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April 2013

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The Journal of The Hong Kong
Institute of Chartered Secretaries

香港特許秘書公會會刊



In-house gatekeeper?

The independence
challenge

HKICS Prize 2012

CCRU review

Personal data privacy



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Director CPD Training



Capital Market Updates

Offshore Bond Issuance by Hong Kong Listco

Speaker: Mr. Patrick Liu, Managing Director, UBS, Investment Bank

Date : 17 April 2013 (19:00 – 20:30 / 1.5 CPD hours)

Venue : UBS AG, 52/F., Two IFC, Hong Kong

Language : Mandarin

Participants : Directors, CFOs, Investment Managers

Enrollment Hotline: +852 3628 5777

In this seminar, the speaker will provide most recent market updates on the offshore bond issuance by Hong Kong listed companies as an alternative fund raising option to traditional equity issuance.

It will cover frequently discussed topics like criteria of debt issuing, basic features and structuring of the bond, and with sharing of recent cases. The seminar will be highly suitable for directors and key financial executives of Hong Kong Listco.

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About The Hong Kong Institute of Chartered Secretaries

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.

The 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 5,700 members and approximately 3,200 students.

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Membership statistics update

As of 21 March 2013, the Institute's membership statistics were as follows:

Students: 3,279

Graduates: 525

Associates: 4,697

Fellows: 467

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April 2013

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The independence of the company secretary

Before addressing the theme of this month's journal – the independence of the company secretary – I'd like to share with you an anecdote which puts this month's theme into context. I once found myself sitting next to a senior academic at a professional institute's annual dinner in Hong Kong. Whilst casually chatting, he confided in me his surprise that a 'secretary' was sitting at the VIP table.

Clearly, there is still a fair degree of misunderstanding out there about what exactly company secretaries are and do. One obvious reason for this is that the role can vary from company to company. Another reason is the subject of this month's journal, the unusual position of the company secretary in the corporate structure. We sit on the board but we are not, unless we are also directors of course, board members. We work with senior management but are not part of the line management structure. Perhaps most baffling of all, however, is our status as in-house gatekeepers. This might sound like a contradiction in terms – how can an employee and officer of the company simultaneously hold down the job of independent gatekeeper?

As you might expect, this unusual position has its own challenges and this month's cover story (see pages 8–12) addresses many of these. How should we balance our loyalties to the company and to our

profession? What are our options in cases where our professional obligations conflict with decisions taken by management and/or the board? But for me, the main message to emerge from this month's cover story is that having a qualified company secretary sitting at the crossroads between the executive and the non-executive elements of the organisation, and specifically tasked to ensure that information flows smoothly between the board and management, brings huge benefits.

This is a recurring theme of the recent report by the All Party Parliamentary Corporate Governance Group in the UK (*Elevating the role of the company secretary*, May 2012), which is quoted in this month's cover story. Companies have the benefit of many insiders (executive board members and management), and ideally they will also have the benefit of many outsiders (independent board members and external professional advisers), but there is only one position which gives companies the benefits of an insider with an outsider's perspective – the company secretary.

CSj summarises in this month's In Focus article the views on both sides of the vexed question of privacy versus transparency. HKICS supports the government's proposals whereby the public will have limited access rights to directors' partially redacted identity and correspondence

information. For the authorities and those with a need to know, they would be afforded further access.

On 28 March 2013, the government put its proposals on hold pending further consultations because of 'diverse' stakeholders' views, but for company secretaries the proposal calling for disclosure of correspondence as against residential address will be presented to the Legislative Council for consideration. We will follow this lively debate.

Edith Shih FCIS FCS(PE)

公司秘書的獨立性

在讨论本刊今期的主题—公司秘书的独立性之前，让我告诉大家一件趣事，这件事正好带出本期主题的背景。在香港某专业团体的周年晚宴上，我坐在一位资深学者旁边，到了晚宴的后期，闲谈之间他透露，他起初感到很奇怪，为何我这位「秘书」竟会坐在贵宾席上。

对于公司秘书的确切身分和工作，一般人显然还有不少误解。其中一个显而易见的原因是，不同公司的公司秘书，角色可以很不一样。另一个原因就是今期的主题：公司秘书在公司架构内的独特位置。我们参与董事会的工作，却不是董事会成员（兼任董事者当然另作别论）；我们与高层管理人员共事，却不是业务管理架构中的一部分。最令人困惑的，大概是我们作为内部把关者的角色。在字面上，这似是自相矛盾：公司的一名雇员和高级人员，如何同时担当独立把关者？

大家可以想像，这个独特的职位，自有其挑战，今期的封面故事（第8至12页）即讨论公司秘书面对的种种考验。

在效忠公司和忠于公司秘书专业的两个前题上，我们应如何取得平衡？我们的专业职责与管理层及／或董事会的决定有冲突时，有什么可行的处理方法？在我看来，本期封面故事的主要讯息是，在公司的执行人员和非执行人员之间设置合格的公司秘书，负责保证董事会和管理层之间的信息流动畅通无阻，有莫大的好处。

这正是英国跨党派国会公司治理小组最近发表的报告中重复出现的主题。该报告题为《提升公司秘书的角色》（2012年5月），今期的封面故事内有所引述。公司可得到许多内部人士（执行董事和管理人员）的帮助，理想中也能得到许多外界人士（独立董事和外聘专业顾问）的协助，但兼具外界人士观点的内部人士却只有一个，就是公司秘书。

今期的焦点文章，扼要概述正反双方有关私隐与透明度这个具争议课题的意见。政府建议公众人士可有限度地取得经部分删减的董事身分资料和通讯地址，而公共机构当局和有需要

的人士，则可获取进一步资料；香港特许秘书公会对此表示支持。

鉴于各利益相关人士意见纷纭，政府于2013年3月28日暂时搁置建议，以便再作谘询；但公司秘书须留意的是，有关披露通讯地址而非住址的建议，将提呈立法会审议。我们将跟进这方面的热烈讨论。



施熙德

ACRU 2013

Join the 14th Annual Corporate and Regulatory Update (ACRU) and obtain first hand information from key regulators on the latest corporate and regulatory developments.

Date: Friday, 31 May 2013

Sessions: Presentations by SFC, CR, HKEx and HKMA

Language: English

Venue: Hall 3B, Hong Kong Convention and Exhibition Centre, Wanchai,
Hong Kong

Organiser:

The Hong Kong Institute of Chartered Secretaries



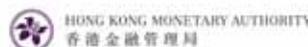
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Ask the Expert

If you would like to ask our experts a question, please contact CSj Editor Kieran Colvert: kieran@ninehillsmmedia.com

Q: *We are considering moving to a board portal service, will this mean more or less work for the company secretarial team when it comes to the preparation of board materials?*

A: With an online board portal, you can reduce your board material preparation time from days to hours, therefore gaining efficiency immediately. With a board portal, you can upload your existing documents directly into the portal. We recommend you get the right tools which do not require large learning curves to master, these should allow you to link all supporting documents to the agenda and thus be able to generate a complete board book within minutes.

The key benefit of moving to a board portal service is in assembly time; you will no longer have to print out large numbers of documents or manually assemble them into board books. Along with assembly, there is the need to adjust to last minute changes in materials.

For example, a replacement of a document in a paper environment would require going through every assembled book individually. With a board portal, you can replace the original document with the updated version and it will automatically update all books at one time.

Another part of board book preparation is separating out board and committee books to ensure you mail out the correct versions to the right directors. With a portal, a flexible permission module allows for individual or group access, so you

BoardVantage

can still separate out access by board and committees to ensure only the appropriate members see their materials.

A board portal provides a centralised location to manage all past, current and future meetings. A board portal also allows for frequent in-between communications to eliminate additional work that has been typically held for face-to-face meetings such as unanimous written consents.

In the paper-based world, you would also have to collect all those books and manually shred them to eliminate any discoverability. With a board portal, you gain a greater sense of control over discoverability as you maintain only a single copy of documents and therefore can enforce your company retention policies.

Erin Ruck, BoardVantage
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tel. +852 2293 2698
www.boardvantage.com

Your chance to ask the expert...

The challenges company secretaries face in their work tend to be much broader in scope than those faced by other professionals. Their remit goes from technical areas of corporate administration up to providing high-level corporate governance advice to the board. While this certainly adds to the variety of company secretarial work it does mean that practitioners need to be competent in a wide range of fields.

CSj's 'Ask the expert' column is designed with this in mind, providing you with the opportunity to ask our experts questions specific to the challenges you are facing.

To ask a question from BoardVantage or our other experts, simply email CSj Editor Kieran Colvert at: kieran@ninehillsmmedia.com.

If you would like information about how your company can join our expert panel then please contact Paul Davis at: paul@ninehillsmmedia.com, or telephone: +852 2982 0559.



Independence of the company secretary

Company secretaries are both employees and officers of companies as well as being gatekeepers tasked with giving independent advice on regulatory and corporate governance matters. This month *CSj* looks at the unique position of the company secretary in the corporate structure and at the importance of preserving the independence of the role so that practitioners can fulfill their full potential as the board's trusted adviser.

In May last year the All Party Parliamentary Corporate Governance Group (APPCGG) in the UK brought out a report that will be of special interest to readers of this journal. The report – *Elevating the role of the company secretary* (www.appcgg.co.uk) – looked at the role the company secretary is playing, and can play, in ensuring effective corporate governance in UK companies.

'The breadth and importance of the role of the company secretary has increased markedly over the past five years,' writes Alun Michael, Chairman of the APPCGG in his foreword to the report. 'It is a unique role as the company secretary is often neither part of "line management" nor a member of the board itself. There are endeavours to move the profession beyond that of being the "administrative servant of the board" to one which encompasses the broader role of "board adviser".'

The report points out that company secretaries ideally should provide an interface between the board and management. They can be the 'voice of the board' within the business as well as being the key liaison between non-executive directors and management.

Earning trust

While the APPCGG report highlights the huge potential of the company secretarial role, is this potential realised in Hong Kong companies? Susie Cheung, the General Counsel and Company Secretary of the HKMC, points out that it is still fairly common for company secretaries to be perceived as fulfilling a primarily administrative role. 'Company secretaries were originally employed to do filing and form filling; it's a historical package from which we will gradually move,' she says.

April Chan, Company Secretary of CLP, points out that the amendments made to Hong Kong's Corporate Governance Code in 2011/ 2012 have helped to highlight the potential of the role. 'Things are getting better with the support of Hong Kong Exchanges and Clearing (HKEx). There is a new section on the company secretary in the Corporate Governance Code. This has enhanced the importance and status of the company secretary. As more and more complicated listing rules and price-sensitive information compliance requirements are imposed on directors, the concern about liability that comes with these requirements increases. As a result, directors and CEOs are relying more on company secretaries to advise them of the regulatory requirements, compliance issues and corporate governance matters,' she says.

Paul Moyes, Executive Director and Head of Practice Development of Tricor Group, believes the key issue is the degree of trust the board invests in the company secretary. He points out that the APPCGG report found that nearly 75% of the board respondents believed the role was primarily administrative (compared with only about 25% company secretaries who characterised their role in this way). Several

respondents to this article emphasised that, for this reason, company secretaries need to earn the trust of board members.

'If you want to be treated as a professional, you must behave professionally,' says Wendy Yung, Company Secretary and Head of Corporate Services, Hysan Development Company. 'Taking corporate governance as an example, I think it is a given that we should all know the listing rules well. The next step is to understand your own company's business and operations and the board's processes, and to see how you can effectively apply the rules effectively in your own organisation bearing in mind its unique circumstances. In this way, you can add value to your company'.

'Set an example and demonstrate your integrity and professionalism,' April Chan says. 'Company secretaries should communicate with their colleagues about good corporate governance standards and practices as well as the importance of ensuring compliance within the company. A company secretary is more than an administrator'.

'How much you know and how you apply the knowledge will gain you respect,'

Highlights

- ideally, company secretaries can combine a position at the heart of the company with an independent gatekeeper role and this is the foundation of the real value they can bring
- company secretaries need to earn the trust of board members by demonstrating their integrity and professionalism
- the new Corporate Governance Code provision that the company secretary should report to the board chairman and/ or the chief executive seeks to preserve the independence of the company secretary

says Susie Cheung. 'This is a profession; it is not marketing or advertising. There is no getting away from the rules and regulations. A company secretary needs to know and be familiar with all the latest rules and corporate governance standards as applied to the company. You need to acquire the necessary skill sets befitting a competent secretary and learn not to be a mouse. This does not mean you need to lecture – you need to know how to address the board. Confidence stems from knowledge and the realisation that you know what you are talking about and can present it in the best way possible'.

The danger of management 'capture'

There are dangers for the company secretary where the role is assumed to be purely administrative. The danger of management 'capture' of the company secretary was on display in the Shanghai Land fraud case of 2005/ 2006. When non-executive director Gordon Ng refused to sign a resolution that would have facilitated the fraud, Company Secretary Catherine Tse Wai-kuen was asked to draw up minutes of a fake telephone conference in which it would appear that the deal was ratified, bypassing the need for Ng's signature. Tse, in her defence, argued that she was doing the bidding of her employer but her case has since become a warning for company secretaries who find themselves in the unenviable position of having to choose between their professional integrity and their loyalty to their employer.

