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April 2012

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The journal of The Hong Kong
Institute of Chartered Secretaries

香港特許秘書公會會刊



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paperwork?

E-incorporation
one year on

Edith Shih interview
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The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional body dedicated to the promotion of its members' role in the formulation and effective implementation of good governance policies in Hong Kong and throughout China, as well as the development of the profession of the Chartered Secretary.

HKICS was first established in 1949 as an association of Hong Kong members of the Institute of Chartered Secretaries and Administrators (ICSA) of London. It became a branch of ICSA in 1990 before gaining local status in 1994, and today has more than 5,000 members and approximately 2,500 students.

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April 2012

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Contents

Cover Story

No more paperwork? 06

In the first year of its operation, the take-up rate of the Companies Registry's electronic incorporation service has been relatively slow. *CSj* gets feedback from company secretaries on whether e-incorporation is living up to its promises.

In Profile

From concertos to compliance 12

In interview with *CSj*, HKICS president Edith Shih discusses her aspirations as president and recounts how a career in music led to her current job as General Counsel and Company Secretary at Hutchison Whampoa Ltd.

Mainland Report

PSI disclosure – a mainland perspective 18

The Institute's latest Regional Board Secretary Panel seminar, held in Hong Kong in January this year, focused on the different requirements for price-sensitive information (PSI) disclosure in the mainland and Hong Kong.

PSI 披露 — 中国的角度 22

上市公司股价敏感资料 (PSI) 披露的问题一直是香港的公司秘书高度关注的议题, 因为他们要为今年稍后将定立的新的法定要求作好准备。因此, 香港特许秘书公会今年一月在香港举行地区的[董事会秘书专责小组会议], 特别关注这个主题。研讨会重点在于探讨在内地与香港PSI披露的不同要求。

In Focus

Crossing Lo Wu Bridge 26

There is only one way to really understand the PRC business environment and that is to live and work in mainland China. Zoe Chan So Yuen, Law Programme Director, HKU SPACE, looks at an increasingly popular option for gaining work experience in the PRC – secondment.

HKICS News

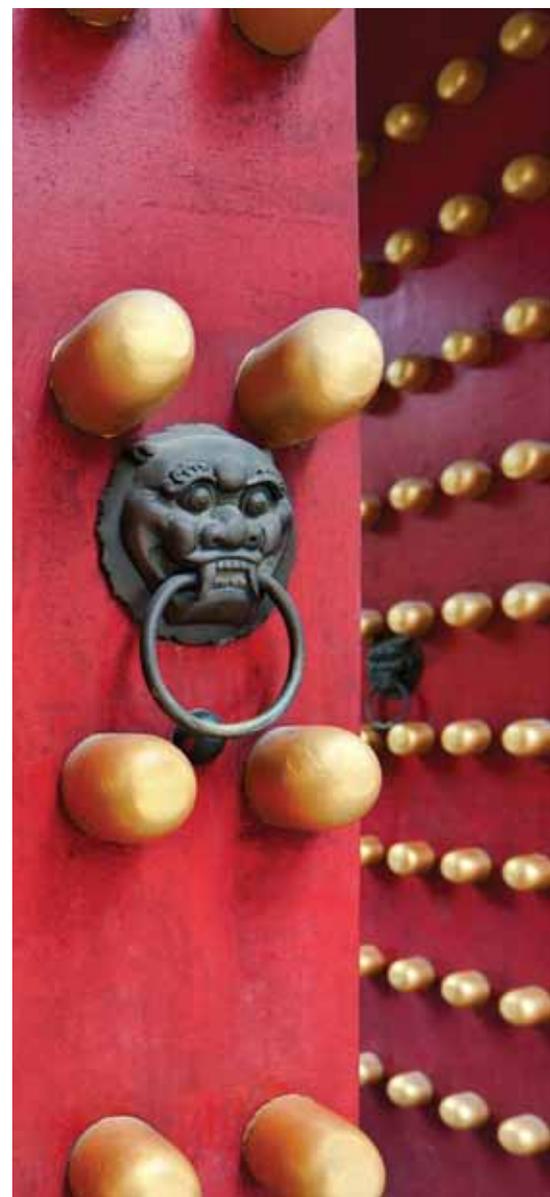
President's Message 04

Institute News 32

Student News 40

Bulletin Board 46

News items and regulatory changes of relevance to members.





Learning with mother...

Two of the articles in this edition of *CSj* relate to different aspects of business in mainland China. One ('PSI disclosure – a mainland perspective' on pages 18-25) examines the issue of the disclosure of price-sensitive information (PSI) which was the topic of a recent mainland board secretaries' seminar. This article hears from, among others, new HKICS Council member, Gao Wei, Board Secretary of Sinotrans Ltd. The fact that the HKICS has welcomed a Council member from the mainland into its fold is another indication of the importance our Institute attaches to developments to the north.

As the article states, Gao Wei is in an ideal position to compare PSI issues in Hong Kong and the mainland, being the first Affiliated Person (AP) to complete the International Qualifying Scheme and become a member of the Institute. I urge all members to become familiar with PSI requirements on the mainland as well as those in Hong Kong. This article, along with the second one about the mainland ('Crossing Lo Wu Bridge' on pages 26-31), is part of the Institute's ongoing Mainland China Education Programme aimed at bringing members up to speed on the business, cultural and political aspects of conducting business there and with mainland companies. Consisting of seminars, workshops, visits to mainland entities as well as articles in *CSj*, this unstructured programme allows members to learn at their own pace.

A more structured programme is due to be launched soon. This will be a diploma-bearing programme that we are partnering with a local university. It

really is very important for members, even if their organisation is not conducting business on the mainland or with mainland companies, to learn as much about the business environment there as possible. If various predictions are true (including one, for example, by the International Monetary Fund), China could be the world's biggest economy within as little as five years.

Another way to learn about mainland China is to actually go and work there, and this is the topic of our second mainland-focused article, 'Crossing Lo Wu Bridge'. There are, of course, many practical issues which need to be carefully considered before taking up secondment work on the mainland. This excellent article highlights some of these and, if you are considering 'Crossing the Lo Wu Bridge' to enhance your mainland knowledge, I strongly suggest you read this article first.

I would also like to comment on this month's cover story which looks at the Companies Registry's electronic incorporation service, launched a little over 12 months ago (see 'No more paperwork?' on pages 6-11). Our Institute was heavily involved in the consultations regarding the establishment of electronic incorporations, which was of particular interest to our members working in the professional services sector. One area of great concern was customer due diligence. Quite rightly, all professional firms of repute take very seriously the need to conduct anti-money laundering clearance on clients, but this has resulted in many members being reluctant to use the electronic route unless the client has a long-standing relationship with their firm.

In 2011, according to the Companies Registry's figures, only 11 percent of companies were registered electronically. I am sure that as we become more used to this means of registration, e-incorporation

will become more popular, but in order for it to become so it must offer more than the advantage of speed. Indeed, the article identifies a number of members who state that speed is generally not the overriding concern of their clients. It was suggested, and supported by the Institute, that at least initially the use of the e-incorporation system be restricted to professionals such as Chartered Secretaries, CPAs and lawyers. While I understand the Registry's viewpoint that the system should be open to everyone rather than restricted to professionals, I cannot help but think that if its use had been restricted for at least the first six to twelve months after its launch, we could have given the market in general more confidence in the system and so, by virtue of familiarity, increased the number of companies using this method to incorporate. That said, we will continue to support the Companies Registry in its efforts to ensure that Hong Kong's e-incorporation system becomes a world leader.

Finally, last month, I mentioned that we will shortly be issuing an online questionnaire to all company secretaries of Hong Kong listed issuers. I am pleased to announce that it was launched on 27 March 2012 and will close on 20 April 2012. This survey will help us, regulators and the general public better understand the roles, responsibilities and challenges of company secretaries, so (again) I urge all of us who are company secretaries of listed issuers in Hong Kong to complete the survey. Ultimately it will be to the benefit of each and every one of us, as well as that of our profession and Institute.

Edith Shih FCIS FCS(PE)

认识内地事务

本刊今期的两篇文章,与中国内地的不同事务有关。其中一篇(第18-25页的「披露股价敏感资料—内地角度」)探讨披露股价敏感资料的议题,这是近期一个内地董事会秘书讲座的主题。文章引述多位人士的意见,包括香港特许秘书公会的新任理事会成员、中国外运股份有限公司董事会秘书高伟。来自内地的成员加入公会理事会,可见公会对内地特许秘书事务发展的重视。

正如文章所述,高伟是首位完成国际专业评审考试、成为公会会员的联席成员,因此是比较香港和内地股价敏感资料事宜的最佳人选。我促请所有会员了解内地和香港对股价敏感资料的规定。这篇文章和第二篇和内地有关的文章(第26-31页的「跨过罗湖桥」),是公会持续进行的中国内地教育计划的一部分,目的是让会员认识在内地经营时有关业务、文化和政治层面的须知事宜。这项计划内容包括讲座、工作坊、参观内地机构,以及在CSJ刊登文章,让会员按自己的学习进度认识内地事务。

公会即将推出另一项较有系统的教育计划,与本地一所大学合办文凭课程。即使会员任职的机构并无在内地经营,也没有与内地公司从事业务往来,会员也应尽量多认识内地的营商环境,这是十分重要的。有多项关于中国发展的预测,例如国际货币基金会的预测,若最终成为事实,

中国可在短至五年内成为世界最大的经济体系。

另一个认识中国内地的方法,是亲身前往当地工作。这是第二篇中国专题文章「跨过罗湖桥」的主题。在接受任命往内地工作前,当然要小心考虑许多实际的问题;这篇精彩的文章重点讨论当中几项。假如您正考虑「跨过罗湖桥」,必须增加自己对内地的认识,我特别建议您先阅读这篇文章。

我也想一谈本月份的封面故事,内容是公司注册处一年多前推出的电子化公司注册服务(第6-11页的「不必再用纸张?」)。本会积极参与设立电子化注册系统的谘询工作,这是从事专业服务的公会会员尤其感兴趣的。其中一个关注重点,是对客户的尽职审查。的确,所有声誉良好的专业机构,都认为有需要查核客户是否有参与洗黑钱的行为,结果造成一种现象,就是除非某客户是机构的长期客户,否则许多公会会员都不愿意运用电子系统。

公司注册处的数字显示,在2011年,只有11%的公司是以电子方式注册。我们习惯了电子化注册后,我深信这种注册方式会日趋普遍;但若普及化,电子化注册方式除了快捷之外,还须有其他优点。文章访问的多名会员,都认为速度不是客户的主要关注点。会员建议最少在实施初期,

该电子系统应只限于特许秘书、特许会计师和律师等专业人士使用;公会也支持这项意见。公司注册处认为系统应开放给所有人使用,不应只限专业人士,对此我表示理解;但我总觉得,假如起码在推出的首六个月至十二个月内,只限若干人士使用该系统,市场就会对系统更有信心,而这些人士熟习系统后,以电子化方式注册成立的公司也会较多。尽管有以上意见,我们还是会继续支持公司注册处的努力,确保香港的电子化注册系统成为全球领先的系统。

最后,我上月提到我们将于短期内向所有香港上市公司的公司秘书发出网上问卷。现谨报告,问卷调查已在2012年3月27日展开,并将于2012年4月20日结束。这项调查有助公会、监管机构和公众人士更深入地了解公司秘书的角色、职责和所面对的挑战,因此我再次促请香港所有上市公司的公司秘书参与调查。这项工作,最终可令我们得益,也会令特许秘书专业和公会得益。



施熙德

No more paperwork?

E-incorporation one year on

Electronic incorporation has some obvious advantages over paper-based incorporation – it's faster, more efficient and the whole process can be conducted from the serenity of your own laptop anywhere in the world, 24/7. So why, a year on from the Companies Registry's launch of this new service, has uptake been relatively slow? *CSj* gets feedback from company secretaries on whether e-incorporation is living up to its promises.

Just over a year ago, on 18 March 2011, the Hong Kong Companies Registry launched a one-stop electronic service for company incorporation and business registration. The roll out of the service was particularly welcome to company secretaries in the corporate services sector, who are major users of the Registry's services. 'Incorporation within a matter of minutes is a very attractive proposition to us here at TMF, it also raises Hong Kong's profile globally as a forward-thinking and business-friendly place to conduct business,' commented Suzanne Callister, Regional Director, Corporate Services Asia Pacific, TMF Group, at the time of the e-incorporation launch.

