, de-dollarisation, artificial intelligence (AI) and structural change in local economies, to name a few. According to the IFC, women have strengths that have proven valuable in times of crisis and uncertainty. This supports the argument for an increase in board competence when its structure is more diverse (see Figure 2).

BloombergNEF published a report in December 2020, titled Gender Diversity and Climate Innovation, the Executive Summary of which points out a number of interesting

correlations (not causalities) and makes the following observations, among others:

- Early adopters of the recommendations of the Task Force on Climate-related Financial Disclosures show higher gender diversity and greater transparency on climate-related data than peers.
- Leading integrated oil companies that have strategies for decarbonisation and digitalisation tend to have higher female board representation. Gender diversity in that sector, however, does not directly contribute to lowering emissions or expanding digitalisation.
- Increased and standardised disclosure of gender diversity

will enable companies and financial markets to better assess the linkages between diversity and business performance. Data and benchmarks will also allow markets to backtest the relationships between the two.

Meanwhile, PwC’s 2021 Annual Corporate Directors Survey found that US female directors (87%) are far more likely to be concerned about the impact of climate change than their male colleagues (67%). A study published in 2022 by an asset management firm found that the most diverse 20% of the world’s 1,000 biggest companies across the UK, Italy, the US, France, Japan, Germany and Scandinavia were more aligned with a goal of capping global warming at 1.5°C above the pre-industrial average by 2050.



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 ”

The World Bank Gender Strategy 2024-2030, which promotes increasing women’s representation in business leadership, has published a series of thematic policy notes. One of the 2023 publications states that: ‘Having more women in leadership is positively correlated with higher ESG standards, leading to improved business performance and inclusive economic growth.’

It is perhaps not surprising that an empirical study published in February 2024 that used the Morgan Stanley Capital International (MSCI) benchmark indexes to conduct their analysis, specifically the MSCI Index and the MSCI Emerging Market Index from 2010 to 2019, concludes that the proportion of female members on a company’s board of directors is negatively correlated with CO<sub>2</sub> emissions. In addition, results indicated a negative correlation between board cultural diversity and CO<sub>2</sub> emissions. However, the authors also warn that diversity may lead to internal conflicts within a company, resulting in agency costs and information asymmetry.

An article by the European Investment Bank (EIB) published in March 2023 provided several positive notes supporting more women on private sector boards. A 2023 report from the European Investment Fund shows that women-led firms have higher ESG scores than other companies. Furthermore, businesses with more women in leadership positions have better track records of adopting environmentally friendly practices, for example, investment in renewable energy. Women-owned businesses are more likely to pursue greater energy efficiency and practices, and banks run by women lend less to big polluters.

Cited in the EIB article is a study using S&P 1500 indexed firms in the

United States from 2004 to 2016, which finds a positive relationship between female directors and sustainable investment, while female independent directors have a stronger impact on sustainable investment than male executive directors. In another study that covered Fortune 1500 companies since 1992, companies with one or more women on their boards were found to be significantly more likely to have improved sustainability practices. Companies with at least three female board members were shown to have a better ESG performance.

However, a number of studies published in 2023 and 2024 on women on boards in relation to

**Figure 2. Women business leaders have strengths that have proven valuable in times of crisis and uncertainty**



Source: IFC

“  
**Hong Kong listed companies that have yet to comply with the no single-gender board rule would do well to accelerate the appointment of at least one female director who possesses the attributes and competencies that help the business navigate through complex uncertainties**  
 ”



ESG disclosures in Malaysian and Indonesian companies have mixed findings:

- in Malaysian and Indonesian manufacturing companies, women on boards are deemed beneficial
- in Indonesian companies, gender diversity is not a significant factor, and
- in Malaysian companies, board diversity (especially gender) is significant in fostering transparency, adherence to ethical standards and overall organisational effectiveness.

**China and Hong Kong**

A 2023 paper examines Chinese listed companies from 2010 to 2020 and concludes that the higher the proportion of female directors on the board, the higher the corporate

ESG practice score, with non-state-owned enterprises indicating greater positivity. Since the ESG assessment mechanism was not prevalent or robust during the study period, the results require further verification using more recent data. The reverse cause-effect argument should also be considered – private firms can have more flexibility in directors’ appointments and the founders may favour board diversity more, resulting in those firms having brought more women into the boardroom.

Nonetheless, outcomes from around the world provide encouraging evidence that more cognitively diverse boards – gender being a significant contributor – can potentially improve ESG performance, better integrate climate action into strategy and best practices, raise board effectiveness, increase resilience of the company and be conducive to desirable financial performance.

Hong Kong listed companies that have yet to comply with the no single-gender board rule would do well to accelerate the appointment of at least one female director who possesses the attributes and competencies that help the business navigate through complex uncertainties – be that climate risks and opportunities, the impact of AI, trade sanctions or more stringent regulations imposed by the jurisdictions of their customers. There is no time to lose.

**Dr Agnes KY Tai PhD CCB.D SCR®, ESG Investing, Responsible AI, FRM CAIA MBA FHKIoD**  
*Director of Great Glory Investment Corporation and Senior Advisor of iPartners Holdings Ltd*

Previous CGj articles by Dr Tai are available on the journal website: <https://cgj.hkcgj.org.hk>.

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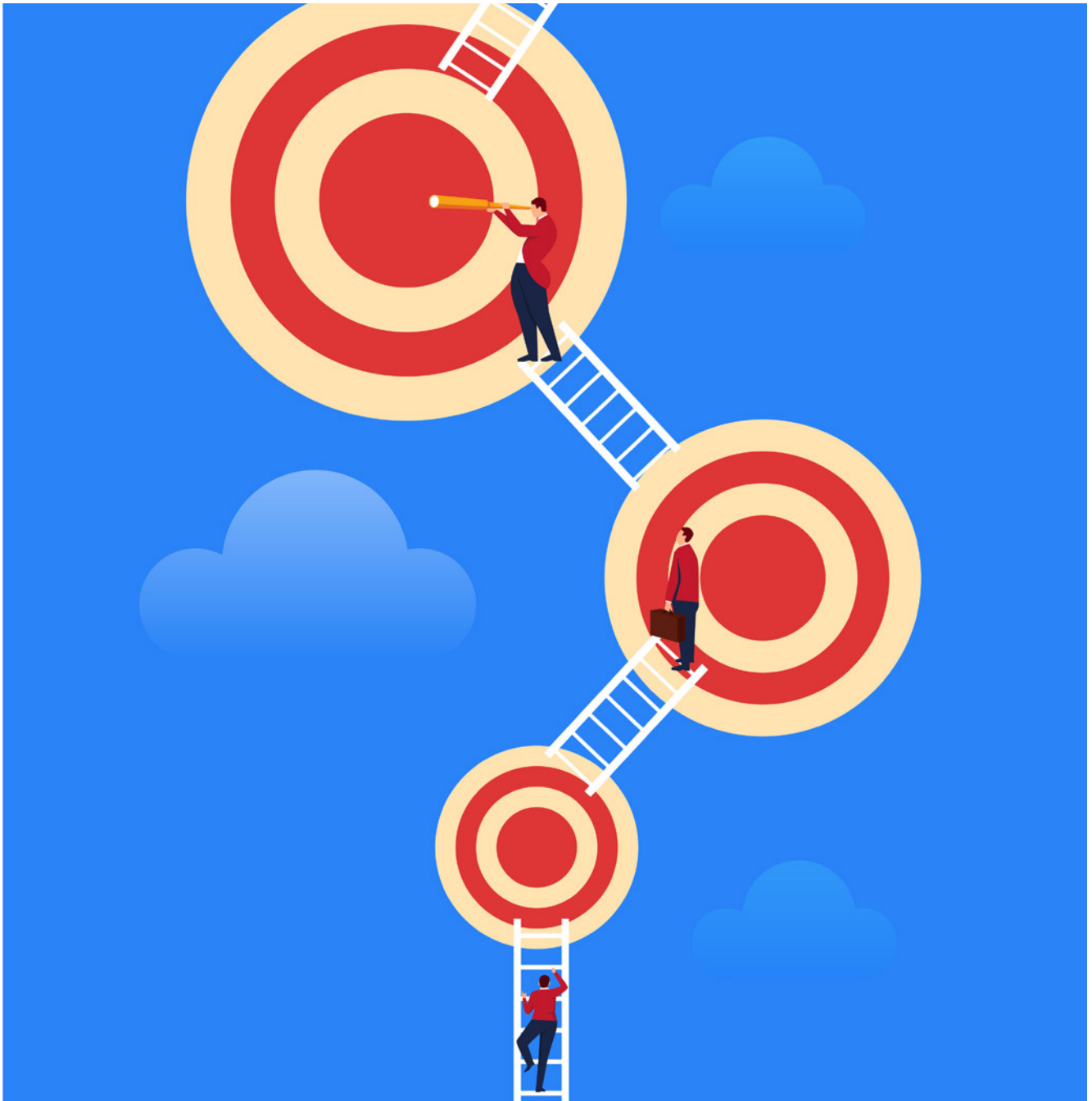


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# Leadership – how to get it right



Effective and inspired leadership is essential for the success of any enterprise. Karin Malmström, Co-founder and Managing Director, Corporate Governance Reality Check, looks at the hallmarks of successful leadership and at the common issues that cause setbacks and failure.