'A professional company secretary should always keep a true record of meetings,' says April Chan. 'If you are under pressure to put something into minutes that did not take place in a meeting, I would suggest you offer to include a post-meeting note on what was clarified after the meeting

in the minutes for approval by directors in the next meeting. That way you can do the right thing and hopefully maintain harmony amongst board members'.

Susie Cheung agrees. 'Backdating is a bad practice and no self-respecting company secretary should consider adopting it. As a matter of correct record, it is important to state the 'correct' date of the board meeting and the board resolutions. Inserting a date other than the correct date could, at the very least, run the risk that the requisite quorum might be challenged since the directors alleged to be present on the date of the backdated board meeting might not have been in Hong Kong on that date! At the worst, if a dispute was to arise at a later date which might relate to the backdated minutes/resolutions, such backdated records could be held by the court as being fraudulent and the company secretary could find him/herself unwittingly being embroiled in the dispute and be part of the complicity to the plot'.

This dilemma is less acute where a company secretary is acting as an outsourced company secretary. This is the case, for example, for Paul Moyes. 'When someone asks me a question, they are seeking independent, professional advice. As an external party, I cannot be unduly influenced by any one client. Our professional services could be terminated, but I cannot be forced to compromise. So my objective judgements and professionalism will not be altered. My role has always been external. I've also always been independent and I have adhered to that (original) ethos of professionalism. When you come from a "Big-Four" background, a healthy degree of scepticism is inculcated in you. It's not that I am querying what a company is doing; rather, I am wondering if what they

are doing is best. So a healthy degree of scepticism is good in the role'.

Practitioners working as in-house company secretaries will tend to be closer to company management, and both Wendy Yung and April Chan emphasise that practitioners should choose their employers well. Put simply, working for companies with dubious ethics will be bad for your career. 'You may end up as a mediocre company secretary doing administrative work and taking instructions from everyone else,' says April Chan. 'Moreover, if you fail to put the right practices in place after repeated trials, it's time for you to consider whether your current employer deserves a company secretary as good as you are'.

'The culture of a company is of paramount importance,' Wendy Yung adds. 'I am very lucky and feel very comfortable that my independence is respected in my company given our culture in corporate governance. However, I appreciate it may be more challenging in a company that is developing and growing its corporate governance culture'.

The question of liability

Respondents also point out that, quite apart from the moral argument for maintaining good ethical practices, there is of course the delicate question of the liabilities practitioners face for breaches of their professional standards. This does not only mean internal disciplinary action by the relevant professional body – these days company secretaries face significant legal liabilities. The revised Securities and Futures Ordinance, for example, substantially expands the existing framework for the disclosure of price-sensitive information and imposes personal liability on officers of



“
if you fail to put the right practices in place after repeated trials, it’s time for you to consider whether your current employer deserves a company secretary as good as you are
”

April Chan, Company Secretary of CLP

listed companies, including company secretaries.

Susie Cheung points out that these liabilities give company secretaries both the incentive and the right to object to breaches of ethics or corporate governance principles. 'The fact that a company secretary is also legally liable – as other members of the board are – gives you the right to object to bad behaviour. I think, that the issue of personal liability raises the standing of the company secretary: it shows that they are important enough to carry the can,' she says.

Similarly, Wendy Yung believes that, while the new liabilities might seem rather intimidating, the new inside information disclosure regime should be regarded as a positive development for company secretaries. 'Setting up internal systems to address the new disclosure requirements can turn these challenges into positives. You can propose and help to set up various internal systems: a disclosure committee, training for officers of the company who may not have a legal/ regulatory background, and add the confirmation of no-inside information as a regular senior management meeting agenda'.

She reminds readers that if company secretaries can put these kinds of initiatives into the company's internal systems, then they become key team members in the development of internal policies. 'This is the kind of work that will make you a useful: definitely not only fulfilling administrative duties,' she adds.

Preserve your independence

When the Hong Kong stock exchange recently updated Hong Kong's Corporate Governance Code, it brought in a number of reforms intended to centralise the role of the company secretary in corporate governance. Tucked away among those reforms was the innocent-sounding code provision (F.1.3) stating that 'the company secretary should report to the board chairman and/ or the chief executive'.

Many senior company secretaries have argued that F.1.3 is one of the most significant reforms introduced by this latest revamp of the Corporate Governance Code because it seeks to preserve the independence of the company secretary as an in-house gatekeeper. The term 'gatekeeper' was first coined to describe the role of non-executive directors and external professional advisers who are specifically

tasked to ensure that companies abide by all relevant legal and ethical expectations. These gatekeepers are outsiders but company secretaries combine a position as an officer of the company with an independent gatekeeper role – they are both insiders and outsiders – and this is why their reporting line is so important.

Ben Mathews, *FCIS*, Company Secretary and Global Head of Secretarial Services, Rio Tinto, points out that, while there isn't a single solution for every company, reporting to a non-executive chairman can help to reinforce the independence of the company secretary role. This reporting line is relatively rare, however. Susie Cheung points out that in most companies' management prefer ideas to be run past them first. 'If you don't play by the rules of the team, the rest of the board won't trust you – you have to be collegiate. And you may wish to bring the CEO and directors with you, and share your passion for good norms and corporate governance,' she says.

Some commentators have suggested that having a completely independent company secretary might be a good thing. 'Perhaps this is a bit radical, but perhaps

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if you want to
be treated as a
professional, you must
behave professionally
”

Wendy Yung, Company Secretary and Head of Corporate Services of Hysan Development Company

the company secretary should not be an employee,' says Ben Mathews. 'Perhaps the company secretary should be engaged under some kind of fee-based arrangement that preserves his/ her independence and that would reinforce the trust particularly of the non-executive component of the board, other stakeholders, NGOs in our case, shareholders obviously. It's a thought'.

April Chan points out, however, that it is impossible for the company secretary to be totally independent. 'A company secretary is an employee. The listing rules state that a company secretary should be an employee of the company and have day-to-day knowledge of his/ her company's business. The company secretary should be unbiased and seen as a neutral body between directors and management. This is critical to earn the credibility and trust from the board and management'.

Paul Moyes concurs. 'From a practical point of view the company secretary is an officer of the company – full stop. So independence simply means that they are carrying out their duties as they are supposed to be discharged. The director has fiduciary duties; company secretaries have their own duties. I believe the

company secretary should report to the chairman and to the board'.

A question of balance

The unusual position of company secretaries in companies inevitably comes with its own challenges. We have looked at one scenario, for example, where a company secretary had to choose between remaining 'loyal' to management or to the profession. Susie Cheung points out, however, that there should be no conflict between company secretaries' loyalties since the companies that employ them and the profession requires them to embrace good corporate governance.

'When you look at this from the perspective of good corporate governance – and really you don't even need the word "good" in front of that term – you find that it is the norm, and the norm will tell you what to do. There should be no conflict in exercising your honesty and integrity vis-à-vis the company or the shareholders or the stakeholders. I would say that the intangible values and a company's reputation are worth a lot of money and if you truthfully embrace corporate governance, it contains all the norms: integrity, honesty, good management, and fairness to other staff'.

Paul Moyes concurs. 'It is incumbent on me to inform the board of both *my* and *their* obligations. As long as I make sure of that, and I educate the board, then the balance of loyalties is not a major issue; it is a professional job'.

Nevertheless, a balance needs to be struck in terms of how independent the company secretary should be. If company secretaries are too independent they risk losing their ability to bridge the gap between the executive and non-executive

elements of the organisation. Conversely, if they are entirely integrated into the management of the company they risk losing their ability to provide the board with independent advice.

While balancing their roles as in-house gatekeepers will not always be easy, company secretaries are increasingly aware that their unique position in the corporate structure is the foundation of the real value they can bring. What other company officer or external adviser can combine a position at the heart of the company with an independent gatekeeper role acting as the 'conscience of the company'?

'Directors and company secretaries must have a mutual respect for each others' responsibilities,' says Wendy Yung, 'which includes the independence of company secretaries.' She adds, however, that the special value added by company secretaries comes from their intimate knowledge of the company's operations and circumstances. 'This is how you differentiate yourself from being just an external adviser,' she says. 'As you are familiar with the company, you can provide solutions. An external adviser may tell you what the company needs to improve on, or where the weak areas are. But how to implement these changes? How quickly or in phases? What personnel should be involved and what is the most effective division of roles? A resourceful internal company secretary can help'.

Gina Miller and Kieran Colvert

The report 'Elevating the role of the company secretary' (May 2012) by the All Party Parliamentary Corporate Governance Group in the UK is available online at: www.appcgg.co.uk.

中國企業實務 重點課程系列

香港大學專業進修學院 (HKU SPACE) 與香港特許秘書公會 (HKICS) 合辦之“中國企業實務重點課程系列” (Programme Series in PRC Corporation Practices), 涵蓋以下課程, 旨在推動良好企業管治理念, 加強對中國法規理論及實踐之了解, 並提升公司秘書的國際視野及國內專業知識。

	中國董事會秘書實務 MS 42-081-10 (21)	中國公司法 MS 42-081-21 (21)	中國公司治理 MS 42-081-17 (31)	中國公司行政 MS 42-081-19 (31)
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上課時間及地點	<p>課程為期一個月 授課時間: 4堂, 每堂6小時, 共24小時 上課時間: 逢週六或日上課一堂, 下午(2:00-5:00) 及晚上(6:00-9:00) 授課地點: 港島區其中一所教學中心</p>			
授課日期	<p>2013年 (逢週六) 4月20日 4月27日 5月4日 5月11日</p>	<p>2013年 (逢週六) 6月8日 6月15日 6月22日 6月29日</p>	<p>2013年 (逢週六) 7月6日 7月13日 7月20日 7月27日</p>	<p>2013年 (逢週日) 7月7日 7月14日 7月21日 7月28日</p>
學費	港幣3,500元	港幣3,500元*	港幣3,500元*	港幣3,500元*

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In the public interest

John Brewer, HKICS Prize Winner 2012

The annual HKICS Prize celebrates the achievements of leaders of the Chartered Secretary profession. The 2012 prize was awarded to HKICS past president John Brewer *FCIS FCS*, who played a pivotal role in building up the profession in Hong Kong during critical phases of its development. In this interview with *CSj*, he argues in favour of speaking out on issues of public interest.

W *hat are your feelings on receiving the HKICS prize?*
 'I'm very proud, very happy and I'm thrilled!'

Can we talk about your personal background? I believe you studied law in the UK?

'I studied law intending to read for the Bar. I had an offer of pupillage and then tenancy but I hadn't realised how much of a financial burden it would be to my parents and, quite by accident, ended up as trainee company secretary with British Aerospace (BAe). I joined just after nationalisation but only three years later the company was selected as the initial denationalisation of the first Thatcher government and I worked on the IPO. I was then posted to the Australian subsidiary for two years. I had just turned 25 and was given a three-bedroom house with swimming pool, car and enough tax-free allowance to help pay the mortgage for the new house I had just purchased in the UK. Perhaps missing out on the Bar wasn't so bad after all!'

Did you take the Institute of Chartered Secretaries and Administrators (ICSA) exams?

'Yes, though the Australian posting meant I had to study to sit the taxation paper overseas. Twice, because Park Crescent [headquarters of the ICSA in London] had sent the first exam paper out by cabin steamer and it failed to arrive in time for the exam.'

You moved to Hong Kong in 1984?

'BAe's statutory work was undertaken at head office so those of us working in the Divisions handled just about everything expected of a company secretary except filing returns with Companies House. At 27, I arrived in Hong Kong to run the company secretarial department of a leading firm of solicitors where 99% of my time was spent managing a department of staff who filed returns with the Companies Registry and drafted routine board and general meeting minutes. The interesting 1% involved four listed companies and special transactions. Those were certainly the kind of 'interesting times' my UK friends had cautioned me about – the Hang Seng Index had dipped to less

than 700 points, a Malaysian banker had been murdered in a Central District hotel, a senior solicitor was then found at the bottom of his swimming pool and one of the territory's most famous companies announced it would redomicile to Bermuda. And, as it turned out, it was the year in which Bob Tricker coined the term "corporate governance".'

You joined the HKICS in 1986 – I suppose it must have been a very different body back then?

'It certainly was – presidents back then didn't have to be able to sing! The committee was then run on a shoestring. Park Crescent had banked student and member subscriptions and remitted a few breadcrumbs for us to pay for a very basic presence. I joined just after ICSA Council had resolved to devolve greater autonomy to the associations in Singapore, Malaysia and Hong Kong and a year ahead of the 1987 market crash, an event which presented the profession with a unique opportunity to make itself useful. Which we did!'

In what way?