A year on from the launch of the service, it seems to have fulfilled its aspirations. The time needed to incorporate a business in Hong Kong has been reduced from four days to less than one hour. And, right on cue, Hong Kong's status in the World Bank's 'Ease of Starting a Business' rankings has climbed from sixth place in 2011 up to fifth place in 2012 (behind New Zealand, Australia, Canada and Singapore).

'As a leading international business and financial centre, a convenient and efficient company registration system is crucial for Hong Kong,' says Ada Chung, the Registrar of Companies. 'The new service provides an alternative to the traditional paper-based application. It not only makes it easy to start a business in Hong Kong, but also puts us on a par with business centres like London and Singapore. At the same time, it enhances Hong Kong's competitiveness and pull as a major international business and financial centre.'

There is, however, one small catch to this success story. In 2011 only 11% of company incorporations were processed electronically. Registry statistics released in early January this year indicate that, out of a total of 150,190 incorporation applications received by Registry in 2011, 16,604 were electronic applications. Should we attribute this slow uptake to user apathy and a lack of familiarity with the new service? Human beings are, after all, notoriously resistant to change. Or does it indicate problems with the service itself? The answer to these questions depends, of course, on who you ask.

What do company secretaries think of e-incorporation?

The likes

Company secretaries working in the corporate services sector are an ideal focus group to assess the Registry's e-incorporation service – company incorporation is a staple of corporate services work. As you might expect, they have likes and they have gripes. Top of the list of likes is, in a word, speed.

'The e-incorporation system is fast and easy to use,' says Wilson Toe, General Manager of Compliance for

Offshore Incorporations HK Ltd. 'It reduces paperwork and speeds up the incorporation and business registration process, which helps us to set up companies quickly for our clients. We use it and would recommend it to other users.' Mr Toe notes that he usually receives the electronic copy of the Certificate of Incorporation and Business Registration Certificate in a few hours. This is a huge improvement, he says – it would have taken four days via the paper-based route.

Eddie Liou, Director, Corporate Management Services for TMF Hong Kong Ltd, is similarly impressed by the speed of the new service. 'Using our TMF in-house companies as the founding member and first directors, we use the e-incorporation service to help our clients establish their companies within the same day. This provides clients with the convenience of being able to transact business immediately,' he says.

These commendations seem to be inconsistent with the statistic that only 11 percent of incorporations are using the digital route. Mr Liou offers a possible answer – speed is not as high on the agenda of corporate clients as you might

Highlights

- only 11% of company incorporations were processed electronically in 2011
- where speed is not an issue, the majority of companies still opt for paper-based incorporation
- users believe the new e-incorporation service is best suited to one-director, one-member companies
- anti-money laundering (AML) concerns are inhibiting the uptake of e-incorporation

expect. 'Most of our clients are busy multinationals with a structured business plan for their globalisation which results in very little last-minute urgency. In such cases we may elect to file the incorporation documents manually. Only a small percentage of our clients require urgent incorporation', says Mr Liou

But surely the electronic route has other things to recommend it apart from speed, what about the efficiency and costs savings the service was supposed to offer? In complex incorporations, Mr Liou says, the new electronic route can actually mean extra time spent by senior staff on administration. He believes that the cost and efficiency savings of the new route are more applicable where you

have a simple one-director, one-member company.

This argument is backed up by the Registry's statistics that more than 80% of companies incorporated electronically were one-member companies and more than 90% were SMEs with authorised share capital of \$10,000 or below.

A similar picture emerges from Baker & McKenzie's use of the e-incorporation service. Liza Murray, Head of Corporate Services and Special Counsel for Baker & McKenzie, says that most of her clients opt for paper-based incorporation. 'When presenting the options to our clients, nearly all of them prefer normal filing. The odd occasions that we have used e-incorporation were times when there was an urgency to set up a company almost instantly. That, however, rarely happens.' Baker & McKenzie, she adds, has incorporated no more than 12 companies via the electronic route.

The gripes

Ms Murray cites another, much more serious, obstacle to the greater uptake of e-incorporation – anti-money laundering (AML) concerns. Baker & McKenzie is reluctant to use the electronic

route unless the client has a long-standing relationship with the firm and where they consequently do not need to conduct AML clearance. 'Our firm takes AML very seriously,' she says.

AML has become a major compliance issue for company secretaries, particularly those in the corporate services sector. Many are concerned that, while the rest of the world is heading in the direction of tougher controls on the identification of company founders and beneficiaries, this new service is going in the opposite direction. Ms Murray points out that many company secretaries consulted in the development phase of the e-incorporation service argued that the new service should be restricted to professionals.

'Our original position was that it is disappointing to see the e-service was not restricted to use by professionals or registered agents only. Our position has not changed because the law has not changed. Any individual in any part of the world can incorporate a company in Hong Kong online by simply providing a copy of the required identification document. The fundamental issue is AML,' she says.

“
we believe that our customers
need time to adapt to the new
services and the take-up rate
will increase over time
”

Peggy Lau, Registry Manager, Companies Registry



Wilson Toe, of Offshore Incorporations HK Ltd, agrees. 'In the past, companies were mostly incorporated through professional intermediaries such as lawyers, CPAs or Chartered Secretaries. Their respective professional organisations require them to conduct proper "know your customer" and "due diligence" processes. They are also required to report suspicious transactions to the relevant authority. The e-incorporation system allows individuals and companies registered as users to incorporate companies without enforcing client identification requirements,' he says.

The Registry maintains, however, that it has to seek a balance between improving convenience and discouraging abuse. It believes that access to the new service should be open to all and that sufficient safeguards exist because the identity of all users needs to be authenticated. An individual user who registers to use the e-Registry's services is required to provide, not simply a copy of his/ her identification document, but the copy has to be certified by specified persons such as lawyers, CPAs or Chartered Secretaries.

'Our e-incorporation service is developed to provide a service to all members of the public, limiting its use to professionals would be seen as a backward move,' says Peggy Lau, Registry Manager, Companies Registry. She adds that the e-incorporation service implemented in the UK is similarly not restricted to professionals.

New and improved?

Apart from the AML concerns discussed above, the main concerns of users of the e-incorporation service relate to

its usability. Respondents to this article highlighted the four areas discussed below.

1. How do I register for the e-incorporation service?

Details of user registration requirements are available at the e-Registry website (www.eregistry.gov.hk). User registration can be completed online if you have electronic certificates or certified true copies of the necessary identification documents. Otherwise, you need to submit the required identification documents in person at the Companies Registry.

Ron Lesh, Managing Director of BGL Corporate Solutions, a compliance-software provider, believes the user registration procedures for the e-incorporation service are cumbersome and have turned customers away. 'We don't have a single client that has filed electronically,' he says. 'The system is difficult to use and the ID requirements are difficult to deal with.' The Registry counters that it has streamlined these procedures as much as possible – see 'E-services: an update' adjacent page 9 for details.

2. Can I use third-party software?

This has been a key issue for company secretaries since there are obvious efficiency gains if forms can be submitted to the e-Registry using company secretarial software. The Registry has taken on board the feedback received on this issue and you can now submit e-forms generated by third-party software. You do, however, need to register to use this new 'third party software interface' (TPSI) function – see the 'TPSI demo' on the e-Registry website (www.eregistry.gov.hk) for details.

E-services: an update

The menu of e-services available at the e-Registry has been expanded to include:

- **bulk-submission** – allowing users to submit e-forms in bulk
- **registration of registered agents** – allowing users to appoint and register agents to deliver e-forms, and
- **e-monitor** – helping users to keep an eye on updates of information on relevant companies in the public register.

Improvements planned for this year include:

- **electronic filing** – allowing users to submit more of the more commonly filed specified forms electronically, and
- **mobile e-search** – adding an e-search enhancement for smartphones.

More details on the above services are available on the Registry's websites: www.eregistry.gov.hk and www.cr.gov.hk.

3. Can I use my own customised M&A?

There has been a misconception among company secretaries that only the Registry's template M&A can be used when incorporating electronically. The Registry clarified that customised M&As can be used and that, since July 2011, companies using their own customised M&As can now be incorporated in less than a day.



“
when presenting the
options to our clients,
nearly all of them prefer
normal [paper-based] filing
”

Liza Murray, Head of Corporate Services and
Special Counsel, Baker & McKenzie

4. Where can I get technical support?

As with any new service, the availability of technical support is clearly critical to its success. The Registry has provided answers to the most common technical questions raised by users of the service in the form of FAQs and technical demos on the e-Registry website. Failing that, users can contact the Registry's 24-hour help desk (see endnote for details). Wilson Toe, of Offshore Incorporations HK Ltd, recommends the help desk to users. 'My experience with the help desk was positive. My inquiry, which related to the entry of a company name with a combination of English and Chinese characters, was well handled and followed up.'

The future... delayed?

If the expectation was that e-incorporation would rapidly render paper-based incorporation obsolete, then the take-up rate of the new service in its first year calls that optimism into doubt. Some respondents to this article believe the low uptake poses questions about the design and usability of the system. 'We would say the numbers show it hasn't been a

success,' says Ron Lesh of BGL Corporate Solutions.

The Companies Registry takes the view that its customers should be given the chance to adapt to the new service in their own time. 'We believe that our customers need time to adapt to the new services and the take-up rate will increase over time,' says Registry Manager Ms Lau. She adds that the most recent statistics show that the trend is encouraging. 'The take-up rate of our e-incorporation service was nearly 20% in January 2012,' she says.

Significantly, unlike its counterpart in Singapore, the Hong Kong Companies Registry opted to launch its e-incorporation service on a voluntary basis. The Registry wants to ensure a smooth transition to the new digital route for incorporation. Registrar of Companies, Ada Chung says the Registry will continue to expand and improve its e-services. 'Electronic filing of the more commonly filed specified forms under the Companies Ordinance will be

introduced in phases this year,' she says. The Registry implemented a new service for the electronic filing of specified forms notifying changes in the registered office address and particulars of directors (namely Forms D2A, D2B, D4 and R1) on 20 February 2012.

The Registry has good reason, of course, to believe that the longer-term trend is ensured. No one wants to go back to inspecting microfilms to search for company information or to stand in a queue to submit paper forms at the Registry's offices. Moreover, the need for companies to report on their carbon footprints and environmental impacts is likely to accelerate the trend towards the increased use of digital services.

Gina Miller
Journalist

More information is available online at the e-Registry website: www.eregistry.gov.hk. The Companies Registry's 24-hour help desk can be contacted by email: cr.helpdesk@pccw.com, or by phone: 8201 8273.

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From concertos to compliance

The new HKICS president, Edith Shih, is as comfortable singing operatic arias as she is discussing the latest issues confronting the Chartered Secretarial profession. In interview with *CSj*, she discusses her aspirations as president and recounts how a career in music led to a job managing a team of 50 company secretaries and 250 lawyers in a multi-billion dollar listed company in Hong Kong.

It may be comforting for those entering the Chartered Secretarial profession to note that there are many different ways of getting to the top. Edith Shih, HKICS President and Head Group General Counsel and Company Secretary of Hutchison Whampoa Ltd, is about as high as you can go in the profession, but she got to her present position via several 'proto' careers which have resulted in a much more rounded and canny individual.

'I started in music,' she says, 'though I wasn't really aiming to be a performer. You have to be extremely good to be a professional performer, and that would take the enjoyment out of the music. But music did help me get my foot in the door of a university.' After completing five years of secondary education in Hong Kong, she found herself in the Philippines. Her father was running a business in Manila and wanted his children to join him there. She was too young to gain admission to a mainstream undergraduate programme at the University of the Philippines, but an advanced placement in piano performance enabled her to gain acceptance at the University through a music degree programme.

She completed her music studies with a minor in English and was intent upon a career as an English teacher, so she embarked on an MA in teaching English and applied linguistics at Columbia University, New York. She was writing up her dissertation when her career experienced its next plot twist. Both she and her father were concerned it would be difficult to get a teaching position in applied linguistics in Hong Kong. 'My father was terrified I would get married and settle down in America but in the back of my mind I always wanted to come back here, so I decided to look for a profession that would take me back to Hong Kong.'

