

# CSj

February 2017

Chartered Secretaries.

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特許秘書. 潛能. 超越所見.

The journal of The Hong Kong  
Institute of Chartered Secretaries

香港特許秘書公會會刊



## Governance perspectives

Local and global

SFC enforcement priorities

Thailand update

Inside information disclosure



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

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

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單元二 中國公司治理 Corporate Governance in PRC      單元四 中國公司法律 Corporate Law in PRC

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講者簡介

端木梓榕先生

- 廣州市產權交易所專家委員會委員
- 畢業於中山大學，曾任職廣州珠江啤酒集團公司及廣州立白企業集團有限公司
- 授課經驗：曾為高校學生社會實踐作培訓講座；為廣州市國資委、中小企業服務中心舉辦的企業改制上市培訓班上授課

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授課日期

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

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### The Hong Kong Institute of Chartered Secretaries

(Incorporated in Hong Kong with limited liability by guarantee)

3/F, Hong Kong Diamond Exchange Building, 8 Duddell Street, Central, Hong Kong

Tel: (852) 2881 6177

Fax: (852) 2881 5050

Email: [ask@hkics.org.hk](mailto:ask@hkics.org.hk) (general)  
[member@hkics.org.hk](mailto:member@hkics.org.hk) (member)

[ecpd@hkics.org.hk](mailto:ecpd@hkics.org.hk) (professional development)  
[student@hkics.org.hk](mailto:student@hkics.org.hk) (student)

Website: [www.hkics.org.hk](http://www.hkics.org.hk)

### Beijing Representative Office

Rm 15A04, 15A/F, Dacheng Tower, No 127 Xuanwumen West Street

Xicheng District, Beijing, 100031, China

Tel: (86) 10 6641 9368

Fax: (86) 10 6641 9078

Email: [bro@hkics.org.hk](mailto:bro@hkics.org.hk)

### Institute of Chartered Secretaries and Administrators

#### Governance Institute of Australia

Level 10, 5 Hunter Street

Sydney, NSW 2000

Australia

Tel: (61) 2 9223 5744

Fax: (61) 2 9232 7174

#### Chartered Secretaries Canada

202-300 March Road

Ottawa, ON, Canada K2K 2E2

Tel: (1) 613 595 1151

Fax: (1) 613 595 1155

#### The Malaysian Institute of Chartered Secretaries and Administrators

No. 57 The Boulevard

Mid Valley City

Lingkaran Syed Putra

59200 Kuala Lumpur

Malaysia

Tel: (60) 3 2282 9276

Fax: (60) 3 2282 9281

#### Governance New Zealand

PO Box 444

Shortland Street

Auckland 1015

New Zealand

Tel: (64) 9 377 0130

Fax: (64) 9 366 3979

#### The Singapore Association of the Institute of Chartered Secretaries & Administrators

149 Rochor Road

#04-07 Fu Lu Shou Complex

Singapore 188425

Tel: (65) 6334 4302

Fax: (65) 6334 4669

#### Chartered Secretaries Southern Africa

PO Box 3146

Houghton 2041

Republic of South Africa

Tel: (27) 11 551 4000

Fax: (27) 11 551 4027

#### The Institute of Chartered Secretaries & Administrators

c/o MCI UK

Durford Mill, Petersfield

Hampshire, GU31 5AZ

United Kingdom

Tel: (44) 1730 821 969

#### ICSA: The Governance Institute

Saffron House, 6-10 Kirby Street

London EC1N 8TS

United Kingdom

Tel: (44) 20 7580 4741

Fax: (44) 20 7323 1132

#### The Institute of Chartered Secretaries & Administrators in Zimbabwe

PO Box CY172

Causeway Harare

Zimbabwe

Tel: (263) 4 702170

Fax: (263) 4 700624

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### Editorial Committee

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### Credits

**Kieran Colvert**

Editor

**Ester Wensing**

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**Harry Harrison**

Illustrator (cover)

**Images**

iStockphoto

### Contributors to this edition

**Thomas Atkinson and**

**Eugène Goyne**

SFC

**Alexander Que and**

**Rhoda Yung**

Deacons

### Advertising sales enquiries

Ninehills Media Ltd

Tel: (852) 3796 3060

**Jennifer Luk**

Email: [jennifer@ninehillsmedia.com](mailto:jennifer@ninehillsmedia.com)

**Charles Zimmerman** 查理文

Email: [charles.z@ninehillsmedia.com](mailto:charles.z@ninehillsmedia.com)

### Ninehills Media Ltd

12/F, Infinitus Plaza

199 Des Voeux Road

Sheung Wan

Hong Kong

Tel: (852) 3796 3060

Fax: (852) 3020 7442

Internet: [www.ninehillsmedia.com](http://www.ninehillsmedia.com)

Email: [enquiries@ninehillsmedia.com](mailto:enquiries@ninehillsmedia.com)

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## Celebrating our professional community

I would like to start with a word of congratulation to our secretariat on the excellent Annual Dinner held last month. Our premier social event of the year attracted a record 600 guests, and was a testament to the strength of our professional community and standing in Hong Kong.

If you missed this event, you can catch up on the proceedings in the Institute News section of this month's journal. I would only like to add that this year's Annual Dinner was a perfect example of the benefits of getting involved in our extracurricular events and activities. It was not only an occasion for good company, good food and good fun, but it also helped to cultivate a sense of belonging to our profession. Being a company secretary can be a lonely calling sometimes, reminding directors of their governance and ethical obligations is not always the most popular task, so it helps to know that you have the backing of your profession to do all you can to ensure governance standards are maintained.

This brings me rather conveniently to the theme of this month's journal. No surprises this month, our journal takes on our most common theme – corporate governance. In many ways all of our themes, of course, are part of governance in its broadest definition, but this month we go for the jugular – what is the meaning of good governance? Is there a global consensus

building around the basic principles of good governance? And what can we do as company secretaries to ensure that the organisations we work for are able to fully realise the benefits of good governance?

The answer to that last question may seem rather obvious to readers of this journal, but there are insights into the company secretarial role in the cover story which all too often go under the radar. For example, Edward Speed, Chairman, Spencer Stuart, points out that, where the tenure of a company secretary is longer than that of directors, he or she becomes the repository of institutional knowledge and continuity in an organisation. This point has practical significance since it means that we can play a critical role in ensuring that governance standards and the values of the organisation are kept intact through successive changes to the board's composition.

Another point raised in the cover story which I feel gets too little attention is the fact that governance is a journey not a destination. Certainly, there are generally accepted principles of good governance which apply to all companies and all geographies, but every company and every board is unique. Our job is not just about knowing the principles of good governance, it is also about being able to apply these principles to the specific circumstances of the organisation we work for. Often

it will take good judgement, together with no small amount of diplomacy and perseverance, to get from where you are to where you want to be.

Finally, before I go I would like to say a few words about the Peer to Peer article in this month's journal, which looks at plans to create a new professional body for corporate secretaries in Thailand. Thailand, like Indonesia, is not currently part of the global Chartered Secretarial body (the Institute of Chartered Secretaries and Administrators), but has an active and growing community of corporate secretaries. It will be interesting to see how the creation of this new professional body will develop in the years ahead. In addition, I look forward to future articles in this series. I believe closer ties with our professional peers in Asia strengthens our institute and helps to broaden our horizons in terms of what the corporate secretarial role involves under the different social, regulatory and political conditions in place in different jurisdictions.

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

Ivan Tam FCIS FCS

# 专业特许秘书礼赞

首先，我谨恭贺秘书处成功举办上月的周年晚宴。这个年度社交盛事共吸引600名宾客，打破历年纪录，足证香港专业特许秘书行业人才济济，地位崇高。

假如大家错过了这项盛事，仍可透过翻阅本期月刊的公会消息一栏，了解当晚的盛况。我只补充一句，今年的周年晚宴，充份说明参与公会公余活动的好处。参加这些活动，不但可以认识同业友好，享用美食，一同度过欢乐时光，更有助培养对特许秘书专业的归属感。从事特许秘书行业，有时难免有孤军作战的感觉：提醒董事他们须负上的管治和道德责任，往往吃力不讨好；因此，在努力维持管治水平的时候，知道自己背后有整个专业的支持，确实令人鼓舞。

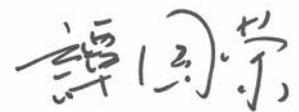
这正好引入本期月刊的主题，也是我们最常见的主题——企业管治。当然，从多方面看，我们的所有主题都是广义的管治的一部分，但今期我们讨论最核心的问题：良好管治是指什么？对于良好管治的基本原则，全球有共识吗？作为公司秘书，我们可以做些什么来确保所服务的机构能从良好管治当中获得最大的益处？

对于本刊读者来说，最后一个问题的答案可能显而易见，但封面故事对公司秘书的角色有精辟的见解，而这些看法往往被人忽略。例如Spencer Stuart主席Edward Speed指出，假如公司秘书的任期比董事的任期长，公司秘书便成为机构的智囊宝库，在实际运作上，这一点十分重要，意味着即使董事会成员多次变换，我们也可确保机构的管治标准和价值维持不变，对维护其连贯性方面起关键作用。

封面故事还提出甚少有人留意的另一点：管治不是终点，而是旅程。诚然，一些公认的良好管治原则或可适用于所有公司、地域，然而，每家公司、每个董事会都有其特殊性。我们不仅要认识良好管治原则，也要懂得按所服务机构面对的特定情况应用这些原则。要达到心目中的效果，往往需要良好的判断力，还有相当的交际手腕和不屈不挠的精神。

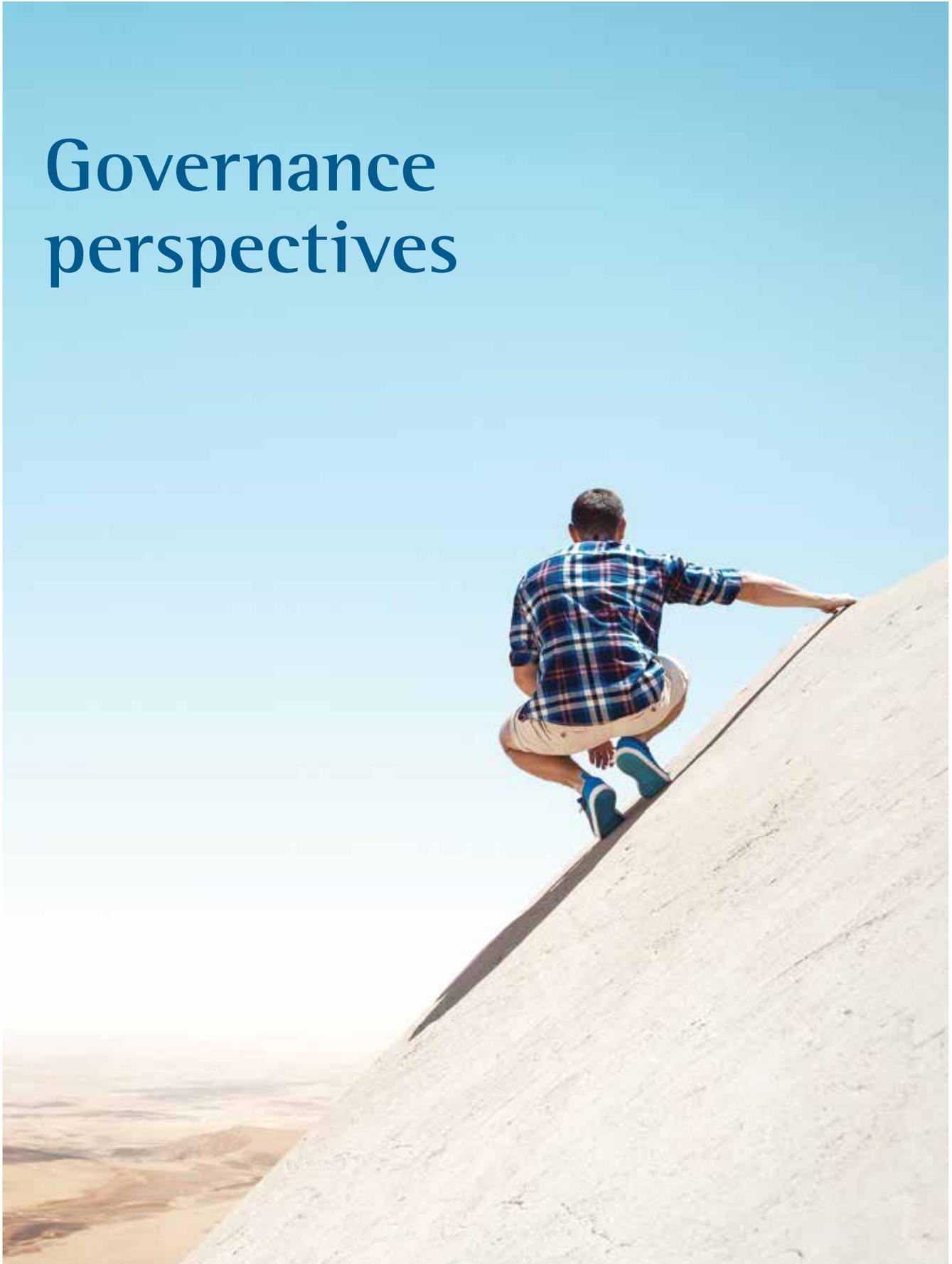
最后，我想谈谈本期月刊内的Peer to Peer文章，当中述及泰国公司秘书欲成立新专业组织的计划。与印尼一样，泰国目前并非环球特许秘书组织（特许秘书及行政人员公会）的一份子，

但公司秘书行业发展迅速，也日趋活跃。这个新专业组织成立后，日后将如何发展，我们拭目以待。此外，我期待日后读到与此相关的其他文章。我深信，与亚洲区专业同袍保持紧密的关系，可加强公会的实力，帮助我们开阔视野，了解不同地区的公司秘书于不同社会、规管及政治环境下所担当的角色。



谭国荣 FCIS FCS

# Governance perspectives



Corporate governance practices vary internationally, but is a global consensus emerging on corporate governance best practice? Moreover, how will the changing attitudes to governance affect the company secretary role? Edward Speed, the London-based Chairman; and Alice Au, the Hong Kong-based director; of the global executive search and leadership consulting firm Spencer Stuart, give a global and a local perspective on these questions.