'Prior to the crash, the listing rules were very simple and not very demanding. After the crash a number of consultants were engaged by the Exchange to relook at the listing rules and we were able to get into that process and push very hard for the rules to require listed companies to have a company secretary. They had to have company secretaries previously but most companies would subcontract the work to solicitors' firms and so they wouldn't have an individual named in that position. We were pressing for the named company secretary to be an individual. I think the consultations following the crash were fortuitous and gave us the chance to make our voices heard. Like everything else in this town, if you can make yourself useful people will listen.'

You mentioned that ICSA Council had resolved to devolve greater autonomy to Hong Kong – can you talk a little about your part, as Chairman of the HKICS in the mid-1990s, in establishing the Institute as an autonomous body?

'One of the devolution steps required us to incorporate a local



Early CSRC conference in Shanghai showing (left to right) SEHK head of listing Herbert Hui; CSRC founding chairman Liu Hongru; SEHK chairman Charles Lee; and John Brewer



ICSA Hong Kong annual dinner 1987

guarantee company to hold Hong Kong assets. In 1994, and as a result of meetings with Yue Xiang, the Secretary of China's Law Drafting Commission, we achieved two objectives (both with ICSA Council's blessing) – we turned the guarantee company into a parallel local professional body and had Yue Xiang admitted as honorary member, a key step in helping us establish a Beijing office which was itself a first for any Hong Kong professional body.

Do you think that the relationship with the ICSA is now on a more sustainable footing?

'It was unfortunate that threats of excommunication towards HKICS over ownership of Hong Kong assets were raised soon after HKICS became a parallel professional body and it has been particularly irritating to see the same threats being pressed time and again over the past 20 years. However, I think the outcome of the requisitioned general meeting of December 2011 has settled that ICSA governance issue once and for all. Whether the remainder of the ICSA's constituencies are professionally and financially secure will inevitably be up to the members concerned, as it will be for the China Division. We were mindful 20 years ago that the profession would need to demonstrate a useful role in "capitalism with socialist characteristics" and I believe that challenge will not be fully met for another 35 years. A lot of hard work lies ahead.'

Can you elaborate on that?

'We knew that unless we did something to introduce the profession and maintain its relevance in the PRC, some function

would develop to fulfil that role – corporate communications might take responsibility for the board minutes and communications to shareholders for example – which would ultimately leave our profession in Hong Kong marginalised and completely irrelevant. We had to do our best to persuade the PRC that we had something valuable to offer. At some point we will get swallowed up, but it's important to make sure that we have some influence in the body that swallows us up. That was one of the reasons for establishing the HKICS as a parallel body. If we had just remained British flag-carrying members of a Hong Kong branch of the ICSA, we would have been left alone and we would have steadily become irrelevant.

One difficulty we have had, however, is that every three to four years we see a fresh group of UK Division faces on ICSA Council and they are learning all of this over again. Some of them don't appreciate the full picture and try to undo everything without realising the good reasons why it has all been put together.'

Are you pleased with the way the relationship between the HKICS and board secretaries in mainland China is developing?

'Absolutely, and full credit to today's Council members for continuing to see this strategic initiative thrive.'

Perhaps you are best known for giving the profession a voice – you never shied away from commenting on governance issues. Is this the main legacy of your work with the HKICS?



Meeting Yue Xiang, Secretary of China's Law Drafting Commission, in Beijing on 24 January 1994



HKICS President Edith Shih presenting John Brewer with the HKICS Prize at the Institute's annual dinner on 24 January 2013

'Professional bodies have since medieval times been expected to respond to the public interest before that of their members and I believe we have always been able to do that.'

Some readers might be surprised by the idea that the HKICS is not there primarily to serve the interests of its members.

'It is not a trade union. Professional guilds were protected and given royal charters in Europe in the middle ages because it was in the public interest. The brewers and bakers, for example, were given exclusivity – only their members could brew beer or bake bread – provided that the relevant body ensured that its members were trained to an appropriate level. It was a mutually rewarding arrangement. So the first and foremost objective of any professional body is the public interest over and above that of its members.'

You gained a reputation as something of a 'gadfly' because you were very outspoken on examples of unsatisfactory governance.

'There were some egregious examples and we had sufficient strength of character to say so. Even today, 20 years later, people still remember me as the person who wrote an editorial for this

“ professional bodies are expected to respond to the public interest before that of their members and I believe we have always been able to do that ”

journal [*Company Secretary* as it was then known] strongly criticising the HK\$115 million of bonuses the directors of a listed company had awarded themselves. The editorial never actually

appeared in the journal because it was printed in the *South China Morning Post* and was the catalyst for a climbdown by the directors – they repaid around \$68 million of their bonuses. The editorial remarked that power comes with responsibility and that is of course equally true of our regulators. Measures to give statutory backing to disclosure requirements had already been far too many years in the pipeline and so some of the SFC's top brass were more than a little irked at *CSj*'s "Super Regulator?" cover

story of April 2007 in which I examined potential role conflicts within its enforcement division. But I think we are all a lot happier that it is now the independent Market Misconduct Tribunal and not the market regulator which will conduct proceedings to hear and determine alleged breaches.'

Can I ask your opinion on a current corporate governance issue which has been getting a lot of attention in the press – the proposed changes to the Companies Ordinance which would hide the home addresses and full ID numbers of directors and secretaries from public scrutiny?

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**there shouldn't be a problem
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There is undoubtedly a growing sense of paranoia over what is, and what is not, personal data but there shouldn't be a problem with ID card numbers being reported because you need to be able to distinguish between directors with similar, or the same, names. However, some organisations rely on ID card numbers to verify your identity when you are on the phone and I can see why people are very sensitive about this issue. It wasn't always that way of course – in its 1998/ 1999 Annual Report, the Standing Committee on Company Law Reform responded positively to calls from listed companies who complained of the burden of having to report their directors' other directorships: "In November 1998, the Companies Registry completed a major exercise to expand the amount of data held on its computerised database... Once this expanded database is available for public search, it will be possible for the computer system to make the necessary cross-referencing with a director's other directorships using the director's Hong Kong Identity Card Number as the unique identifier... As a result, listed companies would not need to report changes of directorships which their directors hold in other companies".

Is there a public interest angle here? Journalists and other groups have argued that this information is important for investigative journalism which keeps the market honest?

'Frankly, I find this information useful when prosecuting market misconduct. Among other materials, I look at company returns and try to track down and verify connections just like any investigative journalist, so I would be handicapped if this information were not readily available. And when I say "available", I think it should be viewable online for free because there is really no reason why it cannot be – the Registry's net profits assisted the government's embarrassment of riches last year to the tune of HK\$216 million and that figure was

3.5 times the \$61 million revenue generated from 3.2 million searches. However, in terms of fundamental transparency there are much more important issues to consider first. The privilege of incorporation comes at the cost of disclosure and I think it ridiculous that we are still unable to ban outright the use of corporate directorships. I have never heard a good reason for retaining corporate directorships and anyone researching a company who finds that it has corporate directors in the British Virgin Islands, for example, meets a dead end. This does nothing to assist transparency or accountability.'

The new Companies Ordinance will require companies to have at least one natural director?

But if that person is the owner's typist just sitting there as a stooge and the real control is with those who are pulling the strings behind the corporate directors, how can we get to those who are accountable?

The second highest priority would be to require all companies to file their accounts. The fact that private companies in Hong Kong don't need to file their accounts is backward. The cornerstone of limited liability is that you get it in return for disclosure, that goes back to the origin of the whole concept in the 19th century. If a private company goes to a bank to get bank facilities, the bank will want to see its accounts, if it doesn't get that information then there's no loan – it's that simple. But what about regular creditors and employees? Companies in some sectors are required to file their accounts with a particular regulator, but if you are an employee or a creditor of a company that is not in one of those sectors, you will often have no idea of the strength (or otherwise) of the company you are working for, or doing business with.

The ID number issue should not obscure much more important issues to consider when talking of transparency.'

How do you think the Chartered Secretary profession will develop in the coming years?

'Much of the answer to that lies in the hands of mainland regulators and their continued interest in how best to require deployment of governance skills. The mainland regulators have to be open to what we have to offer. They have to be willing to take the medicine as well – what we suggest may be difficult to swallow. They may be uncomfortable, but so far they seem to have been very happy. Ultimately it's the user who benefits from what we have to offer.'

Do you think the company secretary role will continue to evolve towards a corporate governance advisory role?

'The essence of the secretary's role is often encapsulated by the expression "corporate conscience". I have been fortunate in my career to have been allowed to deploy that skill in very contentious circumstances without fear of losing my job.'

Can you talk about those circumstances?

'Let me begin by saying the circumstances were exceptional. In 1996 I was working for a UK listed company headquartered in Hong Kong and the major shareholder was proposing to increase its interest from 49.9% to just over 50%. That shareholder was itself a US listed company and required to file under anti-trust regulations. We learned of this when we were asked to submit a response filing and I alerted the Hong Kong Chief Executive, an employee of the major shareholder, to the board's duty to consider whether this constituted price-sensitive information but he was not particularly receptive.

Only days later I was in discussion with the Chief Executive and the Chairman who was visiting for a quarterly board meeting and the matter came up. The Chairman was far from pleased and asked me to meet him for lunch where we were joined by the entire non-executive board. I got dressed down for not having told them about this matter beforehand. I pointed out that I had only been on the board for about two months so I didn't know where my support was. He said, "I am your Chairman, it's with me!"

This month's cover story looks at whether having a reporting line to the Chairman rather than the Chief Executive helps prevent the company secretary from being 'captured' by the company's executive.

'Yes, I wasn't reporting to the Chair, but he certainly expected to be kept informed. This is a potentially very difficult area for the company secretary – what you can't do is risk the Chief Executive thinking that there is divided loyalty.'

But you didn't lose your job in the case you were describing?

'No. As that particular saga continued into 1998, a new Chief Executive came in, again from the US shareholder, and I was exceedingly lucky to have his support in spite of the US shareholder's own Chief Executive demanding my head!'

You have been involved in public service work – such as your work with the Standing Committee on Company

Law Reform, the SFC's plain language working group and as the judge's panel chairman for the Exchange's Best Disclosure Award – do you recommend this approach to your colleagues?

'The profession excels in explaining to lawmakers what can and does actually happen in practice and so, yes, it remains vital that experienced senior members contribute towards debates over reforming and improving the statutory regime with which members grapple in their working lives. It was the plain language working group's conclusions which led to much greater clarity in company announcements and that working group was itself set up in response to my observations arising out of the Best Disclosure Award. Long sentences of over 100 words might have met the disclosure requirements but they were barely comprehensible.'

Do you have any advice for young recruits to the Chartered Secretary profession?

'Older hands will recall my counselling members against writing minutes of meetings which were not in fact held and revising draft minutes to the point where they no longer reflect what was in fact determined. Last year I had the unpleasant task of cross-examining the Secretary of a listed company and it was professionally embarrassing for him to have to admit that what he had recorded in board minutes was materially different to what had in fact happened.'

You were called to the Bar in 2002, are you enjoying life as a barrister?

'I have to say this is the most rewarding part of my career so far. Not simply because I have been able finally to advise and practise as an advocate as I had originally wished, but because of the very special mutual professional respect and fraternity found in counsels' chambers.'

What current projects are you working on – will you be writing a novel?

'Perhaps, but for now I have to give *The Law and Practice of Hong Kong Companies* a significant update for its third edition! 

John Brewer's interview was originally intended for publication in last month's CSj, but deferred in light of his views on disclosure of ID card numbers.



Privacy versus transparency?

CSj takes a look at an issue which has become one of the most contested debates of the Companies Ordinance rewrite exercise – the proposal to withhold from public inspection the full identity numbers of directors and their residential addresses based on a perceived compromise between privacy concerns and public access to personal data.

There was a time when corporate governance was regarded as a rather academic and technical area of expertise, but those days are clearly gone. Many corporate governance issues – such as executive remuneration, shareholder rights and corporate responsibility – are now mainstream concerns. As a consequence, corporate governance professionals such as company secretaries increasingly find themselves professionally and even personally involved in issues at the top of the political and media agenda.

One such issue came up rather unexpectedly in Hong Kong earlier this year when a row developed over the proposals in the new Companies Ordinance to restrict public access to the full identity numbers and residential addresses of directors. The row was 'unexpected' because after the proposals were first put forward for public consultation back in 2010, it came to light that Octopus Cards Ltd, a subsidiary of MTRC Corporation, had collected and sold the personal data of some two million customers for reportedly HK\$44 million since 2006 without informing them, and public opinion was shaped by such data protection concerns. After extensive public consultations, public hearings and Bills Committee scrutiny, the legislative changes were subsequently approved by the Legislative Council in July 2012.

The row recently surfaced after the government published the 'Companies (Residential Addresses and Identification Numbers) Regulation' for public consultation at the end of last year. This regulation is one of 12 pieces of subsidiary legislation which set out 'technical and procedural' matters necessary for the implementation of the

new Companies Ordinance. It sets out the procedural matters relevant to section 54 of the new Companies Ordinance under which the full identity numbers and residential addresses of directors will become protected or withheld information. This time round, there has been extensive media coverage with various parties calling for the current regime with full disclosure of directors' information to be retained.