She considered two alternatives – studying for an MBA degree in the US or a law degree in the UK. She opted for the former and told her father she had not gained acceptance to law school and was staying in America. A few days later a letter arrived at her home in Hong Kong. Her father opened it to find that his daughter had been offered a place at the UK College of Law in London. She therefore had no choice but to pack for London.

Her law degree duly helped her back home. Her first job as a qualified lawyer was at Johnson Stokes & Master (JSM) – now MayerBrown JSM – in Hong Kong. After five years at

JSM, she was headhunted by an investment bank, the Cheung Kong/ Canadian Imperial Bank of Commerce joint venture. So she found herself at another career crossroads weighing the alternatives – should she stick with what she knew or leap into the unknown?

She was happy at JSM but she was also curious to know 'the other side of the story'. What would life be like working in a business role rather than at the end of the compliance production line? 'As a lawyer in professional practise, when your clients come to you they have already done the deal. You might be horrified by what they have agreed to, but you are there to write it up,' she says.

The choice was made even more difficult when her supervising partner enticed her with a partnership offer in an attempt to persuade her to stay. The investment bank was offering double the salary, but the money, says Edith, was not really the issue. 'I was ready to stay, but there was a voice in my head saying – you're a coward!' So she took the leap and left private practice for the investment bank. She spent two years there and, in 1991, was asked to join her current employer Hutchison Whampoa Ltd, a Cheung Kong Group Company.

Career notes

Ms Edith Shih, *BSE, MA, EdM, Solicitor, FCIS, FCS(PE)*, was elected president of the HKICS in December 2011. She will be no stranger to members of the Institute, having served on the Institute's Council since 2008, as Vice-President since December 2009, and as Education Committee Chair from 2009–2011. She is a Fellow of both the HKICS and the Institute of Chartered Secretaries and Administrators. Edith is the Head Group General Counsel and Company Secretary of Hutchison Whampoa Ltd (HWL), and serves as a director of various HWL group companies. She is a member of the Listing Committee of the Hong Kong Stock Exchange, the Standing Committee on Company Law Reform and a council member of the Hong Kong Institute of Certified Public Accountants. She holds a Bachelor of Science degree in Education and a Master of Arts degree from the University of the Philippines, and a Master of Arts degree and a Master of Education degree from Columbia University, New York. She is qualified to practise law in Hong Kong, England and Wales and Victoria, Australia.



“
we are now
the governance
specialists
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A new chapter?

Edith has taken the helm of the Institute at a highly interesting time. After a difficult few years, it seems that an amicable and sensible solution to the dispute with the Institute of Chartered Secretaries and Administrators (ICSA) in the UK has been reached. Over 10,000 members from ICSA divisions, including more than 3,000 from Hong Kong/ China, voted to have reasonable and proportional representation on the ruling Council of ICSA in an unprecedented display of support for reform in the way ICSA is structured and run.

Those reforms have now been accepted by ICSA and the necessary amendments to its Charter and bye-laws were scheduled to be submitted to the UK's Privy Council in March this year.

'I am very glad that it looks like we will soon have those amendments in place,' says Edith. 'With that behind us, the future is bright. For a time we were concerned we may have to break away from ICSA, but this is our heritage and we do treasure that. We have no intention of leaving unless we are forced to. Now that the issue is close to being resolved, we can go back to focusing on our real work.'

There is no shortage of 'real work' in the years ahead for the Institute. At the Institute's annual strategy planning session, held in February this year, the Institute's Council mapped out its current and long-term objectives.

Hong Kong initiatives

1. *Promoting the value of Chartered Secretaries*

In recent years, the Institute has been taking a higher profile, both locally and internationally, and has promoted the profession more actively. This seems to be having the desired effect. In Hong Kong, for example, the stock exchange's revised Corporate Governance Code, which takes effect this month, has centralised the company secretarial role in supporting good governance practices among Hong Kong's listed companies.

'The new Code puts company secretaries at the heart of governance – this is a big step forward for the profession,' Edith says. She hopes that the new Code will help get the message across to employers that company secretaries are not just regulatory 'fixers', responsible for sorting out regulatory compliance after business deals have been done. In companies where they are seen as 'administrative back-up', you can have situations where management decides to bypass the company secretarial function altogether and get the board to rubber stamp business deals.

Edith points out that the profession of the company secretary has changed. 'The job of the company secretary has become a lot more interesting than it was when I started working,' she says. 'Company secretaries are not just about writing minutes and preparing regulatory filings. Corporate governance is now at the centre of what company secretaries bring to a company.'

The board has to make the decisions, but company secretaries are very well placed to ensure that those decisions make sense from a corporate governance point of view. We are now the governance specialists,' she says.

Edith played a part in revising the Corporate Governance Code – she is a member of the stock exchange's Listing Committee and its corporate governance sub-committee which debated the exchange's proposed revisions to the Code. While membership of the committee represents a big time commitment, Edith says it has given her a better perspective of how the stock exchange operates. 'It is a good bridge between knowing the rules and having a broader understanding of the philosophy behind the rules and seeing how they are built up.'

She is also a member of the Standing Committee on Company Law Reform and a council member of the Hong Kong Institute of Certified Public Accountants. 'I am very grateful for these opportunities to give back to the society I grew up in – I find that very satisfying and enriching,' she says.

2. Ensuring quality

Another crucial aspect of the Institute's work locally is to ensure that members have the technical knowledge and professional skills required to effectively carry out their work. The major ongoing project in this area is the implementation of mandatory CPD (MCPD).

The Institute launched its MCPD programme in August last year and has been collecting the CPD declaration forms from the first batch of members subject to the new MCPD requirements – that is, to acquire 15 CPD points annually. It has also started to contact members in the second batch (those who qualified between 1 January 2000 and 31 December 2004) to ensure that they are aware of the new MCPD requirements. This second group will have to comply with the MCPD requirements from 1 August 2013. The Institute has also been planning for an increase in venue usage as a result of its MCPD programme.

As you might expect from someone who has been so closely involved in education throughout her career, Edith is also concerned with nurturing skills at the entry level of the profession. She points out that the Institute's students and recent graduates are the future of the profession. In particular, she is concerned that the pass rates in the International Qualifying Scheme (IQS) exams are relatively low.

In the works

Some 30 separate initiatives were discussed at the HKICS Council strategy planning session held in February this year. In addition to the initiatives mentioned in the main article, these include:

- implementing the marketing campaign to employers to enhance the value of Chartered Secretaries
- admitting company secretaries who are not Chartered Secretaries from the top 100 Hang Seng Index listed companies to the profession subject to the fulfillment of certain requirements
- preparing for the Corporate Governance Conference 2012 which will take place in early October this year
- fund raising and rolling out of project operations of the Chartered Secretaries Foundation Ltd (see this month's Institute News for more details)
- devising the best option for regulating the 'trust and company services providers' sector for anti-money laundering purposes
- lobbying the HKSAR government to include Chartered Secretaries as a functional constituency in the 2016 Legislative Council election
- inviting nominations of appropriate candidates for the HKICS Prize
- attracting Fellowship applications
- producing the 'Roles and Responsibilities of Company Secretaries of Hong Kong Listed Issuers' research report (a sequel to the Institute's research papers on the same topic in 1995 and 2001)

'The Institute undertook a survey to look into this and it transpired that students generally do not have enough time to study. Most are already working in company secretarial departments to get relevant experience, and, as you know, we tend to work long hours in Hong Kong. People rarely go home before seven and if there are urgent matters to deal with you stay to finish. So we are looking at how we can help them to study.'

The alternative to the IQS route is to take one of the three master's courses in corporate governance – the so-called 'collaborative courses' (CCA) – offered by the City University of Hong Kong, the Open University of Hong Kong and the Hong Kong Polytechnic University. Graduates of these courses gain exemption from the IQS, but few of them have adequate practical experience of working as company secretaries.

'Many CCA graduates have a limited knowledge of working as a company secretary and this is by and large the comments of employers, so we are working hard to provide practical experience for CCA students,' Edith says.

International initiatives

As mentioned above, the HKICS has been taking a higher profile both locally and internationally. The Institute's pioneering work in setting up the Corporate Secretaries International Association (CSIA) in March 2010, for example, demonstrated that the Institute has a role to play in promoting the value of corporate secretaries and governance professionals globally.

The CSIA, which comprises 16 national representative bodies with approximately 100,000 corporate secretaries and governance professionals, will continue to push for a WTO listing in the 'Trade in Services' classifications for 'Corporate Governance, Compliance and Secretarial Advisory Services'. The Institute is also collaborating with the CSIA on developing the 'Corporate Secretaries Toolkit' for use in multiple jurisdictions.

Mainland China initiatives

The Institute has been highly active in the mainland over the last decade and has established good relations with board secretaries, regulators, government officials and academics.

A significant development this year was the launch of the China Association for Public Companies (CAPCO). It is hoped that CAPCO can provide a formal channel and single organisation for the Institute to work with.

'We have been working with regulators in mainland China for many years,' says Edith, 'but now there is a proper channel to do that. I hope that at some point in the not too distant future we can sign a MoU similar to the one signed with the Shanghai Stock Exchange in 2011 to formalise a closer working relationship with CAPCO on issues such as board secretary training and the establishment of a board secretary qualification scheme.'

Liaison with CAPCO's new secretariat office is already in progress. Edith adds, however, that the Institute's objectives on the mainland are long term and that it needs to use its limited resources wisely. Some of that money, however, can 'hit two birds with one stone', she points out. While, for example, the PRC IQS syllabus, currently being developed by the Institute in collaboration with educational institutions and listed issuers on the mainland, is targeted at board secretaries on the mainland, it also prepares the ground for the Institute's Mainland China Education Programme and Chinese Business Diploma designed for Hong Kong members.

'The PRC IQS will be a version of the IQS for board secretaries in mainland China,' says Edith. 'It will concentrate on Chinese accounting, law and secretarial practice. How well it will be received by CAPCO and regulators in mainland China is yet to be seen, but its syllabus will also be the cornerstone of our Chinese Business Diploma in Hong Kong.'

The Chinese Business Diploma, together with the Mainland China Education Programme activities, will be credited with CPD points. The exact details have yet to be worked out, but Edith points out that these initiatives will play an important part in raising the understanding of HKICS members of the mainland's business, cultural and political environments.

'We don't know enough about mainland China,' she says. 'It's not our fault, we live in a different system, but we cannot ignore what is happening across the border.' 

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the new [Corporate
Governance] Code
puts company
secretaries at the
heart of governance
– this is a big step
forward for the
profession
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PSI disclosure – a mainland perspective

The issue of the disclosure of price-sensitive information (PSI) by listed companies has been high on the agenda of company secretaries in Hong Kong as they prepare for the enactment of new statutory requirements later this year. The topic of the Institute's latest Regional Board Secretary Panel seminar, held in Hong Kong in January this year, will therefore be of particular interest. The seminar focused on the different requirements for PSI disclosure in the mainland and Hong Kong.

The HKICS set up Regional Board Secretary Panels in Beijing, Shanghai, Guangzhou and Shenzhen in 2010, and these panels have since held regular meetings and seminars to discuss issues relevant to board secretaries on the mainland. The latest seminar in this series was held on 12 January this year in Hong Kong. Three speakers gave presentations at the seminar – two representatives from listed companies discussed the disclosure of price-sensitive information (PSI), and a representative from Hong Kong's Securities and Futures Commission discussed the latest developments concerning Renminbi financial products in Hong Kong.

1. PSI disclosure

This topic was addressed by Mr Gao Wei, Board Secretary, Sinotrans Ltd. Mr Gao was the first HKICS Affiliated Person to complete the International Qualifying

Scheme examinations and become a HKICS graduate. In addition to its mainland listing, Sinotrans has been listed on the Hong Kong stock exchange since 2003, so Mr Gao is in a good position to compare the different PSI disclosure requirements on both sides of the border.

Both jurisdictions share similar fundamental principles governing the disclosure of PSI, namely:

- To provide investors and the public information which affects their interests, especially price-sensitive information, is a must.
- The holders of shares of the listed companies shall be treated jointly and equal.
- Directors of listed issuers should act in the overall interests of the shareholders.

Company secretaries in Hong Kong and board secretaries in the mainland perform similar duties in organising and co-ordinating matters relating to information disclosure. However, there are differences in their official roles and liabilities.

