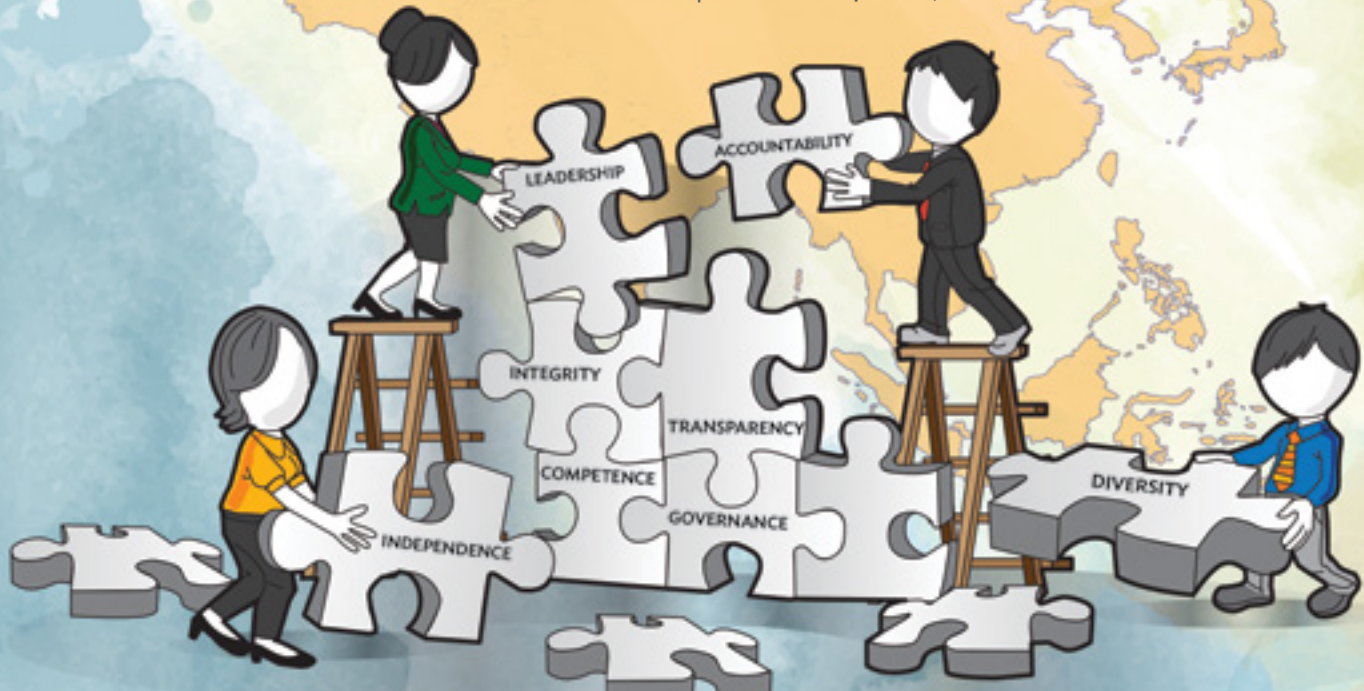


# CORPORATE GOVERNANCE: Challenges and Opportunities in Asia

20-21 November 2017 | ADB Headquarters, Manila



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# agenda

DAY 1

20 NOVEMBER 2017

9:00-10:00 AM

**REGISTRATION** 8:00AM – 9:00AM

**INAUGURAL SESSION** 9:00am – 9:45 am

Moderator: *Ms. Irum Ahsan, Senior Counsel, ADB*

**WELCOME REMARKS** by *Ms. Deborah Stokes*

Vice President for Administration and Corporate Management, ADB (10 minutes)

- Why Corporate Governance is important for ADB
- ADB's current Corporate Governance work and practice

**OPENING REMARKS** by *Mr. Christopher Stephens, General Counsel, ADB* (10 minutes)

- Law and Policy Reform (LPR) Program
- Importance of Corporate Governance for OGC's work

**KNOWLEDGE AND SKILLS DEVELOPMENT PROGRAM ON CORPORATE GOVERNANCE**

by *Mr. Gambhir Bhatta, Chief of Governance Thematic Group, ADB*

- Purpose of the Conference and the Knowledge and Skills Development Program
- Goals and objectives of the conference
- Expectations and potential outcomes
- Plans moving forward

**GROUP PHOTO** *Tea Break* 9:45am – 10:00am

10:00AM-4:30 PM

**TECHNICAL SESSION 1: PRINCIPLES OF CORPORATE GOVERNANCE** 10:00am – 12:30pm

Moderator: *Mr. James Christopher Razook, Senior Corporate Governance Officer, East Asia and the Pacific, International Finance Corporation*

**KEYNOTE INTERVIEW** of *Mr. Stephen P. Groff, Vice President for East Asia, Southeast Asia, and the Pacific, ADB*

**PANEL DISCUSSION ON CORPORATE GOVERNANCE PRINCIPLES AND PRIVATE SECTOR PERSPECTIVE**

**1. CORPORATE GOVERNANCE FROM AN INVESTOR'S PERSPECTIVE**, by *Mr. James Christopher Razook, Senior Corporate Governance Officer, East Asia and the Pacific, International Finance Corporation (20 minutes)*

**2. IMPORTANCE OF CORPORATE GOVERNANCE FOR PRIVATE SECTOR DEVELOPMENT**, by *Mr. Craig L. Roberts, Director, Portfolio Management Division, Private Sector Operations Department, ADB (15 minutes)*

**3. DEVELOPING CORPORATE GOVERNANCE CODES: BEST PRACTICES**, by *Atty. Rosario Carmela B. Gonzales-Austria, Assistant Director, Corporate Governance Division, Securities and Exchange Commission, Philippines (15 minutes)*

**4. ASEAN CORPORATE GOVERNANCE SCORECARD** by *Mr. Mohd. Sani Mohd Ismail, Senior Financial Sector Specialist, ADB (15 minutes)*

**LUNCH** 12:30pm – 2:00pm

**TECHNICAL SESSION 2: CORPORATE GOVERNANCE PLAYERS (PART 1)** 2:00PM – 4:30PM

Moderator: *Ms. Diana Wu-David, Head of Executive Education Asia, Financial Times*

