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SID
SINGAPORE INSTITUTE OF DIRECTORS

DIRECTORS' BULLETIN

Quarter 2, 2017

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The Issue with Power

By **WILLIE CHENG**
Chairman, SID

DIRECTIONS

When you think about it, corporate governance is fundamentally about power, and how it is distributed.

It is about having an appropriate system of checks and balances to ensure that the different power players of the corporate ecosystem behave themselves so as to engender a well-functioning economy.

In theory, the board of directors is central to corporate governance. Shareholders appoint the board. The board appoints and controls the CEO and management. Management runs the company in the interests of its stakeholders. In other words, it is a closed-loop system of governance that is designed to ensure the long-term performance of the company.

In practice, corporate governance involves all sorts of difficulties and complexities within and outside the boardroom, not the least because of the failings of human nature especially with regards to power.

In this issue, we examine the impact of power on the different power players: the board, the Executive Chair, the CEO, the independent director, the rookie director, the Executive Committee, shareholders, and others. We also discuss various checks and control mechanisms such as term limits and the lines of defence model.

David Chan kicks off the issue with a fascinating primer on behavioural science studies into power and its effects (page 6). I took away two key insights from his article.

The first is that power does corrupt. As Chan shows, even ordinary and decent people can end up doing bad things when put in situations involving great power.

Secondly, the person in power matters. Someone with higher moral values is more likely to act in a way that benefits others when put in a position of high power.

Which reminds me of my favourite superhero, Spiderman, and how he is driven to do the good that he does by the haunting words of the dead uncle of his alter ego, Peter Parker: “With great power comes great responsibility”.

Speaking of superheroes, we decided to create our very own.

SuperSid makes his debut in this issue, both on our cover and in a regular column (on page 20). His alter ego is Mr Sid, a nerdy bookworm who comes to the rescue of readers who encounter difficult corporate governance and directorship matters. Send him questions you dare not bring up in the boardroom, and he will try to answer them (we will cover only one topic per issue).

In this issue, Mr Sid tackles the thorny question of whether, and how, to remove the Board Chairman. We hope you enjoy reading his ramblings as much as we have enjoyed creating him. ■

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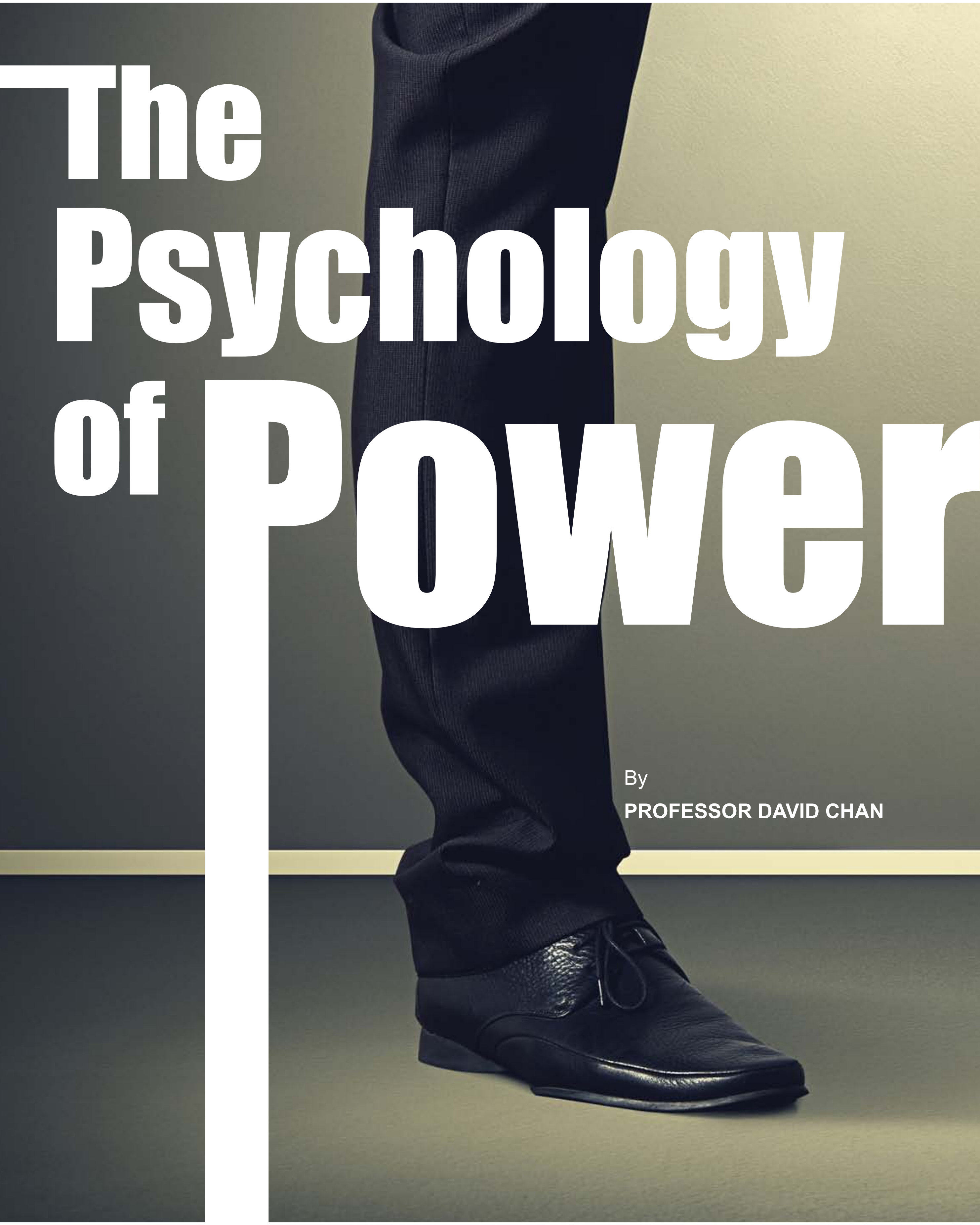


By
PROFESSOR DAVID CHAN

"Power corrupts and absolute power corrupts absolutely. Great men are almost always bad men." Just how true is this saying? Can power be avoided? If not, can it be harnessed for good? The behaviourial sciences provide some answers.

When leaders at the workplace behave badly, people often go: "power corrupts". The statement is used broadly to refer to how power has caused or contributed to undesirable behaviours that violate norms and values. The violations may be cultural or moral such as making offensive remarks and inappropriate demands, or legal such as falsifying documents and misusing funds.

Sometimes, "power corrupts" is used in conversations with colleagues and friends to refer to how someone has changed for the worse after acquiring new power, like a promotion to senior management or an appointment to the board of directors.

Does power actually corrupt? Perhaps corruptible people are attracted to power and more likely to get it, so that corruption is the correlate rather than the consequence of having power?

Does power always corrupt? Could power not make good things happen and benefit others?

Studies in the behavioural sciences have helped answer these questions. The answers are important for understanding power and its effects. They have implications for practical decisions such as selecting leaders, designing systems to check and balance power, and when or who to give more, or less, power.

Powerful Persons Behaving Badly

But first, why people believe that power corrupts.

The box, "Why Power and Bad Behaviour Seem To Go Together" describes how the argument that powerful persons misbehave because of their position in power can be very convincing.

Since the abuse of power is coherent (or logically believable), conspicuous and common, it is not surprising that that "power corrupts" becomes a convincing conclusion when trying to make sense of powerful persons behaving badly.

When people attribute misbehaviour to power, it is a reasoning process, but also an emotional experience. It involves disappointment from unmet expectations, indignation from the hypocrisy in what is preached and practised by the powerful, and anger from the breach and betrayal by those to whom authority has been assigned and trust has been given.

So it is important to see things from the perspective of the people who came to this conclusion and understand how they feel.
It is self-defeating if persons in power dismiss people's statement that power corrupts as gossip or gripe borne out of envy or spite among the less powerful.

Why Power and Bad Behaviour Seem To Go Together

There are three reasons why it is believed that powerful persons misbehave because of their position of power.

- **Coherent**

  The person in power can, through punishments and rewards, control people's behaviours so that they do things that he want them to.

  When resistance is always absent and compliance is perpetually present, it reinforces the powerful person's belief that he can do what he wants. Over time, he thinks he is entitled to behave the way he does, and even that it is right to do so. The powerful person who misbehaves has "normalised" his violations and deviant behaviours.

  This argument from power to bad behaviour is logically coherent. In fact, it is consistent with the science of how behaviours are acquired and maintained by reinforcement.

- **Conspicuous**

  In many high-profile cases of powerful persons falling from grace, their indiscretions or illegal acts were committed in situations made possible by their position of power, such as having access to sensitive information, authority to approve requests or ability to influence decisions.

  No country or organisation is immune to scandals involving those in power. This applies to board members of public or private organisations, senior civil servants, corporate senior executives and celebrities.

  High-profile scandals are anecdotal evidence and not scientific studies, but their conspicuous nature captures attention and remains vivid and readily available in our memory.

  Employees and the public do not need many cases to conclude that power leads to scandalous behaviours. Ironically, the less frequent a country or an organisation has encountered such scandals – Singapore being a good example – the more severe is its potential adverse impact on public or employee trust of those in power each time one occurs.

- **Common**

  People share the common experience of having encountered powerful people behaving badly in their own life. These could be their personal experiences or from observing those of their friends and colleagues.

  When people share these common experiences with one another, we tend to do three things, often unknowingly. We tend to magnify the similarities, so we are quick to say "I have a similar experience". We tend to seek out those who share similar experiences and have views similar to ours, and together we see more confirmatory evidence than disconfirmatory ones. We also tend to focus on the person in power and not the situation when trying to make sense of the behaviour.

  All these shared commonalities reinforce the association between power and behaviour, and it becomes natural to perceive that power causes misbehaviour.

Does Power Really Corrupt?

But to what extent is "power corrupts" an adequate explanation for the misbehaviours of powerful persons? Here is where the scientific findings from behavioural studies on power are useful.

Studies on workplace incivility and deviant behaviours have shown that the vast majority of rude behaviours and disrespectful acts, as well as more serious conduct such as bullying and sexual harassment, are committed by persons with authority or in positions of power.

This is not surprising since in many situations powerful persons are more likely to get away with misbehaviours. The empirical evidence supports the argument that power plays a significant role in these misbehaviours.

What will surprise many are the findings from laboratory experiments showing that ordinary and decent people can end up doing bad things when put in high power situations. (See box, "Power Experiments and Findings".)

The troubling conclusion from the survey and experimental studies is that power can and does corrupt, and that it can apply to normally decent people.

Knowing that power can corrupt ordinarily good people is unlikely to reduce people's angst when they see those they supported misbehave. The shock is real because people tend to elect and support leaders whom they have assessed as not just competent, but also of good character. One possible conclusion is a bad person has deceived them. But another is that they have mistrusted the person who has yielded to the temptation of abuse afforded from power. That is, power corrupts.

Independent of good character, people chose someone to be their leader because they thought he understands their needs, concerns and aspirations. This explains why people will react most strongly when a leader elected on populist promises abuse the power after he obtained it.

The Person Matters

If power corrupts, there is much to worry because it means bad people can do more bad things if they have power, and good people may do bad things if they are given power. And since power is necessary for daily functioning at work and in governance, the picture appears pretty nasty.

The good news is that the person in power matters.

Recent experiments have shown that power can heighten pre-existing moral tendencies. These experiments followed the similar study paradigm of inducing high or low power in participants and then measuring their subsequent judgements and behaviours. But they also measured the participants' pre-existing moral identities before the power induction, by asking them to rate the extent they see certain moral values such as fairness and compassion as important to their self-identity.

Power Experiments and Findings

Recent experiments are less dramatic than the infamous Stanford Prison Experiment where students assigned as "prison guards" ended up abusing other students assigned as "prisoners", but they are more scientifically rigorous and practically relevant. In these experiments, participants were randomly assigned to either the high power group or the low power group, so the differences in the results can be explained by power rather than personality, values or other individual differences.

These experiments consistently showed that participants who were assigned actual power, or induced to believe or feel that they are in high power, were more likely to abuse their power and engage in various misbehaviours such as cheating.

The high power participants also make more biased moral judgements.

In a typical design of these experiments, participants induced to be in either high or low power were asked to rate the moral severity of the same deviant behaviour hypothetically committed by themselves or others.

The results showed that whether it is over-reporting travel expenses at work, under-declaring income for taxes or speeding when late for an appointment, high power participants are harsher than low power participants when rating the transgression committed by others, but more lenient when rating the transgression committed by themselves.

Researchers have described the judgements by high power individuals who condemned the transgression of others while being less harsh on themselves as moral hypocrisy. But hypocrisy involves pretence and deceit in that the person knowingly projects a public image that is opposite to his true self.

Why are they not deterred by a sense of guilt? Research suggests at least two reasons:

- **Sense of entitlement.** It turns out that the self-righteous judgement may be accompanied by a sense of entitlement and rationalisation. Experiments have shown that when the high power individuals are led to believe that their power is legitimate, they are even more likely to make a self-righteousness judgement.
- **Lack of Perspective-Taking.** Studies have shown that people in power are less likely to be sympathetic to others' adverse circumstances and empathetic with their emotions or concerns. This failure in perspective-taking may partly account for the lack of guilt. If they genuinely believe that they are more righteous, they have no thoughts that would make them feel guilty.

The findings show that those with higher scores on moral identity are more likely to act in ways that benefit others when they are put in high power situations, which is opposite to those with low scores on moral identity who exhibited the conventional pattern of high power leading to more self-benefitting behaviour.

In the real world outside the laboratory, there are many individuals who use their position of power to do good and benefit many. These powerful persons include policymakers, religious leaders, educators, union leaders, business leaders, celebrities, philanthropists and civil society advocates. Power does not always corrupt – it can be used to do either good or bad. It can bring out the best, and not just the worst, in individuals.

Power magnifies the person's personality and values because it allows the person to do many things he wants to by removing the constraints that normally exist. The intentions and desired things that are aligned with the person's personality and values get translated into actual actions and outcomes. So power facilitates, but does not create or determine, the person's good or bad behaviours.

Is disaster inevitable when a person of bad character occupies high office with strong powers? It is certainly not a happy situation. The often-cited quote written by historian Lord Acton comes to mind: "Power tends to corrupt, and absolute power corrupts absolutely".

But it may be too pessimistic to paint a picture of complete darkness. Whether at work or in politics, a person has to interact with many others to function effectively, and there is a context and system in which interactions and decisions occur. This means absolute power by a single person may exist less than we think, and it is often self-delusionary.

History has shown that absolute power in the hands of a bad character can in fact be self-defeating. It is therefore not as long-lasting and effective as the person in power thinks it is, even though it will always be too long and consequential to those negatively affected.

What To Do With Power

So power is not only something that we cannot avoid. It is not something that we should avoid. Power per se is not the problem, since power can either harm or help. The issue is how to minimise power corrupting and maximise power doing good. Here are some possible approaches.

- **Ensure a robust system of checks and balances**

  Regardless of the true character of the persons in power, checks and balances are needed. A robust system is not a complicated audit that is comprehensive in technical details that will only hinder effective functioning. Nor is it one that devolves power by putting to all important issues to a vote. It is one where the check is real because relevant information is available and accessible, and truly independent because it can act without fear or favour, both actual and perceived.

- **Reinforce a culture of zero tolerance for wrongdoing**

  In such a culture, both the high and low power persons have internalised the belief that all wrongdoings will not be tolerated, and will be objectively and swiftly dealt with, no matter how high the position held by the transgressor. It also means the system must have effective processes to protect whistle blowers with good faith while discouraging malicious allegations and ensuring a thorough investigation and fair hearing for the accused.

- **Prevent power from breeding a sense of complacency and entitlement**

Even the power associated with top authority can be transient. This also means preventing power, no matter how legitimate, from breeding an attitude of complacency and sense of entitlement. It involves honest feedback-seeking and self-monitoring, and also knowing the ground and learning to see things from another's perspective. It also requires both humility and intellectual courage to ensure openness to alternative viewpoints. Facilitate these viewpoints to be expressed and seriously considered, especially the voice of the less powerful and those with good intentions, by reacting constructively to information contrary to the preferred position.

- **Build a culture of positive values**

These values include respect for others, compassion for the disadvantaged, and concern for the collective good. There is an abundance of research evidence and documented cases demonstrating how this can be done without eroding the power of those with authority. Enhancing positivity is an effective way to counter negativity. The prevalence of positive values, attitudes and experiences helps prevent power from corrupting, and also enables power to benefit others and improve their lives.

- **Emphasise that character is fundamental**

When selecting leaders, whether it is in an election or an assignment, focus on character and not just technical competence. Therefore, scrutinise values and not just academic achievements and technical skills. Like competence, character is developed over time. Therefore, holistic development in the education system should not just be about going beyond academic achievements to develop job-relevant skills for the rapidly changing economy. The focus on values in action is a critical aspect of education.

So, the question is not if power corrupts or not. The research is clear that it certainly can, and unfortunately it tends to, but fortunately it is not the case that it always will.

Power can be negative and destructive, but it can also be positive and uplifting.

We need to guard against the perils of power, but also galvanise goodness from power. Power matters, so it matters who is in power, and who we give power to.

David Chan is Director of the Behavioural Sciences Institute, Lee Kuan Yew Fellow and Professor of Psychology at the Singapore Management University. An earlier version of this article was first published in The Straits Times on 4 February 2017.

POWER PLAY IN THE BOARDROOM

By **MICHAEL GRAY**

The board is at the apex of power in the corporation. It is therefore important that it utilises that power in a positive way in the long-term interests of the company. Yet, it is often the power play among board members that results in negative interpersonal conflicts and an ineffective board. Fixing a dysfunctional board is a big challenge but a necessary one for effective governance.

Much of the literature on high performing boards tend to focus on board composition and processes.

The Singapore Code of Corporate Governance requires that "the board and its board committees should comprise directors who as a group provide an appropriate balance and diversity of skills, experience, gender and knowledge of the company".

Yet, my experience is that a board can have all these characteristics, but still be dysfunctional and not effective.

This arises because directors are human beings with great complexities in attitudes and emotions, much of which can spill on to the boardroom. Board performance, therefore, is as dependent on how board members engage and work with each other as on the skills brought by these board members. In other words, boardroom dynamics can be key to an effective board.

Boardroom dynamics

The recent Board Guide by SID (Section 6.2) offers some insight into this less explored area.

It defines boardroom dynamics as "the interactions and working relationships between directors" and goes on to explain the importance and implications of good boardroom dynamics.

As it notes, the quality of boardroom interactions is a crucial factor in how effective decision making is, how the goals of a meeting are achieved, and how the long term interests of the company are taken care of.

Multiple complex factors, many of which are socio-psychological in nature, affect board dynamics. However, good board dynamics rarely arise by chance. Instead, the implementation of the right principles and practices is important, so that a group of disparate directors can better function as a team and, thus, be an effective board.

An effective or dysfunctional board?

What makes for an effective board can be debatable.

Everyone comes up with their favourite lists of qualities that an effective board must have. My list is in the attached box, "Characteristics of an Effective Board".

The more interesting list may be what makes a board dysfunctional. In my view, it boils to the negative interpersonal conflicts that can exist within the board.

For those of us who have served on a number of different boards, we can probably recall such negative conflicts that take place on the troubled ones. Negative interpersonal conflicts can be destructive to a board and can take various forms:

- **Open conflicts.** This is where the conflicts are direct and up-front in boards and other meetings. The different points of view are put on the table but people are arguing aggressively going beyond the stage of constructive discussion. At its worst, it comprises shouting and putting down another board member.

- **Silent conflicts.** This can happen where there is a dominant board member who pushes through decisions or looks down upon other board members. The other board members may withdraw from the discussions, and in the longer term get disheartened and not attend meetings or resign.

- **Back-stabbing conflicts.** This is where a small group of directors gang up to block proceedings and decisions of the board. They are usually a minority group and will often stir up management in an attempt to divide the board.

Characteristics of an Effective Board

- **A Strong and Fair Chair**
  The Chair understands how to deal with disparate board members, but is not overly dominant. The Chair should encourage the quieter directors to express their views, while allowing but managing those who are overly vocal. In addition, the Chair should make the effort to arrange interactions between the diverse board members outside board meetings whether at retreats or social functions.

- **Good Quality Board Papers**
  These are papers that provide sufficient context and information on the substance of the issues, but not much as to inundate board members with tangential content. They should be given in a timely manner to directors, read by them and actively discussed and debated at the board meeting.

- **Constructive Conflict**
  Positive conflict in the boardroom is needed. The worst type of board is one full of "yes" men. Task conflict, is beneficial to board task performance as it encourages debate and evaluation of alternatives. To this end it is good to have at least one director, who may be considered a "stirrer". However, it is important that the task conflict does not become personal and move into a relationship conflict with possible tension and animosity.

- **Challenge of Management**
  A good board must be able to make tough decisions and to refute the CEO and management when necessary rather than overly trust the CEO, even if this leads to tension in the relationship with the CEO. It is preferable that directors, particularly independent directors, are not too close to the CEO and senior management. It is difficult to disagree with the CEO if you are a personal friend.

- **Active Engagement of Directors**
  Board members that are genuinely interested in and actively engaged inside and outside the boardroom, listening to alternative viewpoints, will help make good board decisions in the long term interests of the company.

- **Shareholder Mindset**
  Board members should have a shareholder mind set and act in the best interests of shareholders as a whole – not just a segment of the shareholders. This can be sometimes difficult to do. For example, the decision to balance keeping cash for future investments versus paying out a (higher) dividend. To this end, it can make sense for a director to have a small shareholding to align interests.

Archetypes of Negative Board Members

The Dominant

He dominates debates and discussions, not letting other directors getting in a word, resulting in them keeping quiet and neglecting to contribute to the workings of the board.

The Disrupter

He does not support the majority decisions of the board that he has not voted for, and bad mouths the board outside the meetings. He will often accuse the board of unfair or improper decision making.

The Unprepared / Overstretched

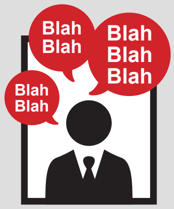
He attends the meetings, but has not read the papers before the meeting, and consequently wastes time in having to be briefed at the meeting and / or has not carried out enough background reading to make proper decisions.

The Expired

This is someone who has overstayed his time on the board and has become stale. He simply supports continuing with the status quo, if he contributes at all, instead of challenging management and the board to go the next level.

The Shareholder Plant

He may or may not be appointed directly by a shareholder, but his appointment could be recommended and influenced by the shareholder. The Plant can subtly influence the other board members towards the views of his shareholder nominator, even though board members should act in the interest of shareholders as a whole.



The Long Winded

He is someone who goes on and on at meetings taking an inordinate amount of time to cover areas that are simple. He also tends to speak at length about irrelevant matters and restating points that have already been made.

The Silent One

He rarely contributes to any discussions and debates. He is content to sit back and agrees to what others put forward.

The Kaki

This person is appointed not because of his skills or experience but because he is a friend of the chairman, other board member or management. Choosing Kakis may deny the board of getting the best members and result in board cliques and / or groupthink.

The Show Off

He is not interested so much in the organisation and board matters, but likes to show off to the other board members publicly how good he is. To this end matters that could easily be handled otherwise are brought out and raised with board members who get copious unnecessary emails.

The “Name”

Boards will sometimes appoint someone well known in the community, industry or media to give credibility to the board. Sometimes it helps but other times, either the Name has no idea of how to work as a constructive board member due to lack of experience, may fall into the category of Overstretched due to being much in demand.

Fixing a dysfunctional board

Rectifying a dysfunctional board is a big challenge.

Negative interpersonal conflicts are caused by people. A direct approach is to remove the director(s) causing the dysfunctionality. A bad director can be like a cancer and needs to be removed before harm can be made.

Removal is unpleasant. Encouraging one to resign is preferable. For listed entities this can also be an issue as the resigning director is required, under the listing rules, to give reasons and these may be coloured by the director being upset. Nevertheless, under these circumstances it is necessary to bite the bullet and remove the dysfunctional director one way or another.

The question is: who is the dysfunctional director? It would, of course, depend upon who on the board is asked. To be sure, the dysfunctional director himself would point to others.

Objectively, though, there are certain traits of board members that are not conducive to good boardroom dynamics and effective boards. The box, "Archetypes of Negative Board Members" illustrates what some of these traits might be.

Having removed the negative board members, the nominating committee and board need to appoint others to take their place, a task much easier than getting rid of the dysfunctional board members.

However, it is not straightforward. Beyond the Code's guidance to ensure the mix of "skills, experience, gender and knowledge", it is important to select board members based on character and avoid those whose conduct will not be like the archetypes of negative board members previously described.

Board members do not need to be friends in the social sense, but they need to have respect for each other and to be able to work together constructively for the good of the company.