In recent months, we have witnessed failed leadership more often than we have success stories, for example Boeing, OpenAI, Peloton and Pioneer Natural Resources. While each organisation faces different challenges at various phases of commercial evolution, having sound leadership practices in place across the board from inception substantially increases the likelihood that the company will be able to weather the storms – from both internal and external forces – of any magnitude.

#### Tone from the top

Choosing a board leader (chairperson) who has laser clarity about the company's vision and direction is the first order of business for success and corporate longevity. He/she leads by example, guiding and carrying through various aspects of governance to ensure the company stays on track. How board leaders work with senior management and committees to arrive at optimum solutions should demonstrate that they consistently make well-considered decisions that match the company's central vision, strategy and long-term goals.

In addition to the need for a board leader to possess core leadership and professional capabilities, personal qualities such as openness, transparency and collaboration will foster a healthy corporate culture. Walking the talk on all these attributes marks out an inspired leader. It is a warning sign if board

directors or senior management find that the chair avoids making tough decisions or strays off the company's strategic course.

#### Confidence and support

The chief executive and board leader helm the organisation, charting the course for growth and prosperity together with senior management and board directors. Because these roles carry with them the weight and fate of the enterprise, it is imperative that the individuals in these positions have the continued confidence and support of their teams. Erosion of confidence and support due to underperformance or misalignment with strategic goals is a sure sign that the company is in trouble and may need a leadership shakeup.

#### Decision protocols

Directors and senior management should follow clear decision protocols so that individuals know their areas of responsibility and purview. This

will help to make meetings and communications more efficient and effective. It is expected that each director should know what specific issues to bring up in board meetings, primarily leaving operational items to the CEO and his/her team. Delegation of decision-making also lessens the threat of micromanagement. Once a culture of micromanagement creeps in and becomes the modus operandi, it is difficult to reverse without messy consequences.

#### Leadership evaluation

How the CEO, board leader and directors are selected and consistently evaluated to identify under- or non-performance demands a systematic, rigorous approach – so too for succession planning. These are paramount to preserving a successfully functioning team. Clearly outlining qualifications for professional capabilities and personal qualities, along with maintaining

### Highlights

- having sound leadership practices in place across the board from inception substantially increases the likelihood that a company will be able to weather the storms
- choosing a board leader (chairperson) who has laser clarity about the company's vision and direction is the first order of business for success and corporate longevity
- a systemised board review is standard practice – and without it companies run the risk of sailing adrift into perilous waters

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a scheduled review process will increase the likelihood of choosing the right people with the best fit and diversity of skills for creating value. It will also ensure that the company regularly reviews how it is being run and managed in the context of ever-changing risk factors.

Performance evaluations can take several different forms, including peer reviews, surveys and internal or external independent reviews. One method that may promote candour and trust without jeopardising the fabric of the board is confidential 360-degree and/or anonymous reviewing. The objective here is to achieve continuous improvement of board governance without attributing results to specific individuals. Whatever the size of the company – a family-owned business, an SME or a listed enterprise – a systemised board review is standard practice. Without it, companies run the risk of sailing adrift into perilous waters.

#### **Committees**

Committees form the ballast of the company. Some committees are mandatory under various

listing jurisdictions, including those dedicated to nominations, audit, remuneration and corporate governance. Depending on the reporting requirements and the size and nature of the company’s business, some organisations form dedicated risk, ESG and leadership committees to address specific areas of potential material risk. The board leader is obliged to work with each committee chair to ensure that all core areas of the company are on target.

Committees are effective mechanisms for covering research, analysis and reporting, and can serve as checks and balances. However, these can become bureaucratic and waste a significant amount of time if there are too many of them, leading to overlaps of information. A proliferation of committees can confuse activity without actually providing strong oversight.

#### **Empathy and active listening**

Leaders who succeed possess essential personal qualities and qualitative skills to create strong bonds. A collaborative and resilient demeanour coupled with

forthrightness will earn trust, build team spirit and earn respect. Genuinely listening to contrasting viewpoints can turn potentially divisive situations into enlightened growth opportunities.

Empathy is often viewed as a weakness when in fact it is a considerable strength. It illustrates that a leader is completely comfortable with themselves, is open to differing opinions and wants to have a good understanding of others’ ideas. Ignoring or sidelining team members’ input can lead to board members feeling alienated, potentially resulting in a fractious group. Every board member should be heard, including the independent non-executive directors – that’s why they are there, to bring up issues that may not necessarily make it to prime-time consideration.

#### **Communications**

Communications is one of the most important core functions of corporate governance. A leader who recognises that it is imperative to proactively engage with all relevant interested parties, both internal and external, will encourage open exchange

and transparency. Companies that continually engage stakeholders are less likely to find themselves exposed to reputational risk.

Communications is a strategic and deliberate practice. It is key to be clear about what information needs to be communicated and to whom. Equally, not communicating is a form of communication that can

bring doubt, distrust, confusion and sometimes unwanted attention.

In the crisis management business, especially public relations, when the fire brigade is called, the blaze is often already out of control. This is where we come full circle – back to the board leader and the CEO. If they, together with their aligned teams, include reputational risk in the mix of assessing

## Common causes of leadership failure

1. Lack of vision or clear direction. Leaders who lack a clear vision or goals for the organisation may struggle to inspire or guide their team effectively.
2. Failure to make tough decisions. Avoiding difficult decisions can lead to inaction, affecting the organisation's progress and success. Inaction can be as devastating to performance as poor decisions. Both erode trust and confidence in leadership capabilities.
3. Inability to delegate. Leaders who struggle to delegate tasks or empower their team members can become overwhelmed and limit the organisation's potential. Micromanagement stifles creativity, innovation and motivation within the organisation.
4. Lack of empathy. Leaders who do not demonstrate empathy towards their team members may have difficulty building strong relationships and trust.
5. Lack of integrity. Leaders who exhibit unethical behaviour or who lack integrity may lose trust and credibility with their team and stakeholders.
6. Poor communication. Ineffective communication often leads to misunderstandings, conflicts and lack of alignment within the team and stakeholders.
7. Resistance to change. Leaders who are resistant to change or new ideas will hinder the organisation's ability to adapt and thrive in a dynamic environment.
8. Lack of self-awareness. Leaders who lack self-awareness generally fail to recognise their own strengths and weaknesses. This inhibits their ability to grow and develop as leaders.

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overall material risks, then they are well positioned to handle whatever squalls or headwinds hit them.

## Conclusion

There are many issues that should be considered by governance professionals in their role of facilitating board leadership. These include helping to establish clear decision-making protocols, maintaining good transparency, and aligning board, management and stakeholder communications. Equally important is ensuring an active, demanding and diversified board, as well as a systematic leadership evaluation process.

In addition to the sound leadership practices discussed above, strong corporate leadership also requires that the individuals involved have an empathic consideration of diverse viewpoints. When board members and executive management create, lead and foster a healthy corporate culture, they will be in sync with both their teams and the interests of stakeholders. This synergy lays the foundation for a thriving enterprise that delivers results.

**Karin Malmström, Co-founder and Managing Director**

*Corporate Governance Reality Check*

# A new chapter: the beginning of the next evolutionary phase of the new PRC Company Law

## Liability



In this second and final part of their article, Ian K Lewis, Partner, Mayer Brown, together with Elfie Wang of Shanghai Meng Bo Law Office, outline new areas of potential liability introduced in the PRC's recently amended company law regime, as well as reinforcements or expansions to existing requirements.



On 29 December 2023, the People's Republic of China (PRC, China) enacted amendments to its Company Law (New Company Law), which came into effect on 1 July 2024. This represents the most notable update since China established its company law regime back in 1993.

In part one, published in last month's CGJ, we discussed the impact of these amendments on corporate governance. This article concerns liability. The New Company Law contains several provisions that either introduce new areas of potential liability or reinforce and expand existing requirements.

These issues relate not only to directors, but also to supervisors, senior management team executives (senior company officers) and shareholders.

### Strengthening internal checks and balances

One important feature of the New Company Law is the departure from corporate structures dominated by shareholders to a new legal framework that encourages scrutiny through a much more independent board – and senior company officers are now expected to act in the interests of the company, rather than a dominant shareholder.

### Shareholder activities and senior company officers

The New Company Law seeks to encourage better internal policing of shareholder activities by making senior company officers liable if they assist or ignore shareholder wrongdoing in certain cases.

Senior company officers can make demands of shareholders, while shareholder ability to replace troublesome directors has been weakened as the right to replace at will is now challengeable.

For example:

- If a shareholder makes a false capital contribution or has failed to make a contribution on time, they may be fined.
- To encourage internal self-policing, individuals in charge and individuals directly responsible for making a false capital contribution may be fined in their personal capacity.
- Senior company officers may be liable if they are involved in or fail to oppose shareholder abuse of power.

### Shadow directors and shareholders

A further tightening of responsibility within the corporate structure concerns parties that may not

hold office or are not registered shareholders, but nevertheless enjoy control.