**THE BOARD: ROLES AND RESPONSIBILITIES FOR THE 21ST CENTURY CORPORATION** by *Ms. Diana Wu-David, Head of Executive Education Asia, Financial Times (30mins presentation, 30mins Q&A)*

- Principles and director's duties and responsibilities
- Role of independent directors
- Effective behavior in the boardroom

3:00PM-5:00 PM

- Effective board processes
- Board and the Management
- Board structure and composition trends

**COFFEE BREAK** 3:00pm – 3:30pm

**SHAREHOLDERS: INVESTORS OR ACTIVISTS?** by *Ms. Jane Fuller*, Financial Editor, Financial Times  
(30mins presentation, 30mins Q&A)

- Trends in Investor Stewardship
- The rise of activist shareholders
- Shareholder's involvement in decision-making
- Review of real life case studies of how companies deal with activists

**DAY 1 SYNTHESIS AND HIGHLIGHTS/FEEDBACK SESSION ON SKILLS DEVELOPMENT PROGRAM**

4:30PM – 5:00PM

Speaker: *Ms. Sara Azfar*, Planning and Policy Specialist,adb

# DAY 2

## 21 NOVEMBER 2017

9:00AM-11:00AM

**DAY 2 OPENING REMARKS** 9:00am – 9:15 am

by *Ms. Ingrid van Wees*, Vice-President, Finance and Risk Management, ADB

**TECHNICAL SESSION 2: CORPORATE GOVERNANCE PLAYERS (PART 2)** 9:15am – 10:30am

Moderator: *Ms. Diana Wu-David*, Head of Executive Education Asia, Financial Times

### **GATEKEEPER OR CONCIERGE? REPORTING, REGULATING, AND AUDITING CORPORATIONS**

by *Ms. Diana Wu-David*, Head of Executive Education Asia, Financial Times (20mins presentation, 30mins Q&A)

- Comply or explain? Self-regulation or reliance on statutory provisions?
- Regulating institutions views and trends (e.g., weighted voting)
- Best practices and innovative regulatory tools
- The role of auditors and proxies

### **SHARED VALUE AND STAKEHOLDER RESPONSIBILITY**

by *Ms. Jane Fuller*, Financial Editor, Financial Times (TBC) (20mins presentation, 30mins Q&A)

- Responsibilities to various stakeholders
- Policies to improve workplace diversity
- Corporation's role in society – inequality, innovation, climate change
- Global trends in stakeholder engagement model

**COFFEE BREAK:** 10:30am – 11:00am

11:00AM-2:00 PM

**TECHNICAL SESSION 3: CORPORATE OWNERSHIP: MIXED AND DIVERSE** 11:00am – 1:00pm  
Moderator: *Prof. Tom Kirchmaier*, Deputy Director, Corporate Governance at LSE, London School of Economics

**ECONOMIC, FINANCING AND GOVERNANCE MODELS**

by *Prof. Tom Kirchmaier*, Professor of Corporate Governance at CBS & Deputy Director, CG at LSE, London School of Economics

- The various dimension of governance, its interaction in various governance models, and outcome on ownership
- The impact of governance on firms in Asia, and beyond (based on primary data)

**CORPORATE GOVERNANCE ROLES OF SHAREHOLDERS**

by *Prof. Carsten Gerner-Beuerle*, Professor of Commercial Law, University College London (UCL)

- Investor protection and economic development
- Shareholder rights and ownership structure
- Enforcement of shareholder rights under different institutional settings

**WOMEN ON BOARDS: THE SUPERHEROES OF TOMORROW?** by *Prof. Renée B. Adams*, University of New South Wales, ABFER, ECGI, FIRN

- How diverse boards help improve a corporation
- Challenges in diversifying boards
- Diverse boards and corporate governance

**INDEPENDENT DIRECTORS IN ASIA: THE COMPLEXITIES OF STATE OWNED ENTERPRISES GOVERNANCE**

**REVEALED** by *Dan Puchniak*, Associate Professor at NUS Law (National University of Singapore) and the Director of its Centre for Asian Legal Studies (CALs)

- Governance of SOEs in Asia
- Independent directors in Asia

**LUNCH BREAK:** 1:00pm – 2:00pm

2:00PM-4:30 PM

**INTERACTIVE SESSION: SPECIAL PANEL OF CORPORATE GOVERNANCE CHAMPIONS** 2:00PM –3:30PM

Moderator: *Mr. Jogendra Ghimire, Senior Counsel, ADB*

**Topics for Discussion:**

- Corporate Litigation: Remedies for Stakeholders
- Rebuilding society's trust in the corporation
- Corporate Governance and PPPs
- Diversity in Boards

**Panelists:**

1. *Mr. Mehmoud Mandviwalla, Corporate Lawyer and President, South Asia Association for Regional Cooperation in Law (SAARCLAW)*
2. *Atty. Cesar L. Villanueva, former Chairperson, Governance Commission for Government –Owned and Controlled Corporations (GCC) Philippines*
3. *Prof. Renée B. Adams, University of New South Wales, ABFER, ECGI, FIRN*
4. *Mr. Christopher Stephens, General Counsel, ADB*
5. *Mr. Srinivas Sampath, Technical Advisor (PPP), ADB*

**CLOSING/VALEDICTORY: CORPORATE GOVERNANCE AND ADB** 2:00PM –3:30PM

Moderator: *Ms. Aysha Qadir, Principal Counsel, ADB*

**CONCLUSION AND WAY FORWARD**

by *Mr. Barry Reid, Advisor, Sustainable Development and Climate Change Department, ADB (10 minutes)*

Synthesis/Summary of Sessions

1. *Mr. Craig L. Roberts, Director, Portfolio Management Division, Private Sector Operations Department, ADB*
2. *Ms. Diana Wu-David, Head of Executive Education Asia, Financial Times*
3. *Prof. Tom Kirchmaier, Deputy Director, Corporate Governance at LSE, London School of Economics*

**CONCLUDING REMARKS**

by *Mr. Ramit Nagpal, Deputy General Counsel, ADB (10 minutes)*

**END OF CONFERENCE**



# concept note

## CORPORATE GOVERNANCE- PRINCIPLES AND PRACTICES

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### **Why Does Corporate Governance Matter?**

Corporate governance is not a new concept but has gained more relevance in a globalized world where economies and wealth continue to grow, and multinational corporations operate in multiple jurisdictions. Increase in trade, commerce, and the rising complexity of financial instruments and transactions have called for a better understanding, and implementation, of the principles of corporate governance to protect investments and restore the public's trust in corporations. This challenge is true for both private corporations and state owned enterprises (SOEs) who are urged to institute good corporate governance policies and programs, leading to businesses conducted with integrity, fairness, transparency, and accountability to all stakeholders. Equally, government regulators and policy makers see the need to ensure that corporations and organizations are implementing corporate governance initiatives to ensure a stable economy and financial market, which leads to sustainable growth and development.