Effective director behaviour

With the new members on board, and also for existing board members, sessions on what constitute good behaviour for an effective director and board would be essential. The SID Board Guide (Appendix 6C) provides a detailed list of such behaviour. Let me briefly draw out four key ones from my experience:

- **Preparation.** Be prepared for a board meeting. Read the board papers prior to the meeting so as to avoid wasting time of other board members.
- **Active listening.** Even if one has read the board papers and formed an opinion, it is still possible that you may change your mind based on arguments raised by others.
- **Respect for views of others.** Treat all board members with respect and civility even if you may not like some of them.
- **Challenge.** Critically examine matters put to the board for a decision.

In summary, there is no such thing as a perfect board. However, to be effective, the board and its Chair, in particular, need to be able to recognise the power play by individual board members and steer it in the right direction, and arrange for the necessary control over or removal of the dysfunctional board members. ■

Michael Gray is an independent director and chairman of the Audit Committees of several listed companies in Singapore, including GSH Corporation Ltd, FSL Trust Management Pte Ltd and Avi-Tech Electronics Ltd. He was formerly a partner of PricewaterhouseCoopers.

Ask Mr Sid
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DIGITAL DISRUPTION
SID DIRECTORS' CONFERENCE 2016
Conference Book
Monday, 5 September 2016
SID DIRECTORS' BULLETIN
CONFORMANCE OR PERFORMANCE
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Resource Guide
Audit Committee Guide
Board Risk Committee Guide
Nominating Committee Guide
Remuneration Committee Guide
Board Guide

Dear Mr Sid

Removing the Board Chair

I can't stand it anymore. My chairman is not fit to lead us on this SGX-listed company. He wants to listen to what everyone says, but contributes little value himself. Which is why our board meetings last forever – we take ages to come to a decision on any matter.

He is the chairman simply because he is a good friend of the majority shareholder (who is not a board member). In fact, it is a joke to deem him an independent director. He lunches regularly with the majority shareholder, and I am sure he listens to her, and just wears us down at board meetings until we come round to the decision that she, through my chairman, would like us to make.

I am thinking of resigning from the board if he does not go. Will you advise how I can best remove my board chairman?

Unhappily yours

Miserable

Dear Miserable

My heart goes out to you. However, I am missing a few facts about your circumstances, so please bear with me as I take you through a few questions that may be helpful to your situation.

Being fair to the chairman

My first question is: are you being objective and fair to the chairman?

You say your board meetings are drawn-out. Of course, a decision needs to be arrived at in a timely manner. However, an effective board is one that rigorously debates the issues at hand before coming to a decision that is in the best interests of the company. Hearing the views of all members of the board is an important part of the process.

Some of your points may be contradictory. For instance, if your chairman is not independent, why would he be welcoming of the views of all the other directors?

Have you spoken to the other directors to get their opinions? You should. You will need to get their support anyway if you want to remove the chairman.

Improving board chair effectiveness

Secondly, assuming your assessment that he is not an effective chairman is a fair one, and this view is shared by the other directors, is removing him the best option? Sometimes, we just need feedback and some coaching to be more effective in our jobs.

There are several ways to provide feedback. It could be done informally through someone the chairman is comfortable with. This might be yourself, another director who is close to him, or maybe even the majority shareholder.

You could also embark on the more formal process of director evaluation. Most boards conduct evaluations of the board as a whole. The leading practice is to also conduct evaluation of the board committees, directors and the board chairman, facilitated by a third party professional. Perhaps you can influence the nominating committee (NC) to do so.

The NC also delivers an assessment to the board on the independence of a director, including the board chairman. So, if you consider that the chairman's independence is in question, you could also raise this matter with the NC.

Removal of chairman or director

Thirdly, if you and the other directors are clear that you do want to remove the chairman, then my question is:

- Do you want to remove him as board chairman only, or
- Do you want him to be off the board entirely, i.e. as a director as well?

It is not uncommon for a chairman to step down but remain as a director on the board. In fact, it can be seen as a positive way of transitioning to the next chairman in certain circumstances.

The answer to each of the two questions is very different. The board chairman is appointed by the board, so he can be removed by a vote of the directors at a board meeting. On the other hand, removing a director of a public company requires the calling of a general meeting of shareholders as set out in Section 152(8) of the Companies Act.

Voluntary or forcible removal

Whichever the answer, there are two approaches: persuasion or force.

Persuasion involves meeting with the chairman to convince him that it is in the interests of all that he voluntarily steps down as chairman and/or as a director. You should discuss with your fellow directors as to who is/are the best person(s) to effect this. In our Asian society, this is usually the preferred option.

Forcibly removing the chairman requires a formal vote at the board (for the board chairman position), or at a general meeting (for the director's position). Such a course needs to be carefully thought through and handled as it could get ugly. It would require, at the minimum, building up a strong case to show why the chairman/director is not, or is no longer, effective and suitable.

Pay special attention to Section 152(8) of the Companies Act, which states that a director of a public company shall not be removed by, or be required to vacate his office by reason of, any resolution, request or notice of the directors or any of them notwithstanding anything in the constitution or any agreement.

As a tactical move, if you decide to remove the chairman as a director, it is useful to engage the majority shareholders, as their votes at the general meeting would matter a great deal.

The board should be clear that the forcible removal of a director, let alone a chairman, is likely to be a very visible affair. The investors and media may view it as an attempt to remove someone who is independent-minded, and this can turn investor and public opinion against the company.

As to whether you, personally, should resign from the company, that is a personal decision. Stepping down at a regularly scheduled AGM would be the most amiable way of doing so. ■

Who is Mr Sid?

Mr Sid is a meek, mild-mannered geek residing in the deep recesses of the reference archives of the Singapore Institute of Directors. Armed with his favourite Corporate Governance Guides for Boards in Singapore and other materials, he relishes answering members' questions on corporate governance and directorship matters. But when the questions get tough, he gets tough by transforming into SuperSID, and flies out to his super network of boardroom kakis to find the answers.

Mr Sid's References (for this question)

Nominating Committee Guide

Section 3.10: Cessation of Directorships

Case Study 3B-4: Removal of an Independent Director

Case Study 3B-6: Removal of a Board Chairman

Board Guide

Section 2.5: Board Leadership

Case Study 2B-3: Power to Remove the Board Chairman

Section 6.2 Board Dynamics

Case Study 6B-1: Dealing with Disagreements in the Boardroom

Case Study 6B-2: The Chairman's Role in a Dysfunctional Board

Appendix 6C: Directors' Behaviour on Effective Boards

Boardroom Matters: Volume I

Chapter 32: Board Evaluation: More Can Be Done, by Yvonne Goh

Boardroom Matters: Volume III

Chapter 3: Ugly Directors: A Little in Each of Us, by Adrian Chan

Chapter 12: The Importance of Evaluating the Board, by Philip Forrest


CHAIRMAN
CEO

THE EXECUTIVE BOARD CHAIR: BOON OR BANE?

By
WONG SU YEN
CEO, Human Capital Leadership Institute

The role of the Executive Board Chair, combined with the CEO position or otherwise, has been a bone of contention for some time now. There is growing regulatory and investor pressure to, at least, separate the roles of Chairman and CEO. Yet, a majority of listed companies, especially family firms, continue to have Executive Chairs. Are there compelling reasons to have such a position, or is it a means of concentrating and keeping power?

The year is 2012 and you are a member of the board at Walt Disney. After a prolonged history of combined Chairman/CEO roles dating back to Roy Disney in the 1960s, and under shareholder pressure during CEO Michael Eisner's tenure, the roles were separated in a high-profile split in 2004. With a new CEO, Bob Iger, now in place for seven years, you must decide on whether to retain separate roles or to recombine the roles. What would you recommend and why?

Before you provide a recommendation, it bodes well to look at the prevailing trends and practices, and the rationales for them.

Trends

According to data compiled by Deloitte in 2012, 76 per cent of companies in the FTSE 100 Index, 55 per cent of companies in the Toronto Stock Exchange, and half of companies in Germany's DAX 30 have Independent Board Chairs.

Even in the US – long a bastion for Executive Chairs – the data reflects a trend increasingly bucking. According to the latest Spencer Stuart Board Index, among S&P 500 companies, combined Chairman/CEO roles declined from 71 per cent in 2005 to 52 per cent in 2015.

Over here, according to the Singapore Directorship Report 2016, Executive Chairs are also shrinking but remain in the majority (54 per cent) compared to two years ago (57 per cent). Approximately half of the Executive Chairs hold combined Chairman/CEO positions, while a mere 20 per cent of Board Chairs are Independent. (Ed: See "Types of Board Chairs" on page 32.)

Prevailing Wisdom

Proponents of the separation of the Chairman and CEO roles argue that it enables a stronger governance structure and provides a better balance of power. According to Adrian Chan, Head of Corporate, Lee & Lee, "The extent of debate and discussion at the board may be dampened if the roles are not divided. Due to over-concentration of power in one single individual, there are fewer checks and balances if he or she goes down the wrong path."

In essence, the board as a whole and the Chairman, in particular, is supposed to hire, fire, evaluate and compensate management (including the CEO). A combined Chairman/CEO would be hard pressed to carry out these duties leaving aside his or her personal interests. It follows, then, that separating the Chairman and CEO roles, can lead to stronger governance and oversight.

Independent Directors are Key to Good Governance

"It is common to find that Executive Chairs of listcos are founders of the firms and have an intricate knowledge of the business. Therefore, I consider it an advantage and beneficial to the shareholders and stakeholders to have an Executive Chair.

As the business grows, it is prudent to have a separate CEO to oversee operations and ensure smooth execution of the company's business plans.

The important factor to ensure good governance when the company has an Executive Chair is to have strong and competent independent directors on the Board."

Mr Serge Pun
Executive Chairman, Yoma Strategic Holdings

With increased focus on corporate governance, the call for enhanced checks and balances has grown louder – from institutional shareholders, advisory firms and regulators.

Indeed, the Singapore Code of Corporate Governance (the Code) states that "the Chairman and the CEO should in principle be separate persons, to ensure an appropriate balance of power, increased accountability and greater capacity of the board for independent decision making." (Guideline 3.1).

The UK Code requires similar separation of the Chair and CEO position, explaining that "no one individual should have unfettered powers of decision." (Main Principle A2).

The Contrarian View

While the trend towards the separation of roles is clear, to put things in perspective, the fact is that more than half of the S&P 500 continue to have combined Chairmen/CEOs and more than half of listed companies in Singapore similarly have Executive Chairs.

An Executive Chair Is Ideal When Expediency is Needed

"The main advantage of having an Executive Chair is expediency. Management and the board are quickly aligned and in an ideal situation, the board has a very clear and comprehensive idea of the management changes and company strategy. This is because a good Executive Chair, with the benefit of seeing the "whole picture" should co-ordinate and act as a very efficient hub for management and board.

I personally think that such a role is ideal in a company going through massive change where speed is critical. In such a situation it is important for the board to be kept abreast of the changes in the company and to give management their support and views on a timely basis, instead of only after the fact at quarterly board meetings.

Having said that, the Executive Chair should not enjoy unfettered powers and to that end, many Singapore organisations have good structures in place with checks and balances created through the office of the independent directors.

Organisational risk comes about when the same person has been in power for too long and enjoys unshackled power. There are many good executive chairmen who have played their role for decades but you will find that these are often competent and honourable people operating within the framework of a good organisational structure with checks and balances."

Ms Chew Gek Khim
Executive Chairman, The Straits Trading Company Limited

Too Simplistic to Say One Way or The Other

"My view is we need to first consider where the economic vested interests lie, as this will have a great impact on how decisions are made. In the US for example, where most listed companies have a high degree of institutional shareholder ownership, the financial horizon is typically five to seven years.

Whether a company is family or entrepreneur-led, institution-held, or government-linked, will have implications on its goals, underlying objectives, and time horizon. Having said that, while an Independent Chair may not have a significant stake in the company, he or she needs to be mindful of protecting the interests of all shareholders, and not only the minority.

Second, when we talk about checks and balances, it is important for the Chair, whether Executive or Independent, to understand the business. If say you have a CEO who has a majority stake, and an Independent Chair who does not understand the business, how much of a check and balance is that?

We therefore should not have just one way of thinking about the Executive Chairman's role. In my mind, it's too simplistic to say the Chairman and CEO role should always be separate."

Mr Ron Sim
Executive Chairman, OSIM International

In 2005, Jay W. Lorsch and Andy Zelleke argued in a *Sloan Management Review* article that splitting the Chairman and CEO roles results in blurred lines of responsibilities, distracts both parties and creates power struggles.

Executive Chairs are able to combine the detailed executive knowledge of the business and its needs, with the authority and clout that the position of chairman brings. Decisions can be made more swiftly and definitively.

Basil Chan, Independent Director of Yoma Strategic Holdings, which has an Executive Chair said, "The Executive Chair embodies the face and personality of the company more than if the roles were split. This is especially when dealing with third parties and negotiations in developing countries where the understanding of corporate governance is less mature and these parties look to the Chairman as the ultimate authority."

But does the separation of the roles matter to performance? Several research studies suggest there is little correlation, if any, that performance improves when the roles are separate.

A 2006 *Harvard Business Review* article, "Before You Split that CEO/Chair..." cited three studies from the US, UK, and Switzerland which independently concluded that there was no statistically significant variation in performance between companies that have combined Chair/CEO roles and those that do not.

In several instances, shareholders seem perfectly content with the state of affairs. In 2014, JPMorgan Chase shareholders rejected a proposal to separate the roles with more than two-thirds voting "against". The following year, shareholders withdrew a petition to vote, once again, on splitting Jamie Dimon's role.

Impact of Ownership Structure

While weighing the benefits and drawbacks of an Executive Chair comes down to the balance of power, there is another critical factor that must be considered – ownership, particularly when the company is majority founder or family-held.

In Asia, including Singapore, a good proportion of listed companies are closely-held entrepreneurial ventures or family businesses.

The case has often been made that a unified Chair/CEO role in such firms would ensure strong central leadership and oversight in alignment with shareholders' interests, as they are invariably in it for the long haul.

A 2013 study, Asian Family Firms by CGIO of NUS Business School and DBS, found that 43 per cent of the family firms on SGX had combined Chair/CEOs, 2.5 times more than the 17 per cent of non-family firms.

Before we reach a conclusion that combined Chair/CEO roles are inevitable in closely-held companies, a look at family-controlled companies around the world paints a different picture.

The Credit Suisse CS Global Family 900 comprises the 920 largest family-owned companies in the world, all of which are publicly-traded with market capitalisation of at least US$1 billion, as well as family-owned stakes of at least 20 per cent.

Significantly, among the 10 largest family-controlled companies, only two – Facebook and Nike – have a combined Chair/CEO. (See table, "Top Family-Controlled Listed Companies".)

Which perhaps adds yet another dimension for consideration: the company's life cycle.

Novartis has its origins in three companies, all founded in the 18th century. Fritz Hoffmann-La Roche launched his company in 1896. Anheuser Busch InBev's predecessor companies were likewise founded in the 1800s.

In contrast, Nike only came into being in 1964, and Facebook in 2004.

It would thus appear that for a family-controlled company to survive and thrive for centuries or more, across multiple generations, requires an evolution of its ownership and management structure, which then flows through to governance mechanisms and the propensity for an Executive versus an Independent Chair.

It Depends...

As with most issues of substance, there is rarely a one-size-fits-all approach.

Top Family-Controlled Listed Companies

Company	Family	Chair	CEO	Chair Type
Novartis	Sandoz	Joerg Reinhardt	Joseph Jimenez	Independent
Roche	Hoffman-Oeri	Christoph Franz	Severin Schwan	Independent
Walmart	Walton	Greg Penner	Doug McMillon	Non-Executive
Facebook	Zuckerberg	Mark Zuckerberg	Mark Zuckerberg	Executive
Anheuser Busch InBev	Lemann, Sicupira, Telles	Olivier Goudet	Carlos Brito	Independent
Oracle	Ellison	Larry Ellison	Mark Hurd	Executive
Samsung Electronics	Lee	Lee Kun Hee	Oh-Hyun Kwon	Non-Executive
Volkswagen	Piëch-Porsche	Hans Dieter Pötsch	Matthias Müller	Non-Executive
Kinder Morgan	Kinder	Richard D. Kinder	Steven Kean	Executive
Nike	Knight	Mark Parker	Mark Parker	Executive

Between 1991 and 2002, William George had the unique experience of being Chairman and CEO of Medtronic, as well as Chairman only, and CEO only. In a piece published in *McKinsey Quarterly* where he reflected on common governance pitfalls, he states that "one's perspective about a board's governance is strongly influenced by the seat one holds—independent director, Chair and CEO, CEO only, or Chair only."

How then can boards mitigate the potential risk of unfettered power, if an Executive Chair is deemed appropriate?

If there is an Executive Chair but a separate CEO, part of the answer would be to ensure that the responsibilities of each are well spelt out and played out successfully.

If the two roles are concentrated in one person, then boards should have a greater number of independent directors, and appoint one as the Lead Independent Director. The Code requires that the number of independent directors increases to at least half from one-third when the Chairman is not independent. (Ed: see also article on "Lead Independent Directors" on page 33.)

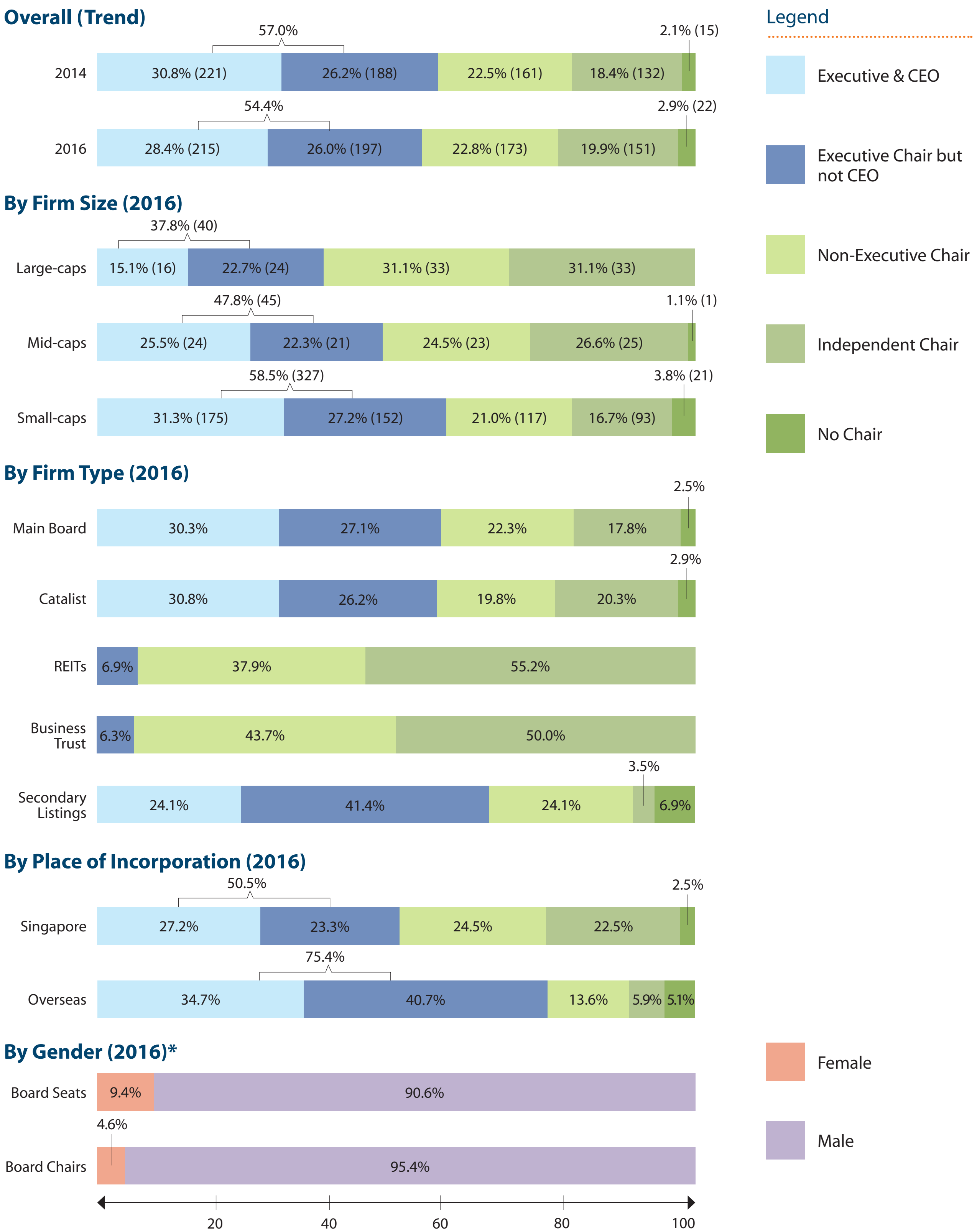
However, ultimately, how effective a board is depends on the boardroom dynamics and how well the other board members deal with the greater concentration of power in the hands of an Executive Chair.

As to whether there should be an Executive Chair or not, it does depend on the circumstances of the company. The reality is that circumstances differ and the role of the Executive Chairman similarly needs to be viewed through different lenses.

Which brings us back to Walt Disney.... the board ultimately decided to once again combine the two roles. ■

Types of board chairmen

An analysis of the types of board chairmen extracted from the SID-ISCA Singapore Directorship Report 2016.



*Data as of June 2016 provided by Handshakes

The Lead ID: How is he supposed to lead?

By
ADRIAN CHAN
Partner and Head of Corporate, Lee & Lee

Of the different types of director, one of the least understood is the lead independent director. How should he in fact lead? And is he necessary only as a check on the power of a board chairman who is not independent, or is there always a need for a Lead ID?

The lead independent director (or Lead ID) was officially first introduced in Singapore in the 2005 Code of Corporate Governance. The 2012 edition of the Code currently provides that a Lead ID should be appointed essentially when the chairman of the board is not an ID (Guideline 3.3).

His role is then described as having to be "available to shareholders where they have concerns and for which contact through the chairman, the CEO or the chief financial officer has failed to resolve or is inappropriate". It is also suggested that all the IDs, led by the Lead ID, "should meet periodically without the presence of the other directors, and provide feedback to the chairman after such meetings".

Beyond this, not much more is stated about what the Lead ID should do. The last mention in the Code is a statement that "the Lead ID, if any, should be a member of the Nominating Committee" (Guideline 4.1). However, it does not explain why and what his role there should be.

The UK Experience

The United Kingdom has had a longer experience with the equivalent of the Lead ID, with what the UK Corporate Governance Code calls the Senior ID. The UK Code prescribes the additional role of the Senior ID as leading the non-executive directors in annually appraising the chairman's performance.

The Senior ID should also "attend sufficient meetings with a range of major shareholders to listen to their views in order to help develop a balanced understanding of the issues and concerns of major shareholders".

Baroness Sarah Hogg, who is the Lead ID of the UK Treasury and the former Chairman of the

UK Financial Reporting Council, has described the Senior ID as a great invention of modern corporate governance, almost as important as the separation of chairman and CEO. In her view, the Senior ID can, and indeed must, speak truth to power and tell the chairman or the CEO to change behaviour or go. More than that, she calls for the Senior ID to facilitate board debate and be the anchor in a storm.

The Singapore Experience

Interestingly, the first Lead ID in Singapore was appointed by Keppel Corporation in 2002, even before the Code recognised the concept. At that time, Lim Chee Onn was Keppel's executive chairman and CEO.

The Code recommends the separation of the roles of chairman and CEO. As a check and balance, Keppel's board appointed a Lead ID, Lim Hock San, CEO of United Industrial Corporation. Mr Lim held the position for four years until Tony Chew took over. When Lee Boon Yang succeeded Lim Chee Onn as an independent non-executive chairman in 2009, the board felt that there was no longer a need to have a Lead ID, given the clear separation of the roles of the chairman and CEO.

Lim Chee Onn found the position of Lead ID on Keppel's board to be "an effective and useful one". In his view, the Lead ID should "be diligent, experienced and command the respect of the other IDs. He should be a sounding board for the chairman to bounce off ideas so that blind spots are eliminated". Mr Lim believes that the Lead ID should be the more senior of the IDs so that he has sufficient standing when interacting with the chairman.

Mr Lim noted that the Lead ID's responsibilities are heightened during periods of stress. This could be when the chairman or CEO vacates his position unexpectedly, or when there are disputes among different groups of directors.

Mr Yap Chee Keong concurs that the extent of the Lead ID's role can be situational. Mr Yap was the Lead ID of The Straits Trading Company and Tiger Airways. He acknowledged that if the chairman is acting in the best interests of all stakeholders then the role of the Lead ID should not be so pronounced. However if the chairman is the controlling shareholder or is not regarded as independent then the Lead ID may have to assume a more substantive role.