*There used to be an assumption that corporate governance standards would converge around the world on the back of globalisation, but many differences still remain in the way different jurisdictions approach governance issues – do you think a global consensus is emerging on corporate governance best practices?*

**ES:** 'I think we have to recognise that there are different mixes of public companies and private companies in various geographies, and that many listed companies have a controlling shareholder – that is true in Hong Kong for example – and that does impact on governance. However, I do think there are three generally accepted principles of good governance coming through which are relevant wherever companies are based.

One of these principles is that of independence: are all shareholders' interests being protected by a board of directors? We have seen an increasing focus, certainly in the US and here in the UK, on the real independence of board directors. Secondly, I think there has also been a focus on boards taking a longer-term view of the objectives and the strategic direction of the company. This is a reaction against 'short termism' that companies are often accused of. Thirdly, I think people are increasingly seeing the need for a separation of the chairman and the CEO roles. This is a little more contentious, certainly in the US, but we have seen convergence towards this.

Companies are either separating the roles, or, in the case of the US, they are strengthening the position of the lead independent director so that there is a strong counter-balance to the executive power of the combined chairman and CEO role.

In addition to these three themes coming through, I think generally, globally there is also a recognition that some limits to board tenure are required. This links to independence in that independence only lasts so long – directors who have been on the board for 20 years can be perceived as having "gone native".

*Looking at the situation here in Hong Kong, would it be fair to say that some of the principles you mention – the separation of the chairman and the CEO roles and the need for independent directors in particular – have met some resistance?*

**AA:** 'We would be the first to say that one

size does not fit all as far as corporate governance is concerned. That has to do with the different regulations, as well as the different shareholding structures in different jurisdictions. But here in Hong Kong and China, I don't think there is resistance to having independent directors. The listing rules in Hong Kong make it very clear that a third of the board needs to be independent and that there needs to be at least three independent directors on the board – and all companies are complying with that.

There is more of a grey area when you come to define independence, of course. The Stock Exchange has a definition of independence but the grey area really comes when you get to issues such as the one Edward was just referring to – the need for term limits. Now, when an individual has been on the board for a long time, we often hear the argument that the individual is very independent-

## Highlights

- perceptions of good governance will vary according to the varying requirements of investors and as a result of different regulatory and shareholding structures
- while there is no one size fits all in governance, there is a consensus building around the basic principles of good governance
- these principles include the need for genuinely independent directors, the need for longer-term planning and the preference to separate the chairman and CEO roles

“  
I don't think there is something we could call perfect corporate governance, though there will be common themes – such as the need for transparency and independence – which investors, no matter where they are from, will want  
”

Alice Au, Director, Spencer Stuart



minded so there shouldn't be a problem. We accept that there will sometimes be exceptions, but as a general rule term limits are a good thing because they revitalise the board.

I would add that where our clients have listed subsidiaries outside of Hong Kong, in London or in the US for example, they are facing shareholders who are increasingly asking about the independence of their directors. I have a case that we are working on where the overseas shareholders are asking whether directors who have been on the board for 10 years can still be considered independent. So shareholders do look at this issue, they will question it at the subsidiary level and then at the group level as well. So I think this plays a part in changing attitudes. If shareholders ask these questions often enough, companies come to realise that, even though it may not be a legal requirement, having term limits is part of good governance. I am seeing this here in Hong Kong and I think it also applies to Greater China companies as well!

**ES:** 'I think that corporate governance is a journey and Hong Kong has come a long way. I don't think we want to be demonising very successful Hong Kong businessmen and women who hold combined chairman and CEO positions. All we have to make sure is that we have strong independent oversight of the executive. That could be carried out by a highly respected director who would be seen as holding executives, including the chairman and CEO, accountable. In a way we would rather have that than having someone made chairman and the previous chairman/CEO going on as before.'

*Could we turn to board evaluation. Are you seeing more acceptance of this as a good governance practice globally?*

**ES:** 'It was Socrates who said "the unexamined life is not worth living". I think all boards should from time to time stop and think about how effective they are and examine the way they work. That is part of good corporate governance. We have a rule in the UK that a review should be undertaken every

year and every third year it should be done with an external independent party.

I think there is a strong role for the corporate secretary to play here; on my board the corporate secretary undertakes the annual survey of my directors. We have a pretty vigorous process which includes peer evaluation. I think that is a good thing to do so that the chairman can give feedback to individual directors on how they are performing in the eyes of their peers. This includes an evaluation of how the chairman is performing in his role, so I have the same thing done to me.

Of course, we have the role of the senior independent director on British boards and that person, together with the corporate secretary, plays an important role in effecting board evaluations. I think that is good corporate practice and it is very prevalent now in continental Europe, as well as here in the UK. Increasingly we are seeing externally facilitated board evaluations in the US as well.'

*Why do you think board evaluation, at least in terms of a formal process, is still relatively rare in Hong Kong?*

**AA:** 'We highly recommend that boards take this up and there have been more board evaluations in Hong Kong since the Stock Exchange made it a Recommended Best Practice in the Corporate Governance Code. Our 2015 Board Index found that 21% of Hang Seng Composite LargeCap Index (HSLI) companies are now doing board evaluations. Of those companies only 8% engaged an external facilitator, but, as Edward was saying, Hong Kong boards are on a journey. Doing an internal evaluation is a first step and still gives a health check for your board.'

The number one reason many companies are not engaging external facilitators is that they are still thinking about the cost. We would argue that this cost is relatively low and it is an investment in your board – if you do an assessment of your executive level why don't you also do an assessment of your board?

I think another factor is the reluctance to open up the company to an outside party. This is a common concern where the chairman is the owner/founder of the business. The companies that are getting external facilitators are usually the companies with a more diversified ownership and it is often the independent non-executive directors (INEDs) in these companies who are advocating it because they have seen the benefits on the other boards they sit on. So I think that this will be an evolution and it will also be an area where the company secretary, together with the INEDs, can be an advocate. For a small cost you obtain rich data on the health or otherwise of the board.'

*We have discussed the signs of convergence towards key governance principles – where do you think this is going to take us? If we have this conversation again in 20 years time will the best practices of today have been universally adopted?*

**AA:** 'I don't think there is something we could call perfect corporate governance, though there will be common themes – such as the need for transparency and independence – which investors, no matter where they are from, will want.'

**ES:** 'I think we should look at this from the other end of the telescope. We should look at the sources of capital and what are the owners of that capital require in terms of governance. The big institutional shareholders, such as the pension funds, want companies to behave in a certain way and have their own reporting requirements. The sovereign

wealth funds and private equity owners will have different requirements. The state-owned enterprises in China have a different source of capital and will be subject to different expectations. So I think there will be parallel regimes dependent on the requirements of the sources of capital. You will have US pension funds wanting, wherever they invest in the world, to have an "all the bells and whistles" form of governance, while others might be happy with a more streamlined version. Now, it is a bit like a country, you get the constitution and the political environment that you deserve in a way. I really don't think there is a one size fits all and that will be the case in 20 years' time.'

*Could we turn to the role of the company secretary? Company secretaries are increasingly relied on as advisers to the board and as a*

## Insights into the company secretarial role

The interviewees work closely with company secretaries both here in Hong Kong and globally. Their insights into the nature of the company secretarial role include:

- it is a role that is critical to the smooth functioning of the board
- the responsibility to keep directors informed is critical because good decision making is impossible without a good debate based on facts
- practitioners need to have active engagement with all of the directors, in particular providing the vital connectivity between the executives and the non-executives
- the company secretary is often the repository of institutional knowledge and continuity in an organisation as directors come and go
- the role calls for high standards of integrity in order to build trust
- to get to the top of the profession, practitioners need to have good soft skills as well as the requisite technical knowledge
- these skills include: discretion, judgement, a high EQ and good interpersonal skills to assist the chairman in navigating ever-changing board dynamics.

“  
[the corporate secretary is]  
playing a much more active role in  
facilitating best decision making in  
boards as part of the triumvirate  
of the chairman, the CEO and the  
corporate secretary  
”

Edward Speed, Chairman, Spencer Stuart



*governance gatekeeper – what's your view on how the role has changed, and how it will change in the years ahead?*

**ES:** 'I think that journey will continue, moving from a purely administrative and back office role to playing a much more active role as part of the triumvirate of the chairman, the CEO and the corporate secretary facilitating best decision making in boards. And that calls for much more active engagement with all of the directors. In particular, it calls for more active liaison and vital connectivity between the executives and the non-executives. It's a role that is critical to the smooth functioning of the board and it calls for very special skills. It's all about discretion, touch, judgement and having very high standards of integrity because if you don't have that you can't build trust.'

Corporate secretaries can be in an invidious position because while they are on the company payroll, they are primarily aligned with the chairman.

The role calls for very high levels of moral fibre and backbone. The corporate secretary is also a real repository of institutional knowledge and continuity. Directors come and go, chairmen come and go, but the corporate secretary can be a constant.'

**AA:** 'I think if you look at the really good corporate secretaries among the Hang Seng Index companies in Hong Kong, they have a trusting relationship with the chairman, they have that touch and discretion, that understanding of the business and that EQ that Edward was talking about. I think this is where The Hong Kong Institute of Chartered Secretaries (HKICS) has an important role – the HKICS can help to build the soft skills of the next generation coming through and help them recognise the full potential of the role.'

*Could we go deeper into the company secretarial role in board support, in particular facilitating effective decision making? That can be a tricky area because, as you both mention,*

*it takes a great degree of tact and people skills.*

**ES:** 'Directors are feeling more and more, as they should do, their fiduciary responsibilities and they feel they need to engage much more than they used to in the past with the company's business. Now some very big companies, Shell for example, have a corporate board office that arranges inductions for newly appointed directors, provides information to directors and helps them with additional data if they want to go deeper into a particular issue.'

I think that trend is going to grow as well, and corporate secretaries, with the agreement of their chairman, need to be ensuring that individual directors are as effective as they can be. Obviously without "leading the witness" in a particular way but to offer information. It is really critical because you can't get good decision making unless you have good debate based on facts and rigorous data. My corporate secretary will go to a board director and say "it doesn't sound like you really understood all the issues"

in a non-negative way, "should I give you a bit more reading on this?"

When the chairman is driving an agenda he or she has to be thinking three moves ahead, so it is quite difficult to spot everything that is going on with the board. So it is useful to have an independent observer watching the dynamics in the boardroom. The corporate secretary can whisper in the chairman's ear when someone is not happy with where things are going, or when someone is harbouring a misunderstanding about something, so that the chairman can have a chat with that director in the break. These are all very sensitive matters which is why corporate secretaries need to have the EQ and the interpersonal skills we discussed earlier. Plus the humanity and the low ego needed for the job because the last thing you want in your corporate secretary is a "wannabe chairman".

*Should the corporate secretary answer to the chairman or the CEO?*

## Keeping track of board governance: Spencer Stuart's Board Index reports

Spencer Stuart's Board Index reports can help corporate secretaries keep track of best practice in board governance. These reports are published in over 20 jurisdictions globally, including many Asian jurisdictions such as Hong Kong, Singapore, India and Japan. The Board Indexes provide governance professionals with hard data on the key issues in board governance, including the major trends in board composition, structure and compensation. They also include international comparison tables, comparing governance practices across the countries where Spencer Stuart has collected data. Beyond the data analysis, the Indexes also include articles on frontier topics of interest – the *2015 Hong Kong Board Index*, for example, includes articles on corporate culture and board diversity.

*The Spencer Stuart '2015 Hong Kong Board Index' is available on the Spencer Stuart website: [www.spencerstuart.com](http://www.spencerstuart.com).*

**ES:** 'Definitely to the chairman. Pay and rations comes from the executive, but in terms of where they get their orders from, it is from the chairman of the board!'

*One final question. Integrated reporting gets businesses to think in terms of their six capitals – including natural and social capitals. Do you think that how businesses address their environmental and social impacts and performance is going to be a major part of what state the world will be in in the medium and long term?*

**ES:** 'One would hope that all boards are thinking in an integrated way. We need to be thinking about the role of our businesses in particular communities. Are we engaging around climate change and the responsible harvesting of resources? Are we contributing to society on a wider level? So it is not just pure return to financial shareholders, it is a broader contribution to the wider stakeholder community in which the company operates.'

The King IV Report on Corporate Governance has just come out in South Africa, and it puts a lot of emphasis on integrated reporting and sustainability. They led the way. In the UK right now we have a political imperative around this kind of contract with broader society, looking at things like societal representation on boards in terms of gender and ethnicity, pay and having broader stakeholder representation on the board!'

*Do you think that getting it right in these areas will be a licence to operate issue for businesses?*

**ES:** 'Yes. I think these are two sides to the same coin. A societal contract becomes a licence to operate but it also makes very good business sense. If you look at what companies like Unilever have done around sustainability, that has been incredibly effective in helping them attract high-calibre talent; it has added lustre to the company and made it easier for the company to engage with governments, business partners, and the wider communities in which they operate.'