- Parties that enjoy de facto effective control and are able to instruct directors or senior managers can now be held jointly liable for conduct deemed damaging to the interests of the company or its shareholders.
- The New Company Law also recognises the fact that controlling shareholders often control the acts and decisions made by directors. 'Controlling shareholders' refers to the shareholder whose capital contributions account for more than 50% of the total capital of a limited liability company, as well as the shareholder whose capital contributions or shareholdings are less than 50%, but whose voting rights based on their capital contributions or shareholdings are sufficient to have a significant impact on the resolutions of the shareholders'

## Highlights

- the PRC's New Company Law seeks to encourage better internal policing of shareholder activities by making senior company officers liable if they assist or ignore shareholder wrongdoing
- the right of a shareholder to simply remove directors is now subject to challenge and may require much more careful drafting of directors' service agreements at the outset
- companies need to be aware of the changes being introduced and should examine arrangements such as internal structures, shareholder agreements and labour contracts to ensure that the balance of responsibility and liability is appropriately structured

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**there is a significant expansion of circumstances in which individual senior company officers can be held personally liable**  
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meeting. A provision states that where the controlling shareholder does not serve as a director – but nevertheless controls the actions of directors – it would assume a duty of loyalty and diligence towards the company and will bear liability.

**Shared liability following share transfers**

The discussion above concerns ways in which the New Company Law encourages internal checks by advocating a more independent board, while senior company officers have significant duties to look after the interests of the company (with less scope for inappropriate shareholder direction).

New provisions regarding share transfers appear to take a similar approach, introducing new checks on shareholder responsibilities in respect of capital contributions by imposing shared shareholder liability in certain circumstances between transferors and transferees (Article 88).

- Where there is outstanding registered capital at the time of a transfer, if the transferee subsequently fails to make

the contribution on time, the transferor will share liability to do so.

- Similar rules apply in respect of transferred registered capital where future capital contribution obligations are not performed – the transferor will be jointly liability in respect of the shortfall.

The impact of these provisions is likely to be considerable and will certainly require careful documentation preparation, with transferees and transferors forced to safeguard the interests of the company by ensuring their own interests are protected.

**Corporate structures**

A number of provisions may also impact the way corporate groups are structured.

New potential areas of shareholder liability surround operations involving multiple companies. Where debts are evaded through the use of two or more companies, it is possible that each company may be required to bear joint and several liability for such debts.

As noted, there are provisions regarding de facto controllers and controlling shareholders. Such parties who instruct senior company officers to carry out acts damaging the interests of a company can be held liable, as if they had a fiduciary duty to act in the interests of the company they control (Article 180) and will share liability with the senior company officers they instruct (Article 192).

It is also worth noting that under Article 189, shareholders have a

new right to take action against senior company officers of wholly owned subsidiaries, exposing such persons to greater scrutiny and potential liability, which strengthens shareholder protection.

**Fiduciary duty and duty of diligence**

Similar to many other jurisdictions, the Company Law imposes fiduciary duties and duties of senior company officers, but offers no clear definition of such duties.

Providing some clarification, among other things it requires the following:

- While senior management are already prohibited from concluding contracts or trading with the company in violation of the company’s articles without the consent of shareholders, the New Company Law also expands such requirement to supervisors.
- Senior company officers must report to the board or shareholders and obtain their approval, as required by the company’s articles, before contracting or trading with the company, either directly or indirectly.
- Transactions with senior company officers’ close relatives and enterprises directly or indirectly controlled by senior company officers or their close relatives, as well as other connected persons of senior company officers, shall also comply with such requirement.

**Personal liability**

There is a significant expansion of circumstances in which individual senior company officers can be held personally liable.

- Senior company officers are liable in their personal capacity for any losses caused by shareholder withdrawal of capital in violation of laws and administrative regulations, distribution of profits in violation of the law and capital reduction in violation of the new law. Moreover, senior company officers may even be personally liable towards third parties. Clause

191 of the New Company Law states that senior company officers can be held personally liable if he/she performs his/her duties in a way that causes damage to others, where the company is liable to pay compensation for wilful or gross negligence.

- Senior company officers need to be aware that potential liability under the New Company Law can involve civil liability, administrative penalties and even criminal liability in serious cases. Amendment XII to the PRC Criminal Law provides that certain individuals in non-

state-owned enterprises, such as senior company officers, may also be exposed to criminal liability in very serious cases, such as (i) where an individual obtains illegal benefits by effectively operating the company business in their own interests or for another party, or (ii) undertaking a competing business to the company in which they hold office in a way that results in severe losses to the company.

- In a case where the company is to be liquidated, the directors are ultimately responsible for

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the liquidation (and must form a liquidation committee). This is a departure from the previous law (where the shareholders have such responsibilities). Very significantly, such directors can be held personally liable if they fail to perform relevant liquidation obligations and cause losses to the company or creditors.

- Where directors and senior managers following the instruction of a controlling shareholder cause losses or damage to company interests, the directors and senior managers involved can be held to be jointly liable with the controlling shareholder.

### Need for action

The amendments to the Company Law will expose senior company officials and shareholders to new responsibilities. Senior company officials may face administrative penalties or liability to third parties if they fail to act against noncompliant shareholders.

Equity transfer agreements will need to be carefully drafted in view of the shared liability for contributions of registered capital – for example, additional indemnity provisions and guarantees may need to be considered.

The days of board meetings essentially being shareholder meetings are numbered as directors are now expected to act independently, while there is considerable new encouragement for boards to also be more independent.

However, there are some potential gaps in the new framework being introduced.

For example, if a senior company officer causes loss to a company due to misconduct, shareholders can take action after first asking the company's supervisory body to act. However, as noted in part one (see last month's CGj), some companies may not have a supervisory body or supervisor – in which case it remains unclear if immediate shareholder action is possible.

A number of Labour Law issues also arise from the introduction of new rights granted to shareholders and senior company officials under the New Company Law.

The new arrangements regarding controlling shareholders and effective controllers may complicate employee disputes where a parent company intervenes with the operations of a subsidiary. In addition, the right of a shareholder to simply remove directors is now subject to challenge – which could make such dismissals more complex – and may require much more careful drafting of directors' service agreements at the outset.

Related to the above will be the need to provide comfort to senior company officers worried about potential new liability. Some may be reluctant to accept appointments without protection.

This also raises questions about management agreements – for example, a hotel might be subject to a management agreement where the employees of a hotel owner are

subject to direction from a third-party management company. The New Company Law may well mean that such arrangements will need review.

### Ongoing review

It should be noted that the Foreign Investment Law of the PRC (effective from 1 January 2020) requires all foreign invested enterprises to comply with the Company Law in terms of organisational form (for example, old-fashioned cooperative joint ventures need to restructure) by 31 December 2024 – only six months after the New Company Law comes into effect.

Given the need for clarity in some areas, this will be a very challenging timeframe for many companies.

It is evident that all companies need to be aware of the changes being introduced and should examine internal structures, shareholder agreements, labour contracts and, potentially, management agreements in order to ensure that the balance of responsibility and liability is appropriately structured.

Given that some matters will require clarification – and new regulations will potentially need to be drafted – this will inevitably be an ongoing process.

**Ian K Lewis, Partner, Mayer Brown, with contributions from Elfie Wang of Shanghai Meng Bo Law Office**

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To be recognised as a powerhouse on sustainability and ESG concerns.

# HKIAC's 2024 Administered Arbitration Rules

## Key points and implications for arbitral proceedings

Kevin Hong, Partner, Hong Kong SAR; Katie Chung, Partner, Singapore; Edward Low, Associate, Tokyo; and Jasmine Chan, Associate, Hong Kong SAR, Norton Rose Fulbright, provide a clear and practical overview of the recent changes to the Hong Kong International Arbitration Centre's (HKIAC) arbitral rules.



On 3rd May 2024, HKIAC introduced new arbitration rules that came into effect on 1 June 2024.

The 2018 HKIAC Administered Arbitration Rules (the 2018 Rules) have been well received by users since their release and are widely recognised as a market-leading set of arbitral rules. The 2024 HKIAC Administered Arbitration Rules (the 2024 Rules) are a refinement of the 2018 Rules, but with key changes to reflect advancing social norms in relation to diversity, the environment and technological developments. They also introduce new powers and clarify the existing powers of tribunals and HKIAC.

Here is a summary of some notable changes under the 2024 Rules and their implications for commercial parties who are, or who may become, involved in arbitral proceedings.

### Major changes in the 2024 Rules Preliminary issues, bifurcation and sequential stages

The newly adopted Article 13.6 of the 2024 Rules explicitly empowers the tribunal to determine preliminary issues, as well as issues on bifurcation and the conduct of sequential stages of the arbitration. This upholds the efficiency of arbitral proceedings, and clarifies and confirms the widely adopted position in practice that the tribunal has such powers.

### Multi-party and multi-contract provisions

In relation to claims made under multiple contracts in a single arbitration, the new rules specify that HKIAC must first, in accordance with Article 19.5, be prima facie satisfied

that the single arbitration has been commenced in accordance with the requirements under Article 29.1. Under the new Article 29.2, where HKIAC decides that the single arbitration has been properly commenced, the parties will be deemed to have waived their rights to designate an arbitrator, with or without regard to any party's designation.