The Administration on 28 March 2013 decided to allow more time for consultation and not to push forward with the arrangements pending such consultation because of 'diverse' stakeholder views. As directors were the focus of such views, the arrangement for company secretaries to file their correspondence addresses as against residential addresses would still be presented to the Legislative Council for consideration, but not partial redaction of identity information embodied within the directors' arrangements.

What is being proposed?

At present, directors are required to state their full identity numbers and usual residential addresses in documents, such as their company's annual returns, filed with the Companies Registry. These documents are available to the public for inspection subject to payment of a fee. The 'Companies (Residential Addresses and Identification Numbers) Regulation' proposes a mechanism whereby the full identity numbers and residential addresses of directors could be withheld from public inspection. It also sets out the circumstances under which certain specified persons could apply for access to this withheld information, and anyone could apply to the court for service, enforcement or otherwise for appropriate

reasons under section 59 of the new Companies Ordinance.

In practice, the new regulation will mean that directors will still have to file their full identity numbers and two sets of addresses (their correspondence and residential addresses), but the Companies Registry will not disclose the full identity numbers and residential addresses to the public under a search. After the implementation of the new Companies Ordinance in 2014, only partial identity numbers and the correspondence addresses of directors would show up in a search.

This would apply to new records, but the regulation also sets out the means by which application can be made to the Companies Registrar to withhold from public inspection documents registered before the commencement of the new Companies Ordinance upon payment of a fee. It also sets out which 'specified persons' may apply to the Companies Registrar to gain access to the withheld information. These include those whose personal information has been withheld (the data subjects), members of the relevant company and various public officers, public bodies and specified public authorities. The court could also order disclosure of the withheld information.

In an article in the *South China Morning Post*, Legislative Councillor Regina Ip pointed out that there were some 40 public meetings on the topic prior to adoption of the legislative amendments and there was almost no dissent and there are overseas models, including the Australian model, which permits a director to substitute an alternative address based on safety concerns, and the 'UK model' allowing the listing of a

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**Supporters of the proposed measures believe
 that they strike the right compromise between
 directors’ right to privacy and the public interest**
 ”

service address in place of a residential address. Also, ‘in other parts of the world, the availability of such personal data has rendered directors liable to stalking, harassment and other threats to their personal safety’. Privacy and safety considerations versus the public’s right to know were all consulted upon prior to the proposals being adopted for legislation.

The case for

Supporters of the proposed measures believe that they strike the right compromise between directors’ right to privacy and the public interest. This view has been supported by a number of bodies in Hong Kong including HKICS, the Hong Kong Institute of Directors (HKIoD) and the Hong Kong General Chamber of Commerce (HKGCC).

On 16 March 2010, in response to Financial Services and Treasury Bureau’s (FSTB’s) consultations, HKICS submitted that there were views both for and against the disclosure of directors’ residential addresses. The arguments for disclosure related to directors’ responsibilities to shareholders, creditors and other stakeholders, and for effective service of proceedings. The arguments against disclosure were that directors and their family members should not be

subject to possible security risks, and that an address for service, but not a post box, should be sufficient for service.

‘On balance, more members seem to be in favour of not making directors’ residential address available for inspection on the public register’, the HKICS submission states. Also, on the issue of masking certain digits of identification numbers, based on ‘increasing risk of identity theft’ this was acceptable.

On 15 February 2012, when the Companies Registry further consulted on the administrative arrangements to disclose partial identification numbers for public inspection under the Companies Bill, HKICS submitted that it supported the proposals which were in line with the ‘protection of data privacy’, and reflective of public opinion and members’ views after the Octopus incident.

To explain HKICS’s view further, there are three pillars to a person’s identity, the person’s name, identification number and residential address, and there needs to be a compromise on the extent of disclosure and the public’s right to know under company filings. The current legislative amendments contain such a compromise along with a safeguard that those with a

genuine need to know, like shareholders, are empowered to seek the withheld information. Also, anyone with wider concerns, based on appropriate reasons, including fraud, anti-money laundering or other concerns, could apply to the court for disclosures.

‘HKICS supports the government’s proposal as a fair compromise between the protection of data privacy and the right of the public to know’, says Mohan Datwani, Director, Technical and Research, HKICS. ‘We are not completely persuaded by the argument that because directors chose voluntarily to be appointed that they should bare all, especially in terms of their residential addresses, and submit themselves to potential interference in their private and family lives, and other safety and identity related issues. Similar to legislation in other jurisdictions like Australia and the UK, where directors do go astray, certain specified persons and ultimately the court could order disclosure of the withheld information, which is eminently sensible and based on respect for the rule of law.’

The HKIoD views include the point that many companies and organisations in Hong Kong ask for their clients’ identity

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Opponents argue that, since it is relatively common for people in Hong Kong to have the same name, individuals seeking to pursue a remedy against the company and/ or its directors may only be able to identify the directors via their identity numbers on the public register
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numbers in order to confirm their identity during telephone transactions. 'The Hong Kong identity number is the most commonly used method to verify the personal identity of Hong Kong persons. Hong Kong identity card numbers are strictly personal. The disclosure of them may give rise to risk of computer wizards abusing such information for whatever purpose that can be detrimental to directors', the HKIoD stated. The HKGCC also supports the government's amendments as being appropriate.

The case against

Those opposed to the new measures argue that they will be a retrograde step for Hong Kong which currently enjoys a relatively good reputation for transparency, certainly when compared to other jurisdictions in Asia. Few have opposed the measures restricting access to directors' residential addresses, the opposition has focused on the importance of maintaining public access to the identity numbers of directors.

Opponents argue that, since it is relatively common for people in Hong Kong to have the same name, individuals seeking to pursue a remedy against the company and/ or its directors may only

be able to identify the directors via their identity card numbers on the public register. In a submission to the original public consultation on the proposals in 2010, The Law Society of Hong Kong recommended that identity numbers should be 'recorded and disclosed in full [because] persons with identical names are not uncommon'.

The Hong Kong Journalists Association has also pointed out that the proposed measures will be a serious limitation on investigative reporting. The measures, as currently drafted, make no mention of journalists in the list of persons who may apply for access to the withheld information. Earlier this year the Foreign Correspondents Club of Hong Kong posted an open letter calling on the government to withdraw the proposals.

Gordon Jones, Hong Kong's former Registrar of Companies, pointed out in an article in the *South China Morning Post* ('Black mark' 13 February 2013) that directors have to surrender some personal privacy for the benefit of enjoying limited liability – this protects the interests of creditors, investors and all others who have dealings with the company. He added that the disclosure of identity numbers has not so far created

a major problem of abuse. 'A confidential register of directors' residential addresses had to be introduced in Britain because the directors of certain companies and their families, particularly those involved in biological and medical research involving animals, were subject to very serious threats of harassment and intimidation by animal rights activists. These included physical violence and arson attacks. No such risk exists in Hong Kong and will, hopefully, never exist'.

With such strength of feeling on both sides of the argument, it is inevitable that this issue will continue to be debated in the full media glare until a final decision is made as to whether or not the legislative provisions are to take full effect.

More information relating to the disclosure of directors' identity numbers can be found on the Financial Services and the Treasury Bureau website (www.fstb.gov.hk/fstb). The full text of the new Companies Ordinance is available for viewing and downloading on the Companies Registry website (www.cr.gov.hk).

Self-regulation

The new regulatory philosophy in the PRC?

Is mainland China moving towards a principles-based approach to regulation? This and other important corporate governance and regulatory issues on the mainland were discussed in the Institute's latest China Corporate and Regulatory Update.

The Institute has been running its Annual Corporate and Regulatory Update (ACRU) seminars since 1999 and they have grown to be the most popular events in the Institute's CPD calendar – last years' ACRU, for example, drew a record audience of 850 attendees. The seminars are designed to provide practitioners with first-hand information from regulators about the latest corporate and regulatory developments. This simple formula has proved so successful that the Institute has sought to replicate it for corporate and regulatory developments in mainland China. The Institute's China Corporate and Regulatory Update (CCRU) was thus born in 2006 and has similarly gone from strength to strength.

The CCRU conference, held on 24 January 2013 in Hong Kong, discussed a number of current corporate governance and regulatory issues relevant to the mainland, including: the governance challenges of closely-held companies; the current regulatory regime for information disclosure and the internal controls of listed companies; and the role of the

board secretary in corporate governance. It also shed new light on the increasing emphasis by mainland regulators on encouraging voluntary compliance with corporate governance best practices.

The governance challenges of closely-held companies

Ms Deng Hui, Senior Manager of the Corporate Management Department of the Shenzhen Stock Exchange, focused her presentation on the challenges resulting from the dominance of mainland listed companies by controlling shareholders. While the integration of ownership and management can enhance the operating efficiency and flexibility of an enterprise, the company can become vulnerable to the personal discretion of those in control. In most closely-held listed companies minority shareholders cannot effectively balance the power of the majority shareholders (who are the company's *de facto* controllers). In general, the shareholding culture and awareness of minority shareholders' rights needs to be strengthened in listed companies, she said.

Ms Deng also addressed the role of independent directors. She pointed out that the mainland has implemented new rules and regulations requiring listed companies to engage independent directors. Playing an important role in corporate governance, independent directors should be the 'supervisors' or 'advisers' on the development of the company in practice, she said. Moreover, independent directors voluntarily engaged by listed companies in addition to the statutory requirements, such as industry experts or retired government officials, can provide the company with useful strategic advice on its future development.

However, corporate governance faces a variety of hidden challenges in mainland China. Ms Deng said that the lack of understanding of corporate governance issues and standards of operations among directors, supervisors, senior managers and, in particular, the controlling shareholders of listed companies, has led to 'unintentional' governance failures. Some listed companies would like to





improve their corporate governance but do not have adequate knowledge and thus cannot set up a good corporate governance structure on their own. On the other hand, where the controlling shareholders, directors, supervisors and senior managers abuse their power and derive illegitimate personal profit from the listed company at the expense of the interests of the company and the minority shareholders, these are clearly 'intentional' governance failures.

She further pointed out that it is easy to put on an appearance of compliance. Some governance standards are difficult to quantify or clarify so the degree to which listed companies comply with them is sometimes difficult to define. There has therefore been an increased focus on self-discipline, internal control and effective disclosure. The first step to solving a problem is after all to recognise that you have a problem.

Ms Deng also addressed the issue of self-regulation. She pointed out that, in addition to laws, voluntary best

practice standards and guidelines have an important role to play in improving corporate governance. Furthermore, she said consideration should be given to the characteristics of small and medium-sized private enterprises, and greater use should be made of the discipline imposed by the market. Regulators need to encourage companies to exercise self-discipline and encourage the development of a new governance culture on the mainland.

In this context the role of the board secretary is highly important. The board secretary is often the company officer who conveys modern corporate governance concepts to the controlling shareholders of the company. An experienced board secretary is also the guide of the company in the capital market and the person initiating the implementation of better corporate governance standards in the company. Ms Deng added that the role of the board secretary in corporate governance has become much more widely recognised in mainland China and the board secretary profession now has a much higher profile.

Of course, enhancing the governance of listed companies does incur costs and regulators should resist the temptation to keep adding to companies' compliance

burdens, she said. Many jurisdictions have sought to achieve 'simple' and 'flexible' governance regimes for their listed companies. Ms Deng said that the mainland can explore the establishment of 'individualised' governance systems for listed companies to achieve a better fit with their different characteristics and individual needs.

Promoting voluntary disclosure and internal controls

Mr Zhou Qinye, former Deputy Vice-President of the Shanghai Stock Exchange, focused his presentation on the development of the mainland's regulatory regime for information disclosure and the internal controls of listed companies. He gave a detailed analysis of the key content of, and amendments to, the listing rules and requirements on information disclosure over the years, from the early 1990s when the mainland reformed its rules on shareholding structures to the promulgation and implementation of the securities law in 1997.

Regarding internal controls, he described the development of the mainland's current standards in this area since 2001 when the Ministry of Finance released its first internal control standards. From 2008 to 2011, the Shanghai Stock Exchange

Highlights

- regulators are seeking to encourage companies to exercise self-discipline and to encourage the development of a new governance culture on the mainland
- regulators have retained a minimum level of mandatory information disclosure but have switched their emphasis to promoting voluntary disclosure
- enhancing the governance of listed companies does incur costs and regulators should resist the temptation to keep adding to companies' compliance burdens

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the board secretary is often the company officer who conveys modern corporate governance concepts to the controlling shareholders of the company
 ”

further mandated the publication of internal control reports for three types of company – those in the corporate governance sector, financial companies and companies listed overseas. Last August, the Ministry of Finance and the China Securities Regulatory Commission (CSRC) promulgated a notice on the implementation of internal controls by listed companies, contributing significantly to the effective establishment of internal control standards in listed companies.

Mr Zhou explained that the regulatory emphasis has evolved from focusing on the adequacy of the disclosures made by listed companies, to promoting the importance and usefulness of effective disclosure. Mainland regulators have retained a minimum level of mandatory information disclosure but have switched their emphasis to promoting voluntary disclosure. Moreover, routine suspension of trading has been reduced as far as possible in order to enhance market efficiency. Electronic disclosure is used in place of disclosure through designated media, and consolidated reports are used in place of separate financial reports and narrative reports. In addition, the press and the general public can play a monitoring role. Regulatory authorities will continue to enhance their efforts in investigation, identifying responsibility

for, and imposing sanctions on, disclosure breaches.