**AA:** 'I think that this is another area where corporate secretaries can add value to the board and also the chairman. A lot of time the chairman has to be so focused on the business that they might miss some of the governance trends we are discussing here. A good corporate secretary can keep track of these trends and help enhance the functioning of the board by bringing them to the attention of the chairman.'

*Edward Speed and Alice Au were interviewed by Kieran Colvert, Editor, CSj*



# Thailand: building the foundations of the profession

CSj interviews Pensri Suteerasarn, President of the Thai Listed Companies Association, on the latest initiatives in Thailand to strengthen the local corporate secretarial profession.

*Thanks for giving us this interview, can we start with some background about yourself?*

'I am working for the Thai Listed Companies Association. The Association's members are companies listed on the Stock Exchange of Thailand and we currently have about 500 members. My background is as an investment banker. Under the Association we have the Thai Corporate Secretaries Club (TCSC) whose members are all corporate secretaries for listed companies. We are working with our friends in Hong Kong, Singapore and Malaysia to set up an institute for corporate secretaries, similar to the one in Hong Kong. That is part of our five-year plan.'

*Would the institute be part of, or independent from, the global ICSA Chartered Secretarial body?*

'We have not decided yet. We are a member of the Corporate

Secretaries International Association (CSIA) and the most recent CSIA council meeting was held in Thailand. Hong Kong has a similar legislative framework to the UK, but Thailand is different. When Thailand updated its Securities Exchange Act eight years ago it brought in a requirement for listed companies to appoint a corporate secretary, but there is still no requirement regarding the qualifications of these corporate secretaries. The securities law only requires companies to submit the name of their appointed corporate secretary to the Securities Exchange Commission (SEC).'

*Is the TCSC acting as the de facto professional body for corporate secretaries in Thailand?*

'Yes. For example, we are offering a training course for corporate secretaries in Thailand.'

*Is the role of corporate secretary relatively new in Thailand?*

'It has been established for some time. The large corporates in particular had qualified corporate secretaries long before the revision to the Securities Exchange Act requiring the appointment of a corporate secretary and we at the Thai Listed Companies



Association have been offering training for corporate secretaries for more than 10 years.'

*Are the core duties of corporate secretaries in Thailand similar to those in other jurisdictions?*

'Yes, I think the role is similar. Our new corporate governance guidelines are quite advanced and compatible with other capital markets in the world. The corporate secretary is the 'gatekeeper' for corporate governance and other issues such as information disclosure. So this is very similar to other countries in the region. The main difference is the absence of a qualification requirement. In Hong Kong you have to have the Chartered Secretarial qualification, or you have to be a lawyer or accountant, but here in Thailand anyone can be a corporate secretary.'

*Do you think there is a need to have a mandatory qualification requirement?*

'We believe so.'

*Are there moves to bring that in?*

'We are talking to the SEC and the CSIA meeting here in

Thailand in 2016 was a good way to learn from the experiences of other countries. We are working to promote a better understanding, particularly among the medium-sized and small companies, of the important role performed by the corporate

## Highlights

- The Thai Listed Companies Association plans to establish a professional body for corporate secretaries within five years
- listed companies are required to appoint a corporate secretary in Thailand, but there is currently no qualification requirement for individuals wishing to take up this role
- cooperation between Asian jurisdictions is helping jurisdictions outside the global Chartered Secretarial family to establish good foundations for their local corporate secretarial profession

“ we are working to promote a better understanding, particularly among the medium-sized and small companies, of the important role performed by the corporate secretary in terms of improving the governance of the board and the company ”



Pensri Suteerasarn speaking at a recent seminar in Hong Kong

secretary in terms of improving the governance of the board and the company.'

*Do you think the proposed corporate governance code in Thailand will help promote better awareness of the role of the corporate secretary?*

'Yes. Over the last two years, the SEC has been studying the corporate governance codes of other countries and it has seen an increasing emphasis on the role of the board of directors, working closely with management, to form the strategy of the company and to monitor the implementation of that strategy. We have also learned from peers in other countries the importance of the board accessing the information needed to make good and timely decisions. That's very important. Directors need to know what's going on in the company down to the operations level. The recent scandal at Volkswagen shows that directors should not be waiting for management to inform them about what is going on. They have to make sure that they stay informed.'

*Do you think the corporate secretary can play a role in ensuring directors have the information they need?*

'I think so. The company secretary is, as you know, the connection between the board and management, and also between the internal management teams. But there should also be a code of conduct which makes it clear that directors have a responsibility

to look at the sustainability of operations. They should not only be concerned with the short-term performance of the company.'

*Do you think there has been a convergence towards global standards of corporate governance?*

'Yes. Investors are investing globally and when they are talking to Thai listed companies and they see practices that differ from their expectations they often make recommendations. Big institutional investors in the capital markets of Asia want to see the same performance levels in terms of corporate governance across the different markets. And of course we also have Thai companies that invest in the region and globally. The large corporates with subsidiaries and affiliates overseas want to see the same governance standards applied throughout their portfolio.'

Thailand ranked fifth in the region in the *CG Watch 2016* [see end note for more on this publication]. The key area where we need to make an improvement is enforcement. Our laws are good and up to date, but ensuring that people comply with them is the real issue.'

*What's your view of the increased level of cooperation between Asian jurisdictions to promote the corporate secretarial profession – in particular the creation of the ASEAN Corporate Secretaries Associations (CSA) Network?*

'I very much support this. It is good for us to be part of the ASEAN

CSA Network because it is a very good learning platform for us. The Network meeting and the Professional Exchange Programme that we recently attended in Hong Kong helped us to learn a lot about corporate governance, the role of the corporate secretary and the role of the anti-corruption agency in Hong Kong!

*Where would you like these trends to go over the next 10 years?*

'Our main focus is setting up the institute of corporate secretaries in Thailand which I mentioned. We are hoping to run it as a certification programme, so becoming a member of the institute will mean that you can take up a corporate secretarial role. But we have some way to go to catch up with jurisdictions with established professional bodies. Of the five members of the ASEAN CSA Network, three – Hong Kong, Singapore and Malaysia – are part of the global Chartered Secretarial body. The other two members – Indonesia and Thailand – are outside that grouping. Indonesia has already set up an association for corporate secretaries and we hope to have ours up and running as soon as possible.

The traditions and history are different in different jurisdictions in the region. In Malaysia, all companies have to appoint a company secretary, in Thailand this requirement only applies to listed companies. Moreover, corporate service providers are a major employer of corporate secretaries in Malaysia, Singapore and Hong Kong but not in Thailand. Where companies appoint outsiders to perform the role of the corporate secretary, it is mostly lawyers who take up the role because we don't have the corporate services firms.'

*Pensri Suteerasarn, President of the Thai Listed Companies Association, was interviewed by Kieran Colvert, Editor, CSj.*

*The ASEAN Corporate Secretaries Associations Network comprises: The Chartered Secretaries Institute of Singapore; The Hong Kong Institute of Chartered Secretaries; The Indonesian Corporate Secretary Association; The Malaysian Institute of Chartered Secretaries and Administrators; and The Thai Listed Companies Association.*

*'CG Watch 2016' is available on the websites of CLSA Ltd ([www.clsa.com](http://www.clsa.com)) and the Asian Corporate Governance Association ([www.acga-asia.org](http://www.acga-asia.org)).*

## Thailand: governance profile

**Legal system:** common law.

**Economic system:** market economy.

**Key regulation:** The Securities and Exchange Act includes a requirement for listed companies to appoint a corporate secretary, but there is still no requirement regarding the qualifications of these corporate secretaries.

**Financial reporting standards:** International Financial Reporting Standards.

**Key statutory/regulatory bodies:** The Securities and Exchange Commission, The Stock Exchange of Thailand and the Ministry of Commerce (MoC) – listed companies file the minutes of shareholders' meeting and financial reports with the MoC.

**Predominant ownership structure:** the majority of Thai listed companies have a controlling shareholder.

**Board structure:** single-tier.

**Corporate secretary job title:** companies use both 'company secretary' and 'corporate secretary' in translation, but in Thai this is one term.

**Corporate secretary duties:** these are very similar to the typical job description of the corporate secretary worldwide – focusing on board support, regulatory compliance and information disclosure.

**Professional body:** The Thai Corporate Secretaries Club (TCSC) under The Thai Listed Companies Association is currently acting as the *de facto* professional body. The TCSC provides training to corporate secretaries, but there are plans to establish an official professional body for corporate secretaries within five years.

# Enforcement focus

Thomas Atkinson, who took up his appointment as Executive Director of Enforcement at the Securities and Futures Commission (SFC) in May last year, gives an overview of the SFC's enforcement priorities going forward.

Ever since I started my challenging new role as the head of the Enforcement Division of the SFC, I have been considering how we can further contribute to the healthy development of this large, vibrant and complicated securities market closely linked to Mainland China as well as other parts of the world. We realised the need to re-assess our enforcement focus, our organisation structure and our enforcement tools. Against this background, we carried out a comprehensive and structured strategic review of the entire Enforcement Division.

We established a number of teams to carry out the strategic review. One team collaborated with other SFC divisions to identify the key areas of concern that should rank high in our enforcement priorities. Another

focused on enforcement processes and tools – looking for ways to maximise speed and effectiveness. A third team carried out a comprehensive review of our surveillance capabilities against the latest developments around the world. We had two other teams that focused on enhancing collaboration with other regulators in Hong Kong and in Mainland China respectively.

## Focus on key risks

During the review, we identified a few key areas of concern that pose particularly serious threats to the integrity of the Hong Kong markets. The Enforcement Division will focus its efforts on these key areas. We have formed new specialised teams to tackle these threats which I will talk more about later. We will also prioritise our new cases to ensure that we allocate resources to high impact cases that address these key risk areas.

So what are the key risk areas? At the top of our priorities are listed company-related issues. We are particularly concerned about risks posed by corporate fraud and misfeasance, market manipulation and intermediary misconduct.

Key cases of this nature have wiped out more than HK\$200 billion in market capitalisation from the Hong Kong stock market, and all of them involved some form of corporate fraud or misfeasance. These cases not only caused immense losses to investors, they also severely damaged the integrity and reputation of the Hong Kong markets.

Corporate misfeasance and fraud-related investigations make up a very substantial proportion of our enforcement cases. These types of investigations are usually complex, time consuming and often involve the loss of millions and sometimes billions of dollars by many investors. They often relate to companies with business operations in Mainland China and most of the evidence and witnesses are in the Mainland. Some salient enforcement actions over the last four years are summarised in the 'Highlights of listed company misconduct enforcement actions by the SFC, 2012–2016' sidebar. We will continue to focus our enforcement efforts on corporate misfeasance and fraud, as they pose one of the greatest threats to the interests of the investing public and the integrity of the Hong Kong markets.

## Highlights

- listed company-related concerns such as corporate fraud and misfeasance will remain at the top of the SFC's enforcement priorities
- enforcement actions will continue to focus on holding individual wrongdoers – notably directors and senior executives of listed companies – accountable for their misconduct
- the SFC will continue to build long-term relationships with other regulators in Hong Kong, the Mainland and globally to ensure the continued success of its enforcement efforts





“  
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”

You may have noticed that since 2012, we have substantially increased the number of trading suspensions imposed against listed companies. Trading suspension is a very interventionist power and we exercise it very carefully, and only upon the most compelling evidence of fraud or false or misleading information in relation to a company. Even on this basis, however, the number of trading suspensions has increased substantially since 2012.

I also want to emphasise that our enforcement actions will focus on holding individual wrongdoers accountable for their misconduct. We have broad powers under the Securities and Futures Ordinance (SFO) to hold directors and individuals responsible for the misconduct committed by

the companies they manage. We will vigorously exercise these powers where appropriate. Over the past three years, we initiated proceedings against over 50 directors and senior executives of listed companies for misconduct, breach of directors' duties and reckless or negligent conduct that contributed to their company's failings.

It should therefore come as no surprise that, going forward, we will continue to focus our enforcement efforts to combat corporate fraud and misfeasance. We have received a steady stream of referral cases from our Corporate Finance Division averaging over 50 cases each year. Many of these referrals raise serious issues – in particular those involving misconduct by IPO sponsors. To put it

very lightly, the conduct and the level of professionalism demonstrated by some sponsors we looked at left a lot to be desired. You can expect to see more cases in the above areas where firms and their senior management will be held accountable for their failings.

**Prioritisation and enhancing efficiency**  
Enforcement cases have been increasing rapidly at the rate of 20% per year and are generally increasing in complexity. We could try to double our staff every five years to cope with this trend, but even if we do this, we would still be treading water. We clearly need to re-think how we perform our work. We need to move from a try-to-do-everything approach to a focused approach, targeting the key risk areas.

Under the SFO, we are required to make efficient use of our resources when pursuing our regulatory objectives. To do this, we must give priority to cases that pose the greatest threats to the interests of the investing public and the integrity of our markets. We also need to identify cases that will bring the highest impact when we achieve successful enforcement outcomes, and at same time, weed out cases that have little prospect of success as early as possible.

By doing this, we will be able to bring successful enforcement outcomes to the market while the cases are still relevant, which in turn will maximise the deterrent effect of our efforts. We will prevent misconduct before it occurs.

#### Specialised teams

As mentioned earlier, we have set up permanent and temporary specialised teams to focus on the key risk areas and deal with the problems of the growing complexity and increasing volume of enforcement cases.