In *SYL and Another v GIF* [2024] HKCFI 1324, a recent case in which a single arbitration under multiple contracts was commenced pursuant to Article 29 of the 2018 Rules, and in which the compatibility of the arbitration clauses in multiple arbitration agreements was called into question, the court set aside an interim award by ruling that the arbitration clauses were incompatible as they adopted different appointment procedures. It was found that imposing a single arbitration on the parties would infringe party autonomy and the parties' contractual rights. It is interesting to consider whether the outcome of the case would have been different had it been commenced under the 2024 Rules instead, with the deeming provision under Article 29.2.

Where an additional party is joined to the arbitration, Article 27.13 of the 2024 Rules provides that HKIAC may revoke any confirmation or appointment of an arbitrator, even after the constitution of the tribunal, with or without regard to any party's designation. Previously, under the 2018 Rules, HKIAC could only revoke the appointment of the arbitrator before the constitution of the tribunal.

### Conduct of the arbitral proceedings *Expedited procedures*

It has been clarified under Article 42.2(e) of the 2024 Rules that the tribunal can now decide a dispute based on both written submissions and documentary evidence. In contrast, the 2018 Rules only expressly allowed documentary evidence. The threshold for HKIAC to extend the six-month deadline for the issuance of an award has also been lowered, from requiring an 'exceptional' circumstance to requiring just an 'appropriate' circumstance, under Article 42.2(f) of the 2024 Rules. HKIAC is now empowered to disapply the expedited procedure under Article 42.3 at the request of the tribunal alone, provided that the parties and appointed arbitrators have been consulted.

## Highlights

- HKIAC's recently amended arbitration rules reflect advancing social norms in relation to diversity, the environment and technological developments
- the 2024 Rules introduce new powers and clarify the existing powers of tribunals and HKIAC, and enhance the efficiency of arbitral proceedings and arbitral appointments
- HKIAC has retained its 'light touch' administration style in the conduct of arbitral proceedings in the 2024 Rules

**Appointment of an arbitrator.** Changes have been made to the provisions relating to the constitution of a tribunal to promote the efficiency of the appointment of an arbitrator, most of which reflect existing practice. These changes include requiring parties to provide reasons in their proposals as to the number of arbitrators, to be made in the Notice of Arbitration and the Answer to the Notice of Arbitration (Article 4.3(g) and Article 5.1(e)), allowing HKIAC to take into account any factors that may affect the efficiency and integrity of the arbitration when appointing arbitrators (Article 9.3), and empowering HKIAC to revoke the appointment of an arbitrator who has failed to fulfil his/her duties in accordance with the 2024 Rules or within the prescribed time limits (Article 13.10).

**Emergency arbitration.** The new provision under paragraph 10 of Schedule 4 of the 2024 Rules empowers an emergency arbitrator to make the necessary preliminary or interim orders before handing down an emergency decision. This clarification deals with the temporary gap between the appointment of an emergency arbitrator and the issuance of an emergency decision, which was previously a limbo period that could be frustrating for a party in need of an order to assert its legal rights in an emergency situation. Paragraphs 12 and 13 of Schedule 4 clarify that the emergency arbitrator may proceed with the emergency relief proceedings (ordinarily to be completed within 14 days from the date when HKIAC transmits the case file to the emergency arbitrator), even if the

case file has been transmitted to the tribunal in the meantime. However, it remains the case that once the tribunal has been constituted, the emergency arbitrator will have no further power to act.

**Changes in legal representation.** Upon the constitution of the tribunal, parties proposing to change or add to their legal representatives shall inform all parties promptly under the tightened provision of Article 13.8 of the 2024 Rules. Previously, under the 2018 Rules, parties would only need to notify the other parties upon an actual change to their legal representation. Under the new Article 13.9, the tribunal is also empowered to take any measures necessary to avoid a conflict of interest arising from a change in legal representation, such as by excluding the proposed new legal representatives from participation in the arbitral proceedings.

**Closure of proceedings.** Under Article 31.1 of the 2024 Rules, the tribunal must now declare the proceedings closed no later than 45 days from the last directed substantive oral or written submissions in respect of the entire proceedings, with the exclusion of submissions on costs. This is to encourage quicker deliveries of awards by tribunals, whilst Article 31.2 continues to provide that awards should be rendered within three months from the closure of proceedings.

#### **Costs and fees**

**Relevant factors in the apportionment of costs.** The addition of Article 34.4 sets out a non-exhaustive list of factors that the tribunal may take

into consideration in determining the apportionment of costs. The relevant factors include the relative success of the parties, the scale and complexity of the dispute, the conduct of the parties in the proceedings, any third-party funding arrangement, any outcome-related fee structure agreement and any adverse environmental impact arising out of the parties' conduct.

**Review and determination of tribunal fees.** HKIAC is empowered under paragraph 5.1 of Schedule 2 of the 2024 Rules to review and adjust the fees and expenses of the tribunal, where it considers appropriate in the circumstances of the case, drawing on the work done by the arbitrator and the complexity of the subject matter (as echoed in paragraph 5 of Schedule 3). This is to ensure the reasonableness of the tribunal's fees and to maintain the confidence of users in the integrity of the system.

**Emergency arbitration costs.** Article 34.1(e) of the 2024 Rules clarifies that the 'costs of the arbitration' to be determined by the tribunal include the costs of the emergency relief proceedings.

**Non-payment of deposits.** Under Article 41.4(a) of the 2024 Rules, before the tribunal has been constituted, HKIAC can now suspend or cease to administer the arbitration if the deposit for costs is not paid in full by the parties. If the tribunal has already been constituted, the rules remain unchanged in that the tribunal may order the suspension, termination or continuation of the arbitration, as it thinks fit.



**Postponement fees.** With the amendments to paragraph 10.1 of Schedule 2 of the 2024 Rules, a party seeking to postpone a hearing may be responsible for fees in relation to the postponement. For a detailed calculation of such fees, please refer to paragraph 10 of Schedule 2 of the 2024 Rules.

**Model clause on the method of determining fees.** The optional model clause under the 2024 Rules has been updated to allow greater flexibility for parties to stipulate whether the fees and expenses of the tribunal shall be determined on an hourly basis, or by reference to the sum in dispute. This gives the parties another opportunity to depart from the default position that the tribunal's fees are to be determined on an hourly rate basis under Article 10.1.

#### **New provisions on diversity, environmental impact and information security**

**New Article 9A on diversity.** The new Article 9A of the 2024 Rules encourages parties and arbitrators to consider diversity when designating arbitrators. HKIAC is also required to take diversity into account when making arbitral appointments. This aligns with HKIAC's commitment to promoting diversity and increasing the proportion of female arbitral appointments, having been a signatory to the ERA Pledge for Equal Representation in Arbitration since 2016. HKIAC has seen a marked increase in the proportion of female arbitrators for all appointments made by HKIAC, to 35% in 2023, compared with 22% in 2021 and

27% in 2022, and the new Article 9A seeks to further that trend. This is in line with the suggestion under the International Council for Commercial Arbitration's 2022 Report of the Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings for institutions to adopt policies to address the effects of unconscious bias and to promote gender diversity in international arbitration. Other arbitral institutions, including the International Chamber of Commerce (ICC) and the Belgian Centre for Arbitration and Mediation, have taken similar approaches. The Singapore International Arbitration Centre (SIAC) has also proposed the inclusion of similar provisions on diversity in its new set of rules.

**New articles on environmental impact.** The new Article 13.1 and Article 34.4(f) of the 2024 Rules encourage the tribunal to consider the environmental impact in the conduct of the arbitral procedures and to consider any possible adverse environmental impact arising out of the parties' conduct in the arbitration when allocating costs between the parties. Other arbitral institutions appear to take a similar approach. For instance, SIAC encourages the tribunal to liaise with the parties on feasible environmentally sustainable procedures at case management conferences, whilst the London Court of International Arbitration (the LCIA) provides for electronic filings of the Request for Arbitration by default – all of which are aimed at reducing carbon footprint.

**New Article 45A on information security.** Under the new Article 45A of the 2024 Rules, whilst the parties may agree on any reasonable measures to protect information, the tribunal is also guided to give directions to protect the security of the information shared in relation to the arbitration. This new provision aims at promoting the parties' awareness of information security.

#### **Key takeaways**

The 2024 Rules are a welcome refinement of the 2018 Rules and reflect HKIAC's keen awareness of topical issues such as diversity in the appointment of arbitrators, information security and the environmental impact of international arbitrations. Some amendments in the 2024 Rules provide valuable confirmation of the tribunal's wide-ranging powers in deciding on the arbitral process, for example, the ability to decide on preliminary issues in the arbitration to increase the efficiency of the arbitration proceedings. It is worth highlighting that in declining to include scrutiny of the awards (unlike other arbitral institutions such as ICC or SIAC), HKIAC has, like the LCIA, deliberately retained its 'light touch' administration style in the conduct of arbitral proceedings.

**Kevin Hong, Partner, Hong Kong SAR; Katie Chung, Partner, Singapore; Edward Low, Associate, Tokyo; and Jasmine Chan, Associate, Hong Kong SAR**

*Norton Rose Fulbright*

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# Insider dealing without inside information – shadow trading theory



Donald Lai ACG HKACG, Solicitor, CPA, discusses a recent US case in which the shadow trading theory was used for the first time to successfully prosecute an employee for insider trading in another company, and outlines the implications for Hong Kong.