Mr Gao explained that board secretaries are senior management executives who



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it is important to
ensure simultaneous
PSI disclosures in
the mainland and
Hong Kong
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are responsible for co-ordinating the implementation of an issuer's policies and procedures for the disclosure of information. Perhaps most surprising from a Hong Kong point of view, most board secretaries have the opportunity to participate in their company's major decisions and bear the same liability as the directors for a failure to ensure the

truthfulness, accuracy, completeness, timeliness and fairness of the issuer's reports. Mainland listed companies are also subject to mandatory filing with regulators, and disclosure to the public, of their internal rules on disclosure management. There are specific requirements for board secretaries' duties in this respect.

Company secretaries in Hong Kong are not formally required by the stock exchange listing rules to assume the responsibility for organising and co-ordinating the company's disclosure affairs, but in practice they routinely play a role in information disclosure similar to their counterparts in mainland listed companies. There is also no mandatory requirement for Hong Kong listed companies to disclose their internal rules on disclosure management and company secretaries have so far escaped liability for disclosure compliance failures.

Hong Kong's new statutory PSI disclosure regime – which will become effective with the enactment of the Securities and Futures (Amendment) Bill 2011 later this year – does, however, impose a degree of liability on company officers who fail to ensure that a listed company discloses to the public as soon as reasonably practicable any PSI that has come to its knowledge. It is still unclear the exact degree of liability this will mean for company secretaries.

Currently, for dual-listed companies like Sinotrans, the main compliance requirements for the disclosure of PSI are to be found in:

- the PRC's Securities Act (clauses 67 and 69)
- Section 180 of the PRC Criminal Law
- The Ministry of Public Security of The Supreme People's Procuratorate, Standard for Jurisdiction of Criminal Cases (2) – section 35, and
- Hong Kong Stock Exchange Listing Rule 13.09.

Listed companies in the mainland are required by the PRC Securities Act (clause 67) to immediately report any major

events which might affect their stock price to the China Securities Regulatory Commission (CSRC) and their relevant stock exchange. An announcement of the cause of the incident should be made public, along with an explanation of current status and the legal consequences that may arise.

Since 2007, Mr Gao explained, the Shanghai Stock Exchange (SSE) has been monitoring companies' share price fluctuations more strictly. This followed a case in March 2007 when a mainland listed company made an announcement concerning a large infrastructure contract it was supposedly poised to win. The share price rose 150% in the five-week period after the announcement. Insiders who purchased before the announcement and sold afterwards made significant profits. When the contract turned out to be hot air, the share price slumped. Subsequently, mainland regulators have been tightening their grip on insider trading. In fact, the Shanghai Securities Commission has dealt with quite a few such cases in recent years.

Finally, Mr Gao pointed out that different

companies will take different approaches to this crucial issue – PSI will often be more of a challenge for small and medium-sized companies, for example. Assessing what information will be price-sensitive is a judgment call, he added, and companies have to take into account the sensitivity of the industry they are in. He concluded, however, that all companies would be well advised to integrate their business and compliance decisions, improve their internal compliance procedures, make sure that sensitive information is discovered and recognised in a timely manner, and cultivate a corporate culture to continuously disclose information.

2. Practical issues in PSI disclosure

Mr Xie Bing, Board Secretary, China Southern Airlines Company Ltd, launched his presentation with a brief introduction to the history, business and share capital of his company. Mr Xie then addressed some of the practical issues raised by PSI disclosures in Hong Kong and Shanghai, including the timing and method of information disclosure.

Some confusion surrounds the practical arrangements for PSI announcements for companies dual-listed in the mainland and Hong Kong. This dates back to June 2006, when trading in the shares of Sinopec Shanghai Petrochemicals and its parent Sinopec were suspended on the Shanghai Stock Exchange on news of the privatisation of Shanghai Petrochemicals. The suspension took effect as the Shanghai bourse opened, but trading in the shares of both companies continued until mid-morning in Hong Kong, giving investors time to speculate on the rumoured buyout. The share price of Shanghai Petrochemicals soared as much as 23%. When shares of Shanghai Petrochemicals resumed trading the following day, however, the stock fell almost 10 percent when the company denied the privatisation rumours.

Mr Xie reminded attendees that it is important to ensure simultaneous PSI disclosure in the mainland and Hong Kong. He added that it is vital for companies to:

- introduce a systematic working procedure for PSI disclosure
- ensure close co-operation between relevant company departments, in particular those of planning, finance, investment, and marketing, and
- motivate personnel to ensure information is disclosed as soon as possible.

Mr Xie also shared his personal experience in handling price-sensitive information, he believes that the most important factors for effective disclosure are: a quick reaction, early response, accurate judgment and effective confidentiality.

Highlights

- Both Hong Kong and mainland China observe similar fundamental principles governing the disclosure of PSI
- While Hong Kong company secretaries and mainland board secretaries perform similar duties in terms of information disclosure, there are differences in their official roles and liabilities
- Board secretaries are the specified corporate officers who are responsible for co-ordinating the implementation of an issuer's policies and procedures for the disclosure of information
- Most board secretaries bear the same liability as directors for a failure to ensure the truthfulness, accuracy, completeness, timeliness and fairness of the issuer's reports

“ perhaps most surprising from a Hong Kong point of view, most board secretaries bear the same liability as directors for a failure to ensure the truthfulness, accuracy, completeness, timeliness and fairness of the issuer’s reports

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3. Renminbi products in Hong Kong

Ms Christina Fung Yee Choy, Director, Investment Products Department, Hong Kong Securities and Futures Commission, launched her presentation on the development of Hong Kong's offshore Renminbi (RMB) market from a macro perspective. She pointed out that there has been strong support from the central government for the offshore RMB market in Hong Kong. Hong Kong is in fact the ideal nurturing ground for the development of offshore RMB business, as well as the eventual internationalisation of the RMB.

Ms Choy pointed out that the development of an offshore market in RMB investment products helps investors hedge against inflation and currency risks. Since the People's Bank of China announced a pilot scheme for the expansion of cross-border RMB trade settlement in June 2010, RMB trade settlements have been on the rise. By the end of November 2011, RMB deposits in Hong Kong's banking system amounted to RMB627.3 billion.

Since the National Development Bank first started issuing RMB bonds in Hong Kong in 2007, Hong Kong's RMB bond market (commonly known as the 'dim sum' bond market) has issued a total of more than HK\$170 billion in bonds. The daily value

of RMB bonds traded in the over-the-counter secondary market has reached approximately RMB300 million.

Moreover the bodies sanctioned to issue RMB bonds in Hong Kong have become more diversified. They include PRC government bodies, policy banks, mainland financial institutions, mainland enterprises (including overseas companies controlled by mainland enterprises), Hong Kong, Macau and Taiwan enterprises, and foreign enterprises.

Ms Choy outlined the main features of the RMB bond market in Hong Kong, namely:

1. issuers are mainly from mainland China
2. most of the terms of the bonds are relatively short (90% are for three years or less)
3. issuers are mostly engaged in the sectors of finance and industry, and
4. only about 40% of the bonds are rated.

Ms Choy also discussed the regulation of RMB retail funds. RMB fund offerings to the public must be authorised by the Securities and Futures Commission (SFC). The SFC is also responsible for the ongoing monitoring of fund

management companies. By the end of January 2012, Hong Kong had launched 21 RMB retail funds authorised by the SFC, of which six funds invest primarily in offshore RMB dim sum bonds products which do not involve fund assets returning to mainland China. The remaining 15 were RQFII (Renminbi Qualified Foreign Institutional Investor) funds, which allow qualified RQFII holders to channel RMB funds raised in Hong Kong into the mainland's securities markets.

In accordance with the provisions of the RQFII pilot scheme, qualified RQFII institutions within the approved investment quota cannot invest more than 20% of the funds raised in investment in stock and stock funds. No less than 80% of the fund raised must be invested in fixed income securities, including various types of bonds and fixed income funds. There will be more RQFII RMB funds available in Hong Kong as the RQFII pilot schemes are expanded.

Ms Choy also addressed the development of RMB listed equity products. The first product of this kind to enter the Hong Kong market – the Huixian REIT – was authorised by the SFC in April 2011. It was traded on the Hong Kong stock exchange after successfully listing on 29 April.

Stephanie Chin

Journalist

The 2008 HKICS report 'A Comparative Study of Continuing Disclosure in Hong Kong and the PRC: Implications for Cross Border Listings on H-share and A-share markets' is available on the HKICS website: www.hkics.org.hk.



PSI披露 — 中国的角度

上市公司股价敏感资料（PSI）披露的问题一直是香港的公司秘书高度关注的议题，因为他们要为今年稍后将定立的新的法定要求作好准备。因此，香港特许秘书公会今年一月在香港举行地区的[董事会秘书专责小组会议]，特别关注这个主题。研讨会的重点在于探讨在内地与香港PSI披露的不同要求。

香港特许秘书公会在2010年在北京, 上海, 广州和深圳成立地区董事会秘书专责小组, 这些小组定期举行会议和研讨会, 讨论有关大陆的董事会秘书的问题。最新的研讨会[地区董事会秘书研讨会]今年1月12日在香港举行。在研讨会上介绍了三个讲者, 其中包括两名上市公司的代表, 讨论了披露股价敏感信息(PSI), 和香港证券及期货事务监察委员会的代表讨论了有关在香港的人民币金融产品的最新发展。

1. 董事会秘书在PSI披露时所扮演的角色

本主题由中外运股份有限公司董事会秘书高伟先生主讲, 高先生是香港特许秘书公会第一位完成IOS考试, 并成为香港特许秘书公会资深会士的联席成员, 现任公会理事会成员。中外运自2003年起已在香港联交所上市, 并有子公司外运发展在上交所上市, 因此, 高先生是比较中港两地对PSI披露的不同要求的最佳人选。

两地司法管辖区都有类似的基本原则监管PSI的披露, 例如:

- 必须向投资者和公众公开提供影响他们利益的资料, 特别是股价敏感资料;
- 上市公司股票持有人应当受到共同及平等的对待;
- 上市发行人的董事应以股东的整体利益行事。

香港的公司秘书和中国内地的董事会秘书, 在组织和协调有关信息披露的事项上执行类似职责。不过, 其官方角色和所负责任有所不同。

高先生解释说, 董事会秘书是内地监管法规所定义的高级管理人员, 专门负责统筹执行发行人的政策和信息披露程序。也许最令人惊讶的是, 从香港的角度来看, 中国内地大多数董事会秘书有机会参加他们公司的重大决策, 并承担

与董事失职时相同的责任, 而不仅是一名专业人士, 他们必须确保发行人的报告的真实性、准确性、完整性、及时性和公平性等。内地上市公司也须强制向监管机构备案, 以及向公众披露其内部披露管理规则, 其中对董事会秘书的职责有具体的规定。

香港的公司秘书并未被证券交易所股票上市规则正式要求, 要承担组织和协调公司信息披露事务的责任, 但事实上, 他们经常像国内的同业一样, 在上市公司的信息披露中起作用。香港的上市公司也没有被强制规定要披露其内部披露管理的规则, 从现实看, 他们也不具备内地董事会秘书所具有的资源。

“ 最重要的是必需确保在大陆和香港同时披露PSI ”

然而, 香港的新法定PSI的信息披露制度, 将于2011年末成为有效的证券及期货(修订)条例草案。它并将使公司的相关人员负上一定程度的责任, 确保上市公司即时地、合理地、切实可行的对公众披露任何PSI的信息。目前, 还不清楚公司秘书, 确切须负的责任到什么程度。

目前, 像中外运这样的双重上市公司, 符合要求PSI披露的主要内容均列在:

- 《中华人民共和国证券法》67条、69条;
- 《中华人民共和国刑法》第180条;
- 《最高人民法院公安部关于刑事案件管辖标准的规定》(二)第35条;
- 《香港联交所上市规则》13.09条。

在大陆上市的公司必须遵守“中华人民共和国证券法”(第67条)即时向中国证券监督管理委员会(证监会)及其相

关的证券交易所通报任何可能影响其股票价格的重大事件。并应公开公布事件的起因, 和解释目前的状况和可能产生的法律后果。

高先生解释, 最近内地监管机构加大了对上市公司内幕交易等的打击力度, 事实上证监会已经查处多起相关的案例, 比如, 2007年3月一家上市公司既涉及未及时披露股价敏感信息, 又涉及内幕交易。该公司发布了一项关于将在安哥拉赢得大型基建工程合约。股价在公布之后的五周上涨了150%。内幕人士在公布前购买和公布后出售, 从中获得巨利。等到发现安哥合同只不过是放热风时, 股价随即下跌。