We have set up four permanent specialised teams:

- Corporate Fraud and Corporate Misfeasance Teams – these two teams will target corporate fraud and the misuse of powers by the senior management of listed companies, and will investigate the types of misconduct and failings I have highlighted above. Very experienced professionals with long track records in these areas will lead these teams.
- Insider Dealing and Market Manipulation Team – the leader of this team has a strong investigation background and the team comprises

## Highlights of listed company misconduct enforcement actions by the SFC, 2012–2016

### 2012

- Obtained court orders against Hontex to conduct a share buy-back of its shares to remediate investors for Hontex's false and misleading financial reporting since its IPO. Over HK\$1 billion was returned to aggrieved investors.

### 2013

- Started proceedings to wind up China Metal Recycling and appointed provisional liquidators in response to allegations of what the court later described as fraud on an 'industrial scale'. The Hong Kong police laid criminal charges against the people involved.
- Took action against the former chairman and CEO of First Natural Foods and two of its former directors for embezzling HK\$84 million from the company. Sought compensation and disqualification orders against those involved.
- Obtained interim injunctions to freeze the assets of Qunxing Paper Holdings and its former directors for fraud in the company's financial statements since its IPO.

### 2014

- Obtained HK\$420 million compensation for GOME Electrical Appliances Holding from its former chairman and his wife for breaching their duties as directors of the company. They caused the company to conduct

a share buy-back which enabled them to sell their shareholding at a higher price, and then used the proceeds to repay a substantial personal loan.

- Started proceedings against CITIC and a number of its former directors for disclosing false and misleading information which failed to mention the company's enormous mark-to-market losses on foreign currency derivative contracts. Sought orders that the company and the former directors compensate investors for their losses.

### 2015

- Took the unusual step of announcing an ongoing investigation into Hanergy in response to its chairman's denial that we were investigating, as it was in the public interest for us to clarify.

### 2016

- Sought orders to disqualify 10 senior executives of Freeman Fintech Corporation from acting as directors for failing to act in the best interest of the company and to disclose material information to shareholders that led to a HK\$76 million loss to the company.
- Conducted proceedings before the Market Misconduct Tribunal in the Greencool and CITIC cases.

specialists with expertise in market analysis and investigation. They will focus on investigating market misconduct and related offences.

- Intermediary Misconduct Team – this team will focus on misconduct by persons regulated by us. Their work includes the investigation of short selling issues, mishandling of client orders, misappropriation of client assets and investment bank malpractice.

We have also formed four temporary specialised teams to tackle serious emerging risks:

- Sponsor Team – focusing on sponsor misconduct during IPOs
- GEM Team – investigating irregularities in the Growth Enterprise Market
- AML Team – targeting anti-money laundering (AML) and know your customer (KYC) control failings, and
- Specific Products Team – dealing with the mis-selling of specific investment products.

Temporary teams will be disbanded when they have addressed the underlying risks. New teams may be formed to deal with other areas of concern as they emerge.

#### Collaboration with Mainland and Hong Kong regulators

With a large percentage of Hong Kong-listed companies having business operations in Mainland China, cultivating and maintaining

very close collaborative relationships with Mainland regulators – notably the China Securities Regulatory Commission (CSRC) – is critical. We are actively building long-term relationships based on trust with Mainland regulators to ensure the continued success of our enforcement efforts.

We have an active executive staff exchange programme with the CSRC to enhance our mutual understanding of each other's work. We also hold regular joint training initiatives. At a recent 'Market Manipulation Conference' jointly held with the CSRC in Xi'an, we had the benefit of listening to some of the world's leading experts on how to tackle cross-jurisdictional market manipulation investigations. In appropriate cases, we also conduct joint investigations which provide excellent opportunities for officers of both organisations to build trust and establish long-term working relationships.

Locally, we are also actively building long-term relationships with other regulators. We will be collaborating with the Hong Kong Monetary Authority (HKMA) closely when investigating authorised institutions misconduct under the SFO to improve the consistency of the experience for regulated persons involved in these types of investigations. We have learnt a lot from the HKMA on KYC and AML matters through joint training and expertise sharing, and we hope that the HKMA may also draw on our experience in securities-related enforcement. We will continue to build on this close partnership to ensure that we perform our respective regulatory functions as strategic partners in the best interests of Hong Kong.

In order to preserve the integrity of the markets, it is important to maintain a strong criminal deterrent. This depends on a close and collaborative relationship with the Department of Justice. We have recently concluded a memorandum of understanding with the Department of Justice to enhance cooperation on criminal cases. We will work closely with the Department of Justice and the Hong Kong Police Force as we continue to target securities fraud, insider dealing, market manipulation and other offences.

#### Concluding remarks

Enforcement is a blunt regulatory tool. By the time we act, usually the damage has been done, investors have lost their money and the reputation of our markets has suffered. You cannot rely on enforcement alone to maintain the quality of our stocks list.

As you can see from my earlier remarks, the SFC has an aggressive, thoughtful, world-class enforcement division that is working tirelessly to sharpen its focus. It is absolutely determined to create a proper deterrent to improper or unethical behaviour. No doubt, we still have lots to do, but it has to be recognised that we are only one part of a wider supervisory framework. To effectively protect and maintain Hong Kong's world-class markets, we must develop a multi-dimensional approach to securities regulation, where all functions, such as regulatory gatekeeping, supervision and enforcement, work as a team to further our regulatory objectives.

*This article is based on Thomas Atkinson's speech at the 7th Pan Asian Regulatory Summit in November 2016.*

# A bird's eye view

Company secretaries need to be proficient in a wide range of practice areas. *CSj*, the journal of The Hong Kong Institute of Chartered Secretaries, is the only journal in Hong Kong dedicated to covering these areas, keeping readers informed of the latest developments in company secretarial practice while also providing an engaging and entertaining read. Topics covered regularly in the journal include:

- regulatory compliance
- corporate governance
- corporate reporting
- board support
- investor relations
- business ethics
- corporate social responsibility
- continuing professional development
- risk management, and
- internal controls



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**Misleading the  
market: an analysis  
of the Citron  
Research case**

The recent Market Misconduct Tribunal (MMT) decision in the Citron Research case confirms the usefulness of Section 277 of the Securities and Futures Ordinance (SFO) for regulators seeking to prevent a false market in the shares of Hong Kong listed companies.

Evergrande Real Estate Group Ltd is a Mainland property developer listed on the Hong Kong Stock Exchange. In 2012, it was among the Mainland's biggest property developers. It reported a roughly 47% increase in net group profit in its 2011 financial year. Several prominent banks wrote favourable research reports about it, recommending 'buy'. Its share price was relatively stable from April to June 2012. On 21 June 2012, Evergrande's share price rose as high as HK\$4.52, but fell as low as HK\$3.60 and closed at HK\$3.97, about 11% lower than the previous day's closing price. Evergrande's stock turnover that day was four times more than 2012's previous high. The Hang Seng Index only fell 1.3% that day.

On 21 June 2012, Evergrande was the subject of a report issued on the internet at sometime in the morning Hong Kong time. It made a number of allegations, most seriously that 'Evergrande is essentially an insolvent company that has consistently presented fraudulent information to the investing public'.

Citron Research issued the report. This is a business name of Andrew Left. Citron was previously unknown in Hong Kong. This was its first report on a Hong Kong listed company. On its website, Citron claimed a 10-year successful record issuing reports identifying fraud and 'terminal business models'.

Around March 2012, Left received an anonymous package of material analysing Evergrande. It made the two key allegations Left's report did. Left

reviewed the material, deleted publicly non-verifiable information using the internet and company filings, updated the numerical information and published it as his report. He did not seek any expert advice on the accounting standards that applied to Evergrande or approach the company for comment first.

The MMT characterised the report as being 'presented in a hard-hitting "tabloid" style', using bold headlines such as 'fraudulent accounting', and accusing Evergrande of 'intentionally and systematically hiding important financial information from investors'. An expert witness who testified before the MMT characterised the report as 'frightening' to general investors.

The report quickly became news internationally, being picked up by equity researchers and news services around 10.30am–11.00am on 21 June 2012. By 1.00pm, Evergrande issued a clarification announcement denying the allegations. Later, Evergrande held a telephone conference with analysts

again denying the allegations. That day, a number of prominent banks issued reports disagreeing with the Citron report. On 22 June, Evergrande issued a longer announcement rejecting the allegations.

In the report, Citron said Evergrande was a good opportunity to short sell and that Citron might hold a short position. Left short sold Evergrande shares from 6 to 19 June. On 21 June, he bought shares to cover his short position. He made a profit of HK\$1,596,240.

#### The Citron Research case

The SFC, with the assistance of the US Securities and Exchange Commission, investigated Left and, on 15 December 2014, started proceedings against him in the MMT accusing Left of breach of Section 277 of the SFO.

Section 277 is a form of civil market misconduct committed where someone:

- in Hong Kong or elsewhere disseminates information

### Highlights

- Andrew Left, author and editor of the online investment newsletter Citron Research, alleged that Evergrande Real Estate Group Ltd was insolvent and had engaged in fraudulent accounting
- he made a profit of HK\$1.6 million by short selling Evergrande shares
- the Market Misconduct Tribunal found that Left had breached Section 277 of the Securities and Futures Ordinance (SFO) which prohibits disseminating false or misleading information that would affect a company's share price

- that information is likely to induce another person to trade the securities in Hong Kong or be likely to affect its price in Hong Kong
- that information is false or misleading as to a material fact or through the omission of the same, and
- the person who disseminated the information must know, be reckless or negligent as to whether the information is false or misleading as to that.



The SFC specifically alleged that:

- Left disseminated the report and information in it
- the information was false and/or misleading as to a material fact or through the omission of the same in that Evergrande was not insolvent and had not engaged in fraudulent accounting
- that information was likely to induce people to trade Evergrande shares or affect its share price in Hong Kong, and
- Left knew, was reckless or negligent that the two allegations were false and/or misleading as to material facts.

The MMT heard the case from 22 February to 3 March 2016.

Left argued a number of legal points.

Before the main hearing, Left argued that, because the SFC alleged that the report was false and/or misleading in claiming

that Evergrande was insolvent and had not presented true accounts, Left was entitled to discovery of Evergrande's corporate documents relevant to its solvency and true financial position. This was far wider than the scope of documents the SFC had disclosed or that the SFC had investigated into as the SFC had concluded early in its investigation that Left's two key allegations were poorly reasoned and its conclusions unjustified. The SFC argued and the MMT accepted that Left's report was based on publicly available material and the question was whether Left's report was false or misleading on the basis of material on which it was prepared and publicly available information. The MMT therefore refused Left's application. At the hearing, Left reargued the point saying that he had been denied a reasonable opportunity of being heard as a result. The MMT again rejected this argument for the same reason. Left then argued that the SFC should only be allowed to admit evidence that post-dated Left's report. The MMT rejected this, ruling that material would be admitted if it was relevant to whether Left's report was false or misleading based

on publicly available information at the time Left issued his report.

Left also argued that negligence should be judged differently for those who did not have a special relationship to the market by being company insiders or analysts, as people outside these categories assumed no duty of care to the market. He suggested this would better protect freedom of speech. The MMT rejected this argument saying that Section 277 on its own words applied to everyone who disseminated information that might affect the market and did not restrict liability for negligence to those with a special relationship to the market. It noted that freedom of speech was not unqualified and the restrictions Section 277 imposed on that freedom proportionately protected legitimate public interests.

Left further argued that it was enough to avoid negligence for an outsider like a short-selling stock commentator who relies on public information and has no special relationship like a company insider or licensed analyst to make clear

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**a review of the decision suggests that it is a cautious consideration of the risk that false or misleading statements about listed companies pose for investors who can be panicked into trading decisions**  
 ”

they rely on public information and set out that public information. The MMT rejected this, ruling it would not protect financial markets sufficiently from false or misleading information. It ruled that whether Left was negligent would be judged by whether Left took the care that a reasonably prudent market commentator or analyst would take.

There was no argument that Left had disseminated information by issuing his report. Left, however, argued that his report was not likely to affect trading decisions or Evergrande's share price as he was unknown in Hong Kong. The MMT decided that, owing to Left's reputation as a fraud analyst, the sensational nature of the allegations in the report and that they appeared backed by substantial reasoning, it was likely to come to the Hong Kong market's attention. The MMT also ruled that the report was likely to affect trading decisions and Evergrande's share price for the same reasons.

Considering the evidence of Evergrande's auditor audit partner, its chief financial officer, an analyst at a prominent

bank and an experienced independent accounting expert, the MMT ruled that there was no evidence that Evergrande was insolvent or had engaged in accounting fraud.

The report alleged that Evergrande had used off-balance sheet joint ventures to dishonestly substantially under-report its debt. The MMT considered that Left's report failed to understand the nature of trust financing which was becoming a common form of Mainland financing and misunderstood its Hong Kong accounting treatment. It ruled that Evergrande had not used trust financing as a means of concealing off-balance sheet debt, rather as a means of financing the buying of land. Further, these financial obligations were openly disclosed as liabilities in Evergrande's accounts. The MMT considered Left's allegations 'not only displayed an ignorance of, or disregard for... Hong Kong accountancy standards, they were fundamentally misguided... [and] false and/or misleading as to material facts.' The MMT considered that, as someone who held himself out as an expert in detecting corporate fraud, Left should either have

sought expert accounting advice or sought comment from Evergrande, as regulated analysts often do.

The MMT found that Left's allegation that Evergrande overstated the value of its investments by at least RMB10 billion was also false and/or misleading as valuing them at fair value was in accordance with Hong Kong accounting standards which in fact required that treatment. The allegation displayed a 'significant ignorance' of those standards.