Having been a Lead ID of four listed companies myself, I have found that the interactions and bonds built up between directors during the more peaceful periods were useful in either avoiding the periods of stress or in reducing the tensions during more turbulent periods.

The need for a Lead ID

The SID-ISCA Singapore Directorship Report 2016 shows that there are 396 Lead ID seats, a significant increase of about 30 per cent over the 304 Lead IDs in the 2014 Report.

However, among the 548 listed firms that should have appointed a Lead ID as recommended by the Code, only 67.9 per cent have done so, with the mid-cap companies with the highest compliance rate of 74 per cent. In contrast, 15.4 per cent of listed firms actually have a Lead ID appointed even when it is not required by the Code. This raises the interesting question of whether there should always be a Lead ID, even in the presence of an independent chairman.

One school of thought is that this might create some confusion and overlap in the roles. After all, if the chairman of the company is already an ID, how can the Lead ID be senior to him?

On the other hand, if there are issues or difficulties that arise with the independent chairman, then the presence of a Lead ID could be helpful if he takes leadership of the board in seeking to resolve the issues with the chairman.

The key, it would seem, is to clarify the roles and responsibilities of the Lead ID in a formally-approved set of terms of reference for his appointment, so that there is no confusion and, indeed, clearer understanding of the functions that he is supposed to play.

Guidance on a Lead ID's functions can be found in the pages of SID's Nominating Committee Guide, which sets out the following examples of the responsibilities that can be assigned to a Lead ID:

- Chairing board meetings in the absence of the chairman of the board.
- Working with the board chairman in leading the board.
- Providing a communication channel to other IDs and non-executive directors for confidential discussions on their concerns regarding board affairs, if needed.
- Playing the role of a mediator for other directors to resolve conflicts as and when necessary.
- Helping the Nominating Committee conduct the annual performance evaluation and develop the succession plan for the board chairman and, if necessary, the CEO.
- Helping the Remuneration Committee design and assess the remuneration of the board chairman.
- Attending meetings with major shareholders to listen and understand their concerns, which will assist the board in making balanced decisions.

It is hoped that more companies which are required to have a Lead ID should appoint one, and clarify the scope of his duties in his formal letter of appointment or in terms of reference that are approved by the board. ■

The independent director: A cut above or the same as other directors?

By
ANNABELLE YIP
Partner, Joint Head of Corporate Governance and Compliance Practice, WongPartnership LLP

Independent directors (IDs) are there to provide checks and balances on executives and appointees of major shareholders on the board. However, there is a mismatch between what an ID is expected to do, and what he can and should do. There are areas where an ID can add value, but he must, like all directors, first be properly qualified with the requisite skills and probity.

When a listed company runs into difficulty, shareholders automatically look to the IDs and ask: What were they doing? How could they not know? Why did they not act to steer the company back on track?

At those times, IDs must feel like they are called upon to be ubiquitous, required to be everywhere at once and intimately aware of every detail — or shape-shifters, somehow staying independent yet embroiled in the nitty-gritty of the company's operations like senior executives.

Much has been written on the role of IDs. I would like to focus on an area less touched upon – the mismatch between the expectations that are laid at an ID's feet and the limits of what he (or she) can achieve. (Ed: for convenience, the male gender is used to refer to all IDs and other persons in the Bulletin.) But make no mistake, there is substantive value that an ID can bring to

the company and shareholders, and he should be held accountable to this.

The duties of all directors

Companies listed on SGX are incorporated in a varied range of jurisdictions. The basic principles that underlie the roles of directors in different jurisdictions are, by and large, universal. The board is responsible for oversight of the company's business and management, and directors have a duty to act in the interests of the company.

Each jurisdiction's corporate laws further define the detailed responsibilities of directors. In Singapore, these include the responsibilities to act honestly, with reasonable diligence, and with due care and skill, and to avoid conflicts of interest, among others.

In the Singapore law context, the legal roles and responsibilities of directors apply to all directors, whether executive or non-executive, independent or not. Indeed, executive directors may be held to a higher standard by law because of their more intimate knowledge of the company.

Why then the requirement that certain directors be independent, since all directors are bound by their legal obligations and can be held to account should things go wrong in an organisation?

The need for IDs

While different jurisdictions introduced the concept of independent directors (itself a term used to mean different things) at different times and for possibly different reasons, the concept of an ID arguably took hold because of the hard practical realities of human nature and the desire for checks and balances.

There was a recognition that directors who are executives or appointees of major shareholders inevitably may sometimes make decisions, whether consciously or unconsciously, that are influenced by the circumstances of their appointment and their role in the company or their role in the major shareholder.

Since listed companies potentially expose the personal assets of large numbers of retail and institutional shareholders to risk, many jurisdictions also sought to overlay, as an added tier of safeguards, the hard law of directors' duties applicable to all companies, with higher standard corporate governance principles applicable to listed companies that are a mix of best practices, guidelines, comply-or-explain requirements, and so on.

Definition of an ID

The latest iteration of the Singapore Code of Corporate Governance, being the 2012 Code, defines an ID as one "who has no relationship with the company, its related corporations, its 10% shareholders or its officers that could interfere, or be reasonably perceived to interfere, with the exercise of the director's independent business judgement with a view to the best interests of the company".

An ID thus in theory is not influenced by any relationships which could colour his views of the matters for decision before him.

He is not part of or related to management. So he is in a position to make objective decisions on issues brought to him by management.

He is also not part of or related to any major shareholder. In many cases, the interests of a major shareholder and the body of shareholders as a whole are not aligned, and an ID can make decisions uninfluenced by such a relationship, in the interests of the company, and the balanced interests of all shareholders.

That said, it is important to bear in mind that an ID's legal responsibilities are in essence no different from those of any other director of the company. An ID is just in a better position to exercise independent business judgement because he is theoretically unfettered by relationships that could undermine such judgement.

It goes without saying, following from this, that an apparently independent director who has a weak sense of integrity and is easily moved by overtures from management or major shareholders will not be able to fulfil the role adequately.

Skills and qualifications

Going back to the definition of an ID in the 2012 Code, the independent business judgement of an ID is to make decisions with a view to the best interests of the company.

One must not lose sight of the fact that, besides the element of independence, an ideal director (whether independent or not) must first and foremost be qualified to lead the company.

Knowledge of the business, relevant expertise and know-how, an understanding of how companies are run, prior industry experience, and/or particular professional qualifications, as well as an analytical mind and the dedication to acquire the knowledge necessary to inform his decision-making – these are all relevant in determining whether he will be able to add value and contribute constructively to the company.

Thus, having a director who is merely independent in itself will not help much to improve shareholder value, unless that ID has a particular set of attributes, of skills, experience, abilities and probity, that equips him to contribute to good decision-making in the company.

Information transparency

Even if an ID has all the relevant attributes, he will not be in a position to know and see everything. As a non-executive, his engagement with the company and management is limited to board and committee meetings, the papers presented, and the regular and ad hoc reports that management circulates to the board.

With that information in hand, providing wise guidance, insights on major issues and strategic direction to management are key pillars of the ID's role. However, it should be recognised that an ID will not be in the position to know all the detailed nuts and bolts that an executive director will know, or be able to intervene and manage those aspects in the way an executive director can and indeed is obliged to as part of his job.

Nevertheless, one valuable contribution of IDs, which is equally if not more important to shareholders and investors, is that of external transparency of information. Providing investors with up-to-date accurate information underpins Singapore's disclosure-based regime and enables the market to trade properly.

Indeed, a company that intentionally, recklessly or negligently fails to notify SGX of such information as is required to be disclosed under the listing rules contravenes the Singapore Securities and Futures Act. It is an offence where such failure is intentional or reckless. Where the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the company (including a director), that officer is also guilty of the offence.

An ID is well-placed to inform the market or the relevant regulators if things have gone wrong in the organisation, even if he is not in a position practically to change the course of the company. As an ID, his personal reputation is on the line.

He can also be subject to disciplinary action by the SGX. Under Chapter 14 of the SGX Listing Manual, SGX can investigate and initiate disciplinary proceedings against an ID. As a result of those actions, he may be subject to a private warning or public reprimand, a requirement for his resignation, or a prohibition of his appointment as director or executive officer of other issuers for up to three years, among others. SGX may also refer the matter to other relevant regulators if it considers that he may have breached certain laws or regulations.

All for one

In conclusion, shareholders should look to all directors equally and not just IDs to provide management, oversight and leadership to the company.

Executive directors in tandem with senior management must take the lead in ensuring the company's businesses and operations are run smoothly and effectively, costs are managed and revenue grows, and business risks are managed.

IDs are there to exercise their independent impartial business judgement in the company's best interests, and provide guidance, insight and strategic direction to management. They must have both the integrity as well as the requisite knowledge, expertise and skill set to inform their decision-making. They are also well-placed to ensure transparency of information about the company, thereby enabling the market to trade efficiently.

It is ultimately the responsibility of the Nominating Committee and the board to recruit the right directors to lead the organisation at each stage, though shareholders also have a part to play when they are asked to vote on the director's re-election. ■

The rookie director:

By
ANGIE LOW
Associate Professor
Nanyang Technological University

How effective can he be?

First-time directors can be very motivated to work hard to prove themselves.

A recent study found, surprisingly, that firm value increases in the first three years after the appointment of rookie directors, albeit under certain circumstances. However, the unseasoned director is less influential when challenged by a strong CEO, non-receptive experienced directors, and a complex organisational environment.

Companies are increasingly looking to appoint new first-time directors to the board as they search for candidates with new skills and diverse backgrounds. Hopefully, an increasing number of these will be females, given the need for greater board and gender diversity in Singapore.

A question many boards and nominating committees have will be: how a first-time director without prior boardroom experience will perform? Although most first-time directors are senior executives who have some exposure to the functioning of boards, being an effective director could take time. For many executives, transitioning from a management role to a governance role can be a big step.

The value of first-timers

According to a recent study of US directors done by my colleagues and I (see box, "Study on Rookie Directors"), first-timers have some things going for them.

First, these new directors can bring fresh perspectives to the boardroom and challenge the existing norms. The more seasoned director, already familiar with board processes and old ways of doing things, may not readily challenge inefficient management.

Second, first-time directors are usually well motivated, eager to establish a name for themselves in the director labour market. They tend to work hard to prove themselves as effective directors given that this is their first (and perhaps only) chance to prove themselves worthy as directors. Those first-timers who performed well are then able to attain more board seats elsewhere, effectively establishing a reputation for themselves as competent directors in the market for directors.

Our study found that firm value increases upon the appointment of a first-time director for firms with well-functioning boards, firms with less powerful CEOs, and non-complex firms. These firms also have higher CEO turnover-performance (pay-performance) sensitivity but lower innovation output, suggesting that first-time directors add value through improved monitoring.

Interestingly, we found that while these unseasoned independent directors are associated with an increase in firm value over the first three years of their appointments, it is not the case for the second three years. Our conclusion is that directors' career concerns motivate them to work hard to establish a reputation as an effective

The Study on Rookie Directors

- *Rookie Directors* by Jun-Koo Kang and Angie Low of Nanyang Business School, NTU Singapore, and Jungmin Kim, School of Accounting and Finance, Hong Kong Polytechnic University (November 2016).
- Sampling of 8,474 independent director (ID) appointments, and 10,956 firm-year observations for 2,043 unique firms in the US from 1998 to 2010 from the Directors database from Institutional Shareholder Services.
- Newly appointed directors were classified based on the number of years of prior boardroom experience:
  - o Unseasoned IDs or UIDs, less than three years, comprising 32.6 per cent.
  - o Moderately seasoned IDs or MIDs, between three and eight years, comprising 24.9 per cent.
  - o Seasoned IDs or SIDs, more than eight years, comprising 42.4 per cent.
- Comparisons were then made on how appointments of UIDs, MIDs, and SIDs on a board affect firm value as measured by Tobin's q ratio (which is the ratio of the market value of a company's assets divided by its book value).

director, but such incentives are short-lived. It would seem that as IDs become more seasoned, they become less motivated to monitor.

On the other hand, as they become more experienced and knowledgeable by serving a longer time as directors, they become more valuable advisers to the firm.

Challenges for the rookies

As noted above, unseasoned independent directors add value only under certain circumstances: when boards are more willing to listen to newcomers, when the CEO is less entrenched, and when firms have simple operations. They may therefore not be optimal for all firms.

As they are less experienced, their presence on the board adversely affects a firm's strategic outcomes such as innovation performance, especially among complex firms.

Although first-time directors may have the best of intentions, they may also refrain from speaking out for fear of going against current established board practices and end up appearing ignorant.

Furthermore, it is difficult for a newcomer, especially an inexperienced one, to be able to wield his or her influence among the incumbent board members who are more experienced but may not be receptive.

Research in social psychology have shown that a single individual can lead to performance increases in the group by disrupting the group dynamics of the existing members. Newcomers do more than just introduce new ideas and bring fresh perspectives: they trigger more careful information processing in the group. Therefore, when bringing on a newcomer to the board, existing board members should stay open-minded and receptive to new ideas.

Helping rookie directors be effective

More so than being receptive to newcomers, boards and existing directors can proactively ensure that first-time directors are quickly effective and contribute in the boardroom.

To start, director selection is important. If the environment does not fit, for example, the company is in crisis or a difficult CEO needs to be managed or when the company and business is complex, it may not be appropriate to bring in a first-time director. When bringing on any director, the skill sets and background of the incoming director should fit in with gaps on the board so that he can usefully contribute.

Directorship is nevertheless a profession that needs to be honed. All directors, especially the newbies, need training and professional development. Such training is readily available and the board should schedule all directors for them. The Singapore Institute of Directors, for example, has a range of courses for the aspiring to the experienced directors in the different types of organisations.

Companies can also do more by setting up mentoring programmes and allowing first-time directors to shadow experienced directors. These mentor directors can act as a sounding board and explain aspects of the board meetings to the new director outside of the boardroom. The mentor and mentee can have one-on-one discussions allowing the new director to raise any questions he may be hesitant to ask at the board meetings.

Finally, companies can prepare their executives for future independent directorships by nominating them to their subsidiary boards or allowing them to sit on nonprofit and other organisations where the demands of directorship may be more contained and less complex. This would help the executives such that when it is time for them to be an independent director of a listed company; they would then not be rookie directors anymore. ■

Director tenure: Stricter guidelines needed

By
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Long-serving directors may have greater knowledge of the company, but their greater familiarity can decrease their effectiveness as a check on management and past decisions. The threat to director independence and board renewal from excessive tenures, when left on its own, will not go away, which is the very reason why regulators (including those in Singapore) need to step in.

The Singapore Directorship Report 2016 shows that 64 per cent of issuers in Singapore which have been listed for nine years or more as at 31 December 2015 have at least one independent director who has served more than nine years and a total of 39 per cent of such directors. Both these percentages increased from 2014.

A recent study, *The Singapore Report on Shareholder Meetings (Volume 2)*, by Chew Yi Hong and me found that 60 per cent of independent directors re-appointed in 2015 who were 70 years or older have served on the board for more than nine years. The longest tenure was 45 years, followed by two independent directors who had served for 33 and 32 years. One independent director had served a cumulative tenure of 96 years on his four boards, and another 80 years on four boards.

A US study, *The "New Insiders": Rethinking Independent Directors' Tenure* by Professor Yaron Nili of the University of Wisconsin, found that the average board tenure increased every year between 2001 and 2013 for S&P 500 firms, from 7.9 years to 8.7 years, although the annual board indices published by Spencer Stuart suggest that this trend may have recently reversed.

Risks of long tenures

Long tenures of independent directors pose a twin threat to director independence and board renewal.

While directors may become more knowledgeable about a company over time, serving too long may cause them to become too close to management, develop blind spots and be less willing to question past decisions.

It may also cause a director's competencies to become less relevant as the business and environment change. The power and influence of a director is also likely to increase with tenure.

Some recent studies indicate that long tenure is harmful to companies and the popular nine-year limit is not off the mark. A study of S&P 1,500 firms (*Zombie Board: Board Tenure and Firm Performance* by Sterling Huang Zhenrui, SMU) found an inverted U-shaped relationship between board tenure and firm value, with firm value reaching a maximum at a board tenure of nine years, and declining beyond that. Further, "the value and quality of corporate decisions such as M&A, financial reporting, CEO compensation and replacement, and innovation also depend non-linearly on board tenure".

A 2016 academic study of 3,000 US firms over an 18-year period, *Do Directors Have a Use-by Date?* by Livnat, Smith, Suslava and Tarlie, also reported that firm value increases with board tenure and reverses after about eight to nine years. The reversal is stronger for high-growth firms, suggesting a greater deterioration in the ability of long-tenure directors to guide such firms.

A recent article, "A blanket cap on board tenure would do more harm than good" in *The Business Times* by Dr Alex Tan of the Lee Kuan Yew School of Public Policy reported a similar inverted U-shaped curve based on an analysis of Singapore companies with a market capitalisation of S$1 billion or more.

While academic research is seldom conclusive, such findings add weight to concerns about long tenure.

Will the problem go away?

The problem of excessive tenure is unlikely to "self-correct" especially in markets where the appointment of independent directors is largely determined by controlling shareholders or management, who may have vested interests in retaining directors who are only nominally independent. Further, nominating committees often have long-tenure directors serving on them and face inherent conflicts in considering this issue.

Interestingly, long tenure has not been viewed in the US specifically as a problem. As Professor Yaron Nili explained, "bright-line" stock exchange rules on independence do not identify tenure as a criterion in determining independence. On the other hand, state law independence standards are vague and ad hoc in nature, with independence assessed on a case-by-case basis based on numerous factors. Further, a majority of US mutual and pension funds do not have board tenure policies and those that do are generally against tenure limits because of concerns about losing good directors.

However, this may be changing.

A 2014 survey of investors by the Institutional Shareholder Services (ISS) which included two-thirds of respondents from the US found that 74 per cent felt that long director tenure was problematic. ISS scrutinises boards where the average tenure of all directors exceeds 15 years.

The threat of shareholder lawsuits and court reviews of independence in the US may to some extent mitigate against threats to independence posed by long tenure and other factors.

Regulators step in

In contrast, Indonesia and Philippines have opted to hard-code term or tenure limits in listing rules or securities regulations. Indonesia limits the term of independent commissioners and independent directors to a maximum of two terms. However, the practical impact is unclear as there is no rule on the length of each term and the Indonesia Financial Service Authority allows independent commissioners to be re-appointed after two terms if they state their independence at the general meeting of shareholders.

The Philippines Securities and Exchange Commission (SEC) has a "5-2-5" rule for independent directors, with a maximum of two five-year terms separated by a two-year cooling off period. Recently, the SEC amended its rule to allow independent directors who have completed the first five-year term to be re-elected for another four years without a cooling off period, with justification for the lack of suitable replacements provided to the SEC. After the second four-year term, these directors no longer qualify as independent for the same companies.

Several other countries have adopted a less prescriptive "comply or explain" approach by incorporating tenure as a consideration in the assessment of director independence in their codes of corporate governance. For example, Australia, Hong Kong, Malaysia, Singapore and UK have done so, but with some variations.

To add more bite to its tenure guidelines, Malaysia recommends that the independence of a director who has served more than nine years should be subject to an annual shareholder vote.

Hong Kong states that a director who has served more than nine years should be appointed through a separate resolution at the general meeting which should include reasons why the board still considers the director to be independent. Hong Kong, however, does not specify an annual shareholder resolution.

A summary of term limits in various jurisdictions is found in the table, "Term Limits for Director Independence".

The Singapore situation

In Singapore, many companies are paying lip service to the Singapore Code's guideline recommending a "particularly rigorous review" of independence after nine years. Further, such

Term Limits for Director Independence

Country	Term Limit	Comment
Singapore	None	The Board is expected to conduct "a particularly rigorous review" of the independence of directors with more than nine years. For banks and REITs, MAS requires that directors over nine years are declared as non-independent.
Malaysia	9 years	Unless approved by separate annual shareholders' vote.
Philippines	9 years	Operative from 2017.
Indonesia	2 terms (10 years)	Each term is usually five years, although there is no set length. More than two terms may also be possible.
Hong Kong	9 years	Code recommends separate shareholders vote on reappointment.
Japan	None	
Australia	None	Board should regularly assess independence if tenure more than 10 years.
India	10 years	
France	12 years	
UK	None	Board needs to explain why a director is independent after nine years (any term of non-executive director exceeding six years subject to particularly rigorous review).
European Commission	12 years (or 3 terms)	EC recommendation to member countries.
US	None	
Canada	None	

a review does not address the issue of board renewal. Additional steps should be taken.

First, the Code should recommend that companies put in place policies for board renewal and disclose them in their corporate governance reports.

Second, where an independent director serves more than nine years, his independence should be subject to an annual shareholder vote as is the case in Malaysia. However, management and major shareholders should abstain from this vote, similar to voting on interested person transactions.

In principle, one can argue that this should be applied whenever an independent director is appointed or re-appointed and not only after nine years since independent directors are supposed to be independent of management and major shareholders. Excluding them from voting only after nine years is a compromise.

Tenure is undoubtedly an imperfect proxy for independence, as are other director independence criteria. A long-serving director who keeps himself up-to-date can also alleviate concerns about loss of relevance of his competencies. However, given the limitation in the ability of the market to "self-correct", the retention of long-tenure independent directors should be subject to greater scrutiny and a higher bar. ■

Excos and the balance of power

By
NG SIEW QUAN
ALVIN CHIANG
CHUA HSIEH WEN

The Exco may be the most powerful committee on the board, but is it at risk of being a "board within a board" and increasingly less relevant?

Of the several board committees within a company, the executive committee, or Exco, stands out, both for its influence as well as the conspicuous absence of guidelines regarding its governance.

The Exco is often made up of the more active members of the board. It is usually chaired by the board chairman, and its influence and powers are seen as above that of the other board committees.

While the Code of Corporate Governance encourages the formation of, and provides guidance on the audit, remuneration, nominating and board risk committees, there is no mention of the Exco.

The characteristics, powers and functions of Excos, as well as some of the leading practices concerning the establishment of Excos, are thus worth revisiting in the current circumstances.

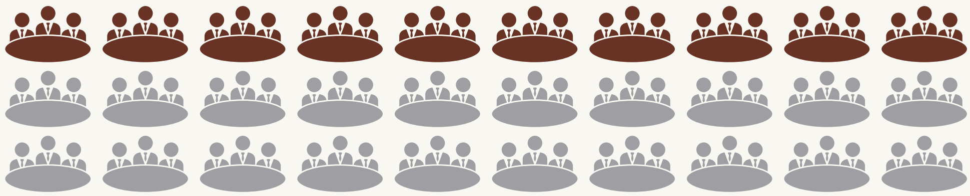
The Profile of an Exco

A review of the top 30 companies in the STI provides a profile of what Excos can be like (see box titled "Exco Profile").

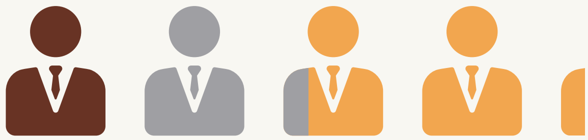
Profile of Excos

The following profile of Excos is obtained by a survey of the Straits Times Index's (STI) 30 constituents.

1. Number of boards with Excos: 1/3 (10 out of 30)



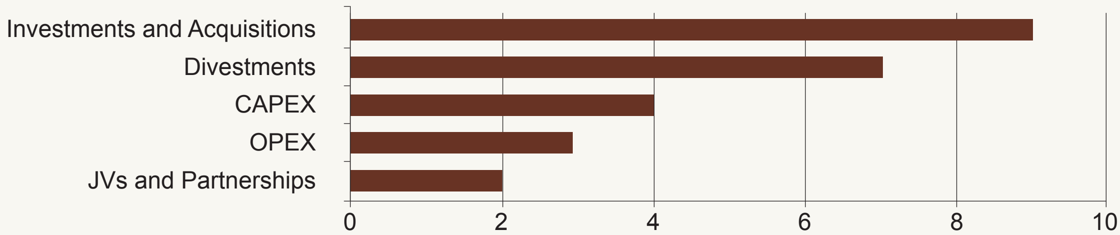
2. Exco composition: 4.4 directors with 1 ED, 1.2 NI-NEDs, and 2.2 IDs.



3. Number of meetings per year: 5.3 compared with 5.9 for full board meetings.

4. The Exco's authority

Exco's Approval Authority for Transactions



5. Non-approval Exco functions

Other Exco Functions

As can be seen, one third of the companies have Excos. This ties in with the broader 2015 SID-SGX Board of Directors Survey which also shows that one third of listed boards have Excos.