### **The Need for Knowledge and Skills Development on Corporate Governance**

ADB prioritizes governance and capacity development as a “driver of change” and is mainstreamed into ADB operations. One focus area is on the development of the effectiveness of ADB's investments, focusing on risks in public financial management, procurement, and corruption. Another priority area is to ensure that governments have the capacity to implement reforms, and to manage investment projects and

development programs. Given ADB's extensive work both with the private sector and SOEs, there is a need to institutionalize a knowledge and skills development program (the Program) on corporate governance for sovereign and non-sovereign operations to ensure that these strategic priorities are achieved.

The Program will endeavor to provide its participants - government officials and regulators, commercial courts judges, legal practitioners and ADB staff from sovereign and non-sovereign operations - with an understanding of the core concepts and principles of corporate governance. It aims to identify corporate governance issues and highlight the skills required to better practice corporate governance in private sector companies and SOEs. The Program will be an experience sharing exercise on global best practices and on the challenges faced by different Asian jurisdictions, particularly ADB's developing member countries. The intended result is a knowledge network which ADB can tap for its future corporate governance initiatives, and to clearly define its role, strategies, and priorities, as a multilateral development bank, on corporate governance.

### **Program Launch: Conference on Corporate Governance in Asia and the Pacific**

Bringing together participants and experts from Asia and around the World, the event will discuss corporate governance principles and its relevance for today's organizations. This will be followed by an analysis of the different actors and stakeholders, with specific sessions on corporate governance in the private sector and in SOEs. Best practices and case studies will be presented, as well as interactive sessions with corporate governance champions from the private and public sectors. The discussions and lessons learned will help ADB identify specific capacity development programs, both for its staff and participants in ADB's developing member countries.

# speakers



**PROF. RENÉE B. ADAMS** is Professor of Finance at the University of New South Wales. She is also an Affiliate of LSE's Financial Markets Group, Senior Fellow at the Asian Bureau of Finance and Economic Research and Member of the European Corporate Governance Institute. Since 2016, she is a Finance editor at Management Science. She holds an M.S. in Mathematics from Stanford University and a Ph.D. in Economics from the University of Chicago.

Professor Adams' research focuses on the organization of corporate boards. Her papers examine the information flow between managers and boards, gender diversity on boards, governance problems in banks, group decision-making and the governance of central banks. She has published in top accounting, economics, finance and management journals including the *Journal of Accounting and Economics*, the *Journal of Finance*, *Management Science*, *Review of Economic Studies* and *Strategic Management Journal*.

Professor Adams' interest in gender diversity is not limited to research. She co-founded AFFECT, the American Finance Association's "Academic Female Finance Committee", in 2015, and currently chairs it.

**MS. IRUM AHSAN**, Completed her legal education from the London School of Economics and Political Science. Before joining the Asian Development Bank (ADB), she practiced corporate law (both contentious and non-contentious matters) in Pakistan. In addition, Irum taught law at various prestigious institutions. At ADB, she is working in the Office of the General Counsel where over the last 10 years she has been advising on multi-sector projects for inclusive growth including several corporate finance transactions. Irum is currently leading the law and policy reform (LPR) program. Her LPR work mainly focuses on areas such as environmental and climate change adjudication and enforcement, legal literacy for women, and corporate governance. ADB's LPR work is based on the premise that a functioning legal system – anchored on the Rule of Law is an essential element of sustainable development. Her work led to the establishment of 5 green courts/benches in different countries, the Asian Judges Network on Environment, the first such network in the world, and Asia's first court for gender based violence cases in Pakistan. Irum has also organized several symposiums for Chief justices on environmental and climate change laws and presented her work at numerous international forums. She is a member of ADB's governance and gender thematic groups. Irum is an active advocate for gender consciousness and for women's rights and passionately steers the gender discussions in ADB.





**MS. SARA AZFAR**, has worked in the field of development for twenty years with a range of institutions including multilateral agencies, bilateral agencies, federal, provincial and local governments, and non-governmental organizations. She has worked on policy and legal reforms, project design and implementation, and change management in the urban and social protection sectors. She has published on anti-corruption and has an interest in bio-ethics. She is currently working with the Strategy and Policy Department at the Asian Development Bank.

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**MR. GAMBHIR BHATTA**, has more than 25 years of professional experience in the broad areas of governance and public sector management (PSM). He currently serves as Chief of the Governance Thematic Group at ADB.

Gambhir is also currently an Adjunct Professor at the Lee Kuan Yew School of Public Policy (Singapore), and at the National College of Public Administration and Governance (University of the Philippines). In 2016 and 2017, he was an Adjunct Fellow at the ADB Institute, Tokyo. Prior to joining ADB in July 2005, Gambhir was a Senior Advisor at the State Services Commission in New Zealand.

Gambhir holds a PhD in Public and International Affairs from the University of Pittsburgh, and advanced certificates in Applied Policy Analysis, Asian Studies, and Urban and Regional Development from the same university.

As Technical Advisor for Governance, Gambhir currently chairs the SOE Working Group at ADB which is mandated to enhance knowledge of SOE reform work, and develop capacity of government officials and ADB staff on various aspects of such reforms, including on corporate governance.