The MMT found that Left disregarded the real risk he was aware of, that the report was false and/or misleading as to material facts, and he was reckless. In the alternative, it found that he failed to exercise that level of care to avoid the inclusion of false and/or misleading information that is realistically required of a reasonably prudent person who has chosen to carry out the function of a market commentator and/or analyst. In deciding this, the MMT considered the anonymous source of the material the report was based on; its sensationalist basis; Left's experience as an analyst of corporate fraud; and that the allegations of fraud and insolvency required an understanding of accounting standards but Left did not get any expert accounting advice or approach Evergrande for comment.

#### **The MMT findings and sanctions**

On 26 August 2016, the MMT issued its report finding that Left had engaged in market misconduct within Section 277 in that:

- in June 2012, Left had disseminated the report, which contained what was advertised as being research and analysis compiled over several months

“  
**Left considered it appropriate to make serious allegations of accounting fraud... when he had no knowledge of Hong Kong accounting standards and sought no expert accounting advice**  
 ”

which concluded that Evergrande was essentially an insolvent company that had consistently presented fraudulent information about its accounts to investors

- information in that report, that Evergrande had been culpable of fraudulent accounting and was insolvent, was likely to affect the Hong Kong market in one or more of the ways set out in Section 277(1)
- the information was false and/or misleading as to material facts or through their omission
- Left had been reckless as to whether that information was false and/or misleading as to material facts or through their omission, and
- in finding that Left had been reckless, that, when he came to publish his report; first, Left was aware of the risk that the information in it that Evergrande had engaged in fraudulent accounting and was essentially insolvent were false and/or misleading; second, he was further aware that, in the circumstances, the risk was of such substance that it was unreasonable to ignore it; third, nevertheless, he went ahead and published.

On 10 November 2016, the MMT issued its report imposing sanctions on Left. The MMT imposed on Left orders that:

- without the leave of the Court of First Instance, he cannot directly or indirectly trade in SFC-regulated financial products for five years
- he cannot disclose false or misleading information inducing transactions again within the meaning of Section 277 or face criminal prosecution
- he must disgorge the profit of his short selling before the report of HK\$1,596,240 subject to compound interest from 21 June 2012, and
- he must pay to the government its costs for the conduct of the MMT proceedings and the SFC for costs in bringing those proceedings and its investigation.

In making the first two orders, the MMT considered relevant that:

- Left's aggressive allegations that Evergrande had engaged in fraudulent accounting and was insolvent would have unnerved general investors and likely caused them to sell their shares

- he had intended to profit from that by short selling and he was reckless as to whether these allegations were false and/or misleading
- Left was cynical that 'the ends justifies the means no matter what the collateral damage to general investors' and that the fault with Left's conduct was not his expressions of opinion but assertions of fact
- Left's assertions could only be made with an understanding of the applicable accounting standards but he had made no efforts to ensure his assertions were made with knowledge of those standards
- his recklessness was of a 'gross nature' and 'the allegations... displayed such an ignorance of relevant accountancy regulations and standards that, in the opinion of one expert, a number of them constituted nonsense'
- Left claimed himself to be an expert in identifying company fraud and 'terminal business models', and
- Left's actions were likely not a one off but a 'well-established procedure... that... was more likely to be undertaken in the future if... a further opportunity presented itself'.

Left appealed the MMT's decision on both questions of fact and law. He may only appeal questions of fact with the Court of Appeal's leave. On 13 January 2017, the Court refused leave saying that Left's appeal was out of time. It also rejected Left's argument that there was no evidential basis for the MMT to

find that Left knew of the risk that his allegations were false and/or misleading as to material facts and that it was unreasonable to ignore that risk. It also rejected that the MMT erred in finding that Left must have known that his allegations required accounting expertise.

### Freedom of speech vs investor protection

Left has since criticised the MMT decision as an attack on freedom of speech and free flow of information in financial markets. But, a review of the decision suggests that it is a cautious consideration of the risk that false or misleading statements about listed

companies pose for investors who can be panicked into trading decisions based on the resulting false or misleading information. The MMT decision was carefully made with an awareness of the need to balance freedom of speech and investor protection. It found that Section 277 is a proportionate restriction on freedom of speech, a right which is not unqualified, in pursuit of the legitimate aim of protecting financial markets from materially false or misleading factual information that would likely induce trading decisions or affect a company's share price. What is perhaps surprising is that Left considered it appropriate to make serious allegations of accounting

fraud and insolvency in alarmist terms based on an anonymous unsolicited package of material when he had no knowledge of Hong Kong accounting standards and sought no expert accounting advice.

Left's appeal on questions of law, which mainly restate his legal arguments during the MMT hearing, is yet to be decided.

### Eugène Goyne

*Strategic Operations  
Coordinator & Senior Director,  
Enforcement, Securities and  
Futures Commission*

The poster features a blue and green color scheme with a background image of a modern building's glass facade. The title 'HKICS ACRU 2017' is prominently displayed in white on a dark blue background, with 'Annual Corporate and Regulatory Update' below it in white on a green background. The Chartered Secretaries logo and name are in the top right. Event details (Date, Time, Venue) are listed in white on a dark blue background. A list of speakers is shown in white on a green background. A circular graphic on the left says 'More details to follow soon SAVE THE DATE'. The website 'www.hkics.org.hk' and the full name of the organization are at the bottom left.

**HKICS ACRU 2017**  
Annual Corporate and Regulatory Update

**CHARTERED SECRETARIES**  
特許秘書

Date: Friday, 2 June 2017  
Time: 8.45am - 6.20pm  
Venue: Hall 5G, Hong Kong Convention and Exhibition Centre, Wan Chai, Hong Kong

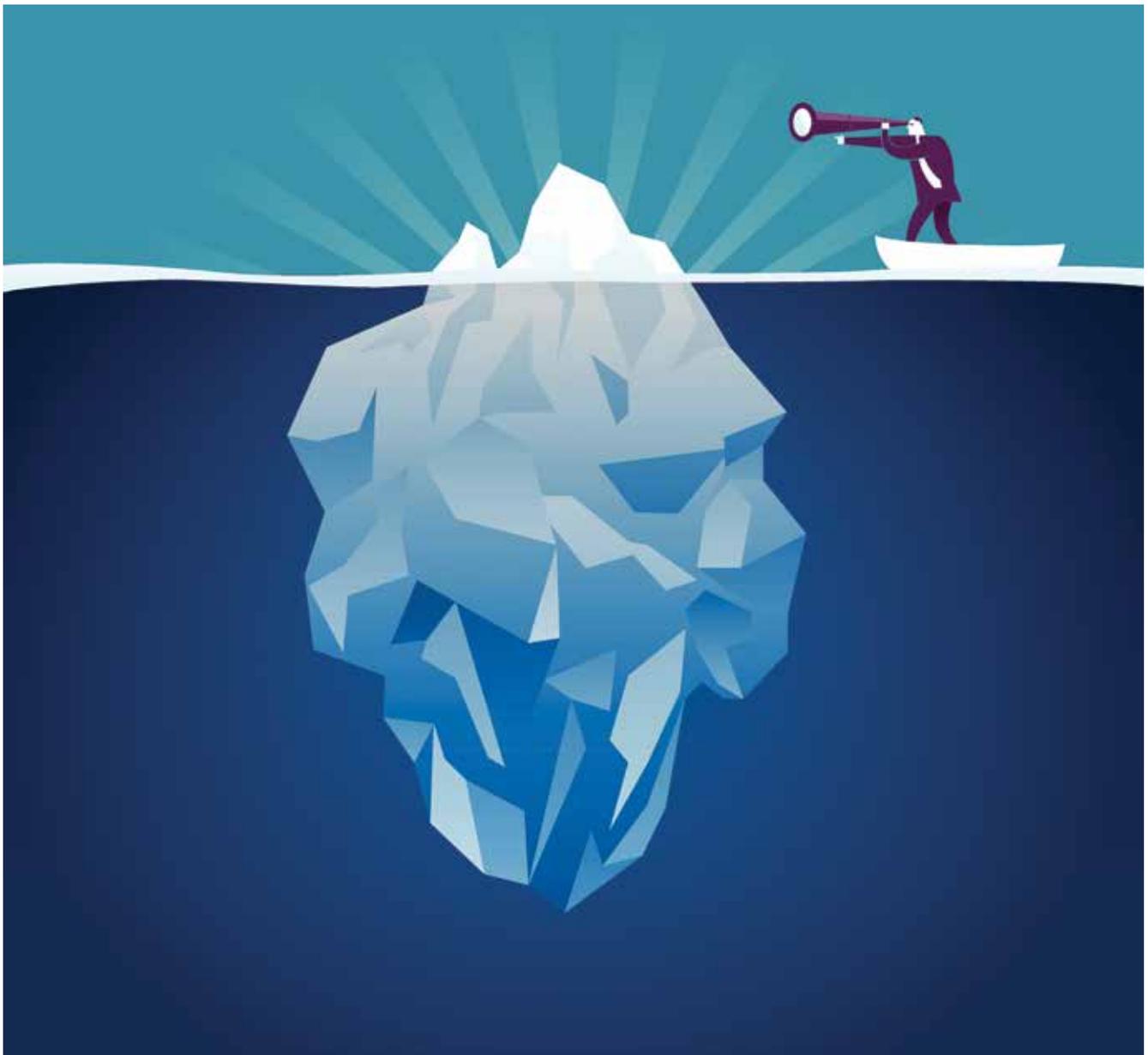
Speakers from:

- Companies Registry
- Hong Kong Exchanges and Clearing Limited
- Hong Kong Monetary Authority
- Privacy Commissioner for Personal Data
- Securities and Futures Commission

More details to follow soon  
**SAVE THE DATE**

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The Hong Kong Institute of Chartered Secretaries 香港特許秘書公會  
(Incorporated in Hong Kong with limited liability by guarantee)

# First concluded case on late disclosure of inside information



## Alexander Que, Partner, and Rhoda Yung, Partner, Deacons, look at the implications of the first finding of breaches of the inside information disclosure requirements under the Securities and Futures Ordinance.

The first set of proceedings in the Market Misconduct Tribunal (MMT) brought by the Securities and Futures Commission (SFC) in relation to the disclosure obligations imposed on listed companies under the Securities and Futures Ordinance (SFO) since they became effective on 1 January 2013 was recently concluded.

In July 2015, the SFC commenced proceedings against AcrossAsia Ltd (AAL), a company listed on the Growth Enterprise Market of The Stock Exchange of Hong Kong Ltd (the Exchange), its former chairman (Cheok) and its chief executive officer (Ang).

In early November 2016, the MMT found them culpable of late disclosure of inside information.

In late November 2016, the MMT imposed the following sanctions and orders:

- a total of HK\$2 million regulatory fines – AAL: HK\$600,000; Cheok: HK\$800,000; and Ang: HK\$600,000
- Cheok and Ang to undergo a training programme approved by the SFC on compliance with the disclosure obligations, directors' duties and corporate governance, and
- AAL, Cheok and Ang to pay the government's costs of the proceedings (totalling around HK\$1 million) and the SFC's investigation and legal costs (totalling around HK\$4 million).

### Brief summary of the background facts

In late December 2012, a 55%-owned subsidiary (Subsidiary) of AAL filed a petition under Indonesian Law against AAL (Petition) to suspend AAL's obligation for payment of debts (being a US\$44 million loan made by the Subsidiary to AAL in June 2011, which was due in June 2012, plus interest) temporarily to enable a composition plan to be presented to the Subsidiary and to appoint an Indonesian judge and administrators to manage AAL's assets. The Indonesian Court issued a summons to AAL (Summons) to appear in court to give testimony at the hearing of the Petition.

### Breach of the disclosure requirement by AAL

AAL, Cheok and Ang admitted that the Petition and the Summons together with the information contained therein was 'inside information' within the meaning ascribed to it under Section 307A of the SFO, and that AAL failed to disclose to the public such inside information 'as soon as reasonably practicable' after the said information had come to its knowledge, contrary to Section 307B(1) of the SFO.

### Breach of the disclosure requirement by Cheok and Ang

Cheok and Ang failed to ensure AAL's compliance with its disclosure obligations. As officers of AAL, they could be found in breach of the disclosure requirement under Section 307G(2)(a) of the SFO on the basis that their intentional, reckless or negligent conduct resulted in AAL's late disclosure.

The SFC commenced the proceedings against Cheok and Ang on the basis of either their recklessness or negligence. In the proceedings, AAL admitted breach on the basis that both Cheok and Ang had been negligent. Ang admitted on this basis too but Cheok denied any such breach until early November 2016. The SFC accepted negligence as the basis and did not pursue the allegation of recklessness.

### Relevant date of failure: 4 January or 8 January 2013?

The SFC alleged AAL's failure to disclose inside information as being on or about 4 January 2013 (being the date on which Cheok and Ang received the English versions of the Petition and the Summons), whereas AAL and Cheok placed it on 8

## Highlights

- AcrossAsia Ltd failed to disclose to the public inside information as soon as reasonably practicable after the information had come to its knowledge
- in recent years the SFC has stepped up its enforcement efforts directed at listed company malpractice
- it can be envisaged that in more serious cases the sanctions to be imposed are likely to be much more severe

### Key dates

2 Jan 2013	AAL received the Petition and the Summons in Bahasa.
4 Jan 2013	Cheok and Ang received the English translation of the Petition and the Summons.
8 Jan 2013	Cheok and Ang instructed legal representatives for AAL.
9–15 Jan 2013	Cheok and Ang attended the court hearing of the Petition in Indonesia.
14 Jan 2013	The Exchange made verbal enquiries regarding the Indonesian proceedings.
15 Jan 2013	Trading of AAL shares was suspended from 9.00am at the request of AAL. The Indonesian Court granted the Petition.
17 Jan 2013	The SFC via the Exchange demanded that AAL issue a holding announcement relating to the Indonesian proceedings that day. A holding announcement was issued at around 7.33pm.
22 Feb 2013	Trading in AAL shares resumed. AAL share price fell 22.5%.