‘There was nothing novel about this matter... this was insider trading, pure and simple.’ So stated the Enforcement Director of the US Securities and Exchange Commission (SEC) on 5 April 2024 in his after-trial statement on the jury’s verdict on the case against Matthew Panuwat (*SEC v Panuwat*; filed in the District Court for the Northern District of California on 17 August 2021).

However, the shadow trading theory featured in this case was novel – and its successful use has expanded the potential liability of insider dealing. By advancing the shadow trading theory, the SEC obtained a verdict in its favour on insider trading against Mr Panuwat under section 10(b) or Rule 10b-5 of the US Securities Exchange Act (US SEA Provisions), even though Panuwat possessed no inside information on the stock he traded.

Since section 300 of the Securities and Futures Ordinance (SFO) originated from the US SEA Provisions, the shadow trading theory may be relevant to Hong Kong. Company secretaries should be alert to the case details and should undertake action items to mitigate the potential risk of insider dealing.

### Background

Mr Panuwat was an employee of Medivation Inc, a US-listed biopharmaceutical company. In 2016, Panuwat learned from an email sent by Medivation’s CEO that Pfizer

Inc would acquire Medivation for a premium over Medivation’s market price (Pfizer’s Acquisition). Panuwat anticipated that Pfizer’s Acquisition would boost the share price of Incyte Corporation, another US-listed biopharmaceutical company in a similar field of business to that of Medivation. Seven minutes after Panuwat received the email, he purchased call options for Incyte. When Pfizer’s Acquisition was announced, Incyte’s stock price increased by 7.7%. Panuwat received approximately US\$110,000 from his call options in Incyte. At all material times, Panuwat was not connected to Incyte and did not possess any inside information on Incyte.

The SEC took enforcement action against Panuwat. In 2021, the SEC alleged insider trading against

Panuwat under the US SEA Provisions. Panuwat’s move to dismiss the SEC’s action failed and, in April 2024, the jury found Panuwat liable for insider dealing.

### Shadow trading

The theory of shadow trading predates the Panuwat case. In September 2020, Professors Mehta, Reeb and Zhao published a study on shadow trading. The paper investigates ‘whether corporate insiders attempt to circumvent insider trading restrictions by using their private information to facilitate trading in economically linked firms, a phenomenon we call “shadow trading”’. Using US stock market data from 1997 to 2011 for statistical analysis, the paper found that the returns of economically linked firms were statistically associated, which

### Highlights

- a recent case in the US has expanded the potential liability of insider dealing through the novel use of the shadow trading theory, in which an individual uses confidential information about one company to trade securities in another business in the same industry
- as the shadow trading theory may be relevant to Hong Kong under section 300 of the SFO, company secretaries should take note of this case and should undertake measures to mitigate the potential risk of insider dealing
- induction and continuing compliance training for directors should include a discussion of this case and the shadow trading theory, as well as training in the consequences and possible insider trading risks of dealing in other companies’ securities

## “ the shadow trading theory targets corporate insiders and is premised on the misappropriation theory ”

enabled a profitable shadow trading activity. The paper estimated that the dollar value profit from a single shadow trading event ranges from US\$139,400 to US\$678,000. The authors assert that while conventional insider trading primarily focuses on insiders who use inside information to trade in ‘*their* [emphasis added by the authors] firms as opposed to other firms’, the shadow trading theory would close the loopholes to prevent insiders from exploiting their private information to trade in their business partners and competitors.

Shadow trading would not affect ordinary retail investors trading in a company based on public information about its competitors or business partners. The shadow trading theory targets corporate insiders and is premised on the misappropriation theory. Under this theory, the corporate insider commits fraud when he or she dishonestly misuses inside information for gain or avoidance of loss. The fraudulent act is a result of a breach of fiduciary duty. In the *Panuwat* case, Panuwat owed a fiduciary duty to Medivation by virtue of his employment. He breached his fiduciary duty by violating Medivation’s insider dealing policy and misusing the information obtained from Medivation for his own benefit. Ordinary retail investors who owe no fiduciary duty to a listed

company are unlikely to commit insider dealing by shadow trading.

### Implications

The *Panuwat* case may result in unintended consequences for the financial services industry. Active fund managers who employ a pair-trading strategy frequently trade stocks with a high correlation, usually economically linked firms. The information they obtain from analyst meetings or private communication with listed companies may facilitate their trading in other stocks in economically linked sectors. Such a pair-trading strategy may become insider dealing if the fund manager makes investment decisions based on non-public information about economically linked firms. The same logic applies to research analysts making investment recommendations on a firm based on knowledge from analyst meetings of economically linked firms and sector news. The research analyst may commit insider trading by counselling or procuring people to trade a stock based on non-public information about its competitors or business partners. This is undoubtedly detrimental to the research and asset management businesses.

Another hurdle of shadow trading is enforcement. The core concept of shadow trading relates to the

identification of economically linked firms. While it may be easy to identify Pepsi as a competitor of Coca-Cola, it may not be straightforward to locate a competitor of a conglomerate that engages in multiple business lines of different natures. Even if firms are in the same sector, they may differ significantly in their business models, target customers, products and services. Moreover, statistically associated firms do not necessarily imply an economically linked relationship. The statistical results may be subject to the sample size, time series, variables or even purely random factors. Even if the economic linkage is established at a point in time, the linkage can change from time to time because of market dynamics. To promptly identify shadow trading, regulators may need to engage market experts to constantly identify economically linked firms, as well as to solicit expert evidence to pursue shadow trading cases. The enforcement costs may be prohibitively expensive.

### Shadow trading and insider dealing in Hong Kong

Looking at the shadow trading theory in the Hong Kong context, it may not fall squarely within the definition of insider dealing under Parts 13 and 14 of the SFO. Inside information must be specific information about a corporation, its shareholders, its officers, or its listed securities or derivatives under sections 245 and 285 of the SFO. Assuming Company A and Company B are competitors in the same sector, but are independent and have no common shareholders or officers, then the inside information of Company A is unlikely to be the

## “ section 300 of the SFO may be a possible tool to deal with shadow trading in Hong Kong ”

inside information of Company B. The insider who possesses Company A's inside information is connected with Company A, not Company B. His or her knowledge of Company A's inside information is not equivalent to knowledge of Company B's inside information. When the insider trades Company B's securities, the insider is not dealing in the listed securities of Company A. The absence of the elements of insider dealing under sections 270 or 291 means that the insider dealing regime under the SFO may not be able to prosecute shadow trading.

However, in the same way that the US SEA Provisions apply to shadow trading in the US, section 300 of the SFO may apply to shadow trading in Hong Kong. In the *Lee Kwok Wa* case ([2018] HKCFA 45), the Hong Kong Court of Final Appeal (HKCFA) determined that the US SEA Provisions were the origin of section 300 of the SFO and referred to them when considering the particular interpretation of section 300. As Mr Panuwat was prosecuted under the same US SEA Provisions, section 300 may be a possible tool to deal with shadow trading in Hong Kong. That does not mean the *Panuwat* case can be directly applied to Hong Kong. In the *Lee Kwok Wa* case, the

HKCFA made a distinction between the interpretation of section 300 and that of the US court cases, and ruled that section 300 should be considered in the context of Hong Kong's legislation and according to Hong Kong's circumstances. Even with such caution from the court, it would be premature to rule out the possibility of the regulator invoking section 300 to prosecute shadow trading activities in Hong Kong. Therefore, company secretaries should start planning to mitigate the risk of shadow trading by employees and directors.

### Action items

Given the real risk of insider dealing, company secretaries are advised to take the following actions to shield directors from potential risks.

**Clarify the internal insider dealing policies.** Panuwat was held in breach of duty to his employer by breaching the insider trading policy. The policy expansively prohibits trading in all 'publicly traded companies, including' certain types of securities. The court held that the plain meaning of 'including' merely provides illustrative examples, rather than an exhaustive list of prohibitions. Therefore, the prohibition covers not only the company itself, but also all other publicly traded companies. To reduce the possibility of shadow trading, the company secretary or compliance professional should narrow the scope of the internal insider dealing policy and tailor it to specific trading restrictions.

**Revisit the restricted list.** The restricted list should be expanded to include competitors and companies

in the same sector. The company should install a mechanism to identify 'economically linked firms' – for example, employ a third-party database or even consider engaging market experts to assess the linkages with other firms. Relevant surveillance systems and the Chinese Wall system must also be directed to cover the newly expanded restricted list.

**Enforce the blackout period – no trade, no risk.** Company secretaries should advise directors to strictly observe the blackout period requirements under the Listing Rules. The prohibition should also extend to companies in the same sector where directors hold multiple directorships.

**Training on the Panuwat case.** The director's induction and continuing compliance training should include a discussion of the *Panuwat* case and the shadow trading theory. Directors should also be trained in the consequences and possible insider trading risks of dealing in other companies' securities.