Cross-border disclosure challenges

Mr Lan Qi, Board Secretary of China Merchants Bank, discussed an interesting case scenario in regulatory compliance – the experience of China Merchants Bank in its acquisition of Wing Lung Bank in Hong Kong in 1998 – highlighting the difficulties of making effective disclosures in multiple jurisdictions. He pointed out that the bank not only had to study the rules of the stock exchanges in Hong Kong and Shanghai in advance of the takeover, but to anticipate problems and issues that might arise and prepare corresponding solutions to ensure the transaction was made in an orderly and well-coordinated manner.

Many different problems came up relating to information disclosure during the transaction, Mr Lan pointed out. For example, trading had to be suspended when the sales and purchase agreement was signed. As the requirements of the listing rules in mainland China and Hong Kong were different, however, there were different views on whether there was the need to suspend trading and on the timing of the suspension. In the end, the issue had to be resolved by consultation. At an early stage of the deal, and when there was not yet any material progress in

the negotiations, China Merchants Bank was very cautious in responding to market rumours. Even when the negotiations had come to the stage of material progress, not much could be disclosed to the public.

After signing the sales and purchase agreement, China Merchants Bank set up a telephone conference session to inform investors and analysts, Mr Lan said. The purchase of Wing Lung Bank was completed at the time of the global financial crisis, putting enormous market pressure on China Merchants Bank. At this juncture, it was all the more important to communicate proactively in order to enhance market acceptance and strengthen crisis management to handle unforeseen situations. The results of Wing Lung Bank in 2008 were greatly affected by the global financial crisis. Given the circumstances, China Merchants Bank drew up short-term and long-term communication plans for key stakeholders, giving them timely information on the progress of integration, the synergy achieved and the future development of the company's business.

Finally, Mr Lan pointed out that financial markets are ever changing. After going public, a company changes its role and greater emphasis is put on corporate governance. Enterprises are often highly focused on operational efficiency, and may see corporate governance requirements as conflicting with that path. Compliance with governance rules certainly entails costs, but good corporate governance helps enterprises to control risks and improve efficiency. Emphasis should be placed on effective decision making and on maintaining a balance of power, he said.

Kenneth Ko
Journalist



HKICS Members' Networking Visit to Eco Fish Farm

Want to have a great Labour Day holiday with fellow members by enjoying tasty giant groupers (花尾龍躉) free of ciguatera (雪卡毒) at Lau Fau Shan? Your Institute invites you to visit the first large scale indoor fish farm in Asia, understand aquaculture technology, enjoy an excellent value-for-money seafood lunch (including tasty giant groupers) and network with other members.

This Eco Fish Farm, a joint research project with The University of Hong Kong - Kadoorie Centre, applies an indoor Re-circulating Aquaculture System that breeds giant groupers in a 'zero-pollution' environment. The rare cultured giant groupers that you will enjoy during the visit would definitely offer you an exotic and unforgettable experience. Members will also have a better understanding of the use of technological fish farming in enhancing environmental conservation and sustainability.

Details	Programme
Date : 1 May 2013 (Labour Day, Wednesday)	10.15 a.m. Assemble at Kowloon Tong
Time : 10.15 a.m. –3.15 p.m.	11.30 a.m. Guided tour
Fee : HK\$120 for Fellow*/Associate/Graduate HK\$150 for Fellow's companion* HK\$180 for non-Fellow's companion	12.45 p.m. Lunch Networking at Lau Fau Shan 3.15 p.m. Arrive at Kowloon Tong
Language : Cantonese	
*Benefits for Fellows only:	
<ul style="list-style-type: none"> - Priority enrolment with seats guarantee if registered on or before 5 April 2013 - Eligible to bring one companion at a special rate 	

For more information, please visit the Institute's website at www.hkics.org.hk or contact the Secretariat at 2881 6177.



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自我规管

公司治理转型之道

中国是否朝着以原则为本的规管方向发展？公会最近的中国企业规管最新发展研讨会上，讨论了这课题，以及其他有关内地公司治理和规管的重要议题。



自1999年起，公会每年均举办公司规管最新发展研讨会(ACRU)，至今已成为公会持续专业发展活动中最受欢迎的一项；去年的ACRU，便吸引了850位参加者，是历届以来的最高纪录。研讨会由监管机监的代表主讲，为公司治理从业员讲解公司治理及法规方面的最新发展；这简单的模式相当成功，因此公会以中国内地的公司治理及法规的新发展为主题，在2006年开始主办中国企业规管最新发展研讨会，同样深受欢迎。

2013年中国企业规管最新发展研讨会，于2013年1月24日在香港举行，讨论内地公司治理和法规方面的热门课题，包括由大股东主导的公司在治理方面所面对的考验、有关信息披露和上市公司内部管控的现行法规，当然还有董事会秘书在公司治理方面所担当的角色。研讨会也介绍了内地监管机构日渐鼓励企业自发遵守公司治理最佳常规的做法。

由大股东主导的公司在治理方面所面对的考验

深圳证券交易所公司管理部高级经理邓鞏女士在研讨会上，扼要地介绍了内地上市公司治理规则架构及深交所上市公司规范运作的指引，并深入地分析上市公司治理现状及出现的不同问题。其中，上市公司对实际控制人

高度依赖是一项挑战。她指出，公司所有权与管理权高度合一，确有助于提升企业的经营效率和灵活性，不过，也容易助长公司治理的「专断化」，多数民营上市公司次要股东未形成对核心股东（实际控制人）的有效股权制衡。总的来说，上市公司的股权文化及意识有待加强和完善。

邓鞏女士谈到董事会秘书和独立董事的重要角色，强调董秘是资本市场的引路人，也是公司治理规范运作的催化剂；董秘在公司治理的地位较以往更为突出，并且成为「抢手」的职业。

此外，公司治理法规规章强调，在上市公司中必须聘任独立董事。独立董事作为公司治理运作的重要角色，实践中既可能是“监督者”，也可能是公司发展的“咨询专家”。上市公司在法规要求之外自主聘任的独董，例如身为行业专家、退職官员的独董等，则主要就公司的发展问题提供咨询意见。

公司治理面对着不同类型的隐患。邓鞏女士说，上市公司董事、监事和高级管理人员，特别是实际控制人对公司治理和规范运作方面的认识不足，导致了上市公司在治理方面的不规范的「非蓄意性」的治理隐患。部分上

市公司在公司治理方面心有余，而力不足，无法依靠其自身力量建立起健全的公司治理结构。而实际控制人、董事、监事、高管等相关人员滥用职权，从上市公司中攫取不正当的利益，损害上市公司和中小股东的利益，则属于典型的「明知故犯性」的治理隐患。她还指出，公司治理在合规遵循方面容易做表面文章，治理标准难以全面量化、细化甚至明确化，执行情况完全依靠自律和内控，或通过披露体现，而存在的问题只有在爆发时才被关注到。

鼓励自愿性信息披露及内控体系建设

研讨会上，上海证券交易所前副总经理周勤业先生就内地上市公司信息披露制度的变迁历程，分享其宝贵意见。讨论内容详尽，自1990年代初，按国家和地方人民政府制定的有关股份制企业试点和股票发行的管理规定进行信息披露，以至1997年证券法的颁布和施行，多年来上市规则及信息披露规定的重要内容和修订，都给予深入浅出的解释。

他又提到内部会计控制披露的演变，自2001年始财政部陆续颁布内部控制规范，2008至2011年，上海证券交易所更强制要求三类公司〈公司治理板



块、金融类、同时在境外上市〉必须披露内控报告。去年8月，中国财政部及证监会发布《关于2012年主板上市公司分类分批实施企业内部控制规范体系的通知》，为稳步推进主板上市公司有效实施内部控制规范，确保内控体系建设落到实处，取得实效。

周勤业先生说，上市公司信息披露制度发展已由充分性转向重要性和有用性，致力减少强制性信息披露要求，鼓励自愿性信息披露行为。总的来说，尽量减少例行停牌，以提高市场效率；同时，以电子化信息披露方式替代指定媒体披露方式，综合报告替代财务报告和叙述性报告。此外，新闻媒体及社会舆论都能发挥监督作用，监管机构将继续加大对信息披露违法违规行为的责任追究和处罚力度。

摘要

- 监管机构日渐鼓励公司自律，在内地建立新的治理文化
- 上市公司信息披露制度发展已致力减少强制性信息披露要求，鼓励自愿性信息披露行为
- 完善上市公司治理还需要关注治理成本问题，要摒弃‘迭加式’的歧径

在不同地区披露信息

另一位讲者招商银行股份有限公司董事会秘书兰奇先生在会上讲述有关招商银行在1998年收购香港永隆银行之合规实践，反映信息披露要做到有效到位，殊不简单。他说，该行就收购中的信息披露事宜全面地提前部署组织，研究香港与上海两地交易所的规则，制定详细的工作计划与时间表，并预计可能出现的问题、难点及应对措施，实行之时要统一有序地组织与协调。

兰奇先生指出，在收购的信息披露工作中的确遇到不同的问题，例如签署买卖协议日的停牌安排，由于中港两地上市规则差异，对需否停牌及何时停牌持不同意见，最终通过协商解决。在收购工作前期及谈判未有实质性进展阶段，招商银行对市场传闻的

响应非常审慎，即使谈判具有实质性进展阶段，也不能对外透露太多。

他说，该行签署买卖协议后便举办通报电话会议，向投资者及分析师通报情况。完成收购永隆银行时正值环球金融危机爆发，招商银行面对强大的市场压力，更要主动开展沟通，增强认同度，并加强危机管理，应对突发事件。在全球金融危机背景下，永隆银行2008年的业绩大幅下滑，招商银行便制定与各关键利益方的短期和长期沟通方案，让他们及时了解整合过程与协同效应情况，及公司未来业务发展。

金融市场瞬息万变，发行人上市后角色转换，令公司治理面对更大压力。企业追求经营效率与完善治理监督是相辅相成的矛盾统一体，企业要遵循诸多治理规则规定也涉及成本问题。因此，公司治理的目标是通过外部管制及公司自治，防控风险，提高绩效，强调科学有效的决策及权力的制衡。

邓肇女士说，研究表明法律、法规、自律性规则及指引、公司内部章程等规范能够形成多层次、相互协调的公司治理的规范体系，在各自领域发挥着各自的作用；此外还应考虑中小民营企业的特点，更多地运用资本、市场、诚信约束机制，以自律、自治、合作式博弈的方式解决治理转型问题。而董秘是向实际控制人灌输现代公司治理理念的贴身人士，有经验的董秘还充当资本市场的引路人和公司治理规范运作的催化剂的角色。此外，完善上市公司治理还需要关注治理成本问题，要摒弃「迭加式」的歧径，应借鉴国际上市公司治理机制「简单化」和「灵活化」的立法思路，根据上市公司的群体特征和个性化需求，探索建立适合不同性质上市公司自身特点的区别化的公司治理机制。

高锦坚
(记者)

The limits of China's consumer revolution



Zhang Monan, Fellow of the China Information Center and of the China Foundation for International Studies, argues that only by combining growing consumption with enhanced manufacturing will mainland China be able to develop a new comparative advantage, which is the key to sustainable growth over the next decade.

Foreign and domestic observers alike are asking which path China's economic development should take in the next decade. How can China ensure stable and sustainable growth in the face of significant internal and external challenges, including slowing medium- and long-term growth, rising labour costs, and growing inflationary pressure?

After the global economic crisis weakened external demand, which sustained China's unprecedented economic growth for three decades, the authorities agreed that internal demand, especially domestic consumption, must become the country's new growth engine. At the Chinese Communist Party's congress in November, China's leaders declared their intention to double per capita income by 2020, unleashing 64 trillion renminbi (US\$10.2 trillion) of purchasing power.

Indeed, with roughly 130 million middle-class consumers, China's domestic market holds significant potential. The Boston Consulting Group estimates that, with an average annual GDP growth rate of 7% in China and 2% in the US, Chinese domestic consumption will rise to half of America's by 2015, and 80% in 2020 (assuming that the renminbi appreciates at an average rate of 3% against the US dollar over the next few years).

Moreover, the current-account surplus plummeted from more than 10% of GDP in 2007 to 2.8% in 2011, reflecting China's decreasing reliance on exports to drive economic growth. In 2010, China's imports ranked second in the world, and are expected to grow at an average annual rate of 27% in 2011–2015, outpacing export growth by five percentage points. As a result, the total value of imports is expected to exceed US\$10 trillion in only

two years, providing lucrative investment opportunities and broader markets to foreign investors.

This potential is not lost on multinational companies. A survey conducted in May 2012 by China's State Council Development Research Center asked 394 Chinese and foreign companies about their future strategic orientation in China. The respondents most often viewed China not only as a market opportunity, a research-and-development base, and an export base, but also as a high-end manufacturing base, a regional-headquarters site, and a service base. The results also reflected China's declining attractiveness as a base for product assembly, low-cost manufacturing, and parts production.