January 2013 (by which time legal advice was obtained).

The MMT unanimously agreed that given the wording 'as soon as reasonably practicable' used in the statutory provision, 'it was unrealistic to expect the announcement on 4 January 2013 as proper legal advice leading to a rational and comprehensive understanding of the legal position in the foreign jurisdiction had not been received'. Therefore, the MMT considered that the relevant date was 8 January 2013, namely the date by which legal advice had been obtained.

Given that the holding announcement was issued on 17 January 2013, the actual gap from when an announcement should have been made to the actual making of that announcement was just over a week.

#### Factors that the MMT took into account in determining the sanctions imposed

The MMT found on the facts that there was much mitigation in this case thus placing the level of seriousness firmly towards the bottom of the scale.

In determining the sanctions to be imposed, the MMT considered the following:

- AAL, Cheok and Ang had no previous record for market misconduct
- the delay was short – just over a week
- apart from the incident in question, AAL regularly and properly made public announcements of inside information regarding the various court proceedings affecting it
- AAL shares were a thinly traded stock – the loss to investors would only have been HK\$549 for 8 to 15 January 2013, even if the whole loss could be attributed to the failure to disclose properly, showing that the market was little affected or threatened by the misconduct
- Cheok and Ang had behaved responsibly and diligently by attending the court hearing, arranging the legal advice and obtaining translations

- the market misconduct had not led to any monetary or other advantage for any of AAL, Cheok and Ang, and

- each had admitted fault albeit at different times – AAL and Ang had indicated on 17 February 2016 that they admitted the misconduct, and hence they were given a discount to the amount of fine to acknowledge their early admissions and saving of expense. Cheok admitted on 2 November 2016, and so he was fined a higher amount.

#### Key takeaways

The breaches of the disclosure requirements by AAL and its two officers have attracted regulatory fines totalling HK\$2 million, plus liabilities for payment of costs of the government and the SFC for investigation and proceedings totalling over HK\$5 million.

The MMT decided on the imposition of such sanctions after finding that AAL's case was 'very much towards the bottom of the scale', considering there was much mitigation, including, among other things,

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It is therefore vital for listed companies' senior management to be reminded of their responsibility to ensure that listed companies duly comply with their obligations to timely disclose inside information to the public as required under the SFO

”

the delay was just over a week, admission of fault by the parties and the fact that AAL's stock was thinly traded.

It can be envisaged that in more serious cases where the delay is much longer and more investors have suffered losses as a result of the late disclosure, the sanctions

to be imposed are likely to be much more severe. In appropriate cases, the MMT may also impose other orders such as disqualification orders, as well as 'cold shoulder' and 'cease and desist' orders.

The SFC has in recent years stepped up its enforcement efforts directed at listed

companies-related issues. Earlier in 2016, the SFC commenced two other sets of proceedings against two listed companies for late disclosure of inside information. We expect to see more in the future.

It is therefore vital for listed companies' senior management to be reminded of their responsibility to ensure that listed companies duly comply with their obligations to timely disclose inside information to the public as required under the SFO.

Alexander Que, Partner, and Rhoda Yung, Partner  
Deacons  
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## Professional Development

### Seminars: December 2016

**5 December**  
**Corporate risk and risk management**



*Chair: Seaman Kwok FCIS FCS, Executive Director & Head, Corporate Secretarial, Boardroom Corporate Services (HK) Ltd, and Director, Boardroom Share Registrars (HK) Ltd*  
*Speaker: Dr Brian Lo FCIS FCS, Vice-President & Company Secretary, APT Satellite Holdings Ltd*

**6 December**  
**Shareholder rights and remedies**

*Chair: Grace Wong FCIS FCS(PE), Institute Professional Development Committee Member, and Company Secretary and Deputy General Manager, Investor Relations Department, China Mobile Ltd*  
*Speaker: Roberta Chan, Special Counsel, Solicitor Advocate, Baker & McKenzie*

**12 December**  
**Company secretarial practical training series: The M & M & M of company secretaries – minutes and resolutions**



*Chair: Natalia Seng FCIS FCS(PE), Institute Past President, and Chief Executive Officer – China & Hong Kong, Tricor Group/Tricor Services Ltd*  
*Speaker: Edith Shih, Solicitor, FCIS FCS(PE), Institute Past President; Senior Vice-President, ICSA; Head Group General Counsel & Company Secretary, CK Hutchison Holdings Ltd*

**13 December**  
**The role of the board and the company secretary in tackling cybersecurity issues**



*Chair: Dr Davy Lee FCIS FCS(PE), Institute Past President, and Group Company Secretary, Lippo Group*  
*Speaker: Dominic Wai, Partner, ONC Lawyers*

**15 December**  
**Tax considerations when undertaking group reorganisations in Hong Kong**



*Chair: Edmond Chiu FCIS FCS, Institute Membership Committee Member, and Head of Corporate Services, Vistra*  
*Speakers: Gwenda Ho, Partner, Tax Services; Bruce Lee, Director, Global Mobility Services; Yan Yeung, Senior Manager, Tax Services; and Kevin Chiu, Senior Manager, Tax Services; PricewaterhouseCoopers Hong Kong*

**20 December**  
**A bird's eye view of the international arbitral process and global development of Islamic banking and bonds (SUKUK)**



*Chair: Professor CK Low FCIS FCS, Associate Professor in Corporate Law, CUHK Business School*  
*Speaker: The Hon Mr Justice Datuk Dr Haji Hamid Sultan bin Abu Backer, Judge of the Court of Appeal, Malaysia*

### Online CPD (e-CPD) seminars

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

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

### Seminar fee discount for the Institute's registered students

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

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

*For details, please visit the ECPD section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk). For enquiries, please contact Simon Ng at: 2830 6011, or email: [ecpd@hkics.org.hk](mailto:ecpd@hkics.org.hk).*

### Key update on the revised MCPD policy (effective from 1 August 2016)

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

## Professional Development (continued)

### MCPD requirements

Members are reminded to observe the MCPD deadlines set out below. Failing to comply with the MCPD requirements may constitute grounds for disciplinary action by the Institute's Disciplinary Tribunal as specified in Article 27 of the Institute's Articles of Association.

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

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

### ECPD forthcoming seminars

Date	Time	Topic	ECPD points
1 March 2017	6.45pm – 8.15pm	Insights drawn on recently suspended Hong Kong listed companies – from a financial investigation perspective	1.5
2 March 2017	6.45pm – 8.45pm	Beyond reporting: practical guide on effective ESG governance and risk management	2
15 March 2017	7.00pm – 8.30pm	From approval to filing: a new era for China's foreign investment laws	1.5
17 March 2017	6.45pm – 8.15pm	Inside information – latest developments and practical tips for managing risks	1.5
18 March 2017	9.00am – 1.00pm	Money laundering – now and the good old days	3.5
22 March 2017	6.45pm – 8.15pm	Change management	1.5
23 March 2017	6.45pm – 8.15pm	The role of Hong Kong Notaries Public in helping businesses and citizens	1.5

*For details of forthcoming seminars, please visit the ECPD section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).*

## Advocacy

### The 42nd Affiliated Persons (AP) ECPD seminars

The Institute held its 42nd Affiliated Persons (AP) ECPD seminars on 'Annual financial audit and annual report' in Sanya, Hainan Province, between 19 and 21 December 2016. The seminars attracted over 230 participants from H-share, A+H share, red-chip, A-share, to-be-listed and private companies.

Institute Past President April Chan FCIS FCS shared the findings of the Institute's recent survey 'Shareholder Communications for Listed Issuers: Five Imperatives to Break the Monologue.' Zhou Ting, Assistant Manager, Corporate Management Department, Shenzhen Stock Exchange, also gave a comprehensive introduction on the Shenzhen-Hong Kong Stock Connect. Nine speakers shared

their views and knowledge on a wide range of topics including: the rules and regulations of multiple listing services; the theory and practice of listed companies' risk management and internal control; and the information disclosure regulations for listed companies in Mainland China and Hong Kong.

*The Institute would like to thank the speakers, participants, event associate organisers (Shinewing CPA), supporting organisations (Computershare Hong Kong Investor Services Ltd, DLA Piper UK LLP and Ernst & Young Hua Ming LLP) and sponsor (Equity Financial Printing Ltd), for their support.*



At the seminar



Institute representatives and seminar speakers



Group photo

### HKICS Prize 2016

The annual HKICS Prize celebrates the achievements of leaders of the Chartered Secretarial profession. The 2016 prize was awarded to Gordon Jones FCIS FCS BBS, who was the former Registrar of Companies, Companies Registry; the author of *Corporate Governance and Compliance in Hong Kong*; and has developed very close professional links with HKICS in promoting corporate governance and the Chartered Secretarial profession in Hong Kong.

*Look out for the interview with Gordon Jones in a future edition of CSj.*



## Advocacy (continued)

### HKICS Past Chairmen and Presidents luncheon

At this luncheon gathering, Institute President Ivan Tam FCIS FCS and Chief Executive Samantha Suen FCIS FCS(PE) discussed the new initiatives of The Institute of Chartered Secretaries and Administrators with the following past chairmen and presidents in attendance:

- Frank Mullens FCIS FCS, Past Chairman, The Association of The Institute of Chartered Secretaries and Administrators in Hong Kong
- Terence Ng FCIS FCS, Past Chairman, The Association of The Institute of Chartered Secretaries and Administrators in Hong Kong
- Mike Scales FCIS FCS, Past Chairman, The Association of The Institute of Chartered Secretaries and Administrators in Hong Kong
- Horace Wong FCIS FCS, Past President, HKICS
- Neil McNamara FCIS FCS, Past President, HKICS
- Richard Leung FCIS FCS(PE), Past President, HKICS
- Natalia Seng FCIS FCS(PE), Past President, HKICS
- Edith Shih FCIS FCS(PE), Past President, HKICS
- Dr Maurice Ngai FCIS FCS(PE), Past President, HKICS



*At the luncheon*

### HKICS attends the 10th Asian Financial Forum

Institute Past President Dr Maurice Ngai FCIS FCS(PE); Council member Bernard Wu FCIS FCS; Chief Executive Samantha Suen FCIS FCS(PE); Senior Director and Head of Technical & Research Mohan Datwani FCIS FCS(PE); and other fellow members of the Institute; attended the 10th Asian Financial Forum organised by the Hong Kong Trade Development Council on 16 and 17 January 2017. During the forum, a wide range of issues including global investment trends, China opportunities, asset and wealth management, green finance, infrastructure finance, payment technology, cybersecurity and health insurance, were discussed. Institute Vice-President Paul Stafford FCIS FCS(PE) also joined the cocktail reception of the forum on 16 January 2017.

### External appointments

Institute member Chan Wai Kam, Caroline ACIS ACS has been appointed as a member of the Board of Review (Inland Revenue Ordinance) for a term of three years starting from 1 January 2017. Professor Lo Chin Fai, Paul ACIS ACS and Dr Wong Kin Fai, Ben ACIS ACS are also serving on the board.

Institute member Susie Cheung FCIS FCS has been appointed as a member of the Human Capital Committee under the Financial Services Development Council for a term of two years starting from 17 January 2017.

Institute Council members David Fu FCIS FCS(PE) and Gillian Meller FCIS FCS have been appointed as members of the Standing Committee on Company Law Reform (SCCLR) for a term of two years starting from 1 February 2017. Institute Council member Wendy Yung FCIS FCS has been re-appointed as a member of the SCCLR for a term of two years starting from 1 February 2017. Past President Natalia Seng FCIS FCS(PE) and Ada Chung FCIS FCS JP, Registrar of Companies, Companies Registry, are also serving on the SCCLR.

### Best Board Secretary/Company Secretary Awards

Congratulations to our Institute member and 11 Affiliated Persons (APs) who received 'Best Board Secretary/Company Secretary Awards' at the 2016 China Financial Market Listed Companies Awards Ceremony on 12 January 2017. The event was organised by *China Financial Market*, a financial magazine, and co-organised by the Hong Kong Chinese Enterprise Association. Institute Chief Executive Samantha Suen FCIS FCS(PE) presented the awards at the presentation ceremony.



*Samantha Suen and the awardees*

The awardees who are Institute members and APs are listed below.

Li Jian FCIS FCS, CGN New Energy Holdings Co Ltd

Ma Xin, China Pacific Insurance (Group) Co Ltd

Du Daming, Huaneng Power International Inc

Sun Feixia, Harbin Bank Co Ltd

Guo Chuan, Beijing North Star Company Ltd

Wang Baojun, China Oilfield Services Ltd

Hu Aibin, China Nonferrous Mining Corporation Ltd

Yi Feng, Hui Shang Bank Co Ltd

Liu Wensheng, China Communications Construction Company Ltd

Yu Lina, YTO Group Corporate

Lu Sa, Guangzhou Automobile Group Co Ltd

Yu Xingxi, China Railway Construction Corporation Ltd

### New subscriber to HKICS AML/CFT Charter

From 1 January 2017, Harneys Corporate Services (Asia) Ltd was accredited a new subscriber to the HKICS Anti-Money Laundering/Counter-Terrorist Financing (AML/CFT) Charter. At the accreditation ceremony, a certificate was presented to Scott Reid, Regional Managing Director, Harneys Corporate Services (Asia) Ltd, by Institute President Ivan Tam FCIS FCS.