**MS. DIANA DAVID**, has an entrepreneurial DNA with broad experience across start-ups, venture capital and strategy consulting. She spent a decade as part of FT's Senior Management team reporting to the board, doubled revenue and profits for the content business, then moved in to the role of strategist and intrapreneur. She currently leads the Financial Times Executive Education initiatives in Asia-Pacific, including the flagship Financial Times Non-Executive Directors Diploma, and focuses on angel investing at Sarana Capital. Prior to the FT, she launched and sold her own Chinese luxury brand. At the Pacific Group, she managed venture investments in new media, telecom and retail across Asia. Early in her career, she worked as a management consultant for PricewaterhouseCoopers on strategy for companies including Time Warner, Bertelsmann, Dun & Bradstreet, Korean Telecom & British Telecom.

She began her career as an assistant to Dr. Henry Kissinger at Kissinger Associates in New York.

Diana has an MBA from Columbia University and a Financial Times Non-Executive Directors Diploma. She came to Asia on a prestigious Luce Scholarship and is a recipient of the Asia Society's Asia 21 Young Leaders award.

Boards value her deep understanding of Asia and media, combined with a passion for good governance. She is an INED at DaVinci Labs, on the advisory board of NEST.vc and on the Board of Governors of the American Chamber of Commerce Hong Kong. She is a past elected Vice Chairman of the Executive Board of the Society of Publishers Asia.

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**MS. JANE FULLER**, spent 19 years at the FT, becoming financial editor. Her other posts included Lex writer and UK companies editor. She continues to train FT journalists and is a Fellow of CFA Society of the UK. She left the FT in 2005 to found Fuller Analysis, a consultancy.

Her current roles include: co-director of the Centre for the Study of Financial Innovation, member of the Audit and Assurance Council of the FRC, the UK regulator, and adviser to Nutmeg, the online investment manager. She writes columns and reports on accounting, savings and investment, and the future of financial services.

Jane is an experienced corporate financial trainer and has provided her services to the following international organisations:

- IFC: Mongolia 2013, corporate governance programme for journalists, presenting on “Who runs the company?” and “The story behind the numbers”.
- International Institute of Journalism (InWent) at the Goethe Institute in Damascus, 2009, on economics and the financial system, banks and financial markets. Sofia Business School, 2013: Failure to recognise risk: common factors behind business failures.
- EY Corporate Development Leaders Network, 2015, on the impact of an ageing population on pensions and the economy.

Jane has also presented at several conferences for accountants and other financial professionals in London, and also Trinidad and Malta.





**PROF. CARSTEN GERNER-BEUERLE**, This session will discuss the corporate governance role of shareholders. It will assess the wider implications of strong investor protection for financial development and give an overview of the most important legal and regulatory mechanisms that facilitate shareholder involvement and safeguard the role of shareholders within the corporate governance framework of the firm. The analysis will consider both binding legal mechanisms and best practice standards as set out in corporate governance codes and stewardship codes. Binding legal mechanisms that define the corporate governance role of shareholders include appointment and removal rights, instruction rights, the right to call a general meeting, access to the firm's proxy machinery, and fiduciary standards such as fair dealing and fair price. The importance of these mechanisms cannot be assessed in isolation, but depends crucially on the ownership structure of the firm and the relevant industry, with strategies strengthening shareholder voice being comparatively more important in dispersed ownership industries and strategies imposing duties of loyalty and fair dealing in related-party transactions and control transactions being comparatively more important in concentrated ownership industries.

Stewardship codes addressed at institutional investors regulate the engagement between investors and companies with the goal of promoting the long-term success of companies. Again, the effectiveness of these best practice standards can only be assessed against the backdrop of both ownership structure (type of institutional investor: foreign vs. domestic, active vs. passive, state vs. private) and the binding legal framework, in particular the distribution of corporate power between the shareholders and directors under corporate law. In addition, because of its character as soft law, it can be questioned whether stewardship codes are a suitable regulatory response to increasingly aggressive short-term strategies of hedge funds and other activist investors, which compromise longer-term business policies involving the retention of earnings.

Finally, this session will briefly discuss the enforcement of shareholder rights and the design of effective enforcement mechanisms in light of differences in ownership structure and wider institutional structure.

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**MR. JOGENDRA GHIMIRE**, has over 15 years of experience in law, of which the last 8 have been with ADB. He has acted as counsel for over 60 infrastructure projects in energy, transport and urban sectors, among others, mostly in South and Southeast Asia regions. Mr. Ghimire has also been involved in law and policy reform projects in ADB, including on legal capacity development and regional cooperation in law, in the South and Southeast Asia regions. Prior to ADB, Mr. Ghimire worked as a banking and finance lawyer in Hong Kong and in Nepal. This included working with Allen & Overy (Hong Kong) as part of the law firm's finance/restructuring team. As a lawyer in Nepal during 2003-2007, his practice focused on banking and commercial laws, including significant litigation. In a previous career, Mr. Ghimire was a journalist (1995-2000) with The Kathmandu Post newspaper and a human rights lawyer (2000-2002) with Nepal's National Human Rights Commission and The University of Hong Kong (HKU). He is a graduate of Tribhuvan University, Nepal (BBA/BL), HKU (LLM-Human Rights) and Columbia University, New York (LLM).





**MS. ROSARIO CARMELA B. GONZALEZ-AUSTRIA**, has been with the Philippine Securities and Exchange Commission (SEC) since 2009. She is currently the Assistant Director of the Corporate Governance Division of the Corporate Governance and Finance Department. Her responsibilities include leading the Corporate Governance Division in recommending and drafting corporate governance policies, and in monitoring compliance with the Commission's corporate governance requirements.

Presently, she leads all Corporate Governance initiatives of the SEC, including the release of the Philippine Corporate Governance Blueprint in 2015 and the Code of Corporate Governance for Publicly-Listed Companies in 2016. Currently, she also sits as the representative of SEC Chairperson Teresita Herbosa in CG Experts Meetings on the ASEAN Corporate Governance Scorecard, which is under the ACMF Corporate Governance initiative being chaired by the SEC.

Ms. Austria is a Juris Doctor from Ateneo de Manila University (2008) and has received her Master's Degree in Public Policy from Japan's National Graduate Institute for Policy Studies (2013) as a recipient of the Japan-IMF Scholarship Program for Asia (.).

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**MR. STEPHEN P. GROFF**, is Vice-President (Operations 2) of the Asian Development Bank. He assumed office in October 2011.