In fact, while the US and other developed countries have sought to

bring manufacturing home ('reshoring'), they have been establishing innovation facilities in China. Multinational companies have created nearly 1,000 R&D centres in China, including 194 in 2010 alone, enabling them to develop products for the local market. More than 1,400 foreign-funded R&D institutions are currently operating in China, and data from China's Ministry of Commerce indicate that 480 of the world's top 500 companies have established local subsidiaries.

But China cannot rely on consumption as its only growth engine. History has shown that a one-dimensional development model cannot ensure sustainable competitiveness, just as no single market can sustain global demand. Given this, China must continue to develop its manufacturing sector.

China is the world's top manufacturing country by output. But, while it accounts for 19.8% of total global manufacturing, it receives less than 3% of the world's manufacturing R&D investment. As a result, China's innovative capacity remains relatively low, with its high-tech and knowledge-intensive industries unable to compete globally.

On average, China's industrial enterprises are relatively small, and, although its industrial labour productivity (real manufacturing value added per employee) has improved over the last decade, it remains much lower than that of developed countries – just 4.4% of America's and Japan's productivity, and 5.6% of Germany's. And the 'pauperisation' phenomenon – in which companies must adjust their commercial strategies to cope with an impoverished consumer base – is increasingly

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in fact, while the US and other developed countries have sought to bring manufacturing home ('reshoring'), they have been establishing innovation facilities in China
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affecting traditional industries, further undermining China's capacity for sustainable development.

Moreover, the quality of Chinese-manufactured products continues to lag behind that of developed countries' manufactured goods. Whereas one unit of intermediate input in developed countries typically generates one unit or more of added value, in China the ratio is only 0.56.

As China's 'demographic dividend' disappears, its low-end labour market is shrinking, driving up its once rock-bottom labour costs and diminishing its rate of return on capital. Over the next decade, as Chinese workers demand higher salaries, basic benefits, and improved working conditions, the country may well lose the comparative advantage that has driven its manufacturing boom.

While manufacturing wages remain significantly lower in China than in the US, the rapidly narrowing gap is already fueling American reshoring. Given that Chinese wages are rising at an annual

rate of 15-20%, productivity-adjusted wage rates in low-cost US states are expected to exceed those in some coastal regions of China by only 40% in 2015. Add to that reduced energy costs in the US, owing to the country's shale-gas revolution, as well as the global supply chain's complexity, and China's cost advantages will soon be negligible.

Meanwhile, other emerging economies – including Vietnam, India, Mexico, and Eastern European countries – are vying for China's position as the world's factory. These lower-cost alternatives are fast becoming developed-country investors' preferred destinations.

Although the enormous potential of China's consumer market can provide a new impetus for economic growth, the country's economic transformation cannot succeed unless it upgrades its manufacturing sector. China's leaders must begin by increasing investment in science and technology, focusing their efforts on parlaying key technological breakthroughs into higher-value-added production. Only by combining growing Chinese consumption with enhanced Chinese manufacturing will the country be able to develop a new comparative advantage, which is the key to sustainable growth over the next decade.

Zhang Monan

Fellow of the China Information Center

Zhang Monan is also a fellow of the China Foundation for International Studies and a researcher at the China Macroeconomic Research Platform.

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New privacy laws for direct marketing

Are you in compliance?

It is essential to be aware of the new requirements under Part VIA of the Personal Data (Privacy) Ordinance when collecting personal data from clients for direct marketing. Failure to comply may result in offences and civil liability. This article is intended to assist businesses to understand these requirements and how to comply.

Part VIA of the Personal Data (Privacy) Ordinance (Cap 486) (PDPO) sets out new direct marketing requirements. Part VIA is scheduled to commence this month (April 2013). In anticipation of its commencement, the Privacy Commissioner for Personal Data (PCPD) has issued a *Guidance Note on Direct Marketing*. The Guidance Note will take effect when Part VIA commences.

Content of the Guidance Note

A full copy of the Guidance Note is available on the PCPD website: www.pcpd.org.hk. In a nutshell, before using personal data in direct marketing, the data user must inform data subjects that it intends to use their personal data in direct marketing, and inform them of the kinds of personal data to be used as well as the types of service and products to be marketed. It must also provide a response channel to enable data subjects to communicate their consent or to register a 'no objection', free of charge.

If the data user intends to provide any personal data to another person to use in direct marketing, the data user must inform the data subject before so doing. It must also inform the data subject of the kinds of personal data to be provided, the classes of persons to whom the data may be provided, the types of service and products to be marketed, and whether the data is to be provided in exchange for money (or for other property, if that is the case). Additionally, it must provide a response channel to enable data subjects

to communicate their written consent or to register 'no objection', free of charge. In either case, the data user is not allowed to use or to provide personal data for direct marketing unless it has received the data subject's consent or 'no objection'.

Collecting personal data for direct marketing

Collection of that which is excessive to requirements is not permitted

Data Protection Principle (DDP) 1(1) provides that only necessary, adequate and not excessive personal data is to be collected for a lawful purpose directly related to a function or activity. Data users should only collect personal data necessary for a lawful purpose, and only collect additional data for direct marketing that is provided on a voluntary basis.

Example: It is not necessary for a bank to collect personal data about a customer's marital status and education level when the customer is opening a bank account. If the bank wants to collect that data for marketing, it should inform the customer it is voluntary to provide this data.

Collection must be by means that are fair and lawful

DDP1(2) provides that personal data should be collected by means which are lawful and fair. The data user should not use deceptive means to collect personal data.

Example: It is not considered fair means of collection to offer free gifts to passers-by to attract them to fill in questionnaires

when the true purpose behind persuading them to do so is to collect their personal data for direct marketing.

The data subject must be informed of the purposes and classes of transferees

DDP1(3) requires a data user to take all reasonably practicable steps to inform the data subject, at the time of (or before) the collection of the data, the purposes for which the data may be used, whether it is voluntary or obligatory to provide the data (and, if obligatory, the consequences of not providing the data), and the classes of persons to whom the data may

Highlights

- data users are not allowed to use or to provide personal data for direct marketing unless they have received the data subject's consent or 'no objection'
- It is acceptable to assume the data subject's 'no objection' to the use of their personal data for direct marketing if they do not tick an 'opt out' box provided in a service application form
- consent or 'no objection' for a data user to provide data to another person for that person to use in direct marketing must be obtained in writing.

be transferred. It is prudent to provide this information by way of a written notice, which is often called a 'personal information collection statement' (PICS).

To ensure that the PICS is validly communicated to data subjects, it should be written in language that is easy to understand, presented in a conspicuous manner and printed in a font size that is easy to read with normal eyesight.

Obtaining consent or 'no objection' on application forms

It would be unfair if service application forms were designed in such a way as to force customers to choose between providing their personal data for direct marketing or giving up the service ('bundled consent' situations). The application forms should allow data subjects to indicate separately whether they agree to provide personal data for direct marketing on a voluntary basis.

Use of personal data in direct marketing by data user

When to inform the data subject

The data user should inform the data subjects as early as possible of its intention to use their personal data for direct marketing. Where possible, this should be done when (or before) the personal data from the data subject is collected.

What to inform the data subject

The data user must inform data subjects:

- that the data user intends to use their personal data for direct marketing
- that the data user cannot use personal data for direct marketing without the data subject's consent or 'no objection'

- the kinds of personal data to be used, and
- the kinds of products and services to be marketed.

Furthermore, a response channel must be provided free of charge to enable data subjects to communicate their consent or to register 'no objection'.

It is acceptable to obtain the data subject's 'no objection' (opt-out).

Example: The data user can inform the data subject in a service application form that 'we intend to use your name, telephone number and address for direct marketing of credit card and insurance products and services but we cannot so use your personal data without your consent or "no objection." Please tick the box at the end of this form before your signature if you do not wish us to use your data in direct marketing.'

How to inform the data subject

The information must be presented in a manner that is easily understandable and, if in written form, easily readable.

Example: Do not use vague and loose terms like 'marketing goods and/or services by us, our agent, our subsidiaries, or our partners', or bury the information in small print which is difficult to read with normal eyesight.

Not using personal data in direct marketing without the data subject's consent or 'no objection'

This requirement applies regardless of whether or not the data was collected directly from the data subject. Where consent or 'no objection' is provided orally, it should be confirmed in writing

within 14 days. Please note, however, that consent or 'no objection' for a data user to provide data to another person for that person to use in direct marketing must be obtained in writing.

Using personal data in direct marketing for the first time

When using personal data in direct marketing for the first time, the data user must notify the data subject of their right to request the data user to cease using their personal data for direct marketing free of charge.

Example: When sending marketing information to a data subject for the first time, the data user should highlight this opt-out right and provide a link for the data subject to make the request. (In practice, data users often include the opt-out language in all marketing pamphlets to dispense with the need to record the first time of use with respect to each data subject. In any case, a data subject has the right to opt out from direct marketing at any time notwithstanding any previous choice to give consent.)

How to comply with opt-out rights

A data subject may at any time request the data user to stop using their personal data in direct marketing. To comply with this requirement effectively, the data user should maintain an updated list of all customers who have opted out and stop using their data in direct marketing.

Providing personal data to others for use in direct marketing

Informing the data subject

The data user must inform the data subject in writing of its intention to provide their personal data to another person to use in direct marketing, and must obtain their written consent or 'no objection'. Verbal



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in complying with the requirements of Part VIA, businesses should be open and transparent about the use or provision of data to others to use in direct marketing
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consent or 'no objection' is not sufficient for this purpose.

What the notice must include

The written notice must specify:

- that the data user intends to provide the personal data to another person for use in direct marketing
- that the data user cannot do so without the data subject's written consent or 'no objection'
- whether the personal data is to be provided 'for gain', that is, in exchange for money (or for other property, if that is the case)
- the kinds of personal data to be provided
- the classes of persons to which the data may be provided
- the kinds of products and services to be marketed, and
- that the data user must provide a response channel free of charge to enable the data subject to

communicate written consent or 'no objection'.

For gain

The data user must *explicitly* inform the data subject if their personal data is to be provided to another person 'for gain'. 'For gain' means providing personal data in exchange for money or other property.

Example: If the data user were to obtain a commission for providing the personal data to another person (irrespective of whether payment of the commission is contingent on any condition), this would be considered to be providing data 'for gain'.

Transfer to partners/ associates

The requirements apply even if the personal data is transferred to a subsidiary or associated company. When transferring personal data to a partner company for cross-marketing, the data user should ensure that it has obtained the data subject's consent or 'no objection' before transferring any personal data.

Exception: These requirements do not apply if personal data is provided by a data user to its agent for marketing on behalf of the data user.

In complying with the requirements of Part VIA, businesses should be open and transparent about the use or provision of data to others to use in direct marketing. They should clearly inform the data subjects of the matters prescribed in Part VIA (including the fact that data is provided to others for gain, if that is the case) to enable the data subjects to make an informed decision. They should also provide a free-of-charge response channel and obtain the data subjects' consent or 'no objection' before using or providing their data to others for use in direct marketing.

Tow Lu Lim, Sara SM Or and Jenny Yu
Mayer Brown JSM

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The Office of the Privacy Commissioner for Personal Data (PCPD) is an independent statutory body set up to oversee the enforcement of the Personal Data (Privacy) Ordinance.

A copy of the Guidance Note is available on the PCPD website: www.pcpd.org.hk.

A review of seminars: January – March 2013

17 January 2013



Natalia Seng (Chair) and Mohan Datwani

From Natalia Seng FCIS FCS(PE), Chief Executive Officer, China and Hong Kong, Tricor Group and Tricor Services Ltd, and chair of the seminar delivered by Mohan Datwani, LLB LLM MBA (Distinction) (Iowa), Solicitor & Accredited Mediator, Director, Technical and Research, HKICS, on 'Insider Dealing/Inside Information – Parts XIII, XIV and XIVA of SFO'.

'Mohan gave a very comprehensive introduction to Parts XIII and XIV of the Securities and Futures Ordinance and also the new Part XIVA that came into effect in January 2013. This enabled the participants to have a better understanding of the background and developments of the rules and regulations governing "insider dealing" and "inside information". Mohan has good knowledge of the subject and very informative cases were discussed at the seminar.'

21 February 2013



Danny Kwan, Shirley Yu and Lily Chiong (Chair)

From Lily Chiong FCIS FCS, Senior Manager, Corporate Secretarial, KCS Hong Kong Ltd, and chair of the seminar co-delivered by Danny Kwan, Partner, and Shirley Yu, Senior Manager, Tax & China Business Advisory Services Division, PwC, on 'Tax and regulatory update on the latest foreign investment environment in China'.

'Danny and Shirley together delivered a well-organised, comprehensive and informative update on the topic including indirect equity transfer, beneficial ownership assessment, foreign exchange and e-commerce with lively case studies. They also provided an update on the foreign investment in the new area of Qianhai and Hengqin. In all, the presentation was concise, practical and interesting.'