The Institute launched its AML/CFT Charter and guideline in May 2016 to provide a self-regulatory route for corporate service providers (CSPs) demonstrating compliance with AML/CFT best practice.

*For details of the HKICS AML/CFT Charter and guideline, please visit the 'HKICS AML/CFT Charter' section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).*



*President Ivan Tam presenting a certificate to Scott Reid*

## Advocacy (continued)

### HKICS Annual Dinner 2017

The Institute held its 2017 Annual Dinner on 19 January 2017 at the JW Marriott Hotel Hong Kong and achieved a record-breaking attendance of about 600. Under the theme of 'Eye on the Future', Institute President Ivan Tam FCIS FCS addressed the occasion with a review of the Institute's major achievements in 2016, and how the HKICS, as a governance institute, envisioned its development in the near future, in particular reaching out to the young generation, focusing on corporate social responsibility and international thought leadership projects.

Guest of Honour, Carlson Tong SBS JP, Chairman of the Securities and Futures Commission (SFC), unfortunately could not join the dinner in person but he delivered his keynote speech in a video clip. Mr Tong indicated that 'the job of the company secretary has become ever more demanding and each of you [company secretaries] deserves recognition for playing a critical role in making sure the boards of listed companies function properly'. Michael Duignan, Senior Director, Corporate Finance of the SFC then spoke about corporate regulation and how the SFC encourages better corporate disclosure.

As part of the programme of this year's annual dinner, the Institute held its 'Eye on the Future photo competition' with 20 members, graduates, students and Affiliated Persons participating. After the first round of assessment by a panel of three judges comprising Institute Past President Edwin Ing FCIS FCS, Institute fellow Shirley Yue FCIS FCS and photographer Michael Kistler, a second round of voting was held with all

### 'Eye on the Future' photo competition results



**Champion:** 'The horizon is higher than our eye level' by **Pau Yim Chuen, Ron GradICSA**



**1st runner-up:** 'Painting the future – by ourselves and our next generation' by **Cheung Hak Yam, Tony FCIS FCS**



**2nd runner-up:** 'Leading to professionalism' by **Yung Mei Yee, Clara FCIS FCS**

members, graduates and students and the guests at the Annual Dinner casting their votes on the three finalist photographs using the Institute's mobile app. In addition, for the first time, the Institute invited a social enterprise – Les Beatitudes (LBA爱连心) – to showcase its products and to engage dinner guests to work on 'Our existing Hong Kong' and 'Our future Hong Kong together' collages which were subsequently displayed on the stage.

The Institute would like to thank the 20 members, graduates, students and Affiliated Persons who competed in the photo competition, and to congratulate the winners.



#### Guests (in alphabetical order)

**Ashley Alder JP**, Chief Executive Officer, Securities and Futures Commission

**Gladys Chan**, Executive Director, Hong Kong Dental Association Ltd

**Mable Chan JP**, Deputy Secretary for Financial Services and the Treasury (Financial Services), Financial Services and the Treasury Bureau, The Government of HKSAR

**Mabel Chan**, President, Hong Kong Institute of Certified Public Accountants

**April Chan** FCIS FCS, Past President, The Hong Kong Institute of Chartered Secretaries

**Dr Chan Yee Shing**, Vice-President, The Hong Kong Medical Association

**Kenneth Chen**, 2015 Divisional President – Greater China, CPA Australia

**Marvin Chen**, President, The Hong Kong Institute of Architects

**张强**, 中央政府驻港联络办协调部副部长

**Ronnie Choi**, President, The Society of Chinese Accountants & Auditors

**Jack Chow** FCIS FCS, Retired Council Member, The Hong Kong Institute of Chartered Secretaries

**Paul Chow** FCIS FCS GBS SBS JP, Senior Member, The Hong Kong Institute of Chartered Secretaries

**Rebecca Chow** FCIS FCS, Past President, The Hong Kong Institute of Chartered Secretaries

**Ada Chung** FCIS FCS JP, Registrar of Companies, Companies Registry

**Michael Duignan**, Senior Director, Corporate Finance, Securities and Futures Commission

**David Graham**, Chief Regulatory Officer and Head of Listing, Hong Kong Exchanges and Clearing Ltd

**Thomas Ho**, President, The Hong Kong Institute of Surveyors

**Grace Hui**, Managing Director and Chief Operating Officer, Listing Department, Hong Kong Exchanges and Clearing Ltd

**Edwin Ing** FCIS FCS, Past President, The Hong Kong Institute of Chartered Secretaries

## Advocacy (continued)

**Gloria Jones** (Mrs)

**Gordon Jones** FCIS FCS BBS, Senior Member, The Hong Kong Institute of Chartered Secretaries

**Ruth Kung**, Chief Executive, Hong Kong Securities and Investment Institute

**Lau Ping-cheung**, Chairman, The Hong Kong Coalition of Professional Services

**Esmond Lee**, Senior Advisor, Financial Services Development Council

**Thomas Lee**, Deputy President, Hong Kong Professionals and Senior Executives Association

**Francis Leung**, Chairman, The Chamber of Hong Kong Listed Companies

**The Hon Kenneth Leung**, Legislative Councillor (Accountancy), Hong Kong SAR Legislative Council

**Roy Lo**, Deputy President, The Hong Kong Independent Non-executive Director Association & Deputy President, The Association of Hong Kong Accountants

**Neil McNamara** FCIS FCS, Past President, The Hong Kong Institute of Chartered Secretaries

**Frank Mullens** FCIS FCS, Past Chairman, The Association of The Institute of Chartered Secretaries and Administrators in Hong Kong

**Anthony Rogers** FCIS FCS GBS QC JP, Senior Member, The Hong Kong Institute of Chartered Secretaries

**Natalia Seng** FCIS FCS(PE), Past President, The Hong Kong Institute of Chartered Secretaries

**Tim Sheehy** FCIS FGIA, Director-General, The Institute of Chartered Secretaries & Administrators

**Michael Shue**, Chairman, Hong Kong Trustees' Association

**Thomas So**, President, The Law Society of Hong Kong

**Richard Stoneman** FCIS FCS, Past Chairman, The Association of The Institute of Chartered Secretaries and Administrators in Hong Kong

**Professor Tam Kar Yan**, Dean, Business School, Hong Kong University of Science and Technology

**Professor Philips Wang** FCIS FCS, Vice-President (Research and Advancement), Caritas Institute of Higher Education

**Dr Claire Wilson**, Associate Head, Hong Kong Shue Yan University

**Paul F Winkelmann**, Chief Executive Officer, Financial Reporting Council

**Wong Kuen-fai JP**, Commissioner, Inland Revenue Department

**Dr Brossa Wong**, Acting Dean of School of Business, Hang Seng Management College

**Tak Wong**, President, The Hong Kong Institute of Landscape Architects

**Gary Wong**, Chairman, CPA Canada Hong Kong Branch

**Duffy Wong** FCIS FCS JP, Past Chairman, The Association of The Institute of Chartered Secretaries and Administrators in Hong Kong

**Horace Wong** FCIS FCS, Past President, The Hong Kong Institute of Chartered Secretaries

**Dr Davy Wu**, Senior Lecturer, Hong Kong Baptist University

**Miriam Yee**, Chief Business Officer, The Hong Kong Institute of Directors

**Karmen Yeung**, President, The Taxation Institute of Hong Kong

**Alice Yip**, Chairman, Association of Chartered Certified Accountants Hong Kong

**Monica Yu**, Executive Director, Hong Kong Business Ethics Development Centre, Independent Commission Against Corruption

**Dr Susana Yuen** FCIS FCS, Corporate Governance Strand Leader, The Open University of Hong Kong

*The Institute would like to thank all the guests, sponsors, the photo competition judging panel and participants, LBA colleagues, as well as helpers for joining this year's Annual Dinner.*

Annual Dinner photo gallery



## Advocacy (continued)

### HKICS forum on 'One Belt, One Road' opportunities

On 13 January 2017, the Institute organised a forum themed 'Applying governance to open up One Belt, One Road (OBOR) opportunities'. Gillian Meller FCIS FCS who chaired the event, gave an introduction to the forum pointing out that, while OBOR represents significant opportunities for businesses and practitioners in Hong Kong, there are also diverse risks to be considered. The forum was designed to assess the risk implications of OBOR projects for governance professionals.

The first speaker, Simon Booker, Head of Capital Projects and Infrastructure, PricewaterhouseCoopers Hong Kong, emphasised that companies and governance professionals should avoid a one-size-fits-all approach to OBOR projects. The political, legal and economic environments in the jurisdictions along the OBOR routes may involve risks that companies and governance professionals in Hong Kong are not familiar with. He displayed a slide showing the 'series of corridors' of the OBOR routes, both land and maritime, and emphasised that some jurisdictions in those corridors are relatively little understood. 'OBOR will default more often than projects you may be used to,' he said, advising attendees to take a scalable approach to governance for OBOR projects.

Pru Bennett, Director & Head of Corporate Governance and Responsible Investment for Asia Pacific, BlackRock, focused her presentation on the potential reputational risks involved in OBOR projects. Following the Rana Plaza disaster in 2013 in Bangladesh, she pointed out that stakeholders are much more vigilant when it comes to labour standards in the supply chains of major global brands. A similar incident today, Ms Bennett said, could result in a global boycott of the brand involved.

Carl Wilkins, Fiscal Crime Liaison Officer, British Consulate-General, focused his presentation on the bribery and corruption risks that could be involved in OBOR projects. He pointed out that making 'facilitation payments' is a common practice in some of the jurisdictions along the OBOR routes, but that does not make bribery any more acceptable. He urged companies and governance professionals in Hong Kong to be on their guard for bribery and corruption risks, pointing out that the grave consequences of ethical lapses may not always be obvious to the decision maker. 'We dress these issues in black and white, but often at the time it may not appear so to the decision maker,' he said.

Finally, Paul Starr, Partner and Practice Team Leader, Hong Kong Infrastructure and Dispute Resolution, King & Wood Mallesons Hong Kong, gave a very lively presentation on the legal risks to consider when getting involved in OBOR projects. He gave some real case scenarios of litigation arising from OBOR projects. His main message was the need to structure contracts carefully, consider using Hong Kong as the agreed arbitration jurisdiction and the potential use of international treaty rights in litigation.

Gillian Meller concluded the forum by saying that the forum's warnings on the many risks potentially involved in OBOR projects were not meant to dissuade companies and governance professionals in Hong Kong from getting involved. OBOR represents significant opportunity for businesses and practitioners in Hong Kong, she said, but it is critical 'not to cut corners'.

*This forum, in partnership with the Hong Kong Trade Development Council, was part of the International Financial Week of the Asian Financial Forum 2017. The HKICS would like to thank PricewaterhouseCoopers for sponsoring the event and the Hong Kong Independent Non-Executive Director Association for its support.*



At the forum



From left: Institute President Ivan Tam FCIS FCS, Gillian Meller, Pru Bennett, Carl Wilkins, Simon Booker and Paul Starr

## Membership

### New graduates

Congratulations to our new graduates listed below.

Chan Ngai Fan	Tse Kong Hang
Chan Siu Kei, Ken	Tse Pui On
Ho Hung Sing	Wong Kai Chun, Philemon
Ho Kam Ho	Wu Hing Ting
Lau Ka Wing	Yip Chun Fung
Leung Cho Yi	Yiu Yu Cheung
Pang Kwok Kin	

### New fellows

The Institute would like to congratulate the following fellows elected in December 2016.

#### Chan Yan Shing FCIS FCS

Mr Chan is the Legal and Compliance Manager of NTT Com Asia Ltd, where he is responsible for legal, corporate governance, company secretarial and risk management matters of the company and its affiliates. He also serves as an alternate member of the Telecommunications Regulatory Affairs Advisory Committee, Office of the Communications Authority. Mr Chan holds a bachelor's degree in arts (majors in philosophy and economics and finance) from the University of Hong Kong, as well as a bachelor's degree in law from Manchester Metropolitan University. He also holds a professional certificate in Chinese civil and commercial law from Tsinghua University.

#### Chow Yuk Wah, Margaret FCIS FCS

Ms Chow is the Secretarial Manager of Jardine Matheson Ltd, a subsidiary group company of Jardine Matheson Holdings Ltd. She is responsible for providing a full spectrum of company secretarial, compliance and corporate governance matters for local private and offshore companies of the Group. She has over 25 years of experience in the company secretarial field and holds a professional diploma in company secretaryship and administration from The Hong Kong Polytechnic University.

#### Hui Leung Ching, Patricia FCIS FCS

Ms Hui is the Associate General Counsel of Hanesbrands Inc, overseeing the legal and company secretarial functions in Asia. She has over 20 years of experience in the legal, regulatory, compliance and company secretarial fields. Ms Hui holds a bachelor's degree

in law from King's College, University of London, and is qualified to practise law in England and Wales and Hong Kong. Ms Hui is currently an independent non-executive director, a member of the audit committee and chairman of the nomination committee of Pantronics Holdings Ltd (stock code: 1611). She is also a member of the Hong Kong Institute of Directors.