The Exco's composition tends to be relatively similar across companies. It would be chaired by the board chairman, and its members comprise executive directors (who have greater availability given their full-time commitment to the company) and senior members of the board (such as the chairmen of board committees).

The powers and responsibilities of Excos can vary considerably. This state of affairs reflects the diversity and complexity of needs that boards face.

While 10 per cent of the Excos were not specifically assigned approval authority, most were, with 70 per cent disclosing the existence of a monetary limit on their approval authority.

The most common form of authority delegated to Excos was approval of investments and acquisitions, closely followed by approval of divestments. Notably, a further six of the 20 STI constituents that did not have Excos had established Investment Committees, presumably for that purpose.

Excos are usually also tasked with (non-approval) functions, ranging from review of budgets, plans and strategy to guiding management on execution.

Performance Value

From the chart, it would appear that the Exco's substantive contribution is in the area of strategy and its implementation. In reviewing documents and corresponding closely with management, Excos can monitor management's progress, on implementing strategy, at a greater depth than the board would be able to, given the constraints on the board's time and attention.

Both the board and management can benefit from the Exco's support under this arrangement. Management can sound the Exco out on proposals to get a sensing of how the full board would receive them, and potentially refine them to cater to the board's likely concerns and information needs.

If the strategy set by the board is not working, regardless of the cause, the board is likely to pick up warning signals earlier through the Exco's monitoring and reporting. This gives the board more time to consider if a change in strategic direction is needed, which could be of particular importance when an organisation is dealing with competition fueled by disruptive innovation.

Club of the Select

In recent times, Excos have been criticised as being a "club of the select" or "board within a board", with the spotlight being cast on incidents where Excos de facto replaced the board as their organisation's apex decision-making body.

The fact is that the ability of the directors not on the Exco to contribute varies from one organisation to another. Where the Exco reports to the Board in a timely manner, and shares a common understanding of the risk-reward tradeoffs the board as a whole is prepared to accept in pursuit of strategic objectives, the directors not on the Exco are more likely to remain just as effective. On its part, the Exco should also refer decisions to the full board where it envisages that the excluded directors are likely to take an opposing view.

The real risk lies where the Exco conducts its proceedings in a manner that is less than transparent, or wields excessive authority, thereby relegating the board to a "rubber-stamping" role. In such a situation, the full board is notified of Exco decisions after the fact, and the directors not on the Exco lack the means to meaningfully alter or reverse any of the Exco's decisions.

InfoComm Impact on Excos

Even with a sound system of checks and balances, there remains a question as to whether Excos can continue to be relevant in today's digital age.

Since one third of boards have Excos, that should, perhaps, be an *ipso facto* indication of their value. That said, there are companies that are discontinuing with their Excos.

Given how connected modern communications are, many of the practical challenges boards once faced in being informed and consulted have largely gone away. The Internet, personal computers and mobile devices keep directors connected wherever in the world they may be. Virtual attendances at board meetings are widely accepted. Board portals and cloud storage enable directors to retrieve electronic documents and interactively mark up at the tap of a screen. Dashboards that track performance measures, such as risk indicators on a live basis, are increasingly becoming commonplace.

With technology used so pervasively to conduct board affairs, directors are now in a position to be more involved in the affairs of a company than ever before. In fact, many traditional Exco functions are being made redundant. Although some functions such as evaluating major transactions and crisis management are best done by a small and focused group of directors, it is becoming increasingly clear that they can also be done by special purpose ad-hoc board committees that are set up for those purposes, rather than by a standing committee such as the Exco.

Finding the Right Balance

How then to make use of the Exco for its benefits while avoiding its disadvantages?

One way would be to use the Exco primarily for alleviating the board's workload in terms of performance monitoring and coaching to management on strategic implementation. This is akin to a Strategy Committee.

The Exco's approval authority, where granted, should be set at a reasonably low limit—a step up from management with major transactions still going to the board.

Minutes of Exco meetings should be circulated to the full board on a timely basis, and should adequately explain the grounds of the Exco's decisions for the benefit of the directors not on the Exco.

Notably, directors cannot abdicate responsibility for the performance aspect of governance by delegation to the Exco. Rather, the establishment of an Exco should complement directors' continual responsibility to stay informed of corporate affairs, and the board's other initiatives in the area of strategy—such as board strategy retreats, strategic deep dives on the board agenda, etc.

Given the availability of empowering technology, and balanced against the risk of an over-concentration of power in the Exco, many companies have chosen not to have an Exco or discontinue with having an Exco.

Yet, some companies, especially those with more complex organisational structures see a real need for the Exco. Each company therefore needs to find its own sustainable set of checks and balances to put in place. The key fundamentals of transparency, diversity and inclusion that should be part of every company's drive towards greater performance and accountability remain the same regardless of the existence or absence of an Exco. ■

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The Board-Management Relationship: How to achieve control *and* support

By

PROFESSOR JEAN-FRANCOIS MANZONI

The world expects Boards to challenge management and ensure they optimise company performance. Management, on the other hand, also expects the board to provide help and support. Both dimensions (challenge and support) are easy to overdo. How can Boards strike the right balance and avoid the traps of extremes?

Boards hire, appraise, reward and sometimes remove CEOs. That is their fundamental function.

Boards must also try to ensure that CEO performance is as high as it can be. For that they rely on two basic processes.

The board must exercise control and challenge management to ensure that it optimises decisions and performance.

At the same time, it must also support the CEO and management team. Life at the top is demanding and can be lonely. The CEO needs to have "a place to go to" for advice and support.

Support-Challenge Matrix

	Low Support	High Support
High Challenge	"Challenge Trap"	Support & Challenge
Low Challenge	Absentee Board	"Support Trap"

In this dual and contrasting roles, boards should be aiming for the "high-high" quadrant in the Support-Challenge Matrix.

Yet boards often find it difficult to operate in that space. Instead, they may emphasise one at the expense of the other, falling into either a "challenge trap", or a "support trap". Of course, those that do neither are neglecting their fundamental duties, and would be no more than an absentee board.

The Support Trap

When a board appoints a CEO, it would be because it sees him or her as suitable for the job. Once the board has labelled an individual a solid performer, it is likely to want to express support to him/her. In addition, CEOs often know more about the business than many Board members and they tend to be proud and competitive individuals who are not always the best "feedback receivers". In the absence of very obvious problems, it is hence tempting for boards to avoid conflict and keep challenge at a low enough level.

Meanwhile, the Board's favourable perception of the CEO will also lead it to perceive and interpret reality in a way that "confirms" its label. For example, it is likely to notice the CEO's successes a lot more than his or her difficulties and when forced to look at the difficulties, it will have a tendency to minimise them and/or attribute them to external causes. Research even shows that our memory can be similarly affected, leading us to remember events and situations in biased ways.

This support trap leads boards to be overly patient with the CEO and to pay insufficient attention to early warning signals.

The Challenge Trap

But sometimes the evidence pointing to problems can become sufficient to start worrying the board. The board is no longer sure that the CEO is the right individual to lead the organisation. Once this doubt becomes sufficiently strong, it quickly starts polluting the relationship between board and CEO. At that point, the board often succumbs to the challenge trap.

The board's confirmatory biases will lead it to perceive the CEO's actions and results through a negative prism, leading to much more attention to failures than to successes. It will attribute failures to the CEO's limitations, and successes to external factors.

In addition to the perceptual aspects, the board will also start acting much more vigorously towards the CEO – asking more questions, challenging responses, requiring more data and making different interpretations of it from management.

This more forceful attitude can be met by two types of responses from the CEO: An aggressive response, where the CEO stands his or her ground, pushes back on the board and "refuses to let herself or himself be bullied". Or a more passive one, where the CEO tries to avoid conflict and gradually withdraw from interaction.

In both cases, the board's concerns get reinforced, leading it to intensify its challenge, which fuels the CEO's response, triggering a vicious cycle.

Somewhere along the way the CEO starts to label negatively (some members of) the board as meddlers, unreasonable, ignorant, and antagonistic. The CEO will likely behave toward them in ways that are more likely to attract negative, rather than supportive, responses.

The CEO also starts to perceive reality and board members' behaviour through a confirmatory prism, over-emphasising challenging behaviour, attributing more negative motives and selectively remembering events and situations, all of which tend to fuel the growing tension between the board and the CEO.

Once the board and management have entered this vicious circle, interrupting it is very difficult – not impossible, but certainly very difficult – especially when the organisation (and hence its board and top management team) are under performance pressures. So even more than usual, an ounce of prevention would be much preferable to a pound of cure.

High Support and Challenge

Instead of flip-flopping between the support trap and the challenge trap, the board should aim to hit the "High Support & High Challenge" quadrant.

Achieving such balance cannot happen overnight. When the critical situation presents itself, the board must already have established good habits and goodwill with the CEO.

That way, the CEO realises that the board is pushing back, not because it senses a crisis and has lost confidence in the CEO, but because challenge is a routine aspect of their interactions. In other words, the board and the CEO have to develop capabilities for dealing with each other in a robust way.

Ideas for boards to develop the right atmosphere and capabilities to effectively challenge the CEO and management are provided in the box, "On the Control Side: Achieving Forceful Challenge".

On the Control Side: Achieving Forceful Challenge

- **Ensure optimal board composition.** For the board to be able to challenge the CEO, it must be able to see and sense the problem. If the board does not have the insights or concerns, it cannot contribute them. To that end, the board should ensure that it has the right set of capabilities (including relevant specialised knowledge) and enough diversity of points of views and experiences. Diversity is widely recognised as an antidote to groupthink, provided that the diversity is effectively managed.
- **Receive enough of the right kind of information.** To avoid relying only on management for information, board members should do sufficient homework externally (such as site visits and reviewing analysts' reports) and internally, including by meeting with managers located one or two levels below the CEO.
- **Ensure timely and relevant information flow from management.** It is so easy to overwhelm board members by sending them too much information too late. Similarly, boards must ensure that the agenda features enough time to discuss the really challenging issues.
- **Have frank discussions.** To make the most of the rich and diverse information and experience base of board members, the Chair should encourage and ensure respectful but candid and energetic discussions. Two specific mechanisms may help:
  - **Initial dissenter.** A critical barrier to group members expressing a nagging concern is the fact that no one else has yet mentioned it. This social dynamic – called "pluralistic ignorance" – is especially powerful within boards. Directors attribute their own reticence to social inhibition, but assume that the silence of colleagues indicates agreement. As a result, the board may end up endorsing a course of action with which most of the directors privately disagree. The Chair must make it easy for an initial dissenter to speak up as a way of finding out if those reservations are more widely shared.
  - **Devil's advocate.** Institutionalising such a role can help. The Chair can designate different directors to make the "case against" depending on the issues. This approach gives one board member a licence to investigate the issue and highlight elements that appear weak or inconsistent with the experience and knowledge of fellow directors. At the same time, it conditions the CEO to expect criticism and to accept it as part of the normal deliberation process, rather than as a personal challenge or threat.
- **Hold private sessions.** One element limiting board members' ability to challenge is the continuous presence of management during all discussions. One very helpful approach is to ensure that at every board meeting the agenda allocates some time for the non-executive directors (NEDs) to discuss without management's presence. Making this feature systematic makes it less threatening for management to accept being "excluded" from the discussion.
- **Have an effective chair.** Effective management of the board increasingly calls for someone capable of leveraging the individual insights of members – less of a "super-CEO/chief strategist" and more of a facilitator – someone capable of encouraging alternative views and drawing out misgivings, yet keeping the discussion on track. This changing role also makes the CEO a weaker candidate to chair the board – because it is much harder for him or her to facilitate patiently and to invite or encourage alternative views.

These recommendations will enhance the board's ability to challenge.

But to be effective this challenge must be accepted – ideally welcomed – by the CEO.

Research shows that executives are more likely to accept and act on tough feedback when they feel that:

- The feedback giver is reliable and well intentioned toward them.

- The feedback development process is fair – capturing all relevant information and applying consistent standards.

- The feedback communication process is fair – taking account of the receiver's opinions and explanations; showing respect for the receiver; and supporting the receiver despite their disagreements.

If the relationship with the board is strained, these conditions cannot be met and the CEO will stop listening. So it is vital for the board to try to create and preserve an open climate.

Three ideas that can help to develop the kind of relationship where the CEO feels comfortable initiating contact, reporting problems and asking for advice can be found in the box, "On the Support Side: Achieving Healthy Collaboration".

On the Support Side: Acheiving Healthy Collaboration

- **Establish and maintain a strong bond.** To enable the CEO to feel comfortable disclosing emerging problems and asking for advice, board members and CEO should spend time together up front to establish a personal connection and a sense of their respective strengths. The board then needs to ensure that these conditions are nurtured and maintained. Criticism and disagreements risk weakening the level of trust and empathy established between them. So after particularly challenging discussions directors need to make sure they re-bond with the CEO – and do not let the malaise develop.
- **Agree on the framing of the mandate and the rules of the game.** Frequent contacts early in the relationship also help the board and CEO to clarify the job and its challenges – main concerns, critical stakeholders and key success factors – as well as the terms of engagement ("how we will work together"). When these parameters are underspecified, it can lead to expectation gaps and misunderstandings that create a fertile ground for bad dynamics.
- **Watch out for snap judgements.** Human beings' categorising instinct is deep-seated, so advising board members not to categorise would be unrealistic. But they do need to be more mindful of how impressions develop in their minds and to challenge "labels" as they come up. Directors must also be aware of their propensity to look for easy explanations in line with existing perceptions – biases that are accentuated by both stress and distance. Of course, they cannot remain open minded forever – decisions must be made and perfect information is never available – but directors *can* make an effort to become more mindful of the way their mind will be tempted to label management and to perceive and interpret reality in ways that will support their impressions.

Management's role

The board's behaviour obviously has a major impact on their relationship with the CEO. But it is also not fair to say that CEOs often get the boards they deserve.

If management does not accept gentle challenge from the board, NEDs are likely to ramp up the volume. Management's openness can greatly improve the NEDs' attitude toward them.

A CEO perceived to be coachable will typically receive more support than one perceived to be defensive. The CEO should hence ensure that he or she maintains an open and productive attitude toward board members. The CEO does not have to agree with all of the board members' ideas, but he or she certainly should hear and consider them.

Towards High-High

The board plays a crucial role in alerting the CEO to developments that he or she is underestimating or may have missed altogether. But whether the CEO pays any attention to that advice depends very much on the quality of the relationship they have established.

When the relationship with the CEO grows too supportive, the board's challenge will not be forceful enough.

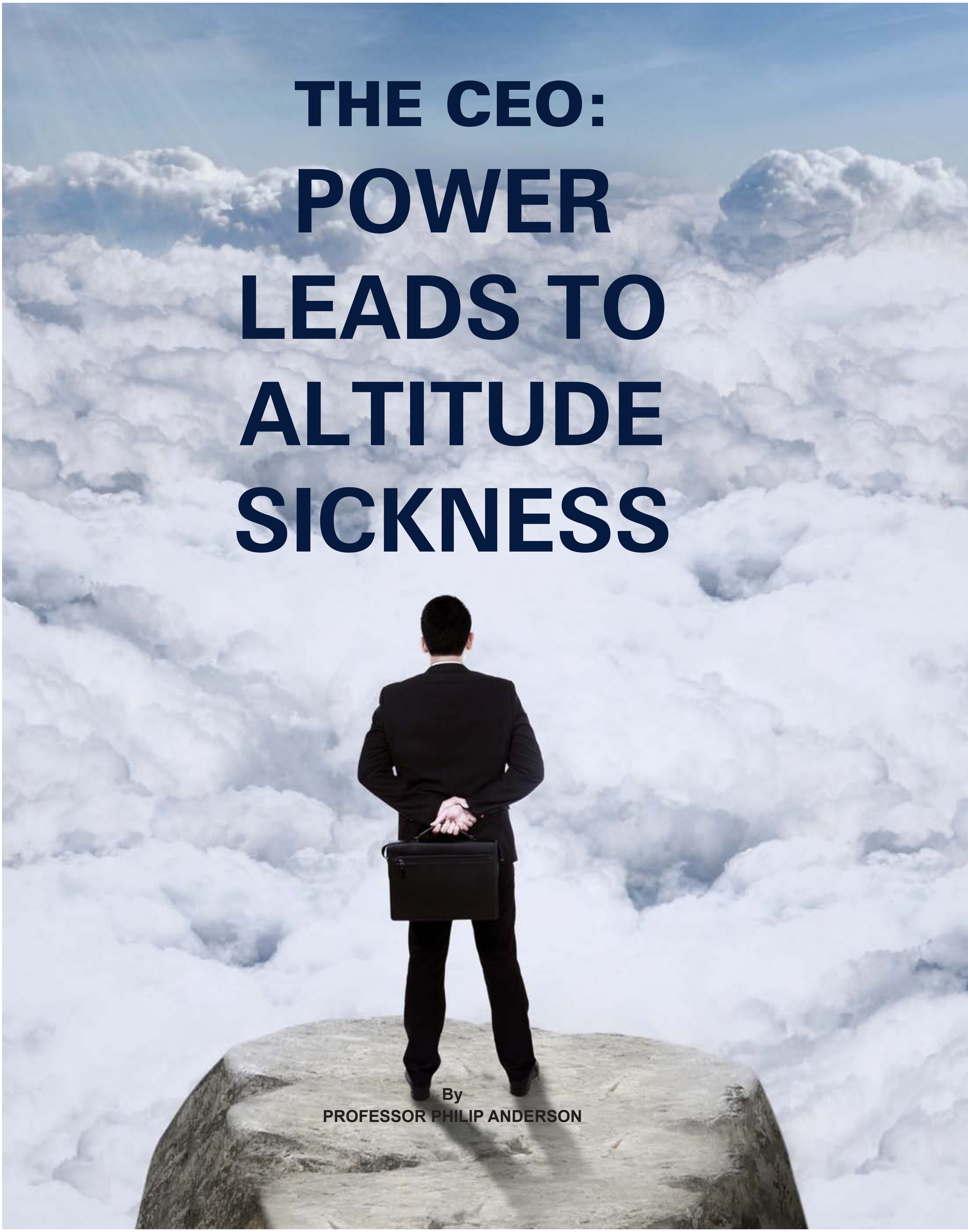
Paradoxically, when the board exerts too much control, it can also weaken its ability to influence the CEO – and can lead to dysfunctions and breakdowns that damage company performance just as much as lax governance.

The idea is not to tone either side down, but rather to bolster the weaker dimension. If managed effectively, each side actually strengthens the other.

When the board needs to deliver tough feedback, it is the mutual respect and the existing bond that helps the CEO accept the feedback. Similarly, it is only by maintaining its sharp critical edge that the board can deliver true support, not just emotionally, but also intellectually and cognitively, helping the CEO see things he or she had not seen or looking at things in a different way.

Striking this balance is not easy and is probably more a journey than a destination. Continuous progress on that journey requires awareness of the pitfalls, putting in place some of the practices described above and complementing them with continuous attention and significant practice over time.

Jean-Francois Manzoni is Nestlé Chaired Professor and President (Dean) of IMD (Lausanne (Switzerland) and Singapore). He sits on the Board of the Civil Service College. This article builds on work conducted with Paul Strebel and Jean-Louis Barsoux (IMD).



THE CEO: POWER LEADS TO ALTITUDE SICKNESS

By
PROFESSOR PHILIP ANDERSON

Boards appoint the best person they can find for the job of the CEO. But many fail because boards fail to recognise that the nature of the CEO's job has, within it, the seeds for downfall. It is time boards build frameworks to help their CEOs learn and not flame out in the top job.

When Marissa Mayer became Yahoo's CEO in July 2012, employees and shareholders saw the glamorous ex-Googler, former VP of product search and teacher of programming, as their saviour.

At Yahoo, she made some big bets in everything from blogging to digital magazines. She bought Tumblr, a blogging platform and BrightRoll, a video advertising platform. She even hired Katie Couric, a famous TV anchor to head its digital news efforts. She also caused numerous stirs, banning people from working from home and when times got tough, conducting firings by stealth in what became known as "lay-off" Wednesdays.

Fast forward four years, and the company was being sold. In July 2016, Verizon Communications announced its intent to acquire Yahoo's internet business for US$4.8 billion (the company was once worth US$100 billion). Mayer, will reportedly depart upon the deal's conclusion with a severance pay worth more than US$50 million.

Critics contend that Mayer is an egocentric micromanager who dithers over crucial decisions. If this is true, why was she considered a superstar CEO hire?

Of course, Mayer is not the only CEO in history who has had a stellar career and floundered in the top job. Much of the time, failures at the top are due less to character flaws than to the nature of the CEO position, which makes it difficult for leaders to be successful and grow in the job.

Does becoming a CEO change a person?

One key aspect of the top job is the, sometimes near-absolute, power, that comes with it. Many psychological studies have proven the maxim of British historian Lord Acton: "All power tends to corrupt; absolute power corrupts absolutely."

The power that a CEO enjoys can surface or accentuate flaws that lead to his undoing. Dutch psychologist Manfred Kets de Vries identifies six typical flaws in CEOs that either do not show up further down the ladder or have actually helped the leader to climb it, but in many

Flaws Unmasked by Power

- **Excessive narcissism.** Constant need for admiration, driven to prove they amount to something, enraged when superiority is challenged, believes that he can solve problems without help, sees feedback as humiliating criticism.
- **Hubris.** Confidence and charisma become pride and arrogance; the rules do not apply to me.
- **Impostor syndrome:** Dread of being exposed as incompetent leads to unrealistic goals, perfectionism, intolerance, micromanagement, fueled by the fantasy world of their audience.
- **Folie à deux.** Don Quixote ↔ Sancho Panza: leaders shift delusions to subordinates who behave in accordance with the projected fantasies.
- **Hypomania.** Infectious euphoria, enthusiasm, self-confidence – everything seems possible.
- **Ineffectual life scripts.** We keep replaying scripts that satisfied our basic wishes in the past (especially childhood), and subordinates play along.

Source: Manfred Kets de Vries, *The Leader on the Couch: A clinical approach to changing people and organisations* (Jossey-Bass, 2006)

cases, have become liabilities in the corner office (see box, "Flaws Unmasked by Power").

These flaws are often exacerbated by the nature of the job, what I call "altitude sickness".

The CEO role is a lonely job. At every career step before this one, there are peers to talk to about what is going on, but those checks and balances disappear at the top. Information and feedback are distorted; people tell the boss what they think he wants to hear. Leaders are often expected to personify the company and are idealised by employees.

External stakeholders are even worse. They want to see a winner or, preferably, a CEO who is on a perpetual winning streak. It is more than a lot to live up to.

At the same time, the ideal environment within which CEOs could learn to be effective in their jobs, however, would be far from the environment that most CEOs currently occupy.

High altitude learning

Boards need to set a context for the CEO that keeps them from succumbing to their flaws.

But as stewards rather than hands-on executives, board members should try not to engineer CEO development. They should aim to create a climate within which effective development will happen naturally. This can happen through the questions they ask, the demands they make, the expectations they set and the rewards they give.

Some key attributes of a strong learning climate that the board can create for the CEO is shown in the box, "Improving the CEO's Learning Climate".

Board members are ineffective as mentors because this goes against their governance mandate, but they can assist more indirectly by creating and sustaining a healthy developmental environment for the CEO.

When I was on the board of Singapore-listed Chemoil after its listing in 2006, I agreed with then-CEO Bob Chandran that I would have direct access to his senior staff, not to go behind his back or check up on him, but as an opportunity to speak with them and learn things that perhaps Bob would not hear the same way.

When boards see their CEOs falling prey to some of the very natural flaws that can be unveiled by the pressures of this unique role, the conclusion should not be that they need to be replaced. The next CEO is likely to have similar shortcomings. Boards should instead look out for which specific flaws rear their ugly heads and then take action to remedy them.

Improving the CEO's Learning Climate

- **Help the CEO build a strong external network.** Since the CEO's job is a lonely one within the company, he should be encouraged to develop an external network of peers and mentors either informally, or through organisations such as Entrepreneurs' Organisation, Young President's Organisation and Vistage.
- **Encourage management by wandering around (MBWA) with employees and customers.** The unstructured and unplanned MBWA can benefit the CEO by providing him with the feel and touch of the ground and insights that might not otherwise have surfaced. At the same time, it can enhance communications, improve morale, create a shared sense of organisational purpose and improve productivity with employees and customers.
- **Ask for productive conflict.** Constructive contention produces better solutions and decisions. Boards and CEOs should seek it in their interactions with each other, and CEOs should be encouraged to seek it in their interactions with their subordinates.
- **Expect honest dissent.** In that regard, boards should expect dissent from their CEOs as long as these are made in the interests of the company (and not narrow vested interests), just as the CEOs should be requiring that of their staff.
- **Demand evidence-based learning and promote hypothesis-driven experiments.** Instead of having decisions made based on the gut instincts of the CEO, the board should require rigorous analysis of the data, and conclusions by evidence. In scenarios of great uncertainty and many variables, it should promote the development of hypotheses and the testing of those hypotheses.
- **Actively seek surprises and bad news.** While boards may not like surprises and bad news, the absence of them may also mean that the CEO is keeping them from the board. Instead, boards should actively seek out and encourage the CEO to share his challenges, concerns and problems.
- **Make it okay to be wrong or reverse course.** Everyone makes mistake. It helps for the board to send the message that the CEO is fallible and that it is more important to correct an error before it is too late.
- **Reward results, not mystique.** Finally, what is measured and rewarded gets done. The board should be clear that it is performance that counts, not the hype that the public relations department and media might heap on the CEO.