最后, 高先生指出, 不同的公司会对这一关键问题采取不同的做法。PSI会对小型和中型公司更具挑战, 评估哪些信息属价格敏感, 是一种商业判断问题, 中小公司更容易受到各种内、外部环境变化的影响。他补充说, 公司还必须考虑到他们所处行业以及投资者的敏感性。他的结论是, 应建议所有公司整合其业务与决策流程, 并改善其内部合规程序, 确保及时识别出股价敏感信息, 由适当的人员做出判断, 并确保所披露信息的真实、准确、完整、及时, 重要的是, 培育透明、不断披露信息的企业文化。

2. PSI披露的实际问题

中国南方航空股份有限公司董事会秘书, 谢兵先生首先简单的介绍了中国南方航空公司的历史和业务, 及该公司的股本情况。随后, 谢先生谈到了香港和上海PSI的披露的实际问题, 包括信息披露的时间和方法等。

一些在内地和香港的双重上市公司, 对PSI公布的实际安排显得很混乱。这可以追溯到2006年6月, 上海石化私有化的消息被披露时, 中国石化上海石化和其母公司中国石化的股份随即被上海证券交易所暂停交易。暂停交易即时生效, 但上海证券交易所依然开业, 而两家公司

的股份交易在香港一直持续到上午中旬，这使投资者有时间猜测收购的传闻。上海石化的股价飙升高达23%。然而上海石化股翌日复牌，该公司否认私有化的传闻，股市下跌近10%。

谢先生提醒听众，最重要的是必需确保在大陆和香港同时披露PSI。他补充一些对公司来说非常关键的措施：

- 引入有系统的工作程序予PSI的信息披露；
- 确保密切相关公司各部门之间的合作，特别是那些规划、金融、投资、营销部门；
- 激励公司成员确保尽快披露信息。

谢先生还分享了他在处理股价敏感资料的个人经验，他认为，有效的信息披露的最重要因素是：快速反应，及早应对，准确判断和有效的保密。

3. 香港的人民币产品

香港证券及期货事务监察委员会，投资产品科总监蔡凤仪女士的演讲内容是，从宏观角度看香港的离岸人民币市场的发展。她指出，香港的离岸人民币市场，已经获得来自中央政府的大力支持。事实上，香港是离岸人民币业务的理想发展和使人民币国际化的基地。

蔡女士指出，离岸市场人民币投资产品的发展，有助于投资者对冲通货膨胀和

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也许最令人惊讶的是，从香港的角度来看，中国内地大多数董事会秘书有机会参加他们公司的重大决策，并承担与董事失职时相同的责任，而不仅是一名专业人士，他们必须确保发行人的报告的真实性和准确性、完整性、及时性和公平性等

”

货币风险。自从2010年6月起，中国人民银行宣布扩大跨境贸易人民币结算试点以来，人民币贸易结算一直上升。直至2011年11月底为止，在香港的银行体系的人民币存款总额达人民币6273亿元。

自从2007年国家开发银行首次开始在香港发行人民币债券，香港的人民币债券市场（俗称“点心”债券市场）已发行债券共超过港币1700亿美元。每日价值人民币债券在二级市场的柜台交易已达到约人民币3亿元。

此外，批准在香港发行人民币债券的机构也越来越多元化。他们包括中国政府机构，政策性银行，内地金融机构，内地企业（包括内地企业控制的海外公司），香

港，澳门和台湾地区企业和外国企业。

蔡女士概述了香港人民币债券市场的主要特点，即：

1. 发行人主要是来自中国大陆
2. 大多数债券的条款相对较短（90%为三年或更短）
3. 发行人主要从事金融和工业部门，
4. 只有约40%的债券获得评级。

蔡女士还讨论了人民币零售基金的监管。向公众发售的基金及必须证监会认可。同时，证监会也持续对资产管理公司进行监管。截至2012年1月10日为止，香港已推出了21只获证监会认可的人民币零售基金，其中6只基金主要投资于离岸人民币点心债券产品，不涉及资金回流内地的问题；其余15只，则为RQFII（人民币合格境外机构投资者）人民币零售基金，合规的RQFII在港筹得的资金可投资内地证券市场。

根据内地监管部门RQFII试点办法的规定，获得RQFII资格的机构在获批的投资额度内，不超过募集规模20%的资金可以投资于股票及股票类基金，而不少于募集规模80%的资金则可以投资于固定收益证券，包括各类债券及固定收益类基金。随着RQFII试验计划扩大，香港将会有更多RQFII人民币作为可用的资金。

蔡女士还谈到人民币上市股本产品的发展。辉县房地产投资信托基金是第一只这种产品进入香港市场，它在2011年4月被证监会授权，并于4月29日在香港联交所成功上市后进行交易。

重点

- 香港和中国大陆均要遵守类似披露PSI的基本原则。
- 香港公司秘书及和中国内地的董事会秘书履行类似职责，但在信息披露方面，其官方角色和所负责任有所不同。
- 董事会秘书是公司指定负责统筹执行发行人的政策和信息披露程序的人员。
- 董事会秘书承担与董事失职时相同的责任，他们必须确保发行人的报告的真实性和准确性、完整性、及时性和公平性等。

钱淑娴 记者报导

2008年香港特许秘书公会的报告“在香港和中国的持续披露比较研究：为跨境上市，对H股和A股市场的影响”一文，可进入香港特许秘书公会网站：www.hkics.org.hk。

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Crossing Lo Wu Bridge

There is only one way to really understand the PRC business environment and that is to live and work in mainland China. Zoe Chan So Yuen, Law Programme Director, HKU SPACE, looks at an increasingly popular option for gaining work experience in the PRC – secondment.

A recent International Monetary Fund report suggests that China's economy will become the world's largest within the next five years. Company secretarial professionals (CSPs) in Hong Kong do not need such statistics, however, to know that the future of professionals here in Hong Kong will depend greatly on their exposure to, and knowledge of, the PRC business environment.

Many Hong Kong professional bodies, the Hong Kong Institute of Chartered Secretaries (HKICS) among them, have devoted increasing resources to training their members in the PRC business and regulatory environment, but a true understanding of that environment can only really be gained by spending time working in the PRC.

That is why increasing numbers of professionals are considering secondment opportunities in the PRC. A recent survey in mainland China reveals that there are over 300,000 foreign employees seconded annually to job assignments in the PRC. That amounts to an almost 200% growth when compared with the official statistics a decade ago.

A secondment assignment in the PRC can be an incredibly enjoyable and rewarding experience – it is also a great way to build a solid and broad foundation for a professional career. There are several important practical issues that need to be considered before committing to a secondment in the PRC, however. What legal, cultural and ethical challenges will you face in the mainland? How should your secondment contract be structured? What will be your tax liabilities and can your secondment work experience earn you CPD points?

This article addresses these practical concerns and offers CSPs advice on how to get the best out of secondment arrangements in mainland China.

What is secondment?

Secondment is the temporary 'loan' of an employee by a home organisation to a host organisation – referred to in this article as the PRC affiliate (PRCA) – for a prescribed period of time. In the case of PRC secondments, CSPs do not usually have a direct employment relationship with the PRCA, which may be a PRC subsidiary, a mainland branch of a professional firm, or even a client organisation.

The secondment enables employees to boost their exposure to different corporate cultures in mainland China and enhance their knowledge of working in the dynamic PRC business environment. They also learn technical operational expertise, in particular the PRCA's work preferences and priorities, as well as polishing their Mandarin skills. Those unique skills and insights are impossible to

accumulate without spending time working in a PRCA on a daily basis.

Tax and employment concerns

The State Administration of Taxation in Mainland China (SATC) has, since 2009, issued notices to local tax offices to examine the tax liabilities of non-resident corporations offering secondment arrangements for overseas employees. The SATC authorities will evaluate whether those employees perform work for the benefit of the PRCA or the overseas legal employer. More importantly, Permanent Establishment (PE) is established under the double taxation treaty signed by the mainland and Hong Kong if the overseas employer is found to provide actual services to its PRCA through seconded staff in mainland China. In this case, the SATC will impose tax liabilities on the relevant CSPs and PRCA.

From an accounting perspective, the SATC will evaluate whether the remuneration of the staff is substantially a service fee or a 'mark-up' fee in mainland China. The SATC's local tax bureau will assess each case on

Highlights

- over 300,000 foreign employees are seconded annually to job assignments in the PRC
- secondment opportunities in mainland China are an ideal way to boost company secretaries' understanding of the PRC business environment
- secondees should be prepared for language and cultural challenges
- employers and secondees need to carefully consider how secondment contracts are structured
- professional bodies and employers should endorse secondments for CPD purposes and career development

its own merit to determine whether the secondees' remuneration will be subject to enterprise income tax or not.

These taxation matters are further complicated by the PRC Labour Contract Law (LCL). The LCL now requires all mainland Chinese employers to furnish written employment contracts for employees. If staff contracts make no reference to secondment agreements (which effectively govern the *de facto* employment relationship among the parties concerned), it is highly likely that the secondee's employment contracts will cause difficulties and uncertainties. There might be legal concerns, for example, regarding termination arrangements, fringe benefits and remuneration in the PRC and home jurisdiction. This oversight might even result in the double counting of the salary package and benefits fixed by the PRCA and the overseas employer.

Worse still, the PRCA may encounter difficulties when remitting the remuneration of the secondees to the overseas employer due to foreign exchange controls in mainland China. As stipulated in *Hui Fa (2004) No 62*, the Chinese affiliate/ PRCA may not be recognised as a 'multinational company' permitted to remit expatriates' remuneration abroad. From an accounting perspective, all parties need to determine the facts of each individual secondee's claim and consider if service charges should be booked under the accounts of the PRCA or the overseas employer.

Secondment contracts

Secondment arrangements in the PRC vary a lot and there is no hard and fast rule to determine the appropriate contractual or tax arrangements for each secondee. There are either formal or informal

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secondment options. Overseas employers should review the secondment contract and/ or assignment letter to ensure that it faithfully reflects the real nature of the secondment and that the arrangement is sufficiently documented. The contractual options include:

1. A letter of secondment between the employer and secondee. This is most likely where the secondment is within the same international group, and may include details of the changes to the employee's contract. The employee will clearly need to consent to any changes in the employment terms.
2. An agreement between the overseas legal employer and the PRCA, possibly with a separate letter/ agreement

setting out employment conditions with the employee. In particular, this should contain the mandatory statutory provisions governing sick leave, leave entitlement, rest days and termination package etc.

3. A tripartite agreement between all three parties, namely the overseas legal employer, the secondee and the PRCA.

Typically, paid secondments require formal arrangements and are full-time for a longer period of time. In some cases employers choose to provide secondees with contracts as 'localised expatriates'. Such contracts are designed to give the secondees the same labour and social security insurance protections as those permanently working for the PRCA. However, it should be stressed that any term fixing on such a standardised employment contract may cause conflict as local policies and practices vary in major PRC cities.

Different contribution rates are fixed under various local social security and employees' insurance regulations in China. There are diverse policies and regulations applicable in different parts of China. For better legal risk management, secondees who make frequent business trips to different parts of mainland China should have a separate contract and be treated as localised employees by the assigned PRCA. In such cases, it is often advisable for the PRCA to conclude an employment contract with the secondees directly so that the secondment arrangement can be implemented locally with greater certainty and practicality.

The table opposite shows some of the implications of whether a service or a secondment agreement is considered.