#### Ko Chi Ming FCIS FCS

Mr Ko is the proprietor of Miles CM Ko & Co, CPAs, and the director of a company providing company secretarial services. He has over 25 years of experience in auditing, accounting, company secretarial, pre-listing matters and taxation. Graduated from Shue Yan College with a diploma in accounting, Mr Ko also holds a bachelor's and a master's degree in accounting from Monash University, a postgraduate diploma in corporate administration and a master's degree in science (China Business Studies) from The Hong Kong Polytechnic University. He is a fellow member of the Hong Kong Institute of Certified Public Accountants, CPA Australia and The Taxation Institute of Hong Kong.

#### Kong Chun Hin, Jason FCIS FCS

Mr Kong is the Company Secretary and Legal Counsel of IDT International Ltd (Stock Code: 167), responsible for corporate, commercial and securities matters. Prior to joining IDT, he was a legal counsel of two companies listed on the New York Stock Exchange and the Hong Kong Stock Exchange respectively. Mr Kong received his bachelor's degree in law from the University of Hong Kong and is a qualified solicitor in Hong Kong.

#### Kung Yuk Lan FCIS FCS

Ms Kung is the Company Secretary of Carry Wealth Holdings Ltd (Stock Code: 643), overseeing compliance, corporate governance, legal and company secretarial matters. She has over 20 years of experience in company secretarial matters and holds a master's degree in corporate governance, a master's degree in Chinese business law and a master's degree in business administration. She is keen on helping teammates to grow, creating a better working environment for the entity she serves and has joined in volunteer services such as helping as assistant division governor in Hong Kong for Toastmasters International.

#### Lee Pui Man FCIS FCS

Ms Lee is the Company Secretary of the Inchcape Hong Kong Group and is responsible for handling legal and company

## Membership (continued)

secretarial matters of the Group. She holds master's degrees in corporate governance and law.

### Wong Yuk Har FCIS FCS

Ms Wong is currently the Joint Company Secretary of China Telecom Corporation Ltd (Stock Code: 728), and is responsible for company secretarial, compliance and corporate governance matters of the company. She has about 20 years of experience in accounting, financial management and company secretarial areas. Ms Wong holds a bachelor's degree in commerce from the University of New South Wales in Australia. She is also a certified public accountant of the Hong Kong Institute of Certified Public Accountants and a Certified Practising Accountant of CPA Australia.

### Cheung Fei Yuet FCIS FCS

Paralegal, Marriott International Group

### Cheung Wai Sze, Celia FCIS FCS(PE)

Company Secretary, Hailiang International Holdings Ltd (Stock code: 2336)

### Ko Nga Kit FCIS FCS

Senior Manager, Company Secretarial Services  
PricewaterhouseCoopers Ltd

### Kwan Yuen Fan, Maria FCIS FCS(PE)

Vice-President, Client Relationships, Computershare Hong Kong Investor Services Ltd

## Members' activities highlights: January 2017

7 January  
Fellows only –  
Ping Shan Heritage  
trail walk with  
poon Choi (盆菜)  
lunch



Group photo

14 January  
Chartered Secretary  
Mentorship  
Training – The art  
of listening and  
providing feedback



Mentors learning about listening and giving feedback

## Forthcoming membership activities

Date	Time	Event
15 February 2017	7.00pm – 8.00pm	Welcome drinks for new fellows (by invitation only)

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

## Application for election to membership for 2017

Associates and graduates are encouraged to advance their membership status to fellows and associates respectively once they have fulfilled the prerequisites of relevant working experience and other requirements set by the Council. Subject to the satisfactory receipt of the application form and supporting documents, fellowship and associateship applications are assessed by the Membership Committee on a regular basis.

Upcoming application deadlines and respective approval dates in 2017 are set out below.

Application deadlines	Approval dates
Friday 5 May 2017	Tuesday 13 June 2017
Friday 4 August 2017	Tuesday 12 September 2017
Friday 27 October 2017	Wednesday 6 December 2017

## International Qualifying Scheme (IQS) examinations

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### December 2016 examination

Candidates will be informed via email and SMS notifications that the December 2016 examination results are ready to be released before mid-February 2017. Examination result slips will be posted to candidates and will not be disclosed by phone or email.

### June 2017 diet schedule

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

*Please enrol between 1 and 31 March 2017.*

### Study packs go green

The HKICS launched online versions of four IQS study packs on 9 January 2017. This new service, which is free to all registered students, is to enable students to schedule their professional learning and studies more flexibly, economically and in an environment-friendly manner. The online versions have been provided by the publisher, Wolters Kluwer Hong Kong Ltd (WKHK). The print version of the study packs will continue to be available for purchase while stock lasts. Please activate your online account and obtain access to the online study packs at the News section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk).

*For further questions regarding the online study packs, please contact Karin Ng at: 2830 6010; or Ruby Ng at: 2830 6006; or email: [student@hkics.org.hk](mailto:student@hkics.org.hk). For technical questions regarding the PrimeLaw account, please contact WKHK's customer service: [HK-Prime@wolterskluwer.com](mailto:HK-Prime@wolterskluwer.com).*

### HKICS examinations preparatory programme

The HKICS examinations preparatory programme conducted by HKU SPACE will commence on Monday 20 February 2017. The timetable and enrolment form are available at the ECPD section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk). For enquiries, please contact HKU SPACE at: 2867 8478; or email: [hkics@hkuspace.hku.hk](mailto:hkics@hkuspace.hku.hk).

## Studentship

### Student Ambassadors Programme

#### A. Summer internship

The Institute invites companies and organisations to offer summer internship positions to local undergraduates under its Student Ambassadors Programme, with the aim to promote the Chartered Secretarial profession to the younger generation in Hong Kong. The internship period will be for a maximum of eight weeks from June to August 2017.

Members who are interested in offering summer internship positions this year, please visit the Events section of the Institute's website: [www.hkics.org.hk](http://www.hkics.org.hk). For details, please contact Jonathan Ng at: 2830 6019; or email: [student@hkics.org.hk](mailto:student@hkics.org.hk).

#### B. Bowling gathering

The Institute organised a bowling gathering on 14 January 2017 for mentors and mentees of the Student Ambassadors Programme to enhance connections with each other and learn more about the Chartered Secretarial profession.



Group photo

### Policy – payment reminder Studentship renewal

Students whose studentship expired in December 2016 are reminded to settle the renewal payment by Thursday 23 February 2017.

#### Exemption fees

Students whose exemption was approved via confirmation letter in November 2016 are reminded to settle the exemption fee by Saturday 18 February 2017.

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

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

For more information, please contact HKU SPACE at: 2867 8317; or email: [prcprogramme@hkuspace.hku.hk](mailto:prcprogramme@hkuspace.hku.hk).

<b>Date and Time:</b>	25 February 2017 and 4, 11, 18 March 2017 (Saturdays) 2.00pm – 5.00pm and 6.00pm – 9.00pm
<b>Venue:</b>	HKU SPACE Learning Centre on Hong Kong Island (to be confirmed)
<b>Speaker:</b>	Mr Duan Mu Zi Rong (端木梓榕先生) Member of the Guangzhou Enterprises Mergers and Acquisitions Services Experts Committee (廣州市產權交易所專家委員會委員)

### HKICS professional seminar

The Institute organised a professional seminar for over 200 students of the Mainland MBA residential school at The Open University of Hong Kong (OUHK) on 11 January 2017 to promote corporate governance and the Chartered Secretarial profession. Edmond Chiu FCIS FCS, Institute Membership Committee Member, and Head of Corporate Services, Vistra, gave a presentation to the students on the overview of corporate governance in the world and core functions of the company secretary.



Edmond Chiu FCIS FCS (middle); Dr Susana Yuen ACIS ACS, Associate Professor (right); and Dr Jimmy Chan, Assistant Professor (left); Lee Shau Kee School of Business & Administration, OUHK

## Bulletin Board

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### Exchange publishes its latest review of issuers' annual reports

The Stock Exchange of Hong Kong Ltd (the Exchange), has published a report on the findings and recommendations from its review of issuers' annual reports for the financial year ended between January and December 2015. As part of its regular regulatory activities, the Exchange reviews issuers' annual reports to monitor their compliance with the listing rules, corporate conduct and disclosure of material events and developments, and releases its findings and recommendations to improve transparency and promote a fair, orderly and informed market.

'We are pleased to note that issuers have considered and adopted our previous guidance to enhance their disclosures, but there are also areas where issuers can improve their accountability to shareholders', said David Graham, the Exchange's Chief Regulatory Officer and Head of Listing. 'Issuers should consider our findings and recommendations to improve transparency and communication with shareholders'. The latest recommendations of the Exchange are set out below.

#### Business review in Management Discussion and Analysis (MD&A)

Following the amendments of the Companies Ordinance that took effect in March 2014, the listing rules were amended in 2015 to require a business review section that complies with Schedule 5 of the Companies Ordinance. Certain recommended disclosures in the old listing rules have become mandatory disclosure requirements.

Issuers should provide sufficient information for shareholders and other investors to make a reasonable assessment of their businesses and financial performance, and are recommended to enhance disclosure as set out below.

**On principal risks and uncertainties** – discuss specifically how the major risk areas would affect business operations, their potential financial impact and, where applicable, the measures taken to manage the risks.

**On environmental policies and compliance with relevant laws and regulations** – explain the material impact of the relevant laws and regulations on business operations.

**On key relationships with employees, customers and suppliers** – disclose information about the background of the major customers and length of relationship, credit terms granted, subsequent settlement of trade receivables, risks associated with reliance on major customers and measures to mitigate such risks.

**On financial key performance indicators** – explain the basis for selecting the indicators and how they are effective in measuring business performance.

#### Significant securities investments in MD&A

Issuers should provide sufficient information about investment portfolios and performance during the financial year, and are recommended to disclose a breakdown of major investments held, the fair value of each major investment at the financial year-end date and its size compared to the issuer's total assets, the performance of each major investment during the year, and a discussion of the strategy for future investments and the prospects of these investments.

#### Financial statements with auditors' modified opinions

Issuers should provide more detailed and additional information to enable shareholders to better understand the modifications and their actual and potential impact on the financial position. The audit committee should critically review major judgmental areas, and ensure any disagreement with the management is disclosed in the annual reports. Issuers and audit committees should also engage in early discussions with the auditors about the audit plans and how to address the issues that gave rise to the previous year's modifications in the following financial year.

#### Continuing connected transactions

Issuers should have in place internal control procedures to ensure that continuing connected transactions will be conducted in compliance with the connected transaction rules. They should also ensure that their internal audits would review these transactions and the adequacy and effectiveness of the internal control procedures, and the findings are provided to independent directors to assist them in performing their annual reviews. Independent directors should make appropriate enquiries with the management to ensure that they have sufficient information to review the transactions and the internal control procedures.

## Bulletin Board

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In the next review, covering annual reports for the financial year ended between January and December 2016, the Exchange intends to cover most of the areas reviewed in the current report.

*The report is available under the 'Rules & Regulations – Rules and Guidance on Listing Matters – Other Guidance Materials for Listed Issuers – Listed issuers' general disclosure obligation' section of the Exchange website: [www.hkex.com.hk](http://www.hkex.com.hk).*

### Two new AML/CFT consultations

The government has launched two consultation exercises on legislative proposals to enhance the regulatory regime for combating money laundering and terrorist financing:

1. **Proposal on Enhancing Transparency of Beneficial Ownership of Hong Kong Companies** – this public consultation seeks views on a proposal to amend the Companies Ordinance (Cap 622) to improve the transparency of beneficial ownership of companies incorporated in Hong Kong, and
2. **Proposal on Enhancing Anti-Money Laundering Regulation of Designated Non-Financial Businesses and Professions** – this stakeholder consultation seeks views from affected industries on a proposal to amend the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap 615), requiring designated non-financial businesses and professions to conduct customer due diligence when they engage in specified transactions.

The two legislative proposals are intended to bring Hong Kong's regulatory regime up to date and in line with international requirements, as promulgated by the Financial Action Task Force (FATF). The FATF is an inter-governmental body that sets international standards on combating money laundering and terrorist financing. Hong Kong has been a member of the FATF since 1991.

*The two consultation documents are available on the Financial Services and the Treasury Bureau website: [www.fstb.gov.hk](http://www.fstb.gov.hk). Both consultations will close on 5 March 2017.*

### New guidance on the Growth Enterprise Market

The Securities and Futures Commission (SFC) and the Stock Exchange of Hong Kong Ltd (the Exchange), have issued new guidance relating to the Growth Enterprise Market (GEM).

#### Guidance on GEM IPOs

The SFC and the Exchange have issued a joint statement regarding the price volatility of stocks listed on the GEM. The regulators consider that some market practices may not enable an orderly, informed and efficient market for such securities to develop.

#### Guidance to sponsors, underwriters and placing agents assisting GEM IPOs

The SFC also issued a guideline to provide guidance to sponsors, underwriters and placing agents on the standards of conduct that is expected of them in the listing and placing of GEM initial public offering (IPO) stocks. New applicants seeking to list on GEM should ensure compliance with all relevant GEM listing rules, including ensuring that in relation to their securities for which listing is sought the conditions exist for an open market as well as orderly, informed and fair trading to develop at the time of listing.

The SFC or the Exchange will, where appropriate, take action against applicants, sponsors, underwriters or placing agents who fail to have appropriate policies and procedures in place to ensure the placing is conducted in a fair and orderly manner.

Investors are reminded that GEM is a market designed to accommodate companies that involve a higher investment risk than other companies listed on the Exchange. They should be aware of the potential risks of investing in such companies and should make the decision to invest only after due and careful consideration.

*More information is available on the SFC and Exchange websites: [www.sfc.hk](http://www.sfc.hk) and [www.hkex.com.hk](http://www.hkex.com.hk).*

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