

Standards before politics

There is much debate in the market as to where the Listing Committee of Hong Kong Exchange and Clearing Limited (HKEx) should ultimately reside. Some suggest that HKEx should shed the function in order to avoid even the perception there might be a conflict of interest. But should the function go to the SFC? Should it perhaps become an independent body? These are questions it might be considered unfair to ask Marvin Cheung, the current chairman of the Listing Committee, but they are asked, and, not surprisingly, he is not prepared to answer, not in public at least.

'I do not want to become involved in the ongoing debate. I believe that there is no universally accepted perfect model. If there was a perfect model it would have been prevalent around the world and we would have adopted it,' he says. 'Every model has its pros and cons. I have agreed to contribute my time to whatever model we have during my tenure and make it work as best I can.'

Setting the agenda

In seeking to fulfill that agenda, Mr Cheung gives the impression that he is currently testing the boundaries of his 'ill-defined role'. Nobody from the Exchange has handed over a set of specified duties. But a glance at Chapter 2A of the Listing Rules would give a

casual reader the distinct impression that the Listing Committee is an all-powerful body that regularly discharges all the powers and functions of the Board of HKEx. Mr Cheung is keen to dispel this illusion when outlining his key priorities for the next year or two.

'My priority is to make sure that the role of the Listing Committee is transparent and accessible to the public so that people are aware that we are not a committee that has accepted from the Board of the Exchange the full responsibility for listing matters. From time to time the chairman of the Exchange, and others, have loosely suggested that they have delegated items or functions to the Listing Committee – "If that is the case, where is my budget? Do I have the right to hire and fire people? If not how have you delegated it to me?" We are simply a panel of people to which the Board has delegated decision-making on matters they choose to place before us. If they do not put such matters before us, the Listing Committee is powerless,' Mr Cheung is insistent. 'We do not have the power to direct the staff to investigate a particular incident. If staff of HKEx choose to investigate an incident and subsequently bring the matter before us, we have the power to make decisions and say "this party is at fault" and through the Listing Rules we can dish out punishment. We are not running the supervision or policing of listing matters.'

So, in essence during the early days of his tenure Mr Cheung has spent much of his time attempting to bring clarity where previously there was confusion, light where there was darkness. Going forward, another priority is to make the workings of the Listing Committee as inclusive as possible. There are 25 members of the Listing Committee, but unlike Mr Cheung the remaining members have to hold down full-time posts.

Maximum participation

'In fact we need only five members of the Committee in order to have a quorum – it's similar to drawing from a pool of judges or a panel of adjudicators. Having said that, if five of us sit down and make a decision, can it be interpreted as a decision of the Committee or a decision of five of us? It's a problem I have been wrestling with.' In fact it's a problem he has had to approach pragmatically. Mr Cheung has introduced a system where, if possible, all 25 members of the Committee will meet on a quarterly basis. Given adequate notice the full Committee will meet to decide matters of policy and principle. If matters involving policies have to be dealt with outside of the quarterly policy meetings, then decisions arising from the ad hoc meetings (where a small number of members are present) will be put on hold for 48 hours while non-attendants are advised of the proposed decision before it is finalised. If they are contrary views to the decisions made by the ad hoc meeting, they can advise the Listing Division and the Chairman will be asked to consider if a further meeting should be convened for further discussion before the decision is finalised.

While Mr Cheung may be reluctant to discuss the appropriate place for the



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Committee, he is adamant that participation by market practitioners acting on a voluntary basis – is correct. ‘They understand the practicalities of the real world rather more than they would if they were employed by the Exchange, the SFC or the Government,’ he maintains. ‘Hong Kong has a strong tradition of voluntary public service, the Government has over 300 advisory bodies and committees composed of civic minded people prepared to donate their time, ours is just one of them.’

While day-to-day responsibilities may not be as apparent as Mr Cheung may have hoped, he does have a clear mandate to improve the standards of the market generally. This leads to a discussion of corporate governance in Hong Kong. Mr Cheung says that Hong Kong’s levels of corporate governance are on par with those in other financial centres in the region. On a global level however, ‘I believe we have some way to go before we could be considered world-class.’

Measures to enhance corporate governance

Mr Cheung refers to two areas ripe for improvement. ‘The most glaring omission is the fact that the Exchange has thus far failed to make the role of the CFO in listed companies a mandatory requirement. I believe the HKSA has lobbied the Exchange to formalise the position of the CFO and I support their efforts because financial reporting is a key aspect of corporate governance. Without a qualified accountant within the listed issuer it’s very difficult to pin responsibility on any particular person and thus make sure the rules are met.’

More political is the debate over the disclosure of directors’ emoluments. In fact the Listing Committee has been asked to debate the matter and it has offered its conclusions to the SFC. As the matter hangs as the *Hong Kong Accountant* goes to press, Mr Cheung is unable to comment on the result of the Committee’s deliberations.

Sponsors beware

Another area related to corporate governance is the mixed reputation of certain listing sponsors. In this respect Mr Cheung takes the opportunity to sound out a warning to them. ‘If one looks at the listings in Hong Kong in

recent years, one is confronted with far too many poor quality companies. As the Listing Committee, we see details of these companies appear on our desks but there is little we can do about it,’ Mr Cheung says. ‘But why are these companies coming to market? Who is putting them before the market? It’s the sponsors. I am convinced that [the sponsors] must now stand up and be counted. It is their duty to act as the first line of defense, part of their role must be to screen out companies that are not suitable for listing,’ he exclaims. There is a moment’s silence then: ‘We need to raise the regulatory bar when it comes to dealing with the sponsors.’

This is clearly a topic that Mr Cheung feels strongly about and he has not yet exhausted his irritation. There is a clear set of responsibilities that a sponsor must embrace. Look at any world-class issuing house and an adherence to those responsibilities is readily apparent. The quality of some of the documents placed before the Listing Division can leave one incredulous that some of these companies are in business at all. Those are the businesses and sponsors we shall be targeting. We shall remind them of their responsibilities in no uncertain terms,’ he says. ‘And I am advising the Listing Division to throw out substandard IPO applications without deliberating on them. The alternative is that the Division becomes the party to put the prospectus in shape and that is not its role.’

Stepping back for a moment from the rough and tumble of bringing errant sponsors into line, Mr Cheung perhaps reflects upon his own illustrious career before offering advice to young accountants embarking on careers in the profession or in business. ‘Young accountants today are faced with a number of significant challenges and opportunities. The way business is done is increasingly complex; it’s a lot more challenging, rules and regulations are literally piling up. An important part of their job will be to remain up to date with all the rules and regulations relating to their tasks. They must understand the rationale behind the regulations, not just learn them by rote. Equally important is a

high level of integrity. If you do not possess integrity you quickly lose credibility,’ Mr Cheung says.

‘Put simply, my advice is stay on top of the technical and professional side and maintain a high level of professional integrity. Sacrifice short-term gains for long-term



objectives. Be innovative and be prepared to travel if necessary. Young accountants are facing a tough economy in Hong Kong but now they have the whole of China as their hinterland, they must be prepared to up sticks if necessary to find the opportunities.’

Mr Cheung may be at the opposite end of his career but that is not going to stop him serving the community. Both his daughters, one an accountant, the other a lawyer, work in Hong Kong so there is little chance he will leave the territory for a more relaxed jurisdiction.

The interview closes with an appeal to those working in his chosen profession. ‘Accountants in Hong Kong should play a role in helping to enhance the standards of the stock market by doing good professional work and sticking to their professional principles.’