**Donald Lai ACG HKACG**  
Solicitor, CPA

*Donald Lai is a securities law specialist and a member of the Institute's Qualifications Committee.*

*Do you have issues you would like to raise, or expertise you would like to share, with fellow members of the Institute? Members of the Institute are welcome to submit articles to CGj. Please contact the CGj Editor, Kieran Colvert, by email: [kieran@ninehillsmidia.com](mailto:kieran@ninehillsmidia.com).*



“

I believe governance is only going to become increasingly important, including in the sports industry, which offers great potential

”

Tommy Law, Former Team Hong Kong, China, Professional Track Cyclist, and Acting Senior Sports Programme Officer – China Hong Kong Paralympic Committee

## Tommy Law

### *What is your current role and what was your career path to this role?*

'After I retired as a full-time elite athlete on 1 January 2022, I joined The Football Association of Hong Kong, China, through the Retired Athletes Transformation Programme, and became a member of their secretariat. At that time, my duties included helping to organise AGMs, drafting meeting minutes, compiling company registration forms and assisting with annual reports. Because I then had little relevant experience, I searched online to gain knowledge about company registration and different company types. I also read a lot of news. I developed an interest in the work of company secretaries, who are licensed professionals. So I boldly signed up for one of the Institute's accredited master's degree programmes and enrolled with Hong Kong Baptist University. I also now work with the China Hong Kong Paralympic Committee for the upcoming Paris 2024 Paralympic Games.'

### *What are your thoughts on governance in the sports industry and what role do you hope to play?*

'Some members of the public might have a negative impression of the sports industry because of certain news reports that have suggested insufficient transparency or a lack of awareness of governance issues in the field. As a former athlete, this concerns me greatly. Do we need a dedicated body to regulate the industry? There is no regulator, like HKEX or the SFC in the corporate world, to monitor its governance issues, so many sports organisations only voluntarily comply with the most basic requirements and only make improvements if they are reported for infringements. My vision is to become a governance specialist so that in the future I can help the sports industry and sports associations.'

### *What is your chosen route to complete the Institute's qualifying programme and why did you choose that route?*

'After Hong Kong athletes retire, the government provides a grant to support our studies, so I chose to take the part-time master's degree. This has enabled me to make many friends in the business world. Within my group, there are three company secretaries, three certified public accountants and one legal specialist. They have been incredibly helpful and I would not have had this opportunity had I chosen to take the exams independently.'



### *What qualities do you think are needed to be a successful governance professional and what advice would you give to those who are considering qualifying as a Chartered Secretary and Chartered Governance Professional?*

'First, you have to love words because company secretaries will be exposed to many English-language regulations. Second, you need to have a forward-looking mindset. For example, a few months before an AGM, you need to start contacting members and to obtain the consent of the committee. All this requires advance planning. You also need to keep learning and not give up easily. It is difficult to change the existing system, nevertheless, for those interested in this profession, I would recommend nurturing your passion to promote the improvement of governance.'

### *As a member of the younger generation, how do you think governance will evolve in the future?*

'I believe governance is only going to become increasingly important, including in the sports industry, which offers great potential. It can cooperate with different parties and go way beyond Hong Kong. To achieve that, we require governance talent. The corporate governance systems of listed companies are worth learning from. At the end of this year, Hong Kong will add a new code for sports governance. New Zealand and the UK already have similar regulations – for example, if you don't comply with the governance standards, you might not receive funding. I believe this is a positive development.'

## 罗子骏先生



### 请问您目前的职位是什么？能告诉我们您的职业发展经历吗？

‘我在2022年1月1日退役后，透过退役运动员转型计划，加入中国香港足球总会，成为秘书处的一员。当时，我的职责包括帮忙安排周年大会、草拟会议记录、填写公司注册表格，帮忙处理年度报告等事务。因为以前没有相关经验，在工作的过程中，我常常上网查阅有关公司注册和公司类型的知识，也阅读很多新闻，对公司秘书的工作产生兴趣，也发现原来公司秘书是有牌照的，是一个专业范畴。于是我大胆地报读了公会认可的硕士课程，进入香港浸会大学就读。现在我在中国香港残疾人奥委会工作，筹备即将举行的巴黎2024残疾人奥运会。’

### 您对体育行业的治理有什么看法？您希望发挥什么作用？

‘有些公众人士对体育界可能有负面印象，原因是有些新闻报道暗示这行业透明度不足，又或者欠缺治理的意识。作为前运动员，我十分关心这现象。有需要设立专门机构监管体育界吗？企业受港交所或证监会监管，体育界却没有监管机构监察管治事宜，所以很多行业组织都是自发地做最基本的要求，直到被揭露有治理问题后才会有所改善。所以我想成为治理方面的专家，将来帮助体育界和运动行业组织。’

“  
我相信治理只会变得越来  
越重要，包括在潜力巨大  
的体育界

”

罗子骏先生，前中国香港场地自行车代表队运动员，中国香港残疾人奥委会执行高级体育项目主任

### 您完成公会的资格计划的路径是怎样的？为什么选择这路径？

‘香港运动员退役之后，政府可提供教育资助，所以我选择攻读公会认可的非全日制硕士学位。继续进修也让我认识到很多商界的朋友，现在我的同组同学中有三个公司秘书，三个执业会计师，一个法务专员，他们给我的帮助很大。如果我选择考试，便没有机会认识他们。’

### 您认为成为一名成功的治理专业人士需要具备哪些素质？对于那些有想去成为特许秘书和公司治理师的人，您有什么建议？

‘首先，你要喜欢文字，因为公司秘书会接触到许多英文条例。第二是前瞻性的视野，例如，在周年大会前的几个月，你已经需要开始联络会员，并取得委员会的同意，这些都需要预先规划。再者，你也需要不断学习，不轻言放弃。改变既有的制度很困难，但我会建议对这一行有兴趣的朋友们，要保持热忱，推动提升治理水平。’

### 作为年轻一代的一员，您认为‘治理’将来会如何发展？

‘我相信治理只会变得越来越重要，包括在潜力巨大的体育界。体育界能跟不同的单位合作，冲出香港，要好好地发展需要治理人才。上市公司的公司治理制度值得我们学习。今年年底，香港会新增一个体育治理守则。新西兰和英国也有类似的规范，例如不符合治理准则就未必拿到拨款，我觉得这是正面的发展。’





**2023**  
**Dr Anthony Neoh**  
QC SC JP FCG HKFCG

# Calling for Nominations of HKCGI Prize 2024



**2022**  
**Samantha Suen**  
FCG HKFCG  
Past President and Former  
Chief Executive, HKCGI



**2021**  
**April Chan**  
FCG HKFCG  
Past President, HKCGI



**2020**  
**Ada Chung**  
FCG HKFCG  
Privacy Commissioner for  
Personal Data



**2019**  
**Edith Shih**  
FCG(CS, CGP)  
HKFCG(CS, CGP)(PE)  
Past International President,  
CGI; Past President, HKCGI;  
Executive Director and  
Company Secretary,  
CK Hutchison Holdings Ltd



**2018**  
**Peter Greenwood**  
FCG HKFCG  
Former HKCGI  
Representative to CGI  
Council



**2017**  
**Natalia Seng**  
FCG HKFCG  
Past President,  
HKCGI



**2016**  
**Gordon Jones**  
BBS FCG HKFCG  
Former Registrar of  
Companies



**2015**  
**Anthony Rogers**  
GBS QC JP FCG HKFCG  
Former Vice-President of the  
Court of Appeal of Hong Kong



**2014**  
**Neil McNamara**  
FCG HKFCG  
Past President,  
HKCGI



**2013**  
**Edwin Ing**  
FCG HKFCG  
Past President,  
HKCGI



**2012**  
**John Brewer**  
Past Chairman,  
The Association of the  
Institute of Chartered  
Secretaries and  
Administrators in Hong Kong



**2011**  
**Duffy Wong**  
BBS JP FCG HKFCG  
Past Chairman,  
The Association of the  
Institute of Chartered  
Secretaries and  
Administrators in Hong Kong

*(Prize Awardees from 2011 to 2023)*

## The Hong Kong Chartered Governance Institute Prize 2024

The Hong Kong Chartered Governance Institute Prize will be awarded to a member or members who have made significant contributions to the Institute, and the Chartered Secretary and Chartered Governance Profession over a substantial period. Awardees are bestowed with the highest honour - recognition by their professional peers.

For details, please visit [www.hkcg.org.hk](http://www.hkcg.org.hk) or contact Melani Au: (852) 2830 6007, or email: [member@hkcg.org.hk](mailto:member@hkcg.org.hk)

## Professional Development

### Seminars: June 2024

17 June

**CSP foundation training series: directors, company secretaries, officers and auditors of Hong Kong private limited companies**

*Speaker:* YT Soon FCG HKFCG(PE)

19 June

**Advising families: bringing together the internal and the external**



*Chair:* Edmond Chiu FCG HKFCG(PE), Institute Council member, Professional Services Panel Chairman, Technical Consultation Panel – Wealth Management Interest Group Co-Chairman, Mainland China Technical Consultation Panel member, Professional Development Committee member and AML/CFT Work Group member, and Head of Company Secretarial Services, Greater China, Vistra

*Speaker:* Patricia Woo, Partner, Squire Patton Boggs

20 June

**Cross-border insolvency and restructuring: case study of Samson Paper Holdings Ltd and updates**

*Chair:* Joyce Lau FCG HKFCG, Head of Financial Accounting & Tax Services, Corporate Clients (Service Management), Vistra Greater China

*Speakers:* Charles Chau, Partner, Samuel Ngo, Partner, and Wenxing Feng, Registered Foreign Lawyer, Jones Day

21 June

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

*Speaker:* Ricky Lai FCG HKFCG(PE), Company Secretary, China Renewable Energy Investment Ltd

28 June

**Listing rules foundation course series (session one: chapter 13 - continuing obligations)**

*Chair:* Stella Lo FCG HKFCG(PE), Institute Vice-President, Membership Committee Chairman and TCP – Public Governance Interest Group member, and Group Company Secretary, Guoco Group Ltd

*Speakers:* Edith Shih FCG(CS, CGP) HKFCG(CS, CGP)(PE), Honorary Adviser to Council, Past International President and Institute Past President, Nomination Committee member and Governance Professionals Panel member, and Executive Director and Company Secretary, CK Hutchison Holdings Ltd; Catherine Yien, Head of Listed Issuer Regulation, Listing Division, Stephenie Fung, Vice President, Listed Issuer Regulation, Listing Division, and Matthew Yim, Vice President, Listed Issuer Regulation, Listing Division, HKEX; Benita Yu FCG HKFCG, Institute Technical Consultation Panel member, TCP - Company Law Interest Group member and Senior Partner, Slaughter and May; and Alson Law FCG HKFCG, Company Secretary and Head of Secretarial Department, The Bank of East Asia, Ltd

### ECPD seminars/Videos on Demand

ECPD training is organised by the Institute to facilitate its members and other governance professionals to acquire governance knowledge, corporate secretarial skills, and related thought leadership and best practices.