Mr. Groff is responsible for the full range of ADB's operations in East Asia, Southeast Asia, and the Pacific. His mandate includes establishing strategic and operational priorities in his areas of responsibility, producing investment and technical assistance operations amounting to approximately \$5 billion annually, managing an existing portfolio of about \$31 billion, and leading about 650 staff.

Prior to joining ADB, Mr. Groff was Deputy Director for Development Cooperation at the Paris-based Organisation for Economic Co-operation and Development (OECD). Prior to this he was the Deputy Vice-President for Operations at the Washington-based Millennium Challenge Corporation (MCC). Prior to MCC, Mr. Groff held several staff positions at the ADB.

Mr. Groff holds a Master's degree in Public Administration from Harvard University and a Bachelor of Science degree in Environmental Biology from Yale University.





**MR. DIWAKAR GUPTA**, is the Asian Development Bank's (ADB) Vice-President for Private Sector and Cofinancing Operations. He assumed office in August 2015.

Mr. Gupta oversees ADB's assistance to private sector projects with a clear development impact but limited access to capital. He is also responsible for building and maintaining cofinancing partnerships with various organizations and financial institutions. Under ADB's long-term Strategy 2020 framework, ADB is scaling up its support in these two areas of activities.

Mr. Gupta was Managing Director and Chief Financial Officer of the State Bank of India, where he was responsible for setting strategies and direction alongside other members of the State Bank's Central Management Committee. He joined the State Bank of India in 1974 and held several positions at its various units and subsidiaries.

Mr. Gupta also worked as Independent Director on the boards of various business councils, financial services companies and other private organizations in India.

He holds a Master of Science degree in Physics from the University of Delhi, and a Bachelor of Science degree in Physics (with Honors) from St. Stephen's College in Delhi.

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**PROF. TOM KIRCHMAIER** In 1994, Paul Krugman said that “productivity isn't everything, but in the long run it is almost everything”. The productivity of an economy is determined by many factors, with the most important one being an economy's ability to automate many of its processes. The latter in turn is determined by the cost of capital, in itself a function of the inflation rate, and the effectiveness of the governance system. In short, governance determines productivity, and a country's wealth.

Developed economies have by definition mitigated the governance problem reasonably well, but often choosing very different paths and combinations of internal and external mechanisms. The most important internal mechanisms are the corporate board and ownership structure, the most important external mechanism is the legal framework. This way, countries react to the different needs of the dominant industries, economic history, institutional structure and culture, to just name a few.

In this talk I will present some empirical evidence that shows how firms in Asia are affected by its governance practices, and compare it with other parts of the world which seem to have better or worse arrangements. I will also show evidence of how ownership structure has adjusted in different parts of the world.

I will then discuss in detail the various dimension of governance, and show how different countries have configured the governance system. This will provide the framework so my colleagues can then discuss in more detail the legal dimensions (Carsten Gerner-Beuerle), as well as board diversity (Renee Adams), and the role of independent directors (Dan Puchniak).







**MR. MEHMOUD MANDVIWALLA**, has extensive experience spanning over 30 years in all aspects of commercial and corporate law including Banking; Corporate Finance & Securities; Arbitration; Commercial litigation; Energy; International Trade; Privatisations; Investment Funds; Educational Institutions; Venture Capital; Environment; Media; Arbitration; Acquisitions and Amalgamations; Underwriting Agreements; Insurance; Joint Ventures; Infrastructure Projects; Securitization; Credit Rating etc and Intellectual Property litigation.

He has drafted various statutory enactments and regulatory frameworks for Pakistan and has from time to time, assisted Securities and Exchange Commission of Pakistan and the State Bank of Pakistan in the restructuring of the regulatory framework for the corporate sector of Pakistan.

Mr. Mandviwalla is currently the president of SAARC LAW for the year 2016-2018. He is presently on the Board of Directors of GlaxoSmithKline Pakistan Limited and the British Overseas School.

Mr. Mandviwalla has served as a Director on the Board of the State Bank of Pakistan from 2013 to 2016. He was also the Caretaker Minister of Law and Prisons in the Caretaker Government of Sindh in 2013.

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**MR. RAMIT NAGPAL** is the Deputy General Counsel in the Office of the General Counsel (OGC) at the Asian Development Bank (ADB). He assumed the position in June 2014.

As the Deputy General Counsel, Mr. Nagpal provides high-level policy advice and support to the General Counsel in carrying out the work program of OGC and in planning, implementation and supervision of OGC's goals, strategies and work plan consistent with ADB's overall goals. Mr. Nagpal also contributes to the development and formulation of various operational policies and procedures, and works on key financial/institutional initiatives at ADB.

Mr. Nagpal has 29 years of legal experience, almost 12 years of which are with ADB. He served as Assistant General Counsel from October 2012 to June 2014 and supervised the provision of legal support to ADB's sovereign operations in South Asia, the Pacific, and Central and West Asia.

Prior to joining ADB, Mr. Nagpal's practice of law in India focused on banking, finance and investment transactions.





**DR. DAN PUCHNIAK**, is the Director of the National University of Singapore (NUS) Centre for Asian Legal Studies (CALs), the Editor-in-Chief of the Asian Journal of Comparative Law (AsJCL) and an Associate Professor at NUS Law. Dan has received numerous domestic and international awards for his academic research and teaching.

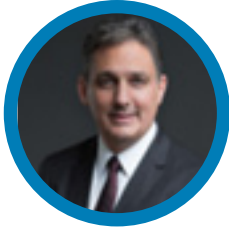
Dan specializes in corporate law with an emphasis on comparative corporate law in Asia. He has published widely on comparative, Asian, Singapore, and Japanese corporate law and governance and is regularly invited to present his scholarship and teach at leading law schools around the world.

Over the past few years, Dan has been a Visiting Fellow in the Commercial Law Centre at Harris Manchester College (Oxford University), Visiting Professor and Global Challenge Visiting Scholar at Seoul National University School of Law, Visiting Associate Professor at Vanderbilt Law School, and a Visiting Scholar of Law at the University of Chicago Law School. Most recently, in 2017, Dan was a Visiting Professor and taught intensive courses on comparative corporate law and governance with a focus on Asia at Chulalongkorn University and the University of Tokyo.