Stopping CEO failure

Marissa Mayer had a tough time at the top. But the outcome is not all her fault. She is, however, a cautionary tale of what happens to CEOs who are brought in with fanfare and then left to steer the ship alone.

CEOs who also chair the board are particularly vulnerable because they lack the most important counterbalance of all.

Boards can neither anticipate nor fix every failing that the pressure-cooker of the top job brings out in CEOs, but they must take responsibility for sustaining the right climate for the CEO to grow over time. ■

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The maze of shareholder power thresholds

By **GERARD TAN**
Treasurer, SID

COUNTING BEANS

Shareholders wield power. The larger the shareholding, the greater the power a shareholder generally has in influencing decisions and actions in a company. Thus, rules have emerged to ensure equity and transparency of shareholder actions relative to other shareholders and the investing public.

There is a plethora of regulations that look at the various shareholding thresholds and define their attendant rights and obligations. They include:

- The accounting standards, primarily the Singapore Financial Reporting Standards (or FRS).
- The Companies Act, Cap 50 (CA).
- The Securities and Futures Act, Cap 289 (SFA).
- The Singapore Code of Corporate Governance 2012 (CG Code).
- The Singapore Code on Takeovers and Mergers (TO Code).

It can be confusing. One way to understand the implications of different shareholding thresholds is the impact from the perspectives of a company group, and that of a shareholder.

Ownership of companies within a group

For company groups, there are clear financial reporting requirements under FRS 28 (Investments in Associates and Joint Ventures), FRS 110 (Consolidated Financial Statements), FRS 111 Joint Arrangements and FRS 112 (Disclosure of Interests in Other Entities).

The accounting treatment varies depending upon whether the investee is an investment (less than 20 per cent), an associate (20 to 50 per cent), or subsidiary (more than 50 per cent).

These thresholds are, however, guidelines. For example, if a company holds less than 20 per cent of an investee's shares, but has significant influence over the investee's financial and operating policy decisions, it would be classified as an associate. Similarly, if an investor company is assessed to have control over an investee, such as, by controlling the composition of an investee company's board or having more than one-half of the voting rights, the investee company would be considered its subsidiary under the accounting standards even if the share ownership is less than 50 per cent.

Joint ventures and joint operations typically are 50-50 arrangements but it need not be so. FRS 111 defines joint control where there is contractually agreed sharing of control, which exists only when decisions about the relevant activities require the unanimous consent of parties sharing control.

In addition to accounting, there are also related disclosure requirements and announcements when certain share transactions occur between companies in a group.

Shareholding Implications At A Glance

Shareholding Threshold	Implication	Applicable Legal Provisions/Rules
Ownership of Companies within a Group		
Less than 20%[1]	Investment	FRS 28
20 to 50%[1]	Associate Associated company (where held by a listed company/group)	FRS 28 MR 704 / CR 704, MR 715 / CR 715, MR 716 / CR 716, MR 904 / CR 904
No specific threshold	Joint Operation or Joint Venture	FRS 28 and 111 MR 703 with App 7.1(8)(a) CR 703 with App 7A(9)(a)
More than 50%[1]	Subsidiary	CA 5(1); FRS 110 MR 704 / CR 704[2]
Shareholders		
5% and more	Substantial shareholder Relevant person	CA 81(1) SFA S135, 136, 137 CA 201A, 205C
10% and more	Criteria for Independent Director Power to unilaterally block delisting	CG Code Principle 2 MR 1307 / CR 1307
15% and more	Controlling shareholder	MR 904 / CR 904
30% and more	Criteria for Interested Person Transaction Effective control in merger transaction	SGX MR / CR Chapter 9 TO Code 14.1(a)

[1]Guideline only.
[2]A significant number of other listing rules apply to subsidiaries.

Shareholders

In addition to reporting requirements and broad based disclosure required of investor companies, individual and organisational shareholders that cross certain shareholding thresholds have certain powers and obligations in relation to investee companies.

A five per cent or more shareholder is deemed a substantial shareholder under the Companies Act and SFA. He has an obligation under the SFA to notify the company within two business days of becoming or ceasing to be a substantial shareholder, or changes his shareholding by one per cent or more from the level he last notified the company.

One or more shareholders who own at least five per cent of issued shares ("relevant person") can require a dormant company exempted from preparing financial statements to prepare them. Similarly, a relevant person can require an audit to be performed for a small company that enjoys audit exemption.

A relationship with a 10 per cent or more shareholder is one criteria for determining director independence under the Code.

Shareholders who own 10 per cent or more of a listed company's issued shares excluding treasury shares can block a delisting resolution, even if they have been approved by shareholders representing at least 75 per cent of issued shares excluding treasury shares.

The SGX-ST Listing Manual defines a controlling shareholder as one who holds directly or indirectly 15 per cent or more of the total number of issued shares excluding treasury shares in the company.

A shareholder with 30 per cent or more shareholding is an interested person subject to Chapter 9 of the SGX-ST Listing Manual. The Takeover Code requires that any person who has acquired shares (including in concert with other parties) with more than 30 per cent of the voting rights must extend the offer immediately to others. ■

SHAREHOLDERS: RECLAIMING THEIR POWER AND RIGHTS

By
DAVID A. SMITH
Head of Corporate Governance, Aberdeen Asset Management Asia Ltd

The theory is that the shareholder is king. The reality is however, often the CEO rules the roost. Investors across the world are increasingly willing to reassert their rights and defend the checks and balances that protect their interests. Such greater investor engagement is sometimes catalysed by new codes on shareholder stewardship and corporate governance.

Power lies at the very heart of corporate governance. That is because corporate governance, at its core, is concerned with the allocation, balance, management and accountability of power within companies.

It is clearly in the interests of shareholders, who entrust capital to companies under the stewardship of other people, to identify where power resides. Rules and regulations may set the boundaries, but power relations, along with things like culture, can have a big effect on corporate performance.

In theory, shareholders must approve a board of directors to oversee their interests and so, shareholders wield power over directors; the board has power over management because executives are accountable to board members; the chief executive may formulate strategy, but if performance fails to meet shareholders' expectations, his job is at risk. In theory, the shareholder is king.

In reality, it is often the chief executive officer (CEO) who is the undisputed boss in the corporate power structure. When this happens, the board may struggle to perform its oversight role, especially if there are divisions within its ranks. Board members may also be too close to the CEO. The board may be structurally independent, but it is meaningless if the CEO helped recruit some of its members.

Meanwhile, shareholders may fail to exercise control over boards because they are too fragmented and cannot coordinate their actions. In the US, staggered boards and plurality voting have made it difficult to remove under-performing directors. In Asia, minority shareholders may find themselves emasculated by a majority shareholder who controls the recruitment, nomination and election of directors.

When power is too concentrated

Too much power in the hands of an individual is bad news. In the case of an imperious CEO, the desire to have total control can sometimes result in a single person filling the roles of chairman and CEO. The job of the chairman is to manage the board, while the CEO is supposed to run the company. A combined chairman-CEO can be a dominant, autocratic figure who discourages discussion and suppresses dissent.

A strong chief financial officer (CFO) can act as an important counter-balance to this chief executive's more aggressive instincts. For example, he ought to be empowered to tell the CEO if the company cannot afford a project, before it is too late. However, a weak CFO may not be able to stand up to the demands of a powerful CEO.

The dysfunction caused by the concentration of power can be felt even within the ranks of independent directors. Directors appointed to the board from outside the company represent one of a number of checks and balances designed to prevent abuses. However, what are the power relationships at work here? Is there a dominant individual who overshadows proceedings? Does this person foster a culture of open discussion and robust debate, or is there a culture of passive obedience?

Since it is in the interests of shareholders to invest only in companies where governance arrangements are observed in such a way that prevents the flagrant abuse of power, what are investors doing when these checks and balances come under threat?

Investor responses to distortions in power

Investors are increasingly prepared to challenge the company's management to seek redress when their interests are threatened. This is a reassertion of rights that aims to put power back into the hands of the people who own the company – the shareholders.

Asia has traditionally seen less shareholder "activism" than other parts of the world, but this has been changing in recent years with high-profile campaigns in markets such as Korea, Japan and Hong Kong.

For example, Japan's Financial Services Authority has issued its "Principles for Responsible Institutional Investors" document – better known as the Stewardship Code – which serves as a framework of obligations to ensure investors play a bigger role engaging with listed companies.

Modelled on a set of guidelines released in the UK in 2010, the Stewardship Code encourages investors to challenge management on broader issues of governance and strategy, rather than focusing on shorter-term questions relating to financial performance.

So what are some of the things that shareholders push for? In cases where one person is chief executive and chairman, they increasingly seek the separation of those roles. Where this is impractical, for example at smaller firms, the appointment of a lead independent director is an acceptable alternative. If the board is too cozy with the CEO, shareholders ask to see new faces on the board.

How shareholders can assess power

To hold management accountable there must be regular engagement – the frank discussions with a company that take place before and after the initial investment.

Meetings can be held with the management team, non-executive directors and the chairman – in fact anyone in a position to provide deeper insights into issues that affect the firm. However, even though shareholders approve the board of directors, they are seldom given access to the individuals who serve on them. This is one area where there is much room for improvement.

Investor engagement is sometimes catalysed by new codes (on stewardship, corporate governance). Many investors have an increasingly Environmental, Social and Governance (ESG) brief, as opposed to one that is focused on governance alone.

On governance matters, discussions may be around transparency and disclosure, checks and balances, composition of the board and management, remuneration and capital management.

Shareholders should be at the apex of power structures that control listed companies. Unfortunately, this is not always the case. Misallocation and abuse of power happen far too often.

While it is the responsibility of every stakeholder to ensure adherence to governance "best practices", shareholders have the most to gain by defending the checks and balances that have been designed to protect their interests. ■

The DCS Forum: Dualing Over Governance, Risks and Rewards

On 28 February 2017, some 100 SID members and guests turned up to debate the SGX Consultation Paper, "Possible Listing Framework for Dual-Class Share Structures" that was issued on 16 February 2017. There was little sitting on the fence as speakers and participants provided strong and passionate feedback on the benefits, governance issues and alternative approaches.

In welcoming participants to the dual-class shares (DCS) forum, Joyce Koh, Executive Director of SID said SID will take into account the views from the session in formulating its response to the Consultation Paper.

The forum began with two presentations. The first was by Mr Tan Boon Gin, Chief Regulatory Officer of SGX, who provided a gist of the SGX Consultation Paper and the feedback the Exchange was seeking. The second was by Mr Ng Wai King, Managing Partner of WongPartnership who gave an overview of DCS structures in other jurisdictions and the key issues and challenges encountered.

A diverse panel then took to the stage. Moderated by Mr Lee Kim Shin (Managing Partner of Allen & Gledhill LLP), the panel included Mr Ng; an independent director, Mr Soh Gim Teik, Vice-Chairman of SID; an institutional investor, Dr. David Smith, Head of Corporate Governance at Aberdeen Asset Management Asia; and a venture capitalist, Dr. Jeffrey Chi, Chairman of the Singapore Venture Capital Association.

A lively discussion ensued among the panel members, as well as with participants as all took the opportunity to share their candid views on the pros and cons of DCS and even alternative structures.

A summary of the key points from the speakers and participants are covered in the next four pages.

Regulatory Considerations for DCS Structures

Mr Tan Boon Gin

Consultation Paper seeks feedback on:
- Should the DCS Framework be introduced?
- What safeguards against key risks may be?

Key principles
- If DCS is introduced, the one-share one-vote structure will remain the default structure for listed companies.
- DCS will only be allowed for IPOs.
- Possible safeguards are focused on mitigation of entrenchment and expropriation risks.

Key risks of DCS structures
- Entrenchment risks: Owner-managers become entrenched in management of the company to the detriment of non-controlling shareholders.
- Expropriation risks: Owner-managers seek to extract excessive private benefits from the company, to the detriment of non-controlling shareholders.

Raising investor awareness (if DCS is introduced)
- **Clear disclosures**
  > Clearly identify DCS companies in SGX data disseminated for display.
  > List all MV shareholders in annual reports.
- **Investor awareness**
  > Investor education.
  > Risk disclosures in prospectus.

Possible Safeguards for Entrenchment Risks

- **Limit Voting Differential.** Each MV share carries up to 10 votes, while each OV share carries one vote.
- **Restrict Share Issue.** Issuers are prohibited from issuing MV shares post-listing except in the event of a rights issue.
- **Automatic Conversion.** MV shares are automatically converted into OV shares upon sale or transfer; or cessation of service.
- **Sunset Clause.** DCS structure is converted into single class at a future date or upon specified events.

Possible Safeguards for Expropriation Risks

- **Board with more IDs.** The majority of the board and board committees (NC, RC, AC) including their chairmen, to be independent.
- **Equal votes for IDs.** Each share gets one vote in voting for independent directors.
- **Risk Committee.** A separate risk committee established to oversee risk management.
- **Coat-tail Provision.** All shareholders must be allowed to participate in takeover offer at the same price.

The DCS Landscape

Mr Ng Wai King

Characteristics of DCS structures

- Two separations
  - > Separation of voting power from equity.
  - > Separation of voting power from economic rights.
- Usually achieved by:
  - > Having a class of shares with additional voting rights (e.g. super-voting shares which have 10 votes per share instead of one vote per share); or
  - > Granting a particular class of shares or a group differentiated voting rights (e.g. the right to appoint a majority of the board).
- US examples: Alibaba, Facebook, Google.

Why DCS structures?

- Allows a founder/owner to maintain control of a company (i.e. voting power) and also enables them to access the capital markets at the same time.
- Industry-specific reasons e.g. Media (protect editorial integrity), Fashion (brand image with founder); Technology (long-term innovation without short-term pressures).

DCS in other jurisdictions

Jurisdiction	DCS Structure	Listing
US	Yes	Yes
Canada	Yes	Yes
Hong Kong	Yes	No
UK	Yes	No, except for secondary listings
Sweden	Yes	Yes
Australia	Yes	No

Governance issues

- Entrenchment and expropriation risks
  - > Not unique to DCS.
  - > DCS is a "leveraged play on the management", i.e. amplifies the success or failure of management.
- Measures to mitigate risks
  - > Improving corporate governance framework.
  - > Imposing fiduciary duties on controlling shareholders.
  - > Minority actions.
  - > Enhancing independence element on the board and voting process for IDs.
  - > Risk committees.

Takeover issues

- Takeover Code principles
  - > Typically premised on "one share, one vote" rule.
  - > Primary objective is "fair and equal treatment of all shareholders in a takeover or merger situation".
  - > Compliance rests with parties to a takeover or merger (including directors).
- Takeovers in DCS situation
  - > A DCS structure is an anti-takeover measure.
  - > Directors generally cannot frustrate a takeover offer.
  - > Public shareholders in DCS structure must accept that no takeover offer can occur unless the MV shareholders are prepared to give up control.
  - > Question arises of when control passes if there is an automatic conversion.
- SGX coat-tail provision
  - > SGX is proposing a coat-tail agreement among MV shareholders, issuer and a trustee.
  - > Such an agreement will prevent transactions that otherwise would deprive the OV shareholders of rights under the Takeover Code.
  - > MV shareholders will be obliged not to sell unless concurrent offer is made to OV shareholders.

Panel Discussion: To Dual or Not To Dual?

Why it is needed

"Venture-backed companies are typically not majority controlled by their founders by the time they are mature enough for a public listing. Allowing a DCS structure would provide the founders to have a stronger footing in continuing to realise their vision for their company benefitting all shareholders."

Dr Jeffrey Chi
Chairman, Singapore Venture Capital Association

"DCS addresses the needs of certain founders (whose brand, technology or business model is closely associated with them); the challenge for the investing community is to accept the limitations of the DCS when it comes to voting."

Mr Ng Wai King
Managing Partner, WongPartnership

Why it is not needed

"Long-term investors are not queuing up to throw out visionary founders before profit starts kicking in. They are usually patient but there could be some short-term noise from short-term investors, which is not unusual in a dynamic market. Amazon is a good example of a company where investors have been patient with a founder investing for the long term."

The DCS Consultation Paper itself acknowledges that DCS can lead to 'lower efficiency in the use of cash resources by a company, and less successful acquisitions and returns on capital expenditure'. On the other hand, technology companies like Apple, Microsoft and Amazon are very successful despite having only single class shares.

In Singapore, shareholders should be asking for more rights to hold boards to account to improve corporate performance, not acquiescing to less. This would, I believe, create a more vibrant capital market rather than introducing DCS to achieve the goal."

Dr David Smith
Head of Corporate Governance, Aberdeen Asset Management

Why it may work

"Directors used to the one-share one-vote system can see DCS as undemocratic. But they can reset their thinking and rise up to DCS structures. The bar needs to be raised and we need to be innovative. An independent board is a must for good corporate governance. MV controlling shareholders should preferably not be allowed to vote on the appointment of independent directors."

Mr Soh Gim Teik
Independent director, and Vice-Chairman, SID

"A good founder is key to the DCS structure, but it is probably more important to have a good management team to support the founder in order to move things forward. The focus of the listing criteria should be on a strong management team. We also need the regulatory bodies to take the lead and act against errant founders/companies. As Singapore is not a litigious society, the regulatory bodies should be more vigilant in enforcing the rules."

Mr Ng Wai King

"Everyone has an opinion on DCS. It is clear that the debate will go on for some time but it is important that all stakeholders give their views via the SGX Consultation Paper. At the end of the day, we need to move forward and I am sure we will find a good balance for all stakeholders to make Singapore a vibrant market."

Mr Lee Kim Shin
Managing Partner, Allen & Gledhill LLP

Why it may not work

"There are two aspects of the proposal that may not work. First, the criteria of $500 million will be a huge barrier. Second, the sunset clause will discourage entrepreneurs."

Mr Soh Gim Teik

"The devil is in the details. While safeguards are necessary to protect investors, too much safeguards may negate the benefits of DCS structures, so is it worth it? The sunset clause is not easy to implement, as therein lies the judgement call to decide on the appropriate timeframe."

Dr Jeffrey Chi

L to R: Mr Lee Kim Shin, Mr Soh Gim Teik, Dr David Smith, Dr Jeffrey Chi, Mr Ng Wai King.

Impact on Singapore CG scores and rankings

"Singapore has scored well in the last three ACGA biennial CG Watch but it has been conveyed to us that adopting the DCS will adversely affect our future scores."

Mr John Lim
Chairman, Boustead Projects

"The ACGA rankings show that we score well in comparison regionally, but we may not be that good internationally. We should hold out to higher standards, perhaps consider making the Code of Corporate Governance compulsory for all companies, perhaps emulate the UK standards."

Mr Christopher Leahy
Founder, Blackpeak Group

"If Singapore adopts DCS, so might other countries around the region. It is the contagion effect. So, while Singapore will see its governance scores drop with DCS, all will be balanced out, as all will similarly drop if they were to adopt DCS. But that is not the point. We should be innovative and give more rights to all shareholders, not favour the few."

Dr David Smith

Create a regulatory sandbox

"Singapore always has an instinct to be bold in its initiatives but once it declares the initiative, it tends to take half steps back and start hedging by creating a lot of protection around it. We need to make a bold statement and try it out as there are enough judicial infrastructure to handle any fallouts as we have done in the past. The current initiative is a narrow one and maybe, the way forward is by having a sandbox for these high technology companies. If they are ready and want to be on the mainboard or catalist, then they should comply with existing rules and hence there is no necessity to have extra clauses. There is no need to protect the founders as they are not "blushing brides" and they know how to protect themselves. If the market does not value them, there are people who would be happy to sign a cheque."

Mr Quek Peck Lim
Chairman, PrimePartners

Go further to a free-for-all market?

"The regulators should take a more liberal approach. It can be more innovative. There can be multiple classes of shares, and no limit on number of votes for any class. The disclosures under the current Code of Corporate Governance are too stringent and should be relaxed. At the same time, lower the barrier for ordinary shareholders to take class action suits."

Mr Henry Wang Xinbin
Executive Director, Everbright Business Consultancy

"While the US has class action suits and contingency fees, we should consider whether we want a more litigious system. Despite such strong checks and balances, companies are still going to the US to list so it is all about striking the right equilibrium. Companies will look at the ecosystem in totality and our way of striking that equilibrium is through safeguards that give shareholders an equal voice in key governance matters."

Mr Tan Boon Gin

Shareholders vs Stakeholders: For whose benefits?

By K. SADASHIV

Is maximising benefits for shareholders at odds with maximising benefits for all stakeholders? Or is the shareholder merely another type of stakeholder whose long-term interests is tied to that of all the other stakeholders?

In his seminal book, *Strategic Management: A Stakeholder Approach*, Edward Freeman crystallised the proposition that stakeholders go beyond shareholders.

He defines a stakeholder as "any group or individual who can affect or is affected by the achievement of the firm's objectives". Stakeholders would include shareholders who are the reason for the firm's existence in the first place. But stakeholders go beyond to include customers, suppliers, financiers, communities, governmental bodies, political groups, employees, trade associations, trade unions, and, in some cases, even competitors.

Freeman analysed the different types of strategies and noted the contrast between:

- The shareholder strategy, which seeks to maximise benefits to the shareholders or "financial stakeholders".
- The utilitarian strategy, which seeks to maximise the benefits to all stakeholders, and consequently benefits to society as a whole.

Many boards and directors view the two strategies as conflicting and have debated their relative merits and disadvantages.

However, do these two strategies have to be in conflict? Let us examine each of them.

The shareholder strategy

The rise of the shareholder primacy theory is due to the influence of economist Milton Friedman. In 1970, Friedman argued that the social responsibility of business is to increase profits.

Six years later, economists Michael Jensen and William Meckling turned to agency theory to explain why it was the sole obligation of corporations to maximise profits. They posited that corporate executives acted as agents for the shareholders of the business, the principals. Maximising shareholder value became a shared goal that served to align the interests of shareowners and management, the latter via generous incentive compensation plans.

Shareholder value is maximised when there is high dividend distribution and increase in the share price.

However, satisfying shareholders' desire for immediate gains could encourage management behaviour and actions that generate sharp share price movements upwards but may not necessarily translate into long-term shareholder value creation. In fact, seeking to maximise returns every quarter for investors or activist shareholders who are looking to cash out quickly, could lead to poor strategic planning and hasty business decisions.

Unfortunately, executives are often compensated based on short-term price performance rather than long-term business feasibility, which can misalign the interests of management and current shareholders with the true long-term welfare of the company.

At the core, what committed shareholders inherently seek is a sustained increase in the value of their holdings, rather than mere short-term increase. Ironically, it is shareholders themselves who may have created the confusion, especially through certain investors such as activist hedge funds who have short-term interests.

The objective of maximising returns for investors alone may work well for small and mid-sized privately-held businesses where the senior managers hold the major ownership stakes; here investor returns and the company's interests can be perfectly aligned. It also works well for private equity sponsored deals where the investors play a role in the management of the company. However, for large enterprises, and public companies in particular, the reverse can be true.

Shareholders do not always hold a preferred claim to a company's profits or assets. The rights of debt holders, retirees, employees, and even some large suppliers and customers can supersede those of shareholders at times and under different circumstances (for example, bankruptcies). This implies that CEOs who run a company (primarily for shareholders) should focus as much on the preservation and growth of the business as much as the maximisation of shareholder wealth. In the long term, in a free market system, the two objectives will converge, even if they may diverge in the short-term.

That is not to say that CEOs and boards should prioritise equity holders over other stakeholders and the interests of the company in every case, but the obsession with shareholder value can sometimes compromise a company's innovation and strategic direction in favour of immediate returns.