In addition to in-person seminars, ECPD training is delivered via live webinars or pre-recorded videos for maximum accessibility and flexibility.

Details of the Institute's forthcoming ECPD seminars and ECPD Videos on Demand are available in the Professional Development section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).

For enquiries, please contact the Institute's Professional Development Section: (852) 2830 6011, or email: [cpd@hkcgj.org.hk](mailto:cpd@hkcgj.org.hk).

## Membership

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### Membership/graduateship renewal for the financial year 2024/2025

The renewal notice, together with the debit note for the financial year 2024/2025, was sent to all members and graduates by email in June 2024 to the email address registered with the Institute. Members and graduates should settle the payment as soon as possible, but no later than Monday 30 September 2024.

All members and graduates are highly encouraged to pay their annual subscription directly online. Please ensure that you settle your annual subscription by the deadline, as failure to do so will constitute grounds for membership or graduateship removal.

For enquiries, please contact the Membership Section: (852) 2881 6177, or email: [member@hkcgi.org.hk](mailto:member@hkcgi.org.hk).

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### New graduates

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

Ip Sin Ying, Amy Lo Ka Ching	Ma Chenyao Sze On Ni	Wang Jingkai Wong Chui	Wong Chun Yiu Zhang Weibohui
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### New Fellows

The Institute would like to congratulate the following Fellows elected in May 2024.

#### Cheng Chi Lun, Brandon FCG HKFCG

Mr Cheng is currently the Director of Guosen Securities (HK) Ltd. Mr Cheng has extensive knowledge of investor relations, corporate governance and capital market activities. Mr Cheng obtained a bachelor's degree from the University of California, Los Angeles, and a master's degree in corporate governance and compliance from Hong Kong Baptist University.

#### Sun Yanhua FCG HKFCG

Ms Sun is a Partner of Grandall Law Firm. She has over 15 years of experience in corporate governance, finance, risk management, legal and compliance within the Chinese mainland and Hong Kong. Ms Sun obtained an LL.M from Peking University. She is an Associate of the Chartered Institute of Management Accountants, and a Fellow of the Institute of Financial Accountants and the

Institute of Public Accountants. She also holds a PRC legal professional qualification.

#### Wan Ling Yi FCG HKFCG

Ms Wan is the Deputy Company Secretary of China South City Holdings Ltd (Stock Code: 1668). She has extensive experience in general management, company secretarial practice, compliance, risk management and corporate governance in several listed companies in Hong Kong over almost 30 years. Ms Wan obtained a bachelor's degree in business administration from Newport University, an LL.B from Nottingham Trent University and a master's degree in corporate governance from Hong Kong Metropolitan University. She is also a Fellow of the Canadian Chartered Institute of Business Administration.

#### Li Wing Yan, Fenda FCG HKFCG

Head of Corporate Governance, Asia, and Company Secretary, Hong Kong, Standard Chartered Bank

## Membership (continued)

### Membership activities: June 2024

8 June

Governance Professional Mentorship Programme and Student Ambassadors Programme networking event – 2030 sustainable development goals game



### Forthcoming membership activities

Date	Time	Event
28 August 2024	6.45pm–8.15pm	Welcome drinks for new qualifiers and joiners (by invitation only)

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

## Advocacy

### Thank you for making our 25th ACRU such a success

On 7 June 2024, over 2,200 delegates, comprising governance professionals, directors, senior management and those interested in governance, attended the 25th Annual Corporate and Regulatory Update (ACRU 2024).

Regulators shared their insights on the following:

- legislative and service updates from the Companies Registry
- competition law enforcement from the Competition Commission
- guidance from the Hong Kong Business Ethics Development Centre of the Independent Commission Against Corruption on fostering an ethical culture within Hong Kong organisations
- the latest climate-related disclosure requirements, directors’



duties and listing updates from Hong Kong Exchanges and Clearing Limited.

- data protection practices and personal data privacy regulations from the Office of the Privacy Commissioner for Personal Data, Hong Kong, and

- directors' duties, enforcement work in relation to listed companies and generative artificial intelligence from the Securities and Futures Commission.

The Institute would like to express its sincere thanks to all regulators, panel chairs and delegates who contributed to ACRU 2024.

The Institute will continue championing governance thought leadership, as encapsulated in its tagline: Better Governance. Better Future.

For more information on ACRU 2024, please visit the ACRU website: <https://acru.hkcg.org.hk>.

## Congratulations to Professor Alan Au

Congratulations to Professor Alan Au FCG HKFCG, Institute Council member and Acting Dean of the Lee Shau Kee School of Business and Administration and Director of the Institute of International Business and Governance, Hong Kong Metropolitan University (HKMU), on his appointment as Vice President (Strategic Initiatives) of HKMU, effective from 1 July 2024.



## Supply Chain Management – An Introduction & Applied Governance Perspectives

On 14 June 2024, the Institute published a joint report with Deloitte China, titled Supply Chain Management – An Introduction & Applied Governance Perspectives.

The report introduces broad concepts related to supply chain management to help governance professionals become more knowledgeable in this field so that they can offer practical advice and help implement appropriate governance practices.

For details, please visit the Research Papers page under the Thought Leadership section of the Institute's website: [www.hkcg.org.hk](http://www.hkcg.org.hk).



## Advocacy (continued)

### Nominations for the HKCGI Prize 2024

Nominations are now open for the HKCGI Prize 2024. This is an opportunity to recognise individuals who have made significant contributions to the Institute and to the profession of the Chartered Secretary and Chartered Governance Professional during their careers. Members are invited to submit nominations on or before the deadline of 30 September 2024.

*For more information about the Prize and details of the nomination procedure, please visit the News & Events section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).*

### Retirement – A Sustainability Governance Issue: Retirement Age & a Managed Process

On 25 June 2024, the Institute published a survey report, titled A Sustainability Governance Issue: Retirement Age & a Managed Process, drawing insights from approximately 1,300 respondents.

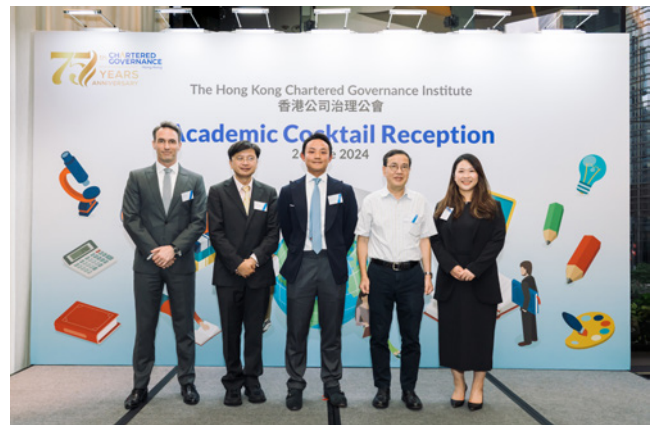
Given the ageing population – and based on respondents' views – the report advocates the adoption by Hong Kong organisations of a preferred retirement age of 65 and above.

*For details, please visit the Research Papers page under the Thought Leadership section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).*



### Academic Cocktail Reception

On 26 June 2024, the Institute hosted its annual Academic Cocktail Reception to reinforce links with local universities, higher education institutions and their academic representatives, which was attended by more than 75 academics and employers. This partnership helps the Institute promote governance as a career choice for students and maintain the CGQP's professional standards. Institute Qualifications Committee Vice-Chairman Matthew Young FCG HKFCG(PE) thanked all the guests for their support of the Institute's dual Chartered Secretary and Chartered Governance Professional qualification.



## Chartered Governance Qualifying Programme (CGQP)

### Studentship renewal for the financial year 2024/2025

The renewal notice for the financial year 2024/2025 was sent to all students to the email address registered with the Institute in June 2024. Students should settle the payment as soon as possible, but no later than Monday 30 September 2024.

All students are highly encouraged to pay their renewal fee directly online. Please ensure that you settle your renewal fee by the deadline, as failure to do so will result in the removal of studentship from the student register.