Dan has been placed on the NUS Annual Teaching Excellence Award Honour Roll until 2018 as recognition for receiving the university wide NUS Annual Teaching Excellence Award three times. Prior to entering academia, Dan worked as a corporate commercial litigator at one of Canada's leading corporate law firms.

**MS. AYSHA QADIR**, joined the Asian Development Bank (ADB) in 2010. She is a Principal Counsel in ADB's Office of the General Counsel (OGC), where she largely works on complex and innovative projects and programs in the Central and West Asia region. Since joining ADB, she has primarily been involved in designing and structuring financial sector reform programs in Asia. Aysha is one of OGC's focal persons for ADB's Accountability Mechanism Policy and Policy-Based Lending. She is also a member of ADB's transport sector group. Aysha brings significant private sector experience to ADB and has worked for two leading law firms where she extensively advised on independent power projects, infrastructure projects and project finance. She was the first woman appointed as the General Counsel of the Privatization Commission of Pakistan and was the lead legal advisor to the Ministry of Finance on Pakistan's privatization portfolio during a period of intensive privatization of state assets. Aysha holds an LL.M from the Cambridge University, United Kingdom and is an Advocate of the High Courts of Pakistan and Fellow of Cambridge Commonwealth Society.





**MR. JAMES CHRISTOPHER RAZOOK**, is the IFC Corporate Governance Lead for the East Asia and Pacific region. Chris has over 20 years of experience providing advisory services to companies, banks, and other organizations globally in the areas of corporate governance, risk management, strategic planning, and organizational improvement. Chris supports IFC's investment transactions and has developed and delivered extensive client training for board directors. He has provided assistance to central banks, capital market authorities, and other regulatory bodies in drafting corporate governance codes, laws, and listing rules. Chris has published numerous articles and publications to raise awareness of the business case for good governance. Chris has undergraduate degree in Engineering, an MBA in International Finance, and a Masters in Corporate Law.

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**MR. BARRY REID**, is an Advisor in ADB's Sustainable Development and Climate Change Department, where he is focal point for knowledge and capacity development work on state-owned enterprises (SOEs) and corporate governance.

A national of New Zealand, Mr. Reid holds postgraduate degrees in economics and accountancy. He has 30 years of professional experience, including 19 years' ADB experience, as a staff member and consultant. Mr. Reid was previously a Senior Economic and Financial Analyst then Manager at the New Zealand Treasury, where he was responsible for coordinating the government's fiscal forecasting and monitoring, including of SOE-related fiscal risks, and for managing the government's financial management system. Prior to joining ADB as a staff member, Mr. Reid worked on a variety of SOE-related issues including legislative and corporate governance frameworks, policy-based loans, knowledge products, and financial reporting and auditing issues. Since joining ADB, in increasingly responsible roles, he has processed sovereign and non-sovereign financing to SOEs. Mr. Reid has coauthored a number of publications on governance and finance.





**MR. CRAIG L. ROBERTS**, heads the Portfolio Management Division and is part of the Private Sector Operations Department (PSOD) Regional Management Team. The Division is accountable for proactively managing all private sector projects and investments throughout a transaction's lifecycle, once a deal is booked. He joined ADB in December 2014.

Craig was previously employed by The Royal Bank of Scotland (RBS) for more than 15 years and held multiple front office banking positions across origination, risk and portfolio management. He has been based in Singapore, Hong Kong, Tokyo, and London. His most recent role was Director, Head of Portfolio Management, Asia Pacific, accountable for managing the RBS APAC balance sheet in coordination with Risk, Finance and Treasury. Craig was a Chair of both the Bank's Capital Allocation Committee and Regional Reputational Risk and New Business Committee.

Prior to RBS, he worked in the UK Civil Service from 1995 to 1998. Craig was educated at The City of London Polytechnic and University College London and holds degrees in business and public international law. He is a Barrister, having been called to the Bar of England and Wales by the Honourable Society of Lincoln's Inn.

**MR. MOHD SANI ISMAIL**, a Senior Financial Sector Specialist in the Southeast Asia Department of the Asian Development Bank (ADB). In his role he leads ADB's regional capital market integration program for ASEAN countries, the private sector and SME development program for Lao PDR, and the financial sector program in Indonesia. The landmark initiative of ADB's support for ASEAN capital market integration is the partnership with the ASEAN Capital Market Forum in developing the ASEAN corporate governance scorecard. Sani also led ADB's assistance program to support Afghanistan, Bangladesh, Indonesia and Pakistan to implement prudential standards in Islamic finance and is currently the focal point for the financial sector in Indonesia. Before joining ADB in 2009, Sani worked in various roles in the Market Development department of Securities Commission Malaysia for 7 years.

Sani is originally from Penang, Malaysia and graduated with a law degree from the International Islamic University of Malaysia and LLM master's degree in Durham University, UK where he specialized in international trade law including corporate governance. While not a market fundamentalist, Sani strongly believes in market oriented economics and favor libertarian philosophy.





**MR. SRINIVAS SAMPATH**, is the Chief of PPP Thematic Group and Head of the PPP Transaction Advisory Services at the Office of Public-Private Partnership at the ADB

He brings over 24 years of experience in project/infrastructure finance and PPPs working as a sponsor/project developer, lender, advisor and providing upstream policy support for PPPs. He has advised public and private sector clients in over 40 countries around the world.

Between 2003 and 2007 as the Head & Advisor of PPP at the Commonwealth Fund for Technical Co-operation, UK, he led Commonwealth's work on corporate governance, including strengthening of the Commonwealth Guidelines for Corporate Governance. He worked closely with international agencies like the Global Corporate Governance Forum, the International Corporate Governance Network, and the OECD to support corporate governance reform agenda globally. Notable among his achievements include the extensive work he carried out on corporatization, and the reform and restructuring state owned enterprises (SOEs).

He obtained his PhD in Economics from the University College London. He also holds Masters' degrees in Urban Planning and Geography.

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**MR. CHRISTOPHER STEPHENS**, is the General Counsel of the Asian Development Bank (ADB) since the end of 2012. ADB's legal team comprises 85 staff from 16 countries, and advises ADB's Board of Governors, ADB's resident Board of Directors, the Management, and operations and administrative departments.

The legal department also runs ADB's Law and Policy Reform – or LPR – Program, by which ADB provides technical assistance to ADB's client countries in areas relating to the role of law in their development, including assistance with law and regulatory reforms, governance, judicial training, capacity-building and legal literacy.

ADB's legal team and Mr. Stephens have been won more than 20 awards in the last 4 years from Financial Times, Thompson-Reuters and other international publications, including “Best In-House” legal team, “Best Banking and Financial Services” legal team, “Most Innovative” team and several project awards.

Mr. Stephens has practiced law in the private and public sectors in Asia and the United States for more than 30 years.





**MS. DEBORAH STOKES**, is ADB's Vice-President for Administration and Corporate Management.

She is responsible for the overall management of the operations of the Budget, Personnel, and Management Systems Department; Office of Administrative Services; Office of the General Counsel; Office of Information Systems and Technology; Office of the Secretary; and Operations Services and Financial Management Department.

Prior to this, Ms. Stokes was a senior official in Australia's DFAT and AusAID. She was most recently High Commissioner to PNG, and has served as Australia's Ambassador to Austria and Permanent Representative to the UN in Vienna, and Deputy Head of Mission at the Australian Embassy in Tokyo.

She also held positions at the Australian Embassy in Yangon and the UNDP in New York.

Ms. Stokes holds a Master of Philosophy in Development Studies from the University of Cambridge in the UK and a Bachelor of Arts from the University of Adelaide in Australia.

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**MS. INGRID VAN WEES**, is the Vice-President for Finance and Risk Management of the Asian Development Bank (ADB). She assumed the position in December 2016.

Ms. van Wees is responsible for the overall management of the operations of the Office of Risk Management, the Contoller's Department, and the Treasury Department.

Prior to this, Ms. van Wees was a senior official at the German Investment and Development Corporation (DEG) where her portfolio covered debt, equity and fund investments in Europe, the Middle East, and Asia. She also has treasury experience in developmental investment banking. Before she moved to DEG in 2004, Ms. van Wees held management positions in corporate finance and business development with private corporations.

She holds a Master of Science degree in Mechanical Engineering from Delft University of Technology in The Netherlands and a Master of Business Administration degree from INSEAD.





**ATTY. CESAR L. VILLANUEVA**, re-joined in July 2016 the Law Firm VILLANUEVA GABIONZA & DY immediately at the end of his tenure as CHAIRMAN & CEO of the GOVERNANCE COMMISSION FOR GOCCS (GCG) He was an original Founding Partner of the firm.

In 2016, he was the first recipient of the Ambassador Cesar B. Bautista Award for Good Governance in recognition of the many achievements pioneered as the first Chairman of the GCG, from the Institute of Corporate Directors (ICD). He was also awarded the PRESIDENTIAL MEDAL OF MERIT for “outstanding, dedicated work and exceptional leadership as the Chairman of Governance Commission for GOCCS; for ... support of the administration’s platform of clean and honest governance; and for choosing to thread the straight and righteous path, in good service to the Filipino people.”

Atty. Villanueva was Dean of the ATENEO DE MANILA UNIVERSITY LAW SCHOOL from 2004 to 2011, and remains a professorial lecturer in Corporation Law, Agency & Trusts, Partnerships & Joint Ventures, and Law on Sales. He was awarded in November 2011 by the LEGAL EDUCATION BOARD with the first Outstanding Law Dean (Gold Category) for “a consummately impressive superintendence of the ATENEO LAW SCHOOL.”

He was the Chairman of the Commercial Law Department of the PHILIPPINE JUDICIAL ACADEMY (PHILJA); a member of the Governing Board of the MANDATORY CONTINUING LEGAL EDUCATION (MCLE) of the Supreme Court, and of the Technical Panel for Legal Education of the COMMISSION OF HIGHER EDUCATION (CHED) from October 2005 to January 2010.

In 2011, he was appointed the Executive Secretary for the ADMINISTRATIVE TRIBUNAL of the ASIAN DEVELOPMENT BANK (ADB).

Dean Villanueva was a member of the Board of Directors of the Clark International Airport Corp.; Chairman of the Board of Clark Development Corporation; an independent director of Makati Medical Center and the Redondo Peninsula Energy, Inc. He is also a Fellow of the AUSTRALIAN INSTITUTE ON COMPANY DIRECTORS (AICD).

Dean Villanueva obtained his Accounting degree (B.S.C.) from HOLY ANGEL UNIVERSITY (magna cum laude) in 1977, and his Bachelor of Laws Degree (LL.B.) from ATENEO DE MANILA LAW SCHOOL (valedictorian, cum laude). He sat for the Philippine Bar Examinations in November, 1981 (placing 2nd), and the following May, 1982 took the CPA Board Examinations (placing 6th). He obtained in 1989 his Master of Laws (LL.M.) from HARVARD LAW SCHOOL at Cambridge, Massachusetts. In October 2005, he was conferred the Diplomat in Juridical Science (D.J.S.) by the SAN BEDA GRADUATE SCHOOL OF LAW.

# presentation summaries

## CORPORATE GOVERNANCE: CHALLENGES AND OPPORTUNITIES IN ASIA

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### **Corporate Governance from an Investor's Perspective**

by *Mr. James Christopher Razook*

This presentation will highlight IFC's approach to Corporate Governance in its investment process. It will briefly describe the methodology used, practical examples, and lessons learned from numerous client engagements in Asia.

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### **Developing Corporate Governance Codes: Best Practices**

by *Atty. Rosario Carmela B. Gonzales-Austria*

In recent years, there has been increasing recognition that corporate governance should be principles-based and not rules-based. As such, countries, particularly in the ASEAN region have veered away from drafting mandatory corporate governance rules. Instead, corporate governance codes were drafted adopting the “comply or explain” approach. The “comply or explain” approach recognizes that there is no “one size fits all” in corporate governance. Under this approach, companies are given flexibility in determining their own corporate governance arrangements while also giving the market the power to



determine whether these arrangements are indeed good practices. Malaysia, Thailand, Singapore and Indonesia have adopted this approach. The Philippines followed the same path in its recently released Code of Corporate Governance for publicly-listed companies (PLCs).

The new Philippine Corporate Governance Code was released in November 2016 and is the first major action item for implementation in the Philippine Corporate Governance Blueprint that the SEC released in 2015. Before drafting the new Code, the SEC reviewed the previous Corporate Governance Code and determined the gaps that need to be addressed. With the assistance of the International Finance Corporation (IFC), a technical working group (TWG) was then formed composed of stakeholders from both the private and public sectors to draft the new Code. The best practices contained in the new Code are based on internationally recognized best practices contained in the G20/OECD Principles of Corporate Governance and the ASEAN Corporate Governance Scorecard. However, the TWG also made sure to consider the prevailing circumstances of Philippines corporations, which may not be similar to its Western counterparts. In addition, the TWG was privileged to benefit from the corporate governance expertise of consultants provided by the IFC. Lastly, before finalization, the draft Code was exposed to public consultation. The aforementioned process is, more or less, similar to that followed by other ASEAN countries in the development of their own Corporate Governance Codes.

Nevertheless, the development of a Corporate Governance Code does not end with its drafting and release; it has to be effectively implemented, as well. This can be achieved through: (1) a proper education and awareness campaign; and (2) monitoring of compliance with the recommended best practices. In this regard, the SEC, with the assistance of IFC, conducted a series of roundtable discussions to orient the PLCs on the new recommended best practices and on the “comply or explain” approach. Further, the SEC, in partnership with the Philippine Stock Exchange (PSE), drafted the Integrated Annual Corporate Governance Report (I-ACGR), a yearly report that would disclose PLCs’ compliance with the recommended practices in the new Code and the PSE Corporate Governance Guidelines for Listed Companies and their explanation for any non-compliance.

Lastly, to complement the Code and to ensure compliance on fundamental corporate governance practices, the SEC is also proposing amendments to the Corporation Code and Securities Regulation Code that would grant SEC the power to formulate corporate governance rules and policies without going through the legislative process.

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## ASEAN Corporate Governance Scorecard

by *Mr. Mohd. Sani Mohd Ismail*

This presentation will introduce the participants to the ASEAN Corporate Governance Scorecard, showing the link and importance with the private sector. An assessment of the results of the Scorecard will also be presented. Suggestions on future work program and improvements moving forward will also be discussed.

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## The Board: Roles & Responsibilities for the 21st century Corporation

by *Ms. Diana Wu-David*, who leads the Financial Times Executive Education and board training initiatives in Asia-Pacific, will be joining us to discuss the role of the board in the modern business landscape.

What are you really supposed to be doing as a board director? What is the balance between engagement and independence? To whom do you owe your loyalty? What happens when things go wrong?

This session will begin with a definition of the board's role and core principles of directors' duties and responsibilities. We will discuss broad trends in increased responsibility and liability for directors, risk management and oversight for the company. Directors should seek to understand this role, and put in place mechanisms within the board to ensure that these duties are discharged.

They key to board effectiveness lies as much in behaviors and relationships as in structure and processes. In this session, Diana will also cover an introduction on the effective behaviour in the boardroom and how individual directors can contribute to good corporate governance practice through ensuring effective board interactions and balancing harmony and performance.

Feedback will be provided collectively and discussed in line with some of the current issues and challenges for boards.

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## Shareholders: Investors or Activists

by Ms. *Jane Fuller*, financial editor at the Financial Times and Founder of Fuller Analysis, will be joining us to discuss Shareholders: Investors or Activists?

This review will cover the different types of shareholder, from investors in passive, index-tracking funds to active and ‘activist’ investors. Passive investors delegate the choice of stocks to the fund and are typically passive on governance too. However, their asset allocation choices may well be influenced by corporate governance and financial reporting standards in the markets represented in the indices. Large managers of passive funds may also actively engage with company boards, on strategy and CEO succession, for instance.

Active investors, who choose to hold the shares, clearly have an interest in the way the company is run. Sub categories may include “special interest investors” who try to influence a company’s behaviour, for instance its environmental impact. Then there are the activist investors who buy a stake with a view to effecting change, and who may push for a seat on the board.

The session will also cover stewardship: the directors’ duty to protect and enhance the assets they are entrusted with. What is the best way to promote the success of the company and benefit the owners? Both directors and shareholders are under pressure to push the company’s to implement certain public policies. In state-controlled companies, the political influence is much stronger. Shareholder can exercise their influence by voting at annual meetings and by informal engagement with management ‘behind closed doors’.

The presentation will include examples of action by activist investors and discussion will be encouraged.

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## Gatekeeper or Concierge? Reporting, Regulating, and Auditing Corporations

by Ms. *Diana Wu-David*, who leads the Financial Times Executive Education and board training initiatives in Asia-Pacific. The aim of this session is to provide the audience with a working knowledge of the regulation of corporate governance,

and auditing. The session starts with an examination of the ‘Comply or Explain’ approach to corporate governance, based on a corporate governance code, as the UK has had since 1992. This model recognises that good governance cannot be created by rigid rules. It allows leeway for justifiable deviation from the corporate governance code. But how well does this principles-based approach work?

In financial reporting, there are rules – accounting standards – that must be obeyed. But even here there is room for judgment and for companies to present their performance ‘through the eyes of management’. But a company’s interpretation of the rules, or emphasis on numbers outside the rules (non-GAAP), may mislead investors.

To conclude the session, Jane will review the role of external auditors in providing shareholders with reasonable assurance that the numbers in the accounts are ‘true and fair’. Regulation of auditors has been reformed in the past decade to enhance their independence from management and their reporting to shareholders.

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## Shared Value and Stakeholder Responsibilities

by Ms. Jane Fuller, financial editor at the Financial Times. This discussion will present the various aspects of a corporation’s role in society.

Global society is facing significant and growing social, environmental and economic development challenges. Government and NGOs lack sufficient resources and capabilities to independently meet these challenges in full and business can create sustainable and scalable solutions if allowed. Through studying the various challenges and cases Diana will examine an organisation’s responsibilities to the various stakeholders.

In recent years, there has also been a growing consensus that diversity could improve the economic and social performance of companies—although progress has been painfully slow. Board composition is an important driver of a board’s effectiveness, creating a breadth of perspective among directors, minimising risk and breaking down a tendency towards ‘group think’.

The session will be concluded with an open dialogue on what are the alternative stakeholder engagement models