	Service agreement	Secondment agreement
Documentation	Employment contract between the overseas legal employer and the secondee	<ul style="list-style-type: none"> • Employment contract between the overseas legal employer and the secondee, or • Tri-party contract between the overseas legal employer, the PRCA and the secondee
Operation	Service rendered for the benefit of the overseas legal employer	The PRCA is entitled to the benefit of secondees' work
Legal status	<ul style="list-style-type: none"> • Overseas legal employer bears the risks and responsibilities of the secondee • Loyalty remains toward the overseas legal employer as it has control over the secondee's daily operations 	<ul style="list-style-type: none"> • 'PE' is created • Legal employer continues to supervise the secondee via work reports

Secondment checklist

As mentioned in the main article, secondment assignments in the PRC can be a highly rewarding experience both personally and professionally. There are, however, a number of important practical issues which need to be considered to get the best out of a secondment in the PRC. Issues to consider include the following:

- Is the secondment in line with Hong Kong and PRC law? Has independent legal and taxation advice been given to the secondees before confirmation of the secondment assignments?
- What will be the duration of the secondment and the pay arrangements?
- Has a job description and a description of relevant responsibilities among the parties been documented? How, for example, will risks, supervisory and disciplinary matters be resolved? Who will exercise the control and supervision of work over the secondees?
- What will be the place of work – are there travel and mobility issues to be considered?
- Have indemnity insurance and tax issues been provided for? If so, by whom?
- Who will take up the role of the CSP in Hong Kong during his/ her secondment in mainland China?
- How will the secondee's contract be structured – as a service agreement, secondment contract or as a localised employment contract in PRC?
- Will the secondee retain his/ her original contract with the overseas employer? Will there be changes to his/ her employment benefits and remuneration package?
- Will the secondee be able to earn CPD points during his/ her secondment? Will the CPD points be accredited by the professional bodies in both jurisdictions?
- Will there be any reciprocal cross-border CPD accreditations by different professional bodies (for example the HKICS, the HKICPA and the Law Society of Hong Kong)?

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Cross-border convergence – recent developments

Secondment work arrangements help foster cross-border knowledge and understanding. Recent developments in mainland China and Hong Kong have further integrated the two markets in two areas of particular relevance to company secretarial professionals (CSPs) – the mutual recognition of professional qualifications and the cross-border convergence of corporate governance standards.

1. Professional recognition under CEPA

The Mainland and Hong Kong Closer Economic Partnership Arrangement (CEPA) is a free trade agreement pursuant to which qualifying products and services, companies and residents of Hong Kong enjoy preferential

access to the mainland Chinese market. Many of the preferences surpass the concessions made by mainland China upon its accession to the World Trade Organisation and relevant international treaties.

CEPA is a win-win agreement, bringing new business opportunities to the mainland, Hong Kong and to foreign investors. There are welcome changes in the mutual recognition of professional qualifications and other cross-border work issues relating to professional services under the CEPA. In 2003, the Securities and Futures Commission (SFC) and the China Securities Regulatory Commission (CSRC) signed a CEPA-related co-operative agreement concerning the qualifications of securities and

futures industry practitioners. In 2004, the Office of the Commission of Insurance (OCI) and the China Insurance Regulatory Commission signed a cooperative agreement on matters relating to Hong Kong residents' participation in the mainland qualifying examinations for insurance intermediaries. This trend bodes well for the future mutual recognition of CSP qualifications in Hong Kong and mainland China.

It should be added that, as increasing numbers of PRC enterprises are listed in Hong Kong and more PRC businessmen bring IPO activities to Hong Kong, this will further integrate the two markets within the framework of 'one country, two systems'.



Encouraging secondment opportunities and cross-cultural exchanges

The working environment and corporate structures in the PRC are very different to those in Hong Kong. Of course, there will be cross-cultural, language, and political differences which each secondee will inevitably encounter while working in mainland China. But the secondee's experience will bring benefits to both the overseas employer and the PRCA.

Indeed, secondment can be a valuable part of a talent management process and a vital tool for human resources management. Overseas employers are strongly recommended to grant leave, with or without conditions, for secondees to pursue work experience opportunities. Many international professional firms in

Hong Kong are in a good position to offer to their trainees work opportunities in the firm's offices in mainland China.

Due to the substantial educational value of secondment arrangements, it is highly recommended that the secondment should be considered part of CSPs' continuing professional development (CPD). Any such CPD arrangements will clearly require the support and endorsement of both the employers and the relevant professional bodies. Since secondees will gain new skills and experience which will be invaluable in their career development, professional bodies should accredit secondment arrangements so that CSPs can benefit from working in the PRC and accumulate CPD points at the same time. Furthermore, CSPs should be accredited with CPD points for attending the tailored induction and training for secondment programmes in mainland China and Hong Kong.

There are many precedents overseas for such arrangements – the Law Society of England and Wales, for example, has approved trainee solicitors to work in designated EU international organisations for approved secondment projects and has awarded CPD points for such arrangements. Earning CPD points during secondment creates a strong incentive for professionals to take up secondment opportunities, since it means their professional work is officially recognised and accredited by professional bodies.

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email: zoe.chan@hkuspace.hku.hk.*

2. Corporate governance convergence

The latest amendments to Hong Kong's Corporate Governance Code and associated listing rules issued by the Hong Kong Stock Exchange have accelerated the convergence of corporate governance standards and practices in Hong Kong and mainland China. The Exchange has removed the requirement for board/ company secretaries of companies listed in Hong Kong to be ordinarily resident in Hong Kong. Looking ahead, there will be a great demand for CSPs with specialised knowledge of both the Hong Kong and mainland China market and secondment arrangements (both from mainland China to Hong Kong and vice versa) can help ensure that CSPs acquire direct experience of both markets and business management.

Another change is the new requirement for company secretaries of companies listed in Hong Kong (this applies equally to board secretaries of mainland companies with a listing in Hong Kong) to undertake at least 15 hours of relevant continuing professional training every financial year. This has opened up a huge training market for CSPs' both in Hong Kong and in mainland China.

It is hoped that regulators and professional bodies will recognise the 'relevant experience' gained in secondments and will endorse such arrangements as a good contribution to CSPs' CPD training and career development.

A review of seminars: February – March 2012

Joint seminar with the Security Bureau

To promote better awareness of anti-money laundering (AML) issues relating to trust and company service providers, the Institute held a joint seminar with the Security Bureau of the HKSAR government on the theme of **'Be our gatekeeper'** on 21 February 2012.

Chartered Secretaries play an important role in ensuring AML compliance, particularly putting in place recommended AML best practices such as suspicious transaction reporting mechanisms, and they need to be proactive in learning about international AML standards. Two sessions were held, one in the morning and the other in the afternoon, attracting over 500 attendees. The speakers discussed matters of common concern relating to AML compliance and reporting.



(From left to right) Wong Shu-tak; Alberta Sie; Alvis Tsui; Eddie Liou



Natalia Seng delivering the opening speech at the seminar



At the seminar

The seminar was divided into three parts:

1. anti-money laundering and counter-financing of terrorism – alignment with international standards
2. suspicious transaction reporting – legal obligations and protection, statistics and case examples, and
3. experience sharing session for Chartered Secretaries in the TCSP sector.

The speakers and panelists of the seminars were: Eddie Liou *FCIS FCS(PE)*, Council Member, HKICS; Natalia Seng *FCIS FCS(PE)*, Past President (2007-2009) and Ex-Officio Council Member, HKICS; Alberta Sie *FCIS FCS(PE)*, Council Member, HKICS; Alvis Tsui, Assistant Secretary, Narcotics Division, Security Bureau; and Wong Shu-tak, Senior Investigator, Joint Financial Intelligence Unit.

The Institute's 'Anti-money laundering and counter-terrorist financing guidelines' are available on its website (www.hkics.org.hk). More information on the government's AML initiatives is available on the website of the Financial Services and the Treasury Bureau (www.fstb.gov.hk).

See this month's Bulletin Board section (page 46) for information on the revisions to the Financial Action Task Force (FATF) '40 Recommendations on combating money laundering and the financing of terrorism'.

20 February 2012



Dr Davy Lee (Chair) and Dr Eva Chan

From Dr Davy Lee FCIS FCS(PE), Group Corporate Secretary, Lippo Group, and chair of the seminar delivered by Dr Eva Chan FCIS FCS(PE), Head of Investor Relations, CC Land Holdings Ltd and Chairman of the Hong Kong Investor Relations Association, on **'The myth of investor relations – information disclosure to enhance corporate value, with updates on the new listing rules'**.

'This seminar was a real sharing of practical experience in the field of investor relations. The speaker, Dr Eva Chan, is not only an expert in this area, but also has the necessary presentation skills to engage her audience. No wonder this seminar attracted a full-house of attendees.'

24 February 2012



YT Soon (Chair) and Andy Wong

From YT Soon FCIS FCS, Director, Tricor Services Ltd, and chair of the seminar delivered by Andy Wong, Partner, Shinewing (HK) CPA Ltd, on **'Keys for a successful IPO'**.

'Mr Wong has considerable experience in IPO projects in a wide range of industries. His presentation gave the audience a broad concept of the key

considerations and issues involved in IPO projects, such as basic listing requirements, the basics of the IPO process, IPO costs and common problems encountered. Throughout the seminar, Mr Wong delivered his message in an interactive manner and illustrated the issues with many real cases. This gave the audience a practical understanding of the topic.'

2 March 2012



Parry Tam (Chair), Nelson Lam

From Parry Tam ACIS ACS, Director, Professional Development, HKICS, and chair of the seminar delivered by Lam Chi Yuen, Nelson, FCPA, CFA, Nelson Consulting Ltd, on **'Business combinations and consolidation under Hong Kong and International Financial Reporting Standards'**.

'This seminar was very well received. Mr Lam gave us an update on the new requirements relating to business combinations as well as consolidated and separate financial statements in the Hong

Kong Financial Reporting Standards (HKFRS) and International Financial Reporting Standards (IFRS). The new 'HKFRS 10: Consolidated Financial Statements' and 'HKFRS 12: Disclosure of Interests in other Entities' will become effective from 1 January 2013. There were warm and lively exchanges between Mr Lam and the participants throughout the seminar and he gave clear and succinct answers to the attendee's questions. Mr Lam ended his seminar by highlighting a recent case which had to observe the binding effects of the explanatory notes in the appendices to HKFRS/ IFRS.'

Mandatory CPD

Members who qualified between 1 January 2005 and 31 July 2011 need to accumulate at least 15 mandatory continuing professional development (MCPD) or enhanced continuing professional development (ECPD) points in each CPD year starting from **1 August 2011**.

Members who work in the corporate secretarial (CS) sector and/ or for trust and company service providers (TCSPs) have to obtain at least three points out of the 15 required points from the Institute's own ECPD activities.

Members who do not work in CS sector and/ or for a TCSP have the discretion to select the format and areas of MCPD learning activities that best suit them. These members are not required to obtain MCPD points from the HKICS (though they are encouraged to do so), but nevertheless they must obtain 15 MCPD points from suitable providers.

When to submit the declaration form?

Those who have achieved the MCPD requirements of 15 CPD points during the CPD year (1 August 2011 – 31 July 2012) are required to fill out the Institute's declaration form (see 'MCPD Form I' on the Institute's website). The deadline for submitting the declaration form is **14 August 2012**.

To learn more about MCPD please visit the Institute's website.

New appointment

Natalia Seng *FCIS FCS(PE)* has been appointed as the Chief Executive Officer, China and Hong Kong, Tricor Services Ltd, to oversee Tricor's operations in mainland China and Hong Kong. She will continue to act as Practice Leader of Corporate Services and China Consultancy Services.

Natalia is currently an Ex-Officio member of the HKICS Council and the International Representative of the China Division on ICSA's international Council.

Enhanced CPD Programme

The Institute cordially invites you to take part in our Enhanced Continuing Professional Development (ECPD) Programme, a professional training programme that best suits the needs of company secretaries of Hong Kong listed issuers who will need to comply with the new mandatory requirement of 15 CPD hours every year. The Institute launched its mandatory CPD programme in August last year and, since January 2012, its requirement for Chartered Secretaries to accumulate at least 15 CPD points each year has been backed up by a similar requirement in Hong Kong's listing rules.

More information on the new Hong Kong Exchanges and Clearing (HKEx) requirements can be found in the consultation conclusions to the 'Review of the Corporate Governance Code and Associated Listing Rules' on the HKEx website (www.hkex.com.hk).

To learn more about Institute's ECPD programme, please visit the Institute's website (www.hkics.org.hk).