26 February 2013



Wang Jianxue, Polly Wong (Chair) and Zhang Tiandi

From Polly Wong FCIS FCS(PE), Company Secretary and Financial Controller of Dynamic Holdings Ltd, and chair of the seminar co-delivered by Wang Jianxue (王建国先生) and Zhang Tiandi (张天镛先生), Partners, King & Wood Mallesons, Guangzhou, on 'Foreign mergers & acquisitions and corporate governance in China'.

'Mr Wang and Mr Zhang jointly delivered a well-thought-out and elaborative seminar regarding mergers and acquisitions of domestic enterprises by foreign enterprises in China and corporate governance. They concisely explained the complex regulatory regime for M&As in mainland China and identified the key issues to be considered including the current restricted sectors, the rules relevant to state-owned enterprises, control over foreign remittance and the relevant due diligence considerations. All these enhanced the attendees' comprehension of this complex and technical topic.'

28 February 2013



Hugh Gozzard, Bonnie Chan, Melissa Fung and Susan Lo (Chair)

From Susan Lo FCIS FCS, Executive Director, Head of Learning & Development Department, Tricor Services Ltd, and chair of the seminar co-delivered by Hugh Gozzard, Principal, and Melissa Fung, Associate Director, and Bonnie Chan, Manager, Deloitte Touche Tohmatsu, on **'Leading practices for effective board governance and sustainability'**.

'This seminar was presented by a team of three experts in enterprise risk services. Bonnie walked the audience through the top challenges facing boards in 2013. Melissa used real cases to vividly demonstrate good and bad crisis management and how technology could be used to gain competitiveness. Hugh covered the essential steps relating to the implementation and reporting of corporate sustainability. The messages were most enlightening!'

6 March 2013



Eric Chan (Chair) and Raymond Yuen

From Eric Chan FCIS FCS(PE), Chief Consultant, Reachtop Consulting Ltd, and chair of the seminar delivered by Raymond Yuen, CFA, FCPA, MHKSI, on **'Negotiation skills for corporate governance and business professionals'**.

'Raymond used a simple way to share his experience of negotiations which could be applied not only in a business environment, but also in our daily lives. The seminar was well-received and the participants showed their appreciation to Raymond.'

12 March 2013



Mohan Datwani (Chair) and Mark Williams

From Mohan Datwani LLB LLM MBA (Distinction) (Iowa), Solicitor & Accredited Mediator, Director, Technical and Research, HKICS, and chair of the seminar delivered by Professor Mark Williams, Professor of Law, School of Accounting and Finance, The Hong Kong Polytechnic University, on **'Hong Kong's new competition law: prohibitions, process and penalties: what the company secretary needs to know'**.

'This presentation was capturing. It introduced a new area of law in a simple manner building up to a detailed discussion of economic and legal concepts, which offered a practical and macro-perspective understanding of the issues and how they could potentially impact the work of the company secretary.'

Regional Board Secretary Panel meetings

The Institute organised three Regional Board Secretary Panel meetings and dinner gatherings in Beijing, Shanghai and Guangzhou on 27 and 28 February and 5 March 2013 respectively. More than 90 participants joined the events, including board secretaries from H-share, A-share, A+H share, B-share and Red-chip companies; officials from the Ministry of Finance, China Association for Public Companies, Guangzhou Regulatory Bureau of CSRC, Shanghai Stock Exchange, Shanghai Representative Office of the Hong Kong Stock Exchange; and representatives of the listed companies associations from Beijing, Shanghai, Guangzhou and Shenzhen. The theme of the meetings was the role of board secretaries in corporate governance and professionalisation.

These events will be covered in more detail in next month's CSj.

The Institute would like to express its sincere thanks to ShineWing CPA, Shanghai Electric Group Co Ltd, China Southern Airlines Co Ltd, Guangdong Nan Yue Logistics Co Ltd, Guangzhou Pharmaceutical Co Ltd, China Merchants Bank Co Ltd and Guangzhou Shipyard International Co Ltd for their support.



Visits to Universities

Institute delegates Dr Maurice Ngai, Vice-President; Louisa Lau, General Manager; Kenneth Jiang, BRO Chief Representative; and Carrie Wang, BRO Senior Manager; visited four universities (namely Shanghai University of Finance and Economics, Shanghai National Accounting Institute, Shanghai Lixin University of Commerce and Sun Yat-sen University) in order to identify potential academic partners in developing advanced-level training programmes for senior corporate governance professionals and the PRC IQS courses for undergraduates.

The Institute would like to express its sincere thanks to the four universities and to Mr Zhou Qingye, Consultant of Shanghai Stock Exchange, Research Centre, for their support.

New Graduates

The Institute is pleased to announce that:

- 37 students successfully completed the HKICS International Qualifying Scheme (IQS) at the December 2012 examination diet; and
- 16 students graduated via the Collaborative Course Agreement (CCA) programmes organised by The Hong Kong Polytechnic University, City University of Hong Kong and The Open University of Hong Kong.

Congratulations to our 53 new Graduates!

IQS graduates

Chan, Leo	Lee Hoi Man
Chan Yu Hing, Ely	Lee Tat Yeung
Cheng Chung Man	Lei Kin Keong
Cheng Kwan Tsz	Leung Lok Hang, Daniel
Cheng Wai Hei	Leung Pui Ling
Cheung Lai Sha	Ling Fung Yee
Cheung Tin Shu	Liu Mui Lan, Peon
Choi Lai Ching	Liu Wai Wa
Chow Ka Yan	Pak Yuen Yu
Chung Wai Kwong, Anthony	So Man Che
Fong Ching Wun	Tong Ka Man
Ho Nga Lun	Wong Lai Yin
Huang Yihui	Wong Man Wai
Hui Kam To	Wong, Quentin T
Hui Wai Ling	Wong Wing Kai, Tommy
Kong Kin Man	Yang Chau Ming
Kum Kit Ying	Yu Man Kit
Lam Ka Lai	Yuen Tsz Ho
Law Yin Nee	

CCA graduates

Chan Ka Ting	Lam Wai Fung
Chan Man Kit	Lun Hau Mun
Chan Chor Wah, Selina	Ma Wan Loi
Chan Wing Yam, Eugenia	Ng Ting Ting
Chan Yuet Yee, Sophy	Suen Yiu Hung
Choi Siu Fong	Tong Kwai Wing
Chung Wai Yee	Woo Sui Ling, Charaine
Lam Sze Man	Yip Siu Kee

New Associates

Chan Hin Tat	Ho Yuk Hay	Lee Ka Mun	Tang Chun Yung
Chan Ka Yi, Mathilda	Hui Chung Tak, John	Lee Man Sze	Tang Pik Yi
Cheng Ka Ki	Kwok Po Kuen	Leung Sheung Ki	Wong Chak Yan
Choi Pui Fan, Frances	Lai Sai Wo, Ricky	Leung Wing Yan	Wong Wing Yan
Du Hay Mou	Lam Wai Lun	Li Sau Kuen	Yu Chiu Ying, Cherin
Fu, William	Lam Yee Wa	Shum Ka Man	
Ha Ching Ling	Lee Chi Hang	Tang Chi Ching	

Mandatory CPD

MCPD programme in-house training policy update

With effect from 1 January 2013, course providers applying to contribute to in-house mandatory CPD training courses should send in their application form signed by a Fellow who is also a holder of the HKICS Practitioner's Endorsement (PE).

Mandatory CPD requirements

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

The Institute has randomly selected 129 members who qualified between 1 January 2005 and 31 July 2011 for audit checking for CPD compliance during 2011/2012. Up to March 2013, 118 (91%) have supplied the requested evidence.

Members who qualified between 1 August 2011 and 31 July 2012 are also subject to the MCPD requirement and are reminded that they need to accumulate at least 15 MCPD or ECPD points for this CPD year starting from 1 August 2012.

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 the CS sector and/ or for TCSPs have the discretion to select the format and areas of MCPD learning activities that best suits them. These members are *not* required to obtain ECPD points from HKICS (but are encouraged to do so) nevertheless must obtain 15 MCPD points from suitable providers.

Submission of declaration form

Once the MCPD requirement of 15 CPD points has been fulfilled during the 2012/13 CPD year (that is, 1 August 2012 to 31 July 2013), please fill in the Declaration Form (MCPD Form I) and submit it to the secretariat by fax (2881 5755) or by email (mcpd@hkics.org.hk) by 15 August 2013.

Exemption from mandatory CPD requirements

Exemption from MCPD requirements is available to retired members and honorary members. Members in distress or with special grounds (such as suffering from

long-term illness or where it is impractical to attend or access CPD events) may also apply for exemption from MCPD to the Professional Development Committee and are subject to approval by the committee at its sole discretion.

Enhanced CPD programme

The Institute cordially invites you to take part in our ECPD Programme, a professional training programme that best suits the needs of company secretaries of Hong Kong listed issuers who need to comply with the mandatory requirement of 15 CPD hours every year. The Institute launched its MCPD programme in August 2011 and, from 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 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 website (www.hkics.org.hk).

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
Yu King Wah <i>ACIS ACS</i>	Wai Chun Mining Industry Group Company Ltd (stock code: 660)	5 February 2013
Yu King Wah <i>ACIS ACS</i>	Wai Chun Group Holdings Ltd (stock code: 1013)	5 February 2013
Leung Lai Seung, Candy <i>FCIS FCS</i>	Morning Star Resources Ltd (stock code:542)	5 February 2013
Li Yung Kan, Richard <i>ACIS ACS</i>	The Grande Holdings Ltd (stock code:186)	6 February 2013
Lam Yuen Ling, Eva <i>ACIS ACS</i>	Chi Cheung Investment Company (stock code:112)	6 February 2013
Chan Sau Ling <i>ACIS ACS(PE)</i>	China New Town Development Company Ltd (stock code:1278)	7 February 2013
Ho Wing Yan <i>ACIS ACS(PE)</i>	Huazhong Holdings Company Ltd (stock code: 6830)	7 February 2013
Cheung Chin Wa, Angus <i>ACIS ACS</i>	PNG Resources Holdings Ltd (stock code: 221)	21 February 2013
Man Oi Yuk, Yvonne <i>ACIS ACS</i>	Amax Holdings Ltd (stock code: 959)	22 February 2013
Ma Wai Man, Catherine <i>FCIS FCS(PE)</i>	21 Holdings Ltd (stock code:1003)	28 February 2013
Kam Suet Fan <i>ACIS ACS</i>	ITC Corporation Ltd (stock code:372)	28 February 2013

CSP Luncheon

The Company Secretaries Panel (CSP) luncheon was held at The Hong Kong Club on 21 February 2013 with the presence of Mr Mark Dickens, former Head of Listing Division, HKEx as our honoured guest with his colleagues.

The Institute took this opportunity to bid farewell to Mark, after his departure from HKEx, who has always been a dear friend of the Institute.



Mark Dickens and Edith Shih, HKICS President

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 the following submission deadlines and the respective approval dates.

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

Submission deadlines	Approval dates
Saturday 13 April 2013	Tuesday 7 May 2013
Saturday 22 June 2013	Tuesday 16 July 2013
Saturday 7 September 2013	Tuesday 8 October 2013
Tuesday 5 November 2013	Late November 2013

Fellows-only benefits

Fellows are leaders of the profession. These highly qualified and respected role models are crucial in maintaining the growth of the Institute and the Chartered Secretary profession.

As per Council's direction, the promotional campaign continues to increase the number of Fellows. Act now and enjoy a special rate for the Fellowship election fee of HK\$1,000 and the exclusive Fellowship benefits below:

- invitation to attend two Institute annual events following your Fellowship election – annual dinner and convocation
- eligibility to attend Fellows-only events
- priority enrolment for Institute events with seat guarantee, and
- speaker or Chairperson invitations at ECPD seminars (extra CPD points are awarded for these roles).

Application requirements:

- at least one year of Associateship
- at least eight years' relevant work experience, and
- engagement in company secretary, assistant company secretary or senior executive positions for at least three of the past 10 years.

For enquiries, please contact Adrian Wong or Cherry Chan at the Membership section at 2881 6177 or member@hkics.org.hk.

Fellows-only event – The Wonders of Ancient Mesopotamia

The Institute will organise a guided tour for Fellows to the 'The Wonders of Ancient Mesopotamia' exhibition on 20 April 2013 at the Hong Kong Museum of History. Fellows can view this stunning collection of artefacts from one of the world's greatest ancient cultures, displayed in Asia for the first time. The guided tour will be followed by a networking lunch.

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

Members' networking – visit to Eco Fish Farm

The Institute invites members to visit the first large-scale indoor fish farm in Asia. Members will gain an understanding of aquaculture technology, enjoy tasty giant grouper and meet other members at Lau Fau Shan.

Eco Fish Farm, a joint research project with The University of Hong Kong – Kadoorie Centre, applies an indoor re-circulating aquaculture system that breeds giant groupers in a 'zero-pollution' environment. The rare cultured giant groupers that members will enjoy during the visit offer an exotic and unforgettable experience. Members will have a better understanding of technological fish farming, environmental conservation and sustainability.