For enquiries, please contact the Studentship Registration Section: (852) 2881 6177, or email: [student\\_reg@hkcgj.org.hk](mailto:student_reg@hkcgj.org.hk).

### June 2024 examination diet

The examination results of the June 2024 diet will be released on 20 August 2024. Candidates can access their examination results from their accounts on the Institute's website. The examination papers, mark schemes and examiners' reports are also available to download from the Login area of the Institute's website.

Candidates may apply for a review of their examination results by submitting an application form to the Institute within 10 working days from the release date of the examination results.

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

For details of the CGQP examinations, please visit the Examinations page under the Chartered Governance Qualifying Programme subpage of the Studentship section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).

For enquiries, please contact the Qualifications and Assessments Section: (852) 2830 6010, or email: [exam@hkcgj.org.hk](mailto:exam@hkcgj.org.hk).

### November 2024 examination diet timetable

The November 2024 examination diet of the CGQP opened for enrolment on 16 July 2024, with a cut-off date of 30 August 2024. All examination enrolments must be made online via the Login area of the Institute's website.

#### Week one

Date/Time	18 November Monday	19 November Tuesday	20 November Wednesday	21 November Thursday
9.15am-12.30pm*	Hong Kong Taxation	Hong Kong Company Law	Interpreting Financial and Accounting Information	Corporate Secretaryship and Compliance

#### Week two

Date/Time	25 November Monday	26 November Tuesday	27 November Wednesday	28 November Thursday
9.15am-12.30pm*	Corporate Governance	Strategic Management	Risk Management	Boardroom Dynamics

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

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

For enquiries, please contact the Qualifications and Assessments Section: (852) 2830 6010, or email: [exam@hkcgj.org.hk](mailto:exam@hkcgj.org.hk).

## Chartered Governance Qualifying Programme (CGQP) (continued)

### Learning support

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

### Examination technique online workshops

The Institute's examination technique online workshops are designed for students with substantive knowledge of their respective examination modules. A new structure for the workshops will be implemented in September to better facilitate students' examination preparations. The workshops for the November 2024 examinations will be extended from 6 hours to 12 hours, specifically for the Corporate Governance, Corporate Secretaryship and Compliance, and Risk Management modules.

- Part one and part two: These sessions consist of pre-recorded videos totalling 10.5 hours. They offer an overview of the syllabus by highlighting key points and significant issues. Past papers are used as illustrations to provide guidance on examination techniques for tackling questions.
- Part three: This will be a 1.5-hour webinar that provides feedback and guidance based on the mock examination paper.

Video subscriptions for parts one and two will be available from 9 September 2024. Part three will be held online in late October 2024, with the enrolment period running from 9 September to 20 September 2024.

*For details, please visit the Online Learning Video Subscription page under the Learning Support subpage of the Studentship section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).*

*For enquiries, please contact the Qualifications and Assessments Section: (852) 2830 6010, or email: [exam@hkcgj.org.hk](mailto:exam@hkcgj.org.hk).*

### HKU SPACE CGQP Examination Preparatory Programme – autumn 2024 intake

HKU SPACE has been endorsed by the Institute to organise the CGQP Examination Preparatory Programme, which helps students to prepare for the CGQP examinations. One assignment and one take-home mock examination will be provided to students. There are 36 contact hours for each module, except for Hong Kong Company Law, which has 45 contact hours. The autumn 2024 intake will commence in September 2024.

*For details, please contact HKU SPACE: (852) 2867 8485, or email: [hkcgj@hkuspace.hku.hk](mailto:hkcgj@hkuspace.hku.hk).*

### Corporate Governance Paper Competition and Presentation Awards 2024

The annual Corporate Governance Paper Competition and Presentation Awards, organised by the Institute, is designed to foster appreciation of corporate governance among local undergraduates. The theme this year asks applicants to evaluate the topic: 'Overcoming governance obstacles in NGO administration'.

Undergraduates of all disciplines in Hong Kong are eligible to enrol for the competition in teams of two to four members each. We are delighted to announce that, this year, 101 undergraduates in 33 teams from the following 10 universities (in alphabetical order) have submitted their papers.

- City University of Hong Kong
- Hong Kong Baptist University
- Hong Kong Metropolitan University
- Hong Kong Shue Yan University





- Lingnan University
- The Chinese University of Hong Kong
- The Hang Seng University of Hong Kong
- The Hong Kong Polytechnic University
- The Hong Kong University of Science and Technology
- The University of Hong Kong

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

Reviewer's name	University or higher education institution
Professor Steven Cheung	The Hong Kong University of Science and Technology
Professor Sammy Fung	The University of Hong Kong
Dr Lisa Goh	The Hang Seng University of Hong Kong
Eva Lai	Hong Kong Metropolitan University
Dr Bruce Li FCG HKFCG(PE)	The Hong Kong Polytechnic University
Dr Shen Na	Hong Kong Shue Yan University
Professor Normann Witzleb	The Chinese University of Hong Kong
Professor Raymond Wong FCG HKFCG	City University of Hong Kong
Tommy Wong	Saint Francis University
Dr Davy Wu	Hong Kong Baptist University
Professor Harry Wu	Lingnan University

The six finalist teams, as determined by the reviewers, will present their papers on Saturday 7 September 2024 to compete for the Best Presentation Award and the Audience's Favourite Team Award. Members, graduates and students who are interested in observing the presentation competition are welcome to attend.

Theme	Overcoming governance obstacles in NGO administration
Date	Saturday 7 September 2024
Time	10.00am–1.00pm
Fee	Free of charge
Venue	Webinar session; no physical attendance is required.
CPD points	2

For details of the competition, please visit the *Corporate Governance Paper Competition and Presentation Awards* page under the *Student Promotion & Activities* subpage of the *News & Events* section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).

### Forthcoming studentship activities

Date	Time	Event
7 September 2024	10.00am–1.00pm	Corporate Governance Paper Competition and Presentation Awards 2024

## Notice

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### Update of the CGQP studentship policy

The CGQP studentship policy for the following has been updated with effect from 1 July 2024:

- studentship registration (Collaborative Course Agreement (CCA) programme entry)
- studentship renewal and maintenance requirements (CCA programme students)
- study timeframe requirements (CCA programme students)
- application for CCA full exemption
- application for further exemption, and
- studentship removal.

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

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### Featured job openings

Company name	Position
The Education University of Hong Kong	Council Secretarial and Administration Manager – Office of the Vice President (Administration) and Council Secretariat

*For details of job openings, please visit the Job Openings for Governance Professionals section of the Institute's website: [www.hkcgj.org.hk](http://www.hkcgj.org.hk).*

# Certificate for Module

## (The Hong Kong Chartered Governance Institute Examinations Preparatory Programme)











This programme is endorsed by The Hong Kong Chartered Governance Institute (HKCGI). The aim is to develop students with the knowledge and skills necessary to write the professional examinations of the Chartered Governance Qualifying Programme (CGQP), which is recognized worldwide.

### COURSE INFORMATION

Intake: 3 intakes per year (Spring, Summer & Autumn)

Teaching Venue: Any of the HKU SPACE's Learning Centres on Hong Kong Island


Programme Title	QF level	QR Registration No.	QR Registration Validity Period
Boardroom Dynamics  4	4	21/001317/L4	01 Dec 2021 - on-going
Corporate Governance  4	4	21/001318/L4	01 Dec 2021 - on-going
Corporate Secretaryship and Compliance  4	4	21/001319/L4	01 Dec 2021 - on-going
Hong Kong Company Law  4	4	21/001320/L4	01 Dec 2021 - on-going
Hong Kong Taxation  4	4	21/001321/L4	01 Dec 2021 - on-going
Interpreting Financial and Accounting Information  4	4	21/001322/L4	01 Dec 2021 - on-going
Risk Management  4	4	21/001323/L4	01 Dec 2021 - on-going
Strategic Management  4	4	21/001324/L4	01 Dec 2021 - on-going


### TARGET STUDENTS

1. Be 21 years old or above. (Students should be either a Hong Kong permanent resident or have valid permit to study in Hong Kong)
2. Students aiming to prepare for the HKCGI CGQP examinations.

### Award:

Certificate for Module

 This course has been included in the list of reimbursable courses under the Continuing Education Fund.

 This course is recognised under the Qualifications Framework (QF Level 4).


### Fee per subject:


**HK\$4,700** (36-hour lectures)

**HK\$6,200** (45-hour lectures)

All fees paid are NOT refundable, unless the programme is oversubscribed or cancelled. All fees are subject to revision.

CONTACT INFORMATION  
Programme Enquiries (HKU SPACE)

 (852) 2867 8485

 [hkcgi@hkuspace.hku.hk](mailto:hkcgi@hkuspace.hku.hk)



# GO



# BEYOND

Meet our all-new long-distance leader. Reaching 8,000 nm/14,816 km<sup>1</sup> at Mach 0.85, the Gulfstream G800™ takes you farther faster, guided by the award-winning Symmetry Flight Deck.



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A General Dynamics Company

<sup>1</sup>NBAA IFR theoretical range at Mach 0.85 with 8 passengers, 4 crew and NBAA IFR reserves. Actual range will be affected by ATC routing, operating speed, weather, outfitting options and other factors. All performance is based on preliminary data and subject to change.