The utilitarian strategy

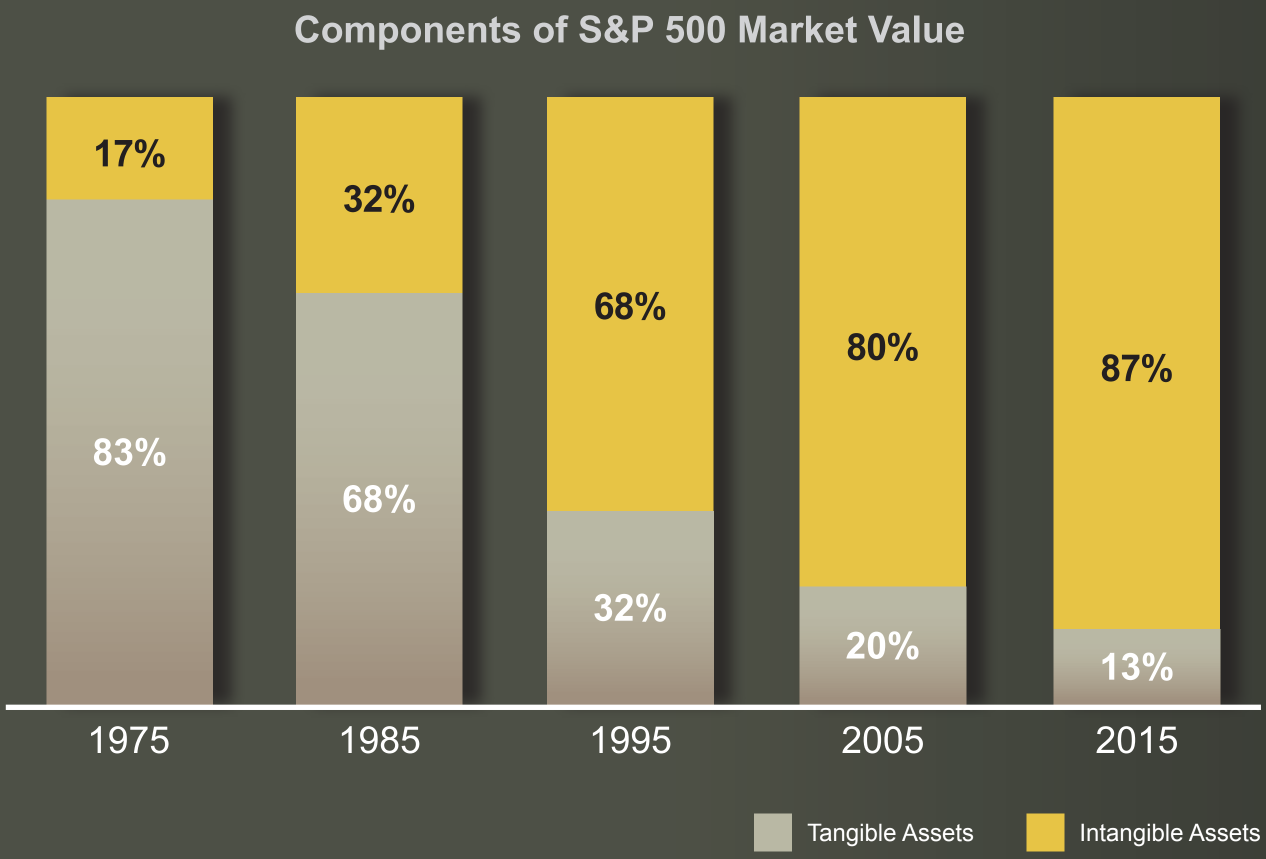
Numerous studies have shown that the value of intangible assets can far exceed that of tangible assets for the majority of firms. The weight of tangible to intangible assets has inverted over the last three decades. (See chart, "Components of S&P 500 Market Value".)

The key intangible assets that drive the lion's share of corporate value are:

- **Human capital.** This is the value derived from the accumulated skills, explicit and tacit knowledge and experience of company employees.
- **Relationship capital.** This is the value tied up in positive relationships with employees, suppliers, partners, customers and government.
- **Brand capital.** This is the value energised from consistent verbal and visual messaging, and individualistic character.

All these three forms of capital involve stakeholders, who need not be shareholders.

In stakeholder theory, the firm is defined by its value chain, with suppliers and customers as the two key stakeholders, and the rest of business actions by employees, financiers, regulators, media, communities, trade unions, associations and even competitors.



Source: Ocean Tomo LLC, *Ocean Tomo's Annual Study of Intangible Asset Market Value — 2015*, 5 March 2015.

The utilitarian approach assesses corporate actions in terms of their consequences, and strives to achieve the greatest good for the largest number while creating the least amount of harm or suffering.

Stakeholder theory emphasises that organisations have a social responsibility, and management should go beyond shareholders' interests when making decisions, taking into consideration every entity involved in and affected by the company's decisions. The interests of stakeholders should be considered as the means by which organisations achieve their strategic goals.

An INSEAD faculty and research paper, "What's at stake? Stakeholder engagement strategy as the key to sustainable growth", argues that the basic premise of Freeman's stakeholder theory is: "Management should not relegate the company's effects of stakeholders to the status of externalities that are irrelevant to the firm's main objective of profit maximisation and value maximisation but rather should view each class of stakeholders as holding intrinsic value of their own".

In other words, adopting broader stakeholder engagement enables an organisation to secure an advantageous position through good relations with key stakeholders, which, in turn, can enhance valuable intangible assets that result in improved financial returns.

The justification of this premise exists at three basic levels:

- **Descriptive** – the way things are done.
- **Normative** – the way things ought to be done.
- **Instrumental** – doing it is good for business.

The last rationale, instrumental, erases the contradiction between "business-oriented" and "socially responsible" approaches.

Research indicates that taking into account a broad view of stakeholders' interest and concerns is positively correlated with maximising long-term shareholder value. There are five major ways by which stakeholder engagement can contribute to a company's performance:

- It engenders trust, a key ingredient for securing the license to operate.
- It secures the support of potentially influential partners.
- It can solve problems as one of the best benefits of building trust.
- It helps management see the future.
- It can enhance the firm's public image.

Thus, effective stakeholder engagement can deliver quality results, although it does require considerable resources and time.

Shareholders as stakeholders

The end-goal of shareholders and stakeholders are similar: the long-term viability and prosperity of the organisation.

Any definition of shareholder value creation as being linked to short-term share price increase is potentially flawed since sustained value enhancement is the objective of long term shareholders, and is the very reason for the firm's existence.

Hence, rather than debate about strategies for shareholders or stakeholders, the position should be that the organisation's strategies need to serve shareholders (as stakeholders) as well as all other stakeholders. ■

K. Sadashiv is ASEAN Managing Director, Climate Change and Sustainability Services of Ernst & Young LLP. The views in this article are those of the author and do not necessarily reflect the views of the global EY organisation or its member firms.

Sustainability – A strategic imperative for boards

By **ROBERT CHEW**
Council member, SID

SUSTAINABILITY

Supporting sustainability is no longer a token for companies. It is a do, or prepare to be questioned, especially by a world made up of savvy stakeholders increasingly passionate about doing good for the communities and environment they live in.

"As the head of a company operating in more than 190 countries and whose products are used by two billion people every day, I'm convinced that businesses have both a responsibility and an interest in supporting sustainability," said Paul Polman, CEO of Unilever.

The preponderance of evidence shows that sustainability is going mainstream, if it is not already. Companies that proactively make sustainability core to business strategy will drive innovation and build loyalty with customers, employees, suppliers, communities and investors. Boards can no longer afford to approach sustainability as a "nice to have" function separated from the "real" business.

SGX Sustainability Reporting Guide

In June 2016, the Singapore Exchange (SGX) launched the Sustainability Reporting Guide. Every listed company is now expected to publish their first sustainability report, on a "comply or explain" basis, effective from financial year ending on, or after 31 December 2017.

This is no newfangled, additional reporting burden for boards. The Code of Corporate Governance 2012 states that it is the board's role to consider sustainability issues such as environmental and social factors, as part of its strategic formulation (Guideline 1.1(f)).

Indeed, the SGX Sustainability Reporting Guide reflects a strategic, principle-based approach to reporting. Boards should identify the environmental, social and governance (ESG) factors relevant to the business; address them like any other risks and opportunities; link them with the business strategy, operational and performance targets; and adopt a reporting framework appropriate to the business.

Singapore Lags Behind In Sustainability Reporting

Sustainability reporting is long overdue as our businesses fall behind other markets in this area. A study by the Centre for Governance, Institutions and Organisations (CGIO) of NUS and the ASEAN CSR Network (ACN) found that only 37 per cent of mainboard-listed companies here communicate their sustainability practices for the two calendar years of 2014 and 2015 as compared to 81 per cent of the S&P Index 500 companies that published corporate sustainability reports in 2015, and 100 per cent of the top mainboard companies in Indonesia, Malaysia and Thailand.

Still, not everyone is enthusiastic about this reporting requirement.

Sustainability is clearly important but the reports are not likely to show anything other than boilerplate statements, commented renowned

Singapore-based investor Jim Rogers at the launch of the reporting requirement in July 2016.

Boilerplate reporting and checklists ticking for the sake of compliance might unfortunately be what is going to transpire if businesses do not see the relevance of sustainability practices.

Sustainability As Strategic Imperative

Ownership of this begins at the top, with the boards. The SGX Guide highlights that the board should "see to it that they (sustainability issues) are monitored and managed".

This harks us back to the basic: why even consider sustainability issues?

For one, the general public is becoming aware of them. Consider the public outrage at businesses responsible for the 2013 Southeast Asia haze when PSI levels entered the unhealthy range. The result is companies now face unprecedented demands and opportunities related to their social and environmental sustainability.

Customers increasingly demand, and are willing to pay for, offerings that align with sustainability-oriented ideals.

A large and growing number of employees prefer to work for sustainability-oriented companies, making sustainability a key lever for attracting and retaining top talent.

Boards have a responsibility to direct this sustainability imperative - to develop effective sustainability oversight as well as to meet the needs of the SGX Sustainability Reporting Guide.

As first steps, Boards should consider the following three actions:

- Formalise sustainability as a board priority. Embed sustainability in the terms of reference for board committees, and in discussions on strategy, risks and incentives. Gap Inc, for example embeds sustainability into the mandate of its Governance, Compensation, Audit and Finance committees.
- Identify and focus on company specific and material ESG issues that impact operations and revenue, rather than considering "sustainability" in a generic and broad sense. Unilever's board is responsible for monitoring the company's Sustainable Living Plan, the blueprint to grow its business, whilst decoupling the environmental footprint from its growth and increasing its positive social impact.
- Incentivise management for sustainability performance and establish linkages between executive compensation and sustainability targets. BHP Billiton and Campbell Soup use a "balanced scorecard" that incorporates business and sustainability priorities into a suite of indicators used to determine short- and long-term performance payouts.

The above will help companies embark and ease in to a journey towards creating new opportunities, enabling innovation and achieving sustainable development. ■

Internal audit: Reinforcing checks and balances

The checks and balances needed in a company are many and varied. Risk management is strongest when there are separate and clearly identified lines of defence. Internal audit plays a pivotal role in ensuring that the assurance framework is effective.

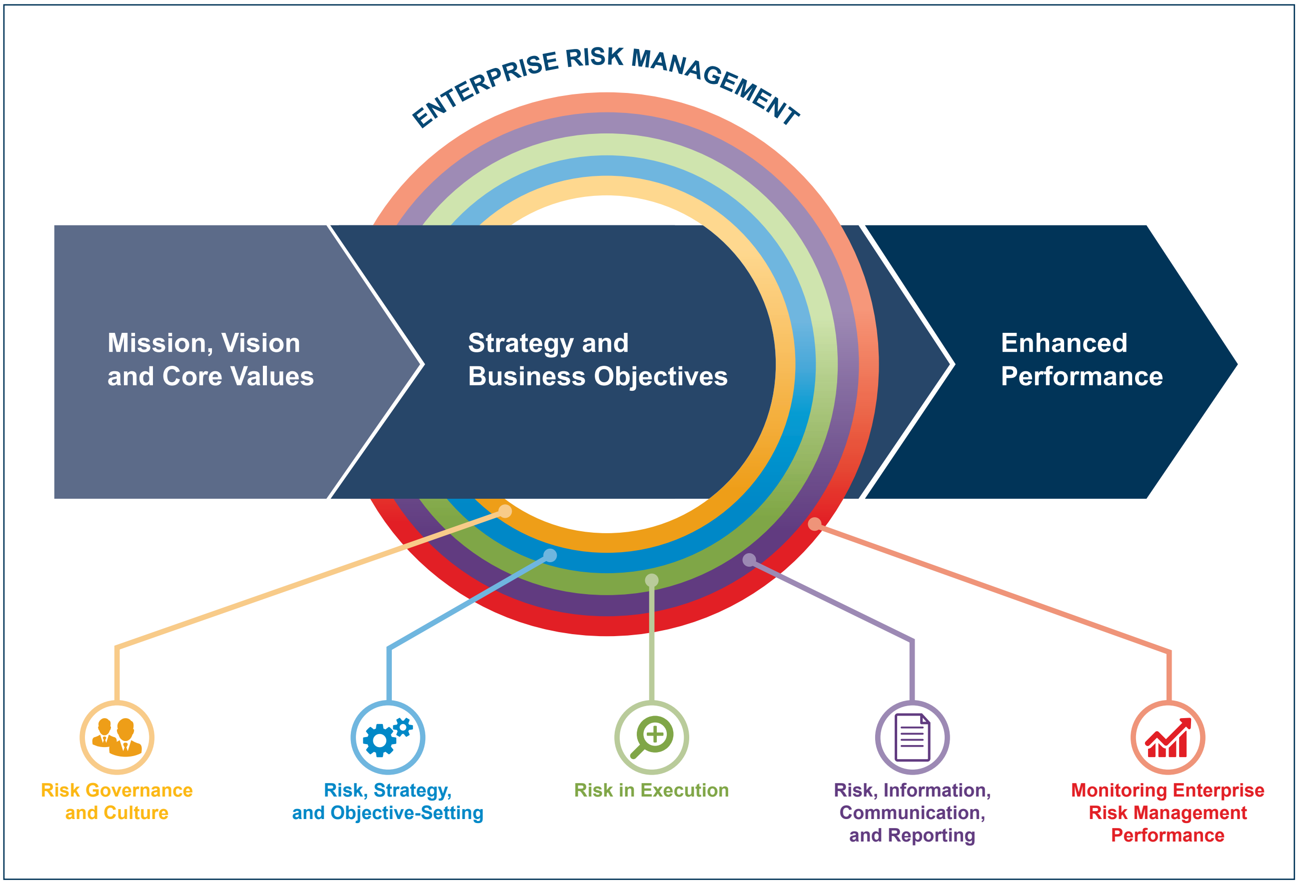
By **JENNY HEAH**
Senior Assistant Director
MOH Holdings

BERNICE SWEE
Assistant Director
Group Internal Audit Division
MOH Holdings

Corporate governance has to do with the way in which companies are managed and controlled. Good corporate governance requires a range of checks and balances, especially on those with the power and influence to make decisions and act in ways that can be either beneficial or detrimental to the company.

From the viewpoint of investors and regulators, their first line of protection is the board of directors. Thus, the law imposes various duties on directors. These include fiduciary duties such as the duty to act fairly and honestly, and to exercise due care.

For the board to fulfil its stewardship responsibilities, it has to, in turn, ensure an effective system of checks and balances within the corporation.



A common means to achieving this is to ensure that the company has established and implemented an effective risk management (ERM) framework with sound internal control systems.

Indeed, the regulators insist that boards "should ensure that management maintains a sound system of risk management and internal controls to safeguard shareholders' interests and the company's assets" (Principle 11 of the Singapore Code of Corporate Governance 2012).

Enterprise Risk Management

ERM is a process to manage risks and seize opportunities related to the achievement of business objectives. ERM frameworks help to codify and integrate a holistic, structured and disciplined approach to managing risks, with the company's core business processes and decision-making.

There are various ERM standards, methodologies, and frameworks to identify, analyse, manage and monitor risks and opportunities. Two principal international frameworks are the International Standards Organisation (ISO) 31000 International Risk Management Standard, and the Committee of Sponsoring Organisations of the Treadway Commission (COSO) ERM Framework (see diagram, "COSO ERM Integrated Framework").

Lines of Defence

The purpose of ERM is to govern, manage and control risks in a holistic manner. This requires a systematic approach for delegating and coordinating essential risk management duties.

This can be achieved through a Lines of Defence model which provides for a balance of mechanisms across the different layers of management assurance, assurance process and independent assurance.

There are several Lines of Defence models. A good example is the Institute of Internal Auditors' "Three Lines of Defence" model (see diagram with same name).

The first line of defence is the operational managers who own and manage the operational risks. They are responsible for maintaining effective internal controls and executing risk and control procedures on an on-going basis. They are also responsible for implementing corrective actions to address process and control deficiencies.

The second line is the various risk and control oversight functions established by the company to facilitate active compliance with the implementation of effective risk management by the first line. Typical functions in the second line include a risk management function or committee to facilitate and monitor risk management practices by the line managers, a compliance function to monitor specific risks, and a controllership function that monitors financial risks and reporting issues.

The third line of defence is internal audit, which provides an independent check on the first two lines of defence and management.

Some Line of Defence models include the external auditors in the third line of defence. Other models consider the external auditor and regulator to be a fourth line of defence. Yet, other models include the board of directors as the last line of defence in the company.

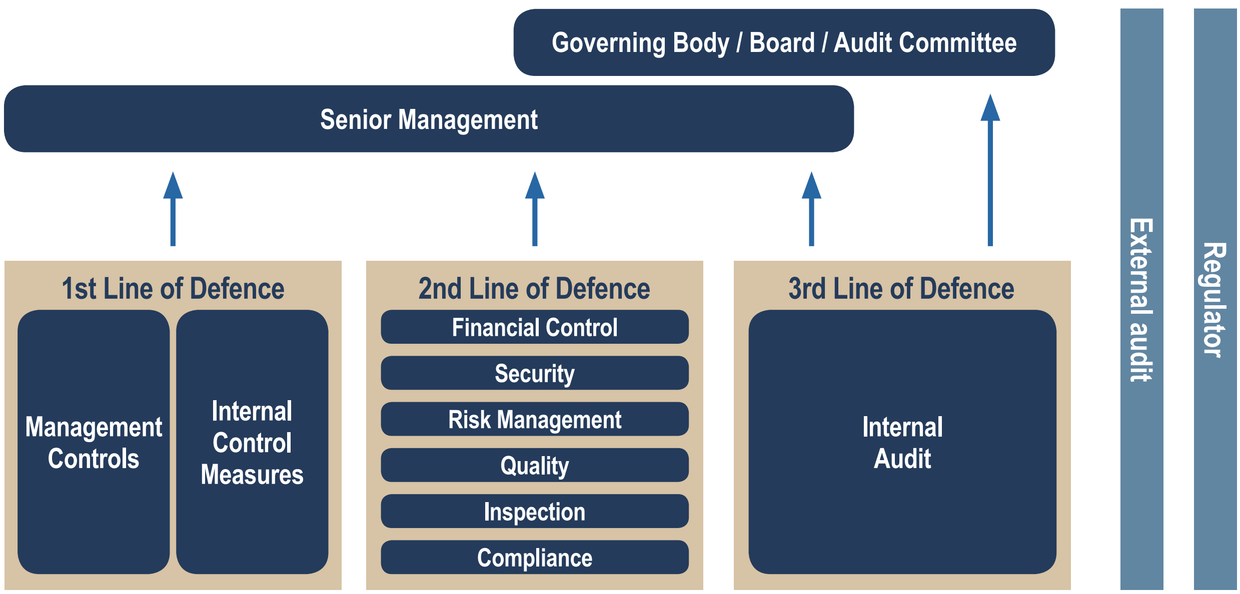
Internal Audit

A critical aspect of the assurance framework is the role performed by internal auditor.

The internal audit function can provide assurance on risk management and internal control based on the highest level of independence and objectivity within the organisation, which is not available in the first and second line of defence.

The independence of the internal audit function is achieved by an organisation construct where it reports to and is accountable to the audit committee,

The Three Lines of Defence Model



Adapted from *ECIIA/FERMA Guidance on the 8th EU Company Law Directive*, article 41.

even though it may administratively report to the CEO or other senior management person.

Yet, the role of the internal auditor is evolving with the increasing complexities and needs of modern business. Increasingly, internal auditors are finding ways to value-add beyond the traditional role of just conducting internal control reviews.

From its humble beginnings of just providing independent and objective assurance in the organisation, many internal auditors are being asked to be a "partner" and "change agent" to provide insights, advice and recommendations.

In many respects, the internal audit function is in a unique position to do so. With its unfettered access to the business and process owners, internal auditors are able to develop broad and deep business knowledge and are able to assess risks and the supporting internal control system.

For this reason, the internal audit function is well positioned to facilitate coordination of assurance activities across all the lines of defence. It can ensure and educate the company on a common risk-language. Only when the different stakeholders (including the regulators) agree on this common risk-language will internal control design and implementation be more effective.

In fact, internal audit can value-add by bringing corporate governance to the forefront. It should create the necessary control and fraud awareness in the organisation using different media platforms to outreach to all staff, informing them of their individual responsibilities in corporate governance, risk management and internal controls. In addition, internal auditors should consider establishing an overall fraud risk management framework in companies by incorporating the five key elements of fraud governance, fraud risk assessment, fraud prevention, fraud detection and fraud investigation and response protocol as it will help foster the right risk culture in the company against fraud.

Technology has also provided a significant opportunity for the internal auditor to value-add through data analytics and continuous auditing. With the ability to scan the plethora of data in a company, technology can automate the identification of exceptions or anomalies, and analyse trends and patterns, thereby providing a real-time or near real-time check on transactions and operations.

In all these value-adding activities and "good" working relationships with management, the internal auditors need to be conscious of the need for them to remain objective and independent. The Institute of Internal Auditors Code of Ethics are based on the principles of Integrity, Objectivity and Confidentiality. Where there is a potential conflict of interest, the auditor should declare this internally and be excluded from involvement in the work.

The support and oversight of the audit committee, to which internal auditors report to, is also critical in this respect.

Forward with Defence

For many enterprises, the setting up of a risk governance structure and ERM framework can seem relatively simple.

However, the challenge is ensuring an effective ERM system, and the alignment of all stakeholders to their respective roles and working together on them. Often, the value of the second and third lines of defence are not incorporated effectively in the overall governance approach.

A sound ERM and risk assurance framework requires that there are separate and clearly identified lines of defence, each of its clear set of responsibilities, but working together in a synergistic and coordinated fashion. To help achieve this, the internal auditor can play an important role. ■

THE AUDIT COMMITTEE SEMINAR 2017
RISING ABOVE COMPLEXITIES

The third ACRA-SGX-SID Audit Committee Seminar weighed up the upcoming changes in accounting standards and other regulatory developments impacting audit committees, and saw the announcement of several measures that can help directors navigate through those complexities.

Another record turnout of more than 550 directors and professionals came for this year's Audit Committee Seminar, "Rising Above Complexities – What Audit Committees Should Consider". Jointly organised by ACRA, SGX and SID, the event, which saw an overwhelming response, was held at the Marina Mandarin Singapore on 13 January 2017.

Opening the event, SID Chairman Willie Cheng, observed that the large turnout reflected the increasing demands expected of audit committees (ACs). For the coming year, this included the change to the prescribed accounting framework in Singapore, a new audit report with expectations of AC commentaries, targets for some audit quality indicators, and updates in regulatory reviews. He assured directors that SID and the regulators are doing what they can to help, with several support measures announced that day.

Guest-of-honour Mr Kenneth Yap, Chief Executive of ACRA, recapped Singapore's journey in improving financial reporting.

He announced changes to the Financial Reporting Surveillance Programme and initiatives that ACs can take to improve quality financial reporting.

The event also witnessed the launch of the new AC Guide produced by SID with the support of ACRA, MAS and SGX. This was followed by a short presentation on the AC Guide by Mr Gerard Tan, Treasurer of SID, and Mr Ng Siew Quan, Partner and Corporate Governance Lead of PwC.

Ms Bong Yap Kim, Senior Director, Financial Reporting and Strategy Division of ACRA, and Ms June Sim, Senior Vice President and Head of Listing Compliance of SGX, then updated the audience on the latest regulatory developments at ACRA and SGX respectively, using case studies to illustrate key findings and insights.

This was followed by a panel discussion on the topic "Working together to enhance quality and transparency of corporate reporting and disclosures". Moderated by Mr Daniel Ee, Vice Chairman of SID, the panellists included ACRA's Mr Yap; Mr Danny Teoh, AC Chairman on several boards; Mr Yeoh Oon Jin, Executive Chairman of PwC Singapore; and Mrs Chng Sok Hui, Chief Financial Officer of DBS Group. They shared their perspectives on the regulatory and practical challenges that ACs face.

In his closing address, Mr Tan Boon Gin, Chief Regulatory Officer of SGX touched on the three kinds of discipline – self-discipline, regulatory discipline and market discipline – which are critical for a disclosure-based regime to work.

At the Seminar, SID also announced the establishment of its first ever Chapter, the AC Chapter, which is aimed at building capacity and enhancing the effectiveness of ACs.

At the end of the seminar, participants took away not only new insights and lessons, but also the new AC Guide, and a 2017 AC Mini-Guide of hot topics for the year.

Launch of the AC Guide

Self-Steps to Financial Reporting Quality

In his keynote address, Mr Kenneth Yap suggested four approaches that audit committees should consider in driving financial reporting quality:

- **Self-Learn.** ACs should keep up to date with the ever-evolving and ever-complex financial reporting. This could be achieved by leveraging resources such as the AC Guide and 2017 AC Mini-Guide.

- **Self-Help.** Directors should seek support from the audit committee fraternity itself. He encouraged AC members to actively participate in the SID AC Chapter to "treat it as your collective voice; both to step up your game internally as well as to represent your interests and provide feedback to other stakeholders."

- **Self-Assess.** ACs can develop indicators to self-assess the adequacy and competency of the company's finance function. ACRA will be developing a set of financial reporting indicators that can help companies measure where they stand in terms of their financial capability. This would provide an objective industry benchmark for directors and management to assess their ability to deliver quality financial statements.

- **Self-Account.** ACs should adopt the principle of self-accounting in its engagement with stakeholders. ACs should consider providing a commentary on the auditors' KAMs in the annual report.

AC Guide Raises Corporate Governance Bar

Mr Danny Teoh who is an AC Chair on several companies and a member of the AC Guide Review Panel, commented that the AC Guide can be a doubled-edged sword. On the one hand, it is meant to help the AC, but on the other, it sets the bar high. He concluded that AC members should "therefore strive to read and understand the Guide thoroughly".

L to R: Mr Tan Boon Gin (Chief Regulatory Officer, SGX), Mr Ng Yao Loong (Executive Director, MAS), Mr Kenneth Yap (Chief Executive, ACRA), Mr Willie Cheng (Chairman, SID), Mr Yeoh Oon Jin (Executive Chairman, PwC Singapore).

The AC Guide: More than a third edition

The co-leads of the AC Guide Working Committee, Mr Gerard Tan, SID Treasurer and Mr Ng Siew Quan, Corporate Governance Leader of PwC Singapore presented on the journey and contents of the AC Guide. Summarised here are their key points:

- The original guide for ACs, the *Guidebook for Audit Committees in Singapore* was released by ACRA, MAS and SGX in 2008, with a second edition in 2014. The AC Guide incorporates all the contents of the original guidebook plus more.

- The AC Guide is one of seven Guides in the *Corporate Governance Guides for Boards in Singapore* series.

- It is a one-stop resource for AC members of Singapore-listed companies with practical guidance on the discharge of their functions, duties and responsibilities in the context of Singapore's business and regulatory environments.

- What's in the 512-page book:
  - 7 sections with 92 FAQs.
  - 50 appendices containing templates, forms and processes.
  - 25 practical case studies.

- New topics include data analytics; anti-money laundering and countering financing of terrorism; audit quality indicators; new external auditor's report and AC's commentaries; Financial Reporting Surveillance Programme; and consolidated disclosure requirements and guidelines.

Mr Gerard Tan

Mr Ng Siew Quan

- Leading practices suggest that AC members should:
  - Understand the business of the company.
  - Understand the nature and trends of the industry it is operating in.
  - Understand the people in-charge of the business.
  - Sponsor, protect and promote the internal auditor, the paid staff working for and reporting to the AC.
  - Do their homework to prepare for the AC meeting.
  - Trust management (if appropriate), but verify what is presented.
  - Have a point of view and add value to the AC.

- In the same light, an AC member should not:
  - Pass the buck, relying on other AC members.
  - Pretend to understand, instead ask questions to clear any doubts.
  - Bark up the wrong tree and cause the loss of productivity.
  - Be led round and round the garden by management.
  - Simply rely on a standard checklist in reviewing the work.
  - Miss the forest for the trees.
  - Leave the auditors in the lurch by not appropriately supporting them.

SGX Regulations

Review of CG Disclosures by Mainboard Companies

- Survey on the existence and quality of disclosure of 545 mainboard companies conducted by KPMG.

- Report published on 5 July 2016 and presented at "The State of Corporate Governance Disclosures Forum" held on 16 August 2016. (Ed: see report on the forum in *SID Directors' Bulletin* 2016 Q4, page 66).

"Low Hanging Fruits" to Improve Disclosures

- Most companies do not appoint alternate directors but two-thirds of them do not state this in the CG Report.

- Disclosure of poll voting and voting results.

- Disclosure of whether the company has dedicated policy or protocol in place for investors.

- Explicit statement of whether the company is required to have at least half the board comprising independent directors or to have a lead independent director.

- Disclosure of whether any AC members were previous partners or directors of the existing auditing firm within the previous 12 months and whether any of the AC members hold any financial interest in the auditing firm.

- Explicit statement on preparation of minutes and it being available on website or to shareholders upon request.

Disciplines in a Disclosure-Based Regime

- **Self Discipline.** This is where companies make quality disclosures on their own accord. For example, AC commentaries on KAMs will give investors an additional perspective and further insights.

- **Market Discipline.** The last two years have shown how market can punish the share price of a company when there is a lack of confidence in a company's disclosure. This is where investors are playing their part in a disclosure-based regime.

- **Regulatory Discipline.** This requires enforcement actions on errant companies:
  – Regulatory action cannot take too long because it has an impact on market confidence. Thus, SGX has been taking prompt and proportionate action against disclosure breaches.
  – SGX seeks to achieve its regulatory objectives in a more effective manner using a more targeted approach, for example, its refinements on "trade with caution" alerts and minimum trading price requirements in the last year.
  – With the increased transparency of financial statements, the more individual and targeted engagement with companies, the broadened definition of materiality, and the more robust enforcement of disclosure breaches by both the regulators and the market, in other words, an increase in all three disciplines – SGX sees the opportunity to recalibrate its continuous disclosure regime, including its policy on quarterly reporting.

Does it matter if a misleading disclosure had no effect on share price?

"The recent amendment to the Securities and Futures Act has now clarified that the test for materiality is not tied to just whether the information caused any movement in share price, but whether or not the information, viewed objectively, is likely to wrongly influence investor behaviour. This clarification establishes a wider test for materiality and sets a higher standard for disclosures."

Mr Tan Boon Gin

Why is remuneration disclosure so poor?

"Disclosure of remuneration is the poorest with an average score of 53 per cent. A common reason given is fear of poaching. But how can the founding director who is the controlling shareholder of the company be concerned about poaching? The company should be transparent about remuneration including how rewards are linked to performance; and whether performance measures have been met."

Ms June Sim
Senior Vice President and Head of Listing, Singapore Exchange

"Singapore is a small market. The risks from remuneration disclosures on a named basis, such as staff poaching and unhealthy comparisons, are particularly significant in certain industries. DBS currently discloses the aggregate remuneration of its 18-member management committee, which I believe adequately preserves the spirit of this requirement which is to afford greater transparency of pay scales at the most senior levels."

Mrs Chng Sok Hui

"The banking industry is susceptible to poaching of key personnel. I can, therefore, understand the reluctance of banks to provide detailed information on the remuneration of their top management."

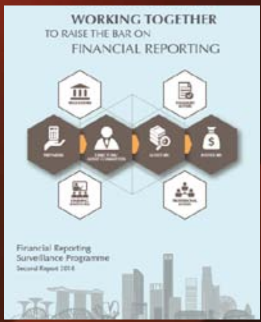
Mr Danny Teoh

"Are companies conveniently using the reason of poaching to avoid disclosing the remuneration of both directors' as well as senior executives' pay in the annual report?"

Mr Edward Lee
Director, QAF Limited

Financial Reporting Surveillance Programme (FRSP)

2nd FRSP Report



- ACRA issued report in September 2016, covering 50 sets of 2014 listed companies' financial statements.
- Key conclusions:
  - Good quality of financial reporting.
  - Fewer cases with serious breach.
  - Prompt remediation by company.

FRSP Adopts Restatement First Approach

- **Restatements first.** Come 1 April 2017, ACRA will adopt a "restatement first" approach to ensure financial reporting breaches are remediated on a timely basis and communicated promptly for the benefit of investors. While previously the first course of action was to sanction directors for breaches, the new approach will have companies that have committed serious financial reporting breaches, restate, re-audit and re-file their financial statements. Later this year, ACRA will be empowered to apply to court to compel companies to restate should they fail to comply. And only if companies fail to do so, will ACRA then hold the directors accountable.
- **Streamlined enquiries.** Enquiry letters will seek directors' views on potential non-compliances with accounting standards (NCs). In complex cases, facts and circumstances will be clarified via meetings with company representatives or e-mails with CFOs or both.
- **Hear other views.** For selected potential serious NCs (e.g. judgemental issues), auditors and specialists will be engaged formally in the review process.
- **Upfront on outcome.** For serious NCs, a closing meeting will be held with the directors before finalising the outcome. For other NCs, regulatory outcome will be indicated in enquiry letters, where practicable.
- **Timely restatements and more transparency.** To keep investors informed on a timely basis, ACRA may issue a press notice when a company unreasonably refuses to restate and announce within the prescribed time for NCs that materiality affect key financial statements line items.

FRSP Review Focus for 2016 Financial Statements

- **Going concern.** Is this assumption appropriate? If yes, are the disclosures adequate?
- **Value of long-life assets.** Is there any indication of impairment? If yes, was impairment test conducted? If no impairment charge, why so and are the assumptions realistic?
- **Significant one-off gain / loss.** Does it reflect the economic reality of arrangements?
- **Consolidation or Equity Accounting.** Have reserved matters or other contractual rights been considered?
- **Business acquisitions.** Have significant specific intangible assets, for which a premium was paid, been carved out from goodwill and separately recognised?
- **Statements of cash flows.** Are the cash flows appropriately classified within operating, investing or financing cash flows?
- **Significant judgement and critical estimates.** Are disclosures tailored to the circumstances?

Directors not responsible?

"In the first two review cycles since 2014, we have seen ACRA taking a tough stance towards directors when serious non-compliance with accounting standards was identified. With this shift towards 'restatements first', does this mean that ACRA has 'seen the light' and hence, is taking a step back from holding directors responsible?"

Mr Daniel Ee

"The objective of the FRSP is not to hang anyone but to protect the interests of the public. As the previous FRSP approach was perceived as adversarial, moving forward, ACRA's new approach is based more on fact-finding, instead of issuing enquiry letters. ACRA intends to engage the CFO and management to ask questions and gain insight into the situation."

Mr Kenneth Yap

Restatements First or Not At All?

"ACRA is always guided by the public interest. With this new initiative, ACRA envisions a smoother process with greater transparency without the shadows of fear and suspicion from the companies. Contrary to common perception, there will be less requests for restatement as ACRA intends to move through the questions in a quicker manner to cover ground. For complex cases, it will seek the advice of a technical advisory panel and independent reviewers from ISCA. Be rest assured that ACRA does not proceed further unless there is a unanimous agreement amongst these parties."

Mr Kenneth Yap

"When a set of financial statements requires restatement, it means it contains material misstatement. It calls into question whether the pre-restatement financial statement gave a true and fair view."

Mr Kyle Lee
Director, Great Eastern Life

"Restatement is a super serious thing. In the US, a restatement could result in an avalanche of lawsuits directed against the company."

Mr Danny Teoh

"Now that it will have new powers, will ACRA still be just as judicious in the use of these powers and how rigorous are the internal review processes before it request companies to restate their financial statements?"

Mr Wang Kai Yuen
Director, Comfort Delgro Group

Enhanced Auditor's Report

L to R: Mr Daniel Ee (Chairman, SID AC Chapter), Mrs Chng Sok Hui (Chief Financial Officer, DBS Group), Mr Danny Teoh (AC Chairman, Keppel Corporation), Mr Kenneth Yap (Chief Executive, ACRA), Mr Yeoh Oon Jin (Executive Chairman, PwC Singapore).

New Auditing Standard

- The enhanced auditor's report (EAR) will be effective for 2017 audits of financial statements for all listed companies.
- At least 10 listed companies have early adopted the standard in 2016.
- EAR will add transparency through new reportable items, in particular:
  - Material uncertainty on going concern.
  - Key audit matters (KAMs).
  - Other information (OI).

KAMs

- Matters which, in the view of the auditor, were of most significance in the audit of the financial statements.
- ACs should:
  - Engage the auditor and review the KAMs well in advance of reporting deadlines.
  - Prepare for AGM and analyst questions on the KAMs.
  - Be cognisant of inconsistencies between KAM and related matters disclosed in annual report.

Other Information (OI)

- OI = annual report – financial statements.
- Auditors' responsibilities grew for OI from reading OI to ascertain consistency with financial statements, to reviewing OI for material misstatements and reporting on it.
- Expectation gap exists when OI is not ready before audit report is signed off. ACs should resolve this with their auditors.

AC Commentary

- AC commentary on KAMs in annual report serves to inform shareholders on the AC's view on significant financial reporting matters.
- AC commentary should highlight the AC's due consideration, judgement calls made, and bases for conclusions.
- AC commentaries are practised in the UK and are increasingly being demanded by investors here.
- ACRA, MAS and SGX will be issuing letters to encourage ACs to provide such commentaries in the 2016 financial statements.

How are you preparing for the EAR?

"To me, EAR is another effort on the journey to communicate and engage stakeholders more meaningfully. Integrated reporting, sustainability reporting and enhanced risk disclosures are all part of this journey. At DBS, there is a standard agenda item at every AC meeting, namely, "Significant Matters Update". This update covers significant financial reporting matters requiring the exercise of judgement such as loan loss provisions, valuation of complex instruments and goodwill impairment. These are the same topics that our external auditors would look into, and this alignment has permitted a smooth transition to EAR."

Mrs Chng Sok Hui

"As EARs can sometimes involve disclosure of complex accounting or judgemental issues, PwC has formed an internal panel to review each EAR with our clients to ensure that the information is disclosed in a clear and concise manner for the average investor. There is also a need to raise the awareness level and education of the public shareholders on the EARs."

Mr Yeoh Oon Jin

What if "Other Information" (OI) is not available?

"The new requirements of the auditor to read and opine on OI could create some practical difficulties. If, at point of signing the auditors' report, the OI is not ready – as is usually the case – then, the auditor needs to state so. The auditor could potentially close the gap later on through a separate communication to audit committees prior to the AGM. Investors and market analysts will need to understand this anomalous gap in the auditor's opinion."

Ms Bong Yap Kim

"If the annual report is not available for review at the time of results announcement, typically at the end of February for those with calendar year ends, the auditor would now have to qualify the opinion regarding the OI. One of the possible way forward is to have a separate auditor's opinion on the OI prior to AGM to clarify that the information has been reviewed but not audited."

Mr Yeoh Oon Jin

Would an AC Commentary be useful?

"The purpose of the AC commentary is to respond, pointedly and in a targeted fashion, to issues that were highlighted by auditors and not fully resolved in the eyes of investors. While it is not mandatory, a recent study by ACRA, ISC and NUS found that all institutional investors and 95 per cent of retail investors surveyed wanted AC commentaries. "

Mr Kenneth Yap

"The investing community will always want more information and the AC commentary will certainly give more insights on the work of the AC. Despite this, I think shareholders will continue to focus their questions on business performance and future prospects of the company at AGMs."

Mr Danny Teoh

Audit Quality Indicators (AQIs)

The AQI Journey

- In October 2015, ACRA launched the AQI Disclosure Framework.
- In January 2016, data for the eight AQIs were provided to ACs.
- In August 2016, ACRA sets six targets for selected AQIs.

The AQIs

- Engagement-level indicators:
  (1) Audit Hours
  (2) Experience

- Engagement- & Firm-level indicators:
  (3) Training
  (4) Inspections
  (5) Independence

- Firm-level indicators:
  (6) Quality Control
  (7) Staff Oversight
  (8) Attrition Rate

Targets are meant as conversation starter

"Whilst enticing, audit committees should not conclude on an auditor's ability to execute quality audits purely by number comparison to the AQI targets. AQIs should be used as a conversation starter, and it is the conversation between audit committees and the auditors on audit quality that matters more."

Ms Bong Yap Kim

AQI Targets

- The six targets on AQIs to kick-start discussion on audit quality are:

Firm-Level Targets

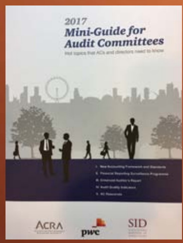
- Staff retention rate: 75% to 80%
- Staff per partner < 15; Staff per manager < 5
- No. of listed company audits with same FY-end: 5

Engagement-Level Targets

- Lead audit partner hours over total audit hours: ≥ 5% for normal risk audit; ≥ 10% for high risk audit
- Concurring partner hours ≥ 13 hours
- Partner and manager hours ≥ 20% of total hours

Other AC Resources

AC Mini-Guide 2017



- The second edition of a quick and handy guide for AC members to obtain a birds-eye view of the hot topics for 2017.
- Topics include: New Accounting Framework and Standards, FRSP, Enhanced Auditor's Report, AQIs and AC Resources.

SID AC Chapter

- SID has established an AC Chapter to build the capacity and improve the effectiveness of ACs.
- It will be for a community of people involved with ACs – AC chairmen and members, management personnel in companies who provide support to or interact closely with ACs, and professionals who provide support to ACs.
- The aims of the AC Chapter include:
  - Providing a platform for active discussion on issues relevant to ACs.
  - Developing thought leadership for ACs.
  - Contributing to the professional development of ACs.
  - Advocating on issues that are relevant to ACs.
- Any SID member can sign up to be a Chapter member. There is no chapter membership fee.

AC Chapter Pit Stops 2017

1. **Relevance of the Enhanced Auditor's Report to Directors, ACs and Management**
   16 February 2017, 0900 to 1100
   Partner: Deloitte

2. **Financial Reporting Surveillance Programme (FRSP) and Audit Quality Indicators (AQIs)**
   12 April 2017, 0900 to 1100
   Partner: ACRA

3. **Practical Implications of FRS 115 Revenue from Contracts with Customers**
   27 July 2017, 0900 to 1100
   Partner: KPMG

4. **Practical Implications of FRS 109 Accounting for Financial Instruments**
   7 September 2017, 0900 to 1100
   Partner: PwC Singapore

5. **Demystifying Sustainability Reporting and Integrated Reporting**
   16 November 2017, 0900 to 1100
   Partner: EY

"As audit committees lead a fast-paced life and work very hard, we have organised some pit stops along the way for them to recharge and refresh themselves."

Mr Daniel Ee
Chairman, SID AC Chapter

Pit stop for ACs

The enhanced auditor's report

SID AC Chapter kicked off its maiden professional development session for AC members and senior management on 16 February 2017.

Over 50 participants filled the training room at Deloitte for the inaugural session, "Relevance of the Enhanced Auditor's Report to Directors, ACs and Management".

Led by Deloitte's Mr Shariq Barmaky (Regional Managing Partner, SEA Audit) and Mr James Xu (Audit Partner), participants learnt what the Enhanced Auditor's Reporting (EAR) entails, particularly key changes like key audit matters (KAMs), going concern and other information (OI).

Mr Shariq said that the EAR is expected to bolster investors' understanding of and trust in such reports through enhancing its transparency. The new disclosures come with benefits, such as improved communication. It is in the interest of ACs, management and the auditor to ensure smooth implementation of EAR.

To date, 22 listed companies in Singapore have adopted the EAR although it will be effective for 2017 audits of financial statements for all listed companies. Drawing on the examples of the early adopters in Singapore and UK, Mr Xu explained the components of EAR in greater detail. He walked participants through SGX's AC commentaries and the KAMs in its 2016 financial report.

Participants agreed that the change will benefit institutional investors, but the usefulness of these reports may be less understood by the retail investing community.

Ms Bong Yap Kim, Senior Director of ACRA, shared with the audience plans for an investors' guide and post-implementation review of EAR, and that investors can be assured of the quality of auditors' reports. She rounded up the session by assuring the audience that ACRA is cognisant of the subjective nature of financial reports and acceptance of reports would be accorded so long as the judgements are deemed reasonable and companies have exercised due diligence in addressing the KAMs. ■

Sustainability for directors

On 23 February 2017, SID launched its inaugural module, "Sustainability for Directors" as part of the Business Future Series. The session saw a full house of 30 participants, a reflection of how sustainability has been gaining currency of late. To embody environmental sustainability, the session was conducted at Vineyard at HortPark, which many participants remarked was a fitting setting.

Mr K. Sadashiv, ASEAN Managing Director, Climate Change and Sustainability Services of Ernst & Young LLP opened the session by tracing the developments and trends in sustainability. He then deep-dived into the key elements of sustainability, risks and opportunities, and the need for board-level engagement to drive the change.

Participants learnt that companies from diverse industries here, including financial, property and F&B, are getting on the sustainability bandwagon. This is in line with global efforts, including from the UN, to encourage companies to adopt sustainable practices and integrate them into their reporting cycles. With consumers more cognisant of ethical and environmental issues, it benefits companies to adopt sustainable practices. Mr Sadashiv shared examples of companies that had capitalised on opportunities from sustainability to create value, and those that fared poorly on this issue.

On the local front, Mr Sadashiv touched on the SGX's "comply and explain" requirement for sustainability reporting. He noted that to date, 45 companies have adopted the GRI framework for reporting, and that City Developments Limited was the first Singapore developer to be listed on both the Dow Jones Sustainability Index and FTSE4Good Index.

One pivotal insight was the need for the board to set the tone right from the top on sustainability matters that includes incorporating sustainable strategies into the business operations.

Towards the end of the course, participants had a practical session on prioritising stakeholders and determining material matters. This afforded participants an opportunity to internalise the information shared in the course. ■

Dialogue with Minister Ong Ye Kung

SID members came to listen to Minister Ong Ye Kung speak on the runway economy and an uncertain 2017. They got more than what they came for as he deftly fielded questions on the Committee on the Future Economy (CFE) report, government policies, politics, and his personal life.

Held on 10 February 2017 at the Credit Suisse Wealth Institute, the dialogue session with Mr Ong Ye Kung, Minister for Education (Higher Education and Skills) and Second Minister for Defence was the first event in the Year of the Rooster for SID members.

SID Chairman Willie Cheng moderated the session and introduced the Minister as a renaissance man who is Chinese- and English-educated, and has a multitude of experience in the civil service, the union, the private sector and politics.

Minister Ong began by providing a broad overview of the CFE report that was released the day before. He highlighted three crucial areas Singapore needs to look into to respond to an increasingly uncertain world:

- **Internationalising.** MNCs and FDIs continue to be important for Singapore, bringing in jobs and investments. But Singapore needs to grow a second set of wings, to internationalise. Companies established in Singapore start out small and as they grow, they should take their ideas and projects out of Singapore and in to the region.
- **Enterprise.** There is a need to promote the enterprise spirit in Singaporeans. This includes taking a regulatory approach which is ex-post rather than ex-ante. An example is how Singapore allowed Uber and Grab to initially operate with the understanding that six months later the regulatory agency would look at the industry and impose certain rules. An ex-post approach with regulatory sandboxes will allow enterprises to flourish and use Singapore as a place to experiment new ideas.
- **Inclusivity.** To ensure social cohesiveness, the government is constantly reviewing its economic strategy to ensure that the fruits of economic growth extend to all.

During the Q&A that followed, the audience was open and candid in expressing their views, and the Minister was forthcoming and humorous in his responses, gamely taking on all questions including those on politics and his personal life. The event concluded with a networking dinner and drinks at the Institute's foyer.

Q & A with Minister Ong

Is the CFE report underwhelming?
"Those who are expecting big ticket items or fiscal shifts from the CFE report probably feel it is underwhelming. But for some, the report is overwhelming because we are delving a lot more deeply into the way we do things, changing the algorithm of operations and mind sets of Singaporeans. I can feel it at MOE, for example, when we seek to make changes to the education system to move away from our preoccupation with marks and grades."

Is Singapore's relationship with China deteriorating?
"Bilaterally we work together broadly and deeply. The JCBC (Joint Council for Bilateral Cooperation) meeting is a special arrangement between Singapore and China. In Southeast Asia, we play a very constructive role in forging closer cooperation between ASEAN and China. But from time to time there will be disagreements, and we have to resolve them or find ways to accommodate each other. Understanding and empathising with each other's interest and situation is important. Both countries are independent actors on the regional and world stage but we share strong emotional, cultural and ancestral ties."

Can you clarify your reported remark at the recent IPS Forum that Singapore is best served by a one-party system?
"What I meant by a one-party system is one dominant ruling party, and not that there is only one party and there is no opposition. In contrast, the conference defines a multi-party system as one where two or more parties take turns to lead the government as in the US and UK. At the conference, I said that a one-party system is the most likely outcome for Singapore because of our circumstances as a small country. An outcome, not a prescription. And the dominant ruling party will have to ensure that it is the most capable, with no room for complacency or corruptibility."

How do you feel being called by Professor Tommy Koh as "the leading candidate to be our next Prime Minister"?
"We are not at the phase where a first amongst equal fourth generation is being identified. Rather, we are at the phase where the fourth generation team must work together for the people of Singapore, get to know each other. From this process, someone will in time emerge as the leader, and I will support him."

Your father was a Barisan Socialis leader. How does he feel about you crossing the line to the PAP?
"From my father's point of view, I don't think there is a line to cross. He could see that his children benefitted from the path that Singapore had taken and there is a new generation of PAP leaders which he had no differences with. He and I are on the same side of serving Singapore to our best abilities, through politics."

Was running in the Aljunied GRC in 2011 good or bad for you?
"I am absolutely certain it was for the better. I learnt how to run a real election campaign in Aljunied and from the experience, I learnt to pick myself up from defeat." ■

INSEAD International Directors Programme

IDP 2016 participants graduate

Thirty-four graduates from the third cohort of the IDP Asia Edition converged at the Fullerton Bay Hotel's La Brasserie on 15 December 2016 to celebrate the conclusion of IDP 2016.

Programme Director Professor Ludo Van der Heyden, who is also the INSEAD Chaired Professor of Corporate Governance and Academic Director of the INSEAD Corporate Governance Initiative, highlighted that the IDP continues to receive rave reviews from the

international director community. The evening's graduating cohort alone comprised participants of 23 nationalities.

Professor Ilian Mihov, the Dean of INSEAD shared INSEAD's vision in shaping global leaders who will drive business as a force for good; and how directors' and governance programmes play a key role in fulfilling this goal.

Mr Willie Cheng, SID Chairman, expressed his appreciation to INSEAD for the continued support and partnership. He added that the IDP is a cornerstone of SID's Advanced Directorship programme.

All in, it was an evening filled with laughter and good food, the warm camaraderie being testament of the connections made at the programme.

IDP 2017 Preview

Even as the 2016 cohort graduates, some 30 keen directors came on 27 February 2017 to SID's Corporate Governance Centre for a cocktail session to learn about the 2017 IDP.

Programme Director Professor Ludo Van der Heyden explained the history and aim of the IDP and how it has helped over 600 directors from over 55 countries bolster their competencies so they are better able to face the increasingly complex governance challenges presented by dynamic global markets. He also shared how past participants benefitted from strong and engaging global network of alumni.

Several alumni of the IDP were also at hand to answer any questions participants

had about the programme as well as provide testimony of how it has helped them in their international director's journey.

The 2017 International Directors Programme (IDP) is now open for registration. SID members receive a five per cent discount off course fees, and eligible Singaporeans can apply for the Skill Future Study Award of S$5,000. The first of the three modules starts on 18 June 2017.

IDF 2017: Transforming Boards and Businesses

Over 50 participants convened at the INSEAD Asia Campus on 27 February 2017 for the INSEAD International Directors Forum (IDF), an event designed for INSEAD and IDP alumni, and SID members to focus and update on current corporate governance issues.

The forum had the theme, "Transforming Boards and Businesses". Professor Van der Heyden who had recently published a Digital Survey Report with Liri Andersson, spoke of the implications for boards in tackling external pressures strategically, taking the example of digital.

Prof. Serguei Netessine, Timken Chaired Professor of Global Technology and Innovation shared how even as technology and digital disruption are changing the future, it is business model innovation that drives many of the transformational change for companies. He cited many examples of business model innovation in tech and non-tech companies, many of them “hiding in plain sight”. He said that when companies attempt business model innovation, they often focus too much on innovating cost and revenue models but the greater danger to existing business comes from risks in demand and supply. He felt that the key to sustainable business model innovation lies in systemising risk management opportunities.

There was also a sharing led by Nirmalya Kumar, Distinguished Fellow at INSEAD Emerging Markets Institute on the boardroom battle within Tata, and what that means for corporate governance in India.

In her closing keynote address, Mrs Suet-Fern Lee, managing partner of Morgan Lewis Stamford, shared her personal insights and experience gained from sitting on several publicly listed companies in Singapore and the region.

The forum rounded off with a ceremony to honour the new INSEAD IDP-C directors, holders of the INSEAD Certificate in Corporate Governance. ■

New year, new website

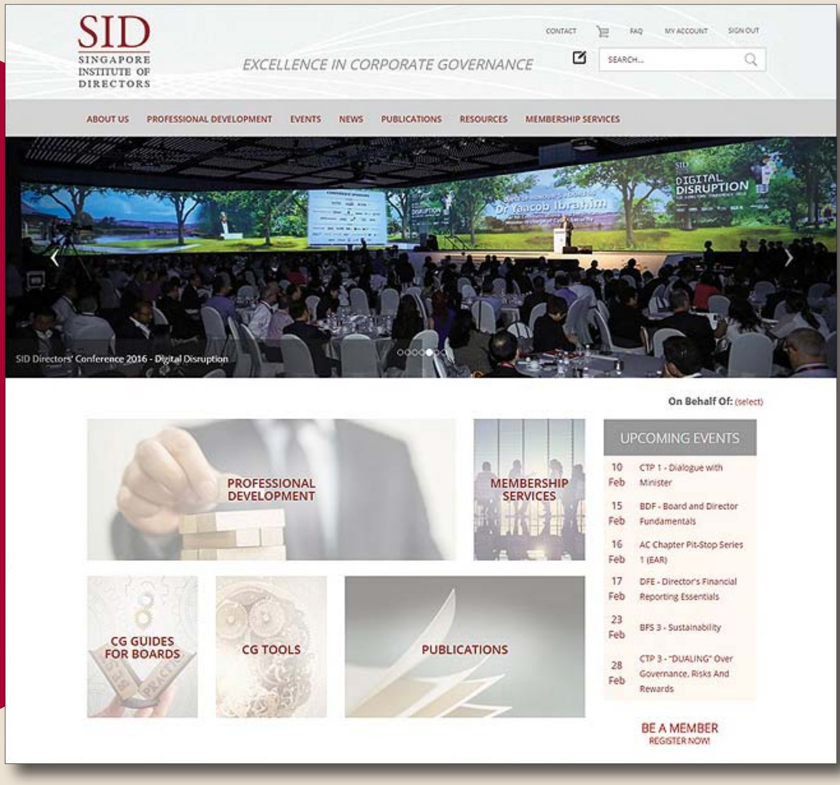
SID's new website was launched on 1 February 2017. It was temporarily shut down over the Lunar New Year break from 26 to 31 January 2017, but only because the development team wanted members to be greeted with a fresh website and better user experience when they return to work mode for the Year of the Rooster.

The year-and-a-half of hard work by the SID team paid off with a new website that reflects SID's commitment to continuously improve its service offerings to members. More than a mere facelift, the new site features improved functionality, and is now accessible via a wide range of web browsers and on mobiles and tablets.

Some New Features

Home Page

- Neater layout with 'bread crumbs'.
- At a glance display of information.
- Intuitive navigation, with dropdown menu and sidebars.
- Swifter search for SID publications and articles.



My Professional Development

- Intuitive curriculum map on courses.
- Calendar for 2017 courses and events.
- Simplified registration process.

My Account with SID

- Self-service password reset.
- Automatic tracking of CPD hours.
- History of past courses with SID.
- Retention of all invoices.

Ability to print e-certificates

Coming Up
(after 1 April 2017)

Corporate Governance Microsite: eGuide to CG Code, and CG Guides for Boards and Board Committees in Singapore.

SID members are encouraged to log in to their account and update their information at www.sid.org.sg. ■

"Lo hei" to prosperity and friendship!

SID welcomed the Year of the Rooster on 8 February 2017 with a "lo hei" lunch for some 80 council and committee members. The annual gathering was held at the Straits Chinese Restaurant, and is SID's gesture to appreciate volunteers for their time and contribution to its programmes and activities.

SID Chairman Willie Cheng, expressed his appreciation to all volunteers for their invaluable contribution, which he added is much needed for an organisation such as SID with a lean support team.

Joyce Koh, Executive Director then shared on SID's revamped website and its upcoming events. She also touched on SID's membership drive and services.

The atmosphere was joyous and presented a great opportunity for committee members to catch up and reconnect even as they partake of the Prosperity *yu sheng* and savour an auspicious "lo hei" lunch. Shouts of well-wishes for the upcoming year added to the warm ambience and camaraderie as the volunteers tossed the *yu sheng*. It was certainly an afternoon filled with warm friendship with a spread of delectable food. ■

Director Appointments

SID members appointed to listed companies during the period 1 December 2016 to 28 February 2017.

Company	Person	Designation
Broadway Industrial Group Limited	Chuah Aik Loon	Executive Director
Bukit Sembawang Estates Limited	Koh Poh Tiong	Independent Director
CapitaLand Limited	Chaly Mah Chee Kheong	Independent Director
China Great Land Holdings Ltd	Jemme Ong Peng Kwang	Executive Director
Cordlife Group Limited	Michael Steven Weiss	Executive Director
Fraser and Neave, Ltd	Michael Chye Hin Fah	Alternate Director
Hatten Land Limited	Loh Weng Whye	Independent Director
Hiap Tong Corporation Ltd	Alvin Ong Boon Tat	Executive Director
Imperium Crown Limited	Yong Chor Ken	Executive Director
ISR Capital Limited	Lee Ka Shao	Independent Director
LHT Holdings Limited	Yap Mui Kee	Executive Chairman
mm2 Asia Ltd	Melvin Ang Wee Chye	Executive Chairman
mm2 Asia Ltd	Tan Liang Pheng	Independent Director
New Silkroutes Group Limited	Ho Sheng	Non-Executive Chairman
Oriental Group Ltd	Koh Choon Kong	Independent Director
Oriental Group Ltd	Aloysius Wee Meng Seng	Independent Director
Pacific Star Development Limited	Leon Yee Kee Shian	Non-Executive Chairman
QAF Limited	Goh Kian Hwee	Executive Director
QAF Limited	Linda Ong Wui Leng	Independent Director
QAF Limited	Tan Teck Huat	Executive Director
Singapore Press Holdings Limited	Andrew Lim Ming-Hui	Independent Director
Singapore Airlines Limited	Peter Seah Lim Huat	Non-Executive Chairman
Yeo Hiap Seng Ltd	Luo Dan	Independent Director

No child's play

By **PAULINE GOH**
Council member, SID

AFTER HOURS

I have always had a soft spot for children, particularly those that are in less privileged, at risk and living on the margins of society. This is why I am drawn to organisations that support these vulnerable young ones.

One such organisation is apVentures. A venture philanthropy group, it had organised mission trips to identify and support projects aimed at building capacity and empowering local communities in the developing countries.

In 2010, I went on my first trip with them, spending four days trekking through the uneven dirt tracks to villages on the outskirts of Siem Reap, Phnom Penh and Battambang.

One of the projects we supported was holistic neonatal care at the Angkor Hospital for Children (AHC). The main aim was to improve the mortality rate of newborns as well as later, support its burns and reconstructive training programme for the doctors and nurses.

Hearing the stories and seeing with my very own eyes infants and young children who suffered burns after falling through the cracks in wooden floorboards into charcoal-fuelled fires under their huts was shocking to say the least. Supporting the cause made perfect sense to me.

In addition, under this project, doctors from Singapore's KK Women's and Children's Hospital (KKH) and National University Health System (NUHS) would regularly train AHC's doctors and nurses to care for children, including those born with heart defects.

Since that first trip to Cambodia, I have made annual trips with the same group to visit villages and communities in Manila, Beijing, Myanmar and Bhutan, to identify people living in the most dire conditions who might require help to transition from mere survival mode to self reliance.

I have visited various groups of people at risk including "garbage communities" and women

Left: The Neonatal Unit at Angkor Hospital for Children has provided free healthcare for over 10,000 neonates since 2012.
Right: The Canossian sisters have set up a hospitality vocational centre to train village girls in the Taunggyi Diocese in Myanmar.

Left: Filipino villagers pick through the garbage for their livelihood at the Payatas dumpsite on the outskirts of Manila.
Right: Landmine victims and other disabled at Battambang learn essential lifeskills at the Arrupe and Tahen Centres founded by Bishop Kike (centre).

trying to escape the flesh trade in several of these countries. I have seen how far too many children survive from day to day scavenging in the streets. Yet, it lifts my spirits to see landmine victims not lose theirs as they go about their lives in simple but effective wheelchairs made for their rough terrain.

apVentures has identified water purification and projects that help villagers start businesses around the sale of organic vegetables which they have grown or handicraft they made. I am particularly attracted to the group's vision of capacity-building to equip the villagers to be self-sufficient. It has been particularly supportive of social entrepreneurs, the individuals in those communities who seek to make a difference to their communities through social innovation and other means.

In the same year that I went to Cambodia, my company, CBRE launched an Asia Pacific-wide charity drive called "Walk for a Wish" to support various charities across the region. For the past six years, CBRE has been raising funds among staff and associates in the weeks leading up to the annual walk.

Serving premium office brew to staff to raise funds for CBRE's "Walk for a Wish" charity project.

Although the organisations that CBRE supports (such as Singapore Cancer Society and Canossaville Children's Home) are more mature than the projects identified in the developing countries by apVentures, the beneficiaries they support are no less deserving of our support. We must take care of our vulnerable young ones, no matter where they are. ■

Directors Compliance Programme • 10 & 16 January 2017

So, You Want To Be A Director • 17 January 2017

NonProfit Directors Programme • 9 February 2017

Board and Directors Fundamentals • 15 February 2017

Directors Financial Essential Reporting • 17 February 2017

SID's Q1 Events (January 2017 – March 2017)

DATE	TYPE	EVENT DETAILS
10 Jan 2017	PD	Directors Compliance Programme
11-13 Jan 2017	PD	Governance, Risk Management and Compliance Professional Training Course
12 Jan 2017	PD	NPD Module 4: Strategic Decision Making
13 Jan 2017	Event	ACRA-SGX-SID Audit Committee Seminar: Rising above complexities – What Audit Committees should consider
17 Jan 2017	PD	So, You Want To Be A Director
17 Jan 2017	PD	Directors' Compliance Programme
18 Jan 2017	PD	LCD Module 1: Listed Company Director Essentials
8 Feb 2017	Event	SID Lo Hei Lunch
9 Feb 2017	PD	NPD Module 5: Financial Management and Accountability
10 Feb 2017	Event	Dialogue with Minister Ong Ye Kung: Preparing the Board for the Runway Economy and an Uncertain 2017
15 Feb 2017	PD	Board and Director Fundamentals
16 Feb 2017	PD	AC Chapter Pit Stop: Relevance of the Enhanced Auditor's Report to Directors, ACs and Management
16 Feb 2017	PD	Directors Compliance Programme
17 Feb 2017	PD	Directors Financial Reporting Essentials
23 Feb 2017	PD	BFS Module 3: Sustainability for Directors
27 Feb 2017	PD	INSEAD Directors Forum: Transforming Businesses and Boards
28 Feb 2017	PD	Dual-Class Shares Forum
28 Feb 2017	PD	Directors Compliance Programme
28 Feb 2017	PD	INSEAD Tea / Cocktails
8 Mar 2017	PD	LCD Module 1: Listed Company Director Essentials
9 Mar 2017	PD	NPD Module 6: Fundraising and Outreach
14 Mar 2017	PD	LCD Module 2: Audit Committee Essentials
14-15 Mar 2017	PD	SDP Module 5: Strategic CSR and Investor Relations
15 Mar 2017	PD	Directors Compliance Programme
15-17 Mar 2017	PD	Governance, Risk Management and Compliance Professional Training Course
21 Mar 2017	PD	LCD Module 3: Risk Management Essentials
21 Mar 2017	PD	LCD Module 4: Nominating Committee Essentials
23 Mar 2017	PD	COSO ERM Workshop
23 Mar 2017	Event	Launch of eGuide for the CG Guides Series and Box Set
24 Mar 2017	PD	LCD Module 5: Remuneration Committee Essentials
24 Mar 2017	PD	LCD Module 6: Investor and Media Relations Essentials
29 Mar 2017	PD	Governance for Family Business
31 Mar 2017	Event	SID Golf Tournament

Upcoming events

Core Professional Development Programmes

PROGRAMME	DATE	TIME	VENUE
SDP Module 1- The Role of Directors	3-5 Apr 2017	0900 - 1700	SMU Campus
So, You Want to be a Social Enterprise Director	6 Apr 2017	0900 - 1300	Capital Tower
NPD Module 7: Social Trends	13 Apr 2017	1700 - 2030	Crossings Cafe
Directors Compliance Programme	19 Apr 2017	1300 - 1730	Capital Tower
Directors Compliance Programme	25 Apr 2017	1300 - 1730	Capital Tower
Directors Financial Reporting Essentials	26 Apr 2017	0900 - 1700	Capital Tower
SDP Module 3: Finance for Directors	26-28 Apr 2017	0900 - 1700	SMU Campus
Directors Compliance Programme	2 May 2017	1300 - 1730	Capital Tower
MCD Module 1: The Director as an Innovation Driver	3 May 2017	0900 - 1700	Marina Mandarin
Directors Compliance Programme	9 May 2017	1300 - 1530	Capital Tower
LCD Module 1: Listed Company Director Essentials	17 May 2017	0900 - 1700	Marina Mandarin Singapore
LCD Module Mandarin: LCD Essentials Programme	17-18 May 2017	0900 - 1700	Shanghai
Governance, Risk Management and Compliance (GRC) Professional Training Course	17-19 May 2017	0900 - 1700	Marina Mandarin Singapore
SDP Module 2: Assessing Strategic Performance	24-26 May 2017	0900 - 1700	SMU Campus
BFS Module 2: Disruptive Technology for Directors	25 May 2017	0900 - 1500	Accenture Pte Ltd
IDP Module 1: Board Effectiveness and Dynamics	18-21 Jun 2017	0900 - 1700	INSEAD Campus
MCD Module 2: Value Creation for Owners and Directors in Family Firms	22 Jun 2017	0900 - 1300	Marina Mandarin Singapore
Directors Financial Reporting Essentials	29 Jun 2017	0900 - 1700	Capital Tower
SDP Module 1- The Role of Directors	3-5 Jul 2017	0900 - 1700	SMU Campus
LCD Module 1: Listed Company Director Essentials	11 Jul 2017	0900 - 1700	Marina Mandarin Singapore
LCD Module 2: Audit Committee Essentials	12 Jul 2017	0900 - 1300	Marina Mandarin Singapore
LCD Module 3: Risk Management Essentials	12 Jul 2017	1300 - 1700	Marina Mandarin Singapore
LCD Module 4: Nominating Committee Essentials	13 Jul 2017	0900 - 1300	Marina Mandarin Singapore
LCD Module 5: Remuneration Committee Essentials	13 Jul 2017	1300 - 1700	Marina Mandarin Singapore
LCD Module 6: Investor and Media Relations Essentials	14 Jul 2017	0900 - 1300	Marina Mandarin Singapore
Governance, Risk Management and Compliance (GRC) Professional Training Course	19-21 Jul 2017	0900 - 1700	Marina Mandarin Singapore
So, You Want to be a Director	3 Aug 2017	1000 - 1300	Capital Tower
So, You Want to be a NonProfit Director	3 Aug 2017	1700 - 2000	Capital Tower
MCD Module 3: Strategy at the Board Level	15 Aug 2017	0900 - 1700	Marina Mandarin Singapore
SDP Module 4: Risk and Crisis Management	17-18 Aug 2017	0900 - 1700	Marina Mandarin Singapore
Board and Director Fundamentals	24 Aug 2017	0900 - 1700	Marina Mandarin Singapore
Directors Financial Reporting Essentials	30 Aug 2017	0900 - 1700	Marina Mandarin Singapore

Core Professional Development Programmes

PROGRAMME	DATE	TIME	VENUE
So, You Want to be a Social Enterprise Director	31 Aug 2017	0900 - 1300	Capital Tower
SDP Module 6: Effective Succession Planning and Compensation Decisions	13-14 Sep 2017	0900 - 1700	SMU Campus
Governance, Risk Management and Compliance (GRC) Professional Training Course	20-22 Sep 2017	0900 - 1700	Marina Mandarin Singapore
BFS Module 3: Cyber Security for Directors	21 Sep 2017	0900 - 1500	Marina Mandarin Singapore
IDP Module 2: Board Efficiency and The Role of Committees	25-27 Sep 2017	0900 - 1700	Fontainbleau France
Governance for Family Businesses	26 Sep 2017	0900 - 1700	Marina Mandarin Singapore

Other Professional Development Programmes

PROGRAMME	DATE	TIME	VENUE
AC Chapter Pit Stop: Financial Reporting Surveillance Programme (FRSP) and Audit Quality Indicators (AQIs)	12 Apr 2017	0900 - 1100	FTSE
Chairmen's Conversation (Audit Committee)	13 Apr 2017	1200 - 1400	Tower Club
Chairmen's Conversation (Board)	23 May 2017	1200 - 1400	The Ritz-Carlton Hotel
Business Value of Sustainability	27 Jun 2017	0900 - 1100	Marina Mandarin Singapore
Chairmen's Conversation (Remuneration Committee)	20 Jul 2017	1200 - 1400	Fullerton Hotel
Executive and Directors' Remuneration	26 Jul 2017	0900 - 1100	Marina Mandarin Singapore
AC Chapter Pit Stop: Practical Implications of FRS 115 Revenue from Contracts with Customers	27 Jul 2017	0900 - 1100	KPMG
Global Board Culture: Understanding the Behaviours that Drive Board Effectiveness	22 Aug 2017	1200 - 1400	Marina Mandarin Singapore
Chairmen's Conversation (Board Risk)	17 Aug 2017	1200 - 1400	The Ritz-Carlton Hotel
Private Equity versus Public Markets	6 Sep 2017	1200 - 1400	Marina Mandarin Singapore
AC Chapter Pit Stop: Practical Implications of FRS 109 Accounting for Financial Instruments	7 Sep 2017	0900 - 1100	PwC Singapore

Major Events

EVENT	DATE	TIME	VENUE
Singapore Corporate Awards	18 Jul 2017	1800 - 2200	Resorts World Sentosa
Singapore Governance and Transparency Index 2017 Launch (SGTI)	1 Aug 2017	0900 - 1100	Marina Mandarin Singapore
SID Directors' Conference	12 Sep 2017	0900 - 1700	Suntec Singapore Convention and Exhibition Centre

Socials

EVENT	DATE	TIME	VENUE
Members' Networking	May 2017	1800 - 1900	Ngee Ann Polytechnic

Course dates are subject to change. Please refer to www.sid.org.sg for the latest updates.

Welcome to the family

December 2016

Troy Doyle

Jacques Pierre Els

Er Leong Weng Kwai

Fang Swee Peng

Mahmood Firoz

Bradley Fraser

Annie Gan Poh Cheo

Pauline Goh

Goh Toh Sim

Bockers Herbert

Susie Koh

Elizabeth Kong Sau Wai

Theodora Lai

Lim Min Hai

Lim Swee Kim

John Lombard

Low Yim Tong

Trina Neo-Liang

Ng Seng Tat

Ng Chai Ngee

Ong Pang Thye

Sim Teow Hong

Tan Hwa Lian

Tan Juay Hwa

Tan Kok Aun

Tan Suan Wee

Teo Sze Han

Stephane Thierry

Ung Tze Yang

Mason Taylor Wallick

Roger Woods

Kenneth Yap

January 2017

Eliza Foo Yin Ying

Ng Hsian Pin

Michael Walter

Lim Swee Hua

Wang Yi

Christine Wong

Wymen Chan

Chia Choon Hoong

Theo Davies

Vincent H. Domine

Nelson Goh

Goh Poh Leng

Nicholas Hadow

Ku Wei Siong

Rebecca Jane Lewis

Nitin Mathur

Benjamin McCarron

Mohan Mulani

Jayanth Nagarajan

Sim Soek Peng

Sum Wee Chiong

Tan Siok Chin

Julia Tay

Srinivasa Venkatappa

Chia Lee Cheng

Loh Poh Poh

Albert Chen Bing Chuen

Michael Steven Weiss

Joseph Wong Wai Leung

SID Governing Council 2017

CHAIRMAN
Willie Cheng

FIRST VICE-CHAIRMAN
Daniel Ee

SECOND VICE-CHAIRMAN
Soh Gim Teik

TREASURER
Gerard Tan

COUNCIL MEMBERS

Ramlee Buang
Robert Chew
Wilson Chew
Junie Foo
Philip Forrest
Pauline Goh
Lee Chong Kwee
Lee Kim Shin
Lee Suan Hiang
Irving Low
Ng Wai Kin
Poh Mui Hoon
Tan Boon Gin
Andy Tan Chye Guan
Tan Yen Yen
Wong Su Yen