For details, please refer to the flyer on page 27, the Institute's website or contact the Membership section at 2881 6177. Lippo Group is the sponsor of this networking event.

HKICS dragon boat team 2013

Formed in 2006, the Institute's dragon boat team comprises both members and students. This year, the team will enter the 8th Stanley Dragon Boat Warm-up Races on 25 May, the Hong Kong International Dragon Boat Races on 23 June and a fun race with other teams in July. To prepare for the upcoming races, 12 Saturday practice sessions will be held commencing on 6 April 2013 at Sha Ha beach in Sai Kung.

For enquiries, please visit the Institute's website or contact the Membership section at 2881 6177.

IQS examination timetable (May 2013)

	Tuesday 28 May 2013	Wednesday 29 May 2013	Thursday 30 May 2013	Friday 31 May 2013
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

New Students Orientation

The Institute organised the New Students Orientation on 19 March 2013. During the orientation, students learned about the International Qualifying Examination Scheme (IQS) examination, exemptions and student support services.

Subject Prize winners of the December 2012 examination joined the orientation to receive their certificates from Patrick Sung *FCIS FCS*, Education Committee Vice-Chairman. They also shared examination preparation tips with participants.



Group photo of Patrick Sung and the awardees



Sharing from Chen Ching Tim



Sharing from Chung Wai Kwong

Winning advice

Subject Prize winners of the December 2012 IQS examination share their study experience with the Institute.

Chen Ching Tim, Michelle Subject Prize Winner: Corporate Administration

Michelle holds a bachelor's degree in Accounting from The Hong Kong Polytechnic University. She is now studying a part-time MBA at The University of Hong Kong.

'It is a real challenge for me to prepare for the IQS examination as I am working full-time and also studying part-time on a masters course. I therefore have to prioritize my activities outside office hours and allocate my time efficiently to start revision as early as possible.'

Michelle was well-prepared long before the examinations. 'I read the Institute's monthly journal *CSj*, publications from the Companies Registry and Hong Kong Exchanges and Clearing Ltd as they provide timely discussions about corporate administration, good governance practices and updates on law reform. Instead of rote memorisation, I focused my revision on key points and worked to comprehend concepts through revising past examination papers, suggested answers and examiner's reports. This was a good way to get a general idea of how questions could be set and the time allocation in tackling examination questions. Proper time management during the examination is important. It is not wise to spend too much time on a single question nor dithering over a question that you are not familiar with.'

Michelle also stated that the Chartered Secretary qualification helped her to get acquainted with good corporate

governance practices and company law, broaden her knowledge of corporate practices and equip her with corporate administration and management skills. She believes that the qualification will provide her with more career development opportunities in the future.

Lam Hoi Kei Subject Prize Winner: Hong Kong Corporate Law

Miss Lam is a Company Secretarial Assistant in a listed company. She holds a Business degree majoring in marketing and information systems from The Hong Kong University of Science and Technology.

'As I had not studied corporate law or related subjects before, I decided to take the IQS examination preparatory course. I studied the course materials and read the notes given at the lectures.' Miss Lam did not pass the IQS examination at her first attempt so decided to take the preparatory course again. 'When I had questions I would immediately seek help from the lecturer. I also formed a study group with other students so that we could discuss past examination papers together. This greatly enhanced my understanding of the subject. I also practiced by reviewing and answering past examination questions.'

Miss Lam stated that good time management is important, especially utilising the 15-minute reading time before the start of the examination. 'You should read through the optional questions and start organising answers in your mind during the reading time' she said. 'This helps you to swiftly answer the questions in the

examination and allows more time to be spent on the case questions.'

She has found the IQS examination useful to her work as a company secretarial assistant, enhancing her understanding of her daily work. In addition, the qualification will provide her with improved career advancement opportunities in the years ahead.

Leung Pui Ying, Kit Subject Prize Winner: Hong Kong Corporate Law

Ms Leung holds a bachelor's degree in Business Administration from The Chinese University of Hong Kong and is currently working as a company secretary in a listed company.

'A closed book examination is not easy. To cope with the demands, I set targets for completing my revision and found it important to spend time analysing the study text and past papers. I searched and read relevant materials and respective sections of the Hong Kong Companies Ordinance (Chapter 32 of the Laws of Hong Kong) for a better understanding of the contents and logic of the study text.' Ms Leung suggested making good use of the examination reading time: 'Students can read the questions carefully and summarise the key points before starting to answer the questions.'

Taking the IQS examinations has strengthened her knowledge of statutory compliance, corporate affairs and governance. These acted as a solid foundation for her company secretary appointment.

Academic Cocktail 2013

The Institute held an Academic Cocktail on 26 February 2013. This is an annual event for networking with local universities and educational institutions.

The evening began with speeches from HKICS President Edith Shih and Education Committee Chairman Alberta Sie highlighting the Institute's latest developments as well as new initiatives for the year. Other Council members who attended included Dr Maurice Ngai, Ivan Tam, Susie Cheung and Dr Eva Chan. Other committee and sub-committee members attending included Patrick Sung, Dr Susana Yuen, Bernard Wu, Tam Ching Yee and Jerry Tong.

Guest list (in alphabetical order)

Prof Dennis Chan

Adjunct Associate Professor, Department of Accounting, The Hong Kong University of Science and Technology

Eunice Chan

Lecturer, Hong Kong Community College, The Hong Kong Polytechnic University

Dr Samuel Chan

Associate Professor, School of Accounting and Finance, The Hong Kong Polytechnic University

Chan Yim Ting

Student Counsellor, Office of Student Affairs, Hong Kong Shue Yan University

Dr Peter Cheng

Associate Head, School of Accounting and Finance (Law), The Hong Kong Polytechnic University

Edward Chiu

Associate Professor, Centennial College, The University of Hong Kong

Dr Andy Chiu

Head, Department of Law and Business, Hong Kong Shue Yan University

Mandy Ho

Programme Leader, Department of Business Administration, Caritas Institute of Higher Education

Albert Hung

Head of College of Business and Finance, HKU SPACE

Dr Shirley Kan

Senior Lecturer, School of Accountancy, The Chinese University of Hong Kong

BJ Lee

Programme Director, College of Business and Finance, HKU SPACE

Rebecca Lee

Programme Manager, College of Business and Finance, The University of Hong Kong

Simon Lee

Senior Lecturer, School of Hotel and Tourism Management, The Chinese University of Hong Kong

Dr Lu Haitian

Associate Professor, School of Accounting and Finance (Law), The Hong Kong Polytechnic University

Dr Arthur McInnis

Professor Consultant, Faculty of Law, The Chinese University of Hong Kong

Prof Phyllis Mo

Professor, Department of Accountancy, City University of Hong Kong

Dr Christina Ng

Senior Teaching Consultant, School of Business, The University of Hong Kong

Prof Lynn Pi

Associate Professor of Business Education, Department of Finance, The Hong Kong University of Science and Technology

Clement Shum

Associate Professor, Department of Accountancy, Lingnan University

Dr Richard Simmons

Associate Professor, Department of Accountancy, Lingnan University

Anna Sum

Lecturer, School of Accounting and Finance, The Hong Kong Polytechnic University

Prof Mark Williams

Professor, School of Accounting and Finance, The Hong Kong Polytechnic University

Claire Wilson

Lecturer, Department of Law and Business, Hong Kong Shue Yan University

Dr Raymond Wong

Assistant Professor, Department of Accountancy, City University of Hong Kong

Academic Cocktail 2013 – photo gallery

Dr Brossa Wong

Associate Dean, School of Business, Hang Seng Management College



Dr Yeung Wing Lok

Associate Director of Business Programme (External Relations), Business Programme Office, Lingnan University



Dr Rita Yip

Assistant Professor, Department of Accountancy, Lingnan University



David Yip

Senior Teaching Fellow, Department of Accountancy, City University of Hong Kong

Angus Young

Assistant Professor, Department of Accountancy, Hang Seng Management College



Dr Yuanto Kusnadi

Assistant Professor, Department of Accountancy, City University of Hong Kong

Fanny Yuen

Assistant Director, Office of Admissions and Financial Aid, The Chinese University of Hong Kong



Student Ambassadors Programme (SAP) – visits

The Institute organised the following SAP visits in March 2013:

1. Tricor Services Ltd on 12 March, and
2. Companies Registry on 21 March.

The Institute would like to thank Tricor Services Ltd and the Companies Registry for their staunch support.



At Tricor Services Ltd



At the Companies Registry

Upcoming activity

Student Ambassadors Programme (SAP) – Summer Internship Programme 2013

This internship programme is important for promoting the profession to local university students and the Institute has been arranging summer internships for undergraduates since 2005. The internship period is for a maximum period of eight weeks usually running from June to August.

If members are interested and available to offer internship position(s) in the summer of 2013, or have any enquiry regarding internship arrangements, please contact the Education and Examinations section at 2881 6177 or student@hkics.org.hk.

International Qualifying Scheme (IQS) information session

This free seminar will include information on the International Qualifying Scheme (IQS). Ricky Lai ACIS ACS has been invited to share his valuable experience on the career prospects of the Chartered Secretary profession.

Date:	Wednesday 24 April 2013
Time:	19:00 – 20:30
Venue:	The Joint Professional Centre (JPC), Unit 1, G/F, The Center, 99 Queen's Road, Central
Guest speaker:	Ricky Lai ACIS ACS
Enrolment deadline:	Wednesday 17 April 2013 [seat allocation on a first-come-first-served basis. Participants will receive an email confirmation.]

Members and students are encouraged to recommend to your friends or colleagues who are interested in learning more about IQS and the Chartered Secretary profession to attend the information session.

Recruitment of Examiner – Corporate Secretaryship

The duties of examiners include preparation of examination papers, marking schemes, marking scripts and examiner reports; attendance at papers moderation meetings and Assessment Review Panel meetings; updating the reading list; and giving advice on syllabus content.

All appointments, which are usually for a period of four examination diets (that is two years), are to be approved by the Education Committee.

Interested parties please submit their resumes to recruit@hkics.org.hk by 30 April 2013.

Corporate Secretaryship study outline – 2013 version

The updated version of the Corporate Secretaryship study outline is available for purchase at HK\$300 per copy. The order form can be downloaded from the Institute's website.



CSj is the **only publication** dedicated to corporate governance in Hong Kong.

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Does your company have a policy on board diversity?

From 1 September 2013, a new Code Provision in Hong Kong's Corporate Governance Code will require listed companies to have, and report on, a policy on board diversity. With only five months to go before the Code Provision is implemented, boards need to be addressing this issue now. The immediate deliverable will be either a policy on board diversity or an explanation of why such a policy has not been devised. Where companies opt to comply with the Code Provision, they will also need to put in place appropriate measures to report on any measurable objectives for implementing the policy and on progress on achieving those objectives.

Hong Kong Exchanges and Clearing (HKEx) has not yet provided any specific definitions or guidelines on board diversity because it recognises that companies may follow different models to suit their specific

needs. Companies seeking more guidance on this issue, however, can refer to a new guide published by non-profit organisation Community Business – *Improving governance through board diversity: a guide for companies listed in Hong Kong*.

The guide seeks to help those who are directly involved in, or supporting, the adoption of the new Code Provision, including company secretaries, determine what diversity means for their organisation and board in the context of corporate governance and board effectiveness; which aspects of the board's diversity they wish to address, evolve, monitor and disclose; and how to track and report on progress. The guide recommends a four-step process:

1. starting the conversation
2. articulating the board diversity policy
3. evolving your board, and
4. staying on track.

For each of these steps and actions, the guide suggests a range of questions to ask and consider; provides links to other useful sources of information and best practice; and offers practical templates that can be adapted to your company's own specific environment and requirements.

'Improving governance through board diversity: a guide for companies listed in Hong Kong' is available in English and both simplified and traditional Chinese on the Community Business website: www.communitybusiness.org. Also available on the website is the latest 'Standard Chartered Bank women on boards Hang Seng Index 2013' research which provides an update on progress in the last 12 months in terms of representation of women in Hong Kong's boardrooms.

SFC proposals on the regulation of non-corporate listed entities

The Securities and Futures Commission (SFC) published last month its finalised proposals to enhance the regulatory regime for non-corporate entities listed in Hong Kong. Having received general support for the proposals in public consultation, the SFC will make appropriate recommendations on the legislative amendments to the government.

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

HKICS updates its guide on directors' induction

The HKICS released its updated guide on directors' induction last month. The new guide – *Directors' Induction (An Overview)* – revises the Institute's first guide on directors' induction published in 2006. The guide looks at the company secretary's roles and responsibilities under Section F of the Corporate Governance Code to 'facilitate induction and professional development of directors.'

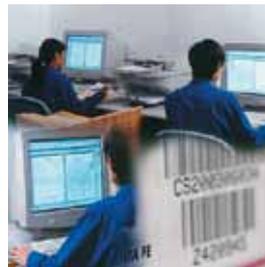
The guide is available on the 'Publications' section of the HKICS website www.hkics.org.hk.

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