New Graduates

Cheung Sheung Wai
 Choi So Ngan
 Ho Ka Wing
 Ho Kai Tak
 Ho Yuk Yu, Yonnie
 Jim Hoi Yi
 Kwok Pui Yuk
 Kwok Vanida, Teresa
 Lam Sau Man
 Lau Chi Wing
 Lau Ching Yin
 Lau Wai Yi
 Lee Ying Kei, Enrica
 Man Hung Kit
 Ng Wai Ching
 Pang Ching Yi
 So Lai Shan
 Wong Wai Ling
 Wu So Chee
 Yeung May Foon

New Associates

Chan Chung Mang, Truman	Lee Nga Tai
Chan Lai Kam	Lee Pik Yuk
Chan Lai Yim	Lee Sheung Moun, Marvin
Chan Mei Mei	Leung Nga Wing, Terry
Chan Yat To	Li Tsz Kwan, Sylvia
Chau Lok Sze, Bonnie	Lo Hung Cheung, Catherine
Chen Fuk Lai	Lung Hiu Man
Cheng Chun Kai	Ma Tsz Ki
Cheng Pui Yee	Poon Kin Hei
Cheng Sau Man	Sit Yuk Ching
Cheung Mei Ki, Maggie	Sze Kai Sen
Cheung Mei Yin	Truong Minh Loan
Chiu Wai Nga	Tsang Tsz Ying, Fion
Chow Yiu Hon	Wong Chui
Chung Kwok Ying	Wong Ka Lun
Fung Wing Ki	Wong Kui Tong
Kwan Wai Chung, Ample	Wong Ngai Ping, Miranda
Lai Fu Lai, Fanny	Wong Pui Sze
Lau Tung Ni	Wong Yuen Ha
Lee Fai Kwong	Yau Woon Man, Walter
Lee Kwai Wah, Raymond	Yeung Shuk Man

Newly appointed company secretaries

The Institute would like to congratulate the following members on their appointments as company secretaries of listed companies:

Company secretary	Listed company	Date of appointment
Lam Kwok Fan ACIS ACS	Yau Lee Holdings Ltd (stock code: 406)	10 February 2012
Chan Yuk Yee ACIS ACS	Sunlink International Holdings Ltd (stock code: 2336)	23 February 2012

New Fellows

Au Cheuk Ting, Stephanie *FCIS FCS*

Ms Au is currently the compliance manager of Chow Sang Sang Holdings International Ltd (stock code: 116), responsible for company secretarial and compliance matters. Prior to joining Chow Sang Sang, she worked in a multinational accounting firm and other listed companies in Hong Kong and has over 15 years' experience in the company secretarial field. Ms Au obtained a master's degree in English for the professions, and a bachelor's degree in business administration. She is an accredited mediator of the Hong Kong Mediation Centre.



Chan Ming Kin *FCIS FCS*

Mr Chan is the General Counsel and Company Secretary of China Everbright Ltd (stock code: 165), and a member of the Supervisory Board of Everbright Securities Company Ltd (listed in Shanghai). Mr Chan is a Hong Kong practising solicitor, he holds a bachelor's degree in laws and a postgraduate certificate in laws from the University of Hong Kong, and a master's degree in corporate governance from the Hong Kong Polytechnic University.



Chiong Lai Lai *FCIS FCS*

Ms Chiong is currently a Senior Manager, Corporate Secretarial Services, of KCS Hong Kong Ltd. She is responsible for the provision of corporate secretarial and compliance services to a portfolio of clients from different industries and jurisdictions (including private and multinational listed companies) and corporate restructuring.



Chow Wai Kit *FCIS FCS*

Mr Chow is currently the Company Secretary and Deputy Chief Financial Officer of Tibet 5100 Water Resources Holdings Ltd (stock code: 1115), and is responsible for overseeing company secretarial and corporate governance affairs. He also assists in managing the financial and accounting affairs of the listed group. Mr Chow holds a master's degree in finance from the Royal Melbourne Institute of Technology University, Australia. He is a Fellow of both the HKICPA and ACCA.



Fok Chi Tak *FCIS FCS*

Mr Fok is currently the Chief Financial Officer and Company Secretary of Hao Tian Resources Group Ltd (stock code: 474). He is responsible for corporate finance and discharging company secretarial functions. Mr Fok holds a bachelor's degree in accounting and finance from Oxford Brookes University in the UK and a master's degree in business administration from the University of Hong Kong. He is a Fellow of both the HKICPA and ACCA.



Kong Chi Mo *FCIS FCS*

Since May 2008, Mr Kong has been the Chief Financial Officer of China Vanadium Titano-Magnetite Mining Company Ltd (stock code: 893). Prior to joining the Company, he was an Audit Senior Manager at KPMG's Beijing office. In his eight years with KPMG, Mr Kong was the engagement manager on audits for the initial public offerings and annual audits of several Chinese companies listed in Hong Kong and the US. Prior to joining KPMG, he worked as a Tax Associate and Finance Trainee in PricewaterhouseCoopers and Hutchison Telecommunications (Hong Kong) Ltd respectively. Mr Kong holds a bachelor's degree in business administration from the Chinese University of Hong Kong. He is a Fellow of ACCA, and an Associate of the HKIoD.



New Fellows

Leung Wai Man *FCIS FCS*

Mr Leung is currently the Company Secretary and Financial Controller of Beijing Beida Jade Bird Universal Sci-Tech Company Ltd (stock code: 8095). He is responsible for the full spectrum of company secretarial functions of the group. Mr Leung holds a bachelor's degree in business administration from the Chinese University of Hong Kong. He is a Fellow of ACCA and an Associate of the HKICPA.



Wan Kim Ying, Kasina *FCIS FCS*

Ms Wan is currently the Deputy Company Secretary of China Everbright Ltd (stock code: 0165). She is responsible for the company secretarial related affairs of the company. Ms Wan holds a master's degree in business administration from Murdoch University, Perth, Western Australia, and a master's degree in corporate governance from the Hong Kong Polytechnic University.



The Chartered Secretaries Foundation Ltd

The Chartered Secretaries Foundation Ltd (the CS Foundation), incorporated with limited liability by guarantee, is committed to:

- supporting education and research in corporate governance, company secretarial, legal, accounting, and business studies, and publishing its research results for the benefit of the general public
- developing and/ or sponsoring non-profit making educational and training courses, seminars, exhibitions, conferences and other educational programmes aimed at propagating the knowledge of good corporate governance to the general public
- providing awards and/ or scholarships and subsidies in company secretarial and corporate governance and related studies, and
- raising funds to support to objects of the CS Foundation.

The establishment of the CS Foundation was announced in January at the HKICS Annual Dinner 2012 and kicked off with an encouraging inaugural fundraising activity. Through this fundraising activity, HK\$606,900 has been received as of 23 March 2012.

Members' contributions to the CS Foundation will help deepen the understanding of corporate governance among the general public of Hong Kong through educational and research work. All donations over HK\$100 are tax deductible.

To find out more, please contact the CS Foundation at: www.csfoundation.org.hk, or email to: info@csfoundation.org.hk.

Regional Board Secretaries Panel meeting



The Institute organised Regional Board Secretary Panel meetings and dinner gatherings in Shanghai and Shenzhen on 17 and 20 February respectively. Around 38 board secretaries from Shanghai and Shenzhen attended the two events and discussed Hong Kong's new statutory requirements for the disclosure of price-sensitive information by listed companies with officials from the China Securities Regulatory Commission (CSRC) Shanghai Regulatory Bureau; Shanghai Stock Exchange; CSRC Shenzhen Regulatory Bureau; and the Shenzhen Stock Exchange. The attendees expressed support for the regulatory effort to cultivate a continuous disclosure culture among listed companies. Concerns relating to the differences in the disclosure requirements and practices in Hong Kong and the mainland were also raised and discussed.

More information on the new statutory requirements for the disclosure of price-sensitive information by listed companies is available on the website of Hong Kong's Financial Services and Treasury Bureau: www.fstb.gov.hk.

The Institute would like to express its sincere thanks to Sinopec Shanghai Petrochemical Co Ltd and China Merchant Bank for sponsoring the meetings and dinner gatherings.



Dr Maurice Ngai FCIS FCSC(PE) and Mr Lan Qi



Mr Zhang Jingming and Dr Maurice Ngai FCIS FCSC(PE)

Membership application deadlines

Members and Graduates are encouraged to advance their membership status once they have obtained sufficient relevant working experience. Fellowship and Associateship applications will be approved by the Membership Committee on a regular basis. If you plan to apply, please note below the submission deadlines and the respective approval dates.

For details, please contact the Membership section at 2881 6177.

Submission deadlines	Approval dates
Saturday 17 March 2012	Mid-April 2012
Saturday 21 April 2012	Thursday 17 May 2012
Saturday 21 July 2012	Thursday 16 August 2012
Saturday 8 September 2012	Tuesday 9 October 2012
Saturday 24 November 2012	Mid-December 2012

HKICS dragon boat team 2012

The Institute's dragon boat team started their 12 practice sessions at Sai Kung on 24 March 2012. The team will enter into the 7th Stanley Dragon Boat Warm-up Races on 26 May and the International Dragon Boat Races in July 2012 respectively. If you want to take part as the cheering team, please contact the Membership section at 2881 6177.

More photos taken at the training session are available at the gallery section of the Institute's website.



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HK Magazine, January 2012



www.escapade.com.hk

f ESCAPADE Sports

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19 Leighton Road
Causeway Bay
t: +852 2891 1855

Opening Hours:

Mon - Thurs
10:00 - 9:00
Fri - Sun
9:30 - 9:00

Central

1/F Merlin Building
30-34 Cochrane Street
Central
t: +852 2851 0769

Opening Hours:

Mon - Sat:
10:30 - 8:30
Sun:
10:30 - 7:30

Tips from the top

Subject Prize winners and Merit Certificate awardees from the December 2011 IQS examination share their study experiences and tips for success with students of the Institute

Cheang Yee Wah, Eva
Subject Prize winner – Corporate Secretaryship, and Merit Certificate awardee – Hong Kong Corporate Law

Ms Cheang graduated with a BBA in Accounting and Finance. She is the financial controller of a listed company in Hong Kong, overseeing the group's accounting department. In addition to being a professional accountant, she is studying for a part-time master's degree in Corporate Finance.

'Gaining the Chartered Secretary qualification has been very useful to me as I need to be familiar with corporate governance and the listing rules in my daily work. Studying subjects such as Corporate Governance, Hong Kong Corporate Law and Corporate Secretaryship has given me the chance to learn more in those areas so that I can provide advice and assistance to the board of directors at work, which brings an added value to my career. In addition to taking the IQS examinations, I am studying a part-time master's course. Time management has therefore been highly important. I tried to finish my office work during the week so I could focus on my studies at the weekend. I also managed to enjoy my time with friends and family on Sundays. I think it is important for students to reserve sufficient time to go through the study materials. Time should also be evenly allocated for each question. I studied the past papers and materials recommended by the Institute. I also visited the websites of the Hong Kong Stock Exchange and Companies Registry to get the latest rules and news.'

Lu Hongyu
Subject Prize winner – Corporate Financial Management

Ms Lu completed bachelor's and master's degrees in Law at the China University of Political Science and Law. She is currently a corporate counsel at Avichina Industry & Technology Company Ltd, a company established in China and listed on the main board of the Hong Kong Stock Exchange.

'Preparation for the IQS examinations has made me more familiar with the Hong Kong legal system, corporate regulation and financial management. This knowledge will be useful in my work and I believe the pursuit of the Chartered Secretary qualification will also help to enhance my self-discipline and personal development. Corporate Financial Management was a relatively difficult subject for me as I come from a legal background. I tried to solve this problem by consulting my colleagues and looking up the relevant financial terms online. Also, I practiced the past examination questions and tried to ensure I didn't overload myself with too many facts and theories. I did not expand too widely the scope of my reading, but tried to focus on gaining an in depth knowledge of the main points. I enjoyed reading the study outlines and texts. Perhaps because I was reading these for the first time, they almost seemed like a good story book. Regarding examination technique, my advice is to exclude the questions you are not able to answer and plan your time on each question. Think strategically before you write down your answer.'

“
the Chartered Secretary qualification provides me with an opportunity to develop my career in an area I am particularly interested in – corporate governance
 ”

Lau Siu Yee, Jessica – Merit Certificate awardee, Corporate Administration

Poon Tsz Yan
Subject Prize winner – Corporate Administration

Ms Poon graduated with a bachelor's degree in Accounting. She is working as an internal auditor in a listed company mainly involved in property development.

'I aim to pursue the high-ranking Chartered Secretary qualification to enrich my portfolio and pave the way for my future career. I was initially a bit confused by the scope and content of the examination. However, I gradually got a better idea of the subjects by reading the study materials and attending the examination preparatory course. There are a few points to be bear in mind when preparing for the examination. First, plan your study schedule and select the right study material as there are plenty of notes and reference works available. You have to understand the concepts instead of merely memorising the study materials. Also, try to attempt a past paper under examination conditions (without referring to textbooks). Pay attention to the time spent on each question and your answers should be straight to the point, applying relevant theories if necessary.'

Yeung Yim, Ava
Merit Certificate awardee – Hong Kong Corporate Law

Ms Yeung graduated with a bachelor's degree in Business Administration from the Chinese University of Hong Kong. She works as a senior accountant in a CPA firm.

'The Chartered Secretary qualification gives you a professional qualification in corporate governance. I found it interesting to study for the IQS and I am happy that I can apply this professional knowledge in my daily work. It was hard to remember the law cases and read all the materials when I first started preparing for the Hong Kong Corporate Law paper. I therefore spent extra time revising and I read the study materials at least twice and made notes. I also prepared a topic table to summarise all the law cases and related topics. I did all the past papers and read through the suggested answers and the examiner's report. There is no short cut and you have to cover all the topics and prepare an efficient plan. Examination preparation is stressful but my advice is work hard, study hard and play hard.'

“
you have to understand the concepts instead of merely memorising the study materials

”

Poon Tsz Yan – Subject Prize winner, Corporate Administration

Lau Siu Yee, Jessica
Merit Certificate awardee – Corporate Administration

Ms Lau has a bachelor's degree in Business Administration. She is working as a company secretarial assistant in a listed company in Hong Kong.

'The Chartered Secretary qualification provides me with an opportunity to develop my career in an area I am particularly interested in – corporate governance. The IQS examination covers a wide range of knowledge and therefore provides a good foundation on which to build my career as a company secretary. I did experience difficulties during my study, especially since my educational background was in mainland China, that is, a non-English teaching environment with a different legal system. I tried to overcome these difficulties by putting an extra effort into my studies. I spent every weekend revising for about three months before the examination. I am a person who works hard, studies hard and plays hard. I enjoy learning new things and appreciated the chance to encounter new ideas during my studies. Sometimes I also went hiking or shopping with my friends.'

Tips from the top – continued

Ng Wai Ting

Merit Certificate awardee – Corporate Governance

Mr Ng graduated with a major in Business Administration (Accounting and Finance) from the University of Hong Kong. He currently works as the accountant of a PRC real estate developer listed in Singapore.

'Being an accountant in a listed company, I need to apply what I have learnt from the IQS examination in my daily work, for example drafting announcements, preparing annual reports, as well as communicating with management and outsiders. I hope I will be able to contribute more to my employer after obtaining the professional Chartered Secretary qualification. It is challenging to strike a balance between a heavy work burden and preparing for the IQS examination. In order to cope with unexpected problems at work and my personal life, I started revising once I had enrolled for the examination. I also attended the HKU SPACE preparatory course and carried out my own studies for three consecutive months before the examination. The syllabus of the examination is quite broad but I enjoyed studying the rules, regulations and best practices that are relevant and applicable to my work. My advice is to make good use of the reading time in the examination and to select the questions that you are confident to answer. It is important to plan ahead before writing out your answers.'

Pak Yuen Yu

Merit Certificate awardee – Corporate Governance

Ms Pak graduated from the Chinese University of Hong Kong majoring in Business Administration. She is currently handling the company secretarial affairs of a listed company.

'My interest in pursuing the Chartered Secretary qualification was aroused when I joined the Institute's Student Ambassadors Programme (SAP) during my undergraduate study. That helped me to achieve a fundamental understanding of the functions of company secretaries and I started my career in the company secretarial field after my graduation. During my studies, it was sometimes difficult to fully understand the concepts, but I enjoyed learning and applying my new knowledge at work. I read the Institute's recommended reading and study texts, as well as CSj and relevant guidance notes, and I practiced by doing past papers. I also paid attention to the latest regulatory updates. The major obstacle for me was insufficient study time due to my long working hours. However, I put a lot of thought into planning and my early preparation helped me to keep up with the study schedule. My advice is to remain calm during the examination and to make efficient use of the 15-minute reading time. Go through each question carefully, select the questions you feel most confident to answer and formulate the points you need to cover in your answers.'

“
it is challenging to strike a balance between a heavy work burden and preparing for the IQS examination

”

Ng Wai Ting – Merit Certificate awardee, Corporate Governance

High table dinner at Hong Kong Shue Yan University

Alberta Sie *FCIS FCS(PE)*, Education Committee Chairman; and Louisa Lau *FCIS FCS(PE)*, General Manager, attended a high table dinner organised by the Department of Law and Business, Hong Kong Shue Yan University on 23 February 2012.



Group photo

Collaborative Course Agreement (CCA) courses review meetings

To monitor the quality of the Collaborative Course Agreement (CCA) courses, the Institute held review meetings with three universities, namely the City University of Hong Kong (28 February 2012), The Hong Kong Polytechnic University (1 March 2012) and the Open University of Hong Kong (6 March 2012) respectively.



Review meeting at City University of Hong Kong



Review meeting at The Hong Kong Polytechnic University

Student Ambassadors Programme (SAP) – visits

The Institute organised the following visits for the Student Ambassadors in March 2012. The Institute would like to thank the three institutions/ firms for their support.

1. Visit to the Hong Kong Ethics Development Centre, ICAC (9 March)
2. Visit to the Companies Registry (19 March)
3. Visit to Tricor Services Ltd (20 March)



Visit to the Hong Kong Ethics Development Centre, ICAC



At the Companies Registry



At Tricor Services Ltd

June 2012 Examination

	Tuesday 29 May 2012	Wednesday 30 May 2012	Thursday 31 May 2012	Friday 1 June 2012
09:30–12:30	Hong Kong Financial Accounting	Hong Kong Corporate Law	Strategic and Operations Management	Corporate Financial Management
14:00–17:00	Hong Kong Taxation	Corporate Governance	Corporate Administration	Corporate Secretaryship

HKICS examination technique workshop

Examination technique workshops will be held in early May for students who have enrolled for the June 2012 examination. Please refer to the Institute's website for details, or call the secretariat at 2881 6177.

New Students Orientation

The Institute organised a New Students Orientation on 15 March 2012. During the orientation, students learned about the International Qualifying Scheme (IQS) examination, exemptions and student support services. Book display counters were available for students to purchase IQS study materials. Subject Prize winners and Merit Certificate awardees of the December 2011 examination joined the orientation to receive their certificates from Polly Wong *FCIS FCS (PE)*, the Institute's Vice-President and Education Committee Vice-Chairman.



Group photo of Polly Wong and the awardees



Experience sharing from Joanne Chau ACIS ACS

Poon Tsz Yan (Subject Prize winner in Corporate Administration) and Ng Wai Ting (Merit Certificate awardee in Corporate Governance), shared their tips on preparing for the IQS examinations with the participants. Joanne Chau *ACIS ACS* shared her experience of taking both the IQS examination and the collaborative courses.

Policies update

Students are reminded of the following policy updates approved by the Council meeting on 21 March 2012 (effective from 1 April 2012).

Exemption re-application

Holders of a recognised university degree and professional qualifications may be entitled to exemptions from some subjects of the Institute's examinations. Where students' approved exemption is forfeited (due, for example, to a failure to pay the required fee), they must re-apply for the exemption within two years of the original exemption approval. Additional administrative charges are applied for exemption re-applications, these charges are as follows:

Exemption re-applications	Additional administrative charge
1st time	HK\$450
2nd time	HK\$450 plus 1.5 times the exemption fees will be charged
3rd time	HK\$450 plus 2 times the exemption fees will be charged
4th time	HK\$450 plus 3 times the exemption fees will be charged

Full exemptions application for collaborative courses students

The following policy is applied to all full exemptions applications for collaborative courses agreement (CCA) students:

1. Late applications for CCA full exemptions will not be accepted beyond the 24th month after graduation.
2. If the full exemptions application is made in the 7th month to the 12th month after graduation, twice the exemptions fees will be charged.
If the full exemption application is made in the 13th month to the 18th month after graduation, three times the exemptions fees will be charged.
If the full exemptions application is made in the 19th month to the 24th month after graduation, four times the exemptions fees will be charged.
3. An additional administrative charge of HK\$450 will be charged to all late applicants.

Students can refer to the Institute's website for details.

Upcoming activities

SAP Summer Internship Programme 2012

As part of the Student Ambassador's Programme (SAP), the Institute has been arranging summer internships for undergraduates since 2005. This internship programme is important for promoting the profession to local university students. The internship period is usually from June to August 2012 for a maximum period of eight weeks.

If members are interested in offering internship position(s) in the summer of 2012, or have any enquiry regarding the internship arrangement, please contact the Education and Examinations section at 2881 6177, or student@hkics.org.hk.

Corporate Governance Paper Competition and Presentation Award 2012

The Institute's eighth biennial Corporate Governance Conference will be held on 5 and 6 October 2012. In conjunction with this major event, the Institute has been organising its Corporate Governance Paper Competition and Presentation Award. This year's competition and award will be on the theme of **'The 21st century board'**.

This competition is open to all undergraduates of local universities.

Please refer to the Institute's website for detailed information. For enquiries, please contact the Education & Examination section at 2881 6177.

Revised FATF recommendations

In February this year, the Financial Action Task Force (FATF) adopted extensive revisions to its *40 Recommendations on Combating Money Laundering and the Financing of Terrorism*. FATF, the global standard-setter in anti-money laundering (AML) and counter-terrorist financing (CTF), launched an extensive review process of the recommendations in June 2009. The resulting revisions aim to fully

integrate CTF measures with AML controls, introduce new measures to counter the financing of the proliferation of weapons of mass destruction and better address the laundering of the proceeds of corruption and tax crimes. The revised recommendations expand the scope of money laundering predicate offences by including tax crimes. This means that where tax evasion is found to have

occurred, those involved in the crime may now be charged with money laundering as well as tax offences. They also strengthen the requirements for higher risk situations and allow countries to take a more targeted risk-based approach.

More information on the latest revisions to the FATF recommendations is available on the FATF website www.fatf-gafi.org.

New SFC anti-money laundering guidelines

The Securities and Futures Commission (SFC) has issued a new set of guidelines on anti-money laundering (AML) and counter-terrorist financing (CTF). The new guidelines aim to provide guidance to the industry relating to, among others, the operation of the provisions of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing (Financial

Institutions) Ordinance (AMLO) which came into effect on 1 April 2012. The guidelines will assist licensed corporations and associated entities in designing and implementing appropriate and effective policies, procedures and controls so as to comply with the AMLO requirements and/or other applicable AML/ CTF legislation and regulatory requirements.

To coincide with the commencement of the AMLO, the guidelines (available on the SFC website: www.sfc.hk) took effect on 1 April 2012 to replace the existing 'Prevention on money laundering and terrorist financing guidance note' published by the SFC.

Banking (Amendment) Ordinance 2012

The Banking (Amendment) Ordinance 2012 was gazetted last month. The Amendment Ordinance seeks to put in place a legal framework for the implementation in Hong Kong of the banking regulatory reform package released in December 2010 by the Basel Committee on Banking Supervision, commonly known as Basel III. Specifically, the Amendment Ordinance empowers the Monetary Authority to make rules to prescribe the capital, liquidity and disclosure requirements applicable to authorised institutions. The rules will be developed by the Monetary Authority in

consultation with the banking industry, and will be subsidiary legislation subject to negative vetting by the Legislative Council.

The provisions of the Amendment Ordinance will be brought into operation in phases in accordance with the Basel Committee's transitional timeline for the introduction of Basel III. Accordingly, the provisions in the Amendment Ordinance enabling the first phase of the Basel Committee's implementation process will be brought into effect on 1 January 2013. They cover principally minimum capital

adequacy requirements and corresponding disclosure requirements. The provisions relating to liquidity requirements will come into operation at a later date.

More information is available on the website of the Hong Kong Monetary Authority: www.hkma.gov.hk.

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