



## Enforcing Directors' Duties: The Financial Crisis as a Test Case

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The financial crisis has prompted considerable debate about whether and to what extent directors, particularly in financial sector companies, should bear responsibility for losses suffered by their shareholders. However, in the United Kingdom at least, lawsuits against directors have been conspicuous by their absence. That is the case despite reforms to the derivative action introduced by the Companies Act 2006 which make it easier for minority shareholders to pursue that remedy. While some would point to the absence of litigation as simply the consequence of an overly protective legal and regulatory regime, there are other factors that are relevant. One is the significance of strong dismissal powers as a remedy for shareholders.

Exercise of this power, whether formally through shareholder resolutions or more informally through shareholder intervention, has resulted in considerable turnover in the boardrooms of financial sector companies. Another factor has been the tendency to deal with perceived shortcomings in directors' strategic decision-making and risk-control through the forward-looking medium of changes to the Corporate Governance Code rather than a retrospective focus on legal liability. A similar tendency is evident in FSA regulation of senior management of financial firms since there have been few cases in which individual responsibility has been the focus of (at least public) enforcement action. This seminar will examine the framework for directors' duties (with particular reference to the financial sector) and consider:

- (1) The significance of the Companies Act 2006 reforms to directors' duties and the derivative action;
- (2) The role of directors' duties in risk control;
- (3) The pros and cons of greater personal responsibility for directors;
- (4) The respective role of corporate law, codes and financial regulation in regulating the conduct of directors.

Date	: 16 March 2011 (Wednesday)
Time	: 2 p.m. to 5.15 p.m. (Registration starts at 1.45 p.m.)
Presenter/ Panelist (in alphabetical order)	: Mr Peter GREENWOOD FCIS FCS, Group Executive Director - Strategy, CLP Group Professor LOW Chee Keong, Associate Professor in Corporate Law, The Chinese University of Hong Kong Professor Iain MACNEIL, Alexander Stone Professor of Commercial Law, University of Glasgow Mr Gage MCAFEE, Managing Director, Asia Pacific Capital Mr Joseph PANG, Senior Advisor, Bank of East Asia Limited Mr Martin ROGERS, Partner & Head of Litigation and Dispute Resolution in Asia, Clifford Chance
Language	: English
Level	: General Business and Professional Knowledge
Venue	: HKUST Business School Central, 15/F, Hong Kong Club Building, 3A Chater Road, Central, Hong Kong
Fee	: HK\$450 for member or student of HKICPA, HKICS or Law Society HK\$750 for non-member

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# Enforcing Directors' Duties: The Financial Crisis as a Test Case

16 March 2011

## Programme\* (2 p.m. – 5.15 p.m.)

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|-----------------------|--|
| 2 p.m. – 3.30 p.m.    | Presentation <ul style="list-style-type: none"><li>• Professor Iain MacNeil,<br/>Alexander Stone Professor of Commercial Law,<br/>University of Glasgow</li></ul>  |
| 3.30 p.m. – 3.45 p.m. | Coffee break   |
| 3.45 p.m. – 5.15 p.m. | Q&A (Panel Discussion) and souvenir presentation<br>(in alphabetical order) <ul style="list-style-type: none"><li>• Mr Peter GREENWOOD,<br/>Group Executive Director - Strategy,<br/>CLP Group</li><li>• Professor LOW Chee Keong,<br/>Associate Professor in Corporate Law,<br/>The Chinese University of Hong Kong</li><li>• Professor Iain MACNEIL,<br/>Alexander Stone Professor of Commercial Law,<br/>University of Glasgow</li><li>• Mr Gage MCAFEE,<br/>Managing Director,<br/>Asia Pacific Capital</li><li>• Mr Joseph PANG,<br/>Senior Advisor,<br/>Bank of East Asia Limited</li><li>• Mr Martin ROGERS,<br/>Partner &amp; Head of Litigation and Dispute Resolution in Asia,<br/>Clifford Chance</li></ul> |

\*The programme is for reference only and is subject to change without prior notice.

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Seminar Date: 16 March 2011

Time: 2 p.m. to 5.15 p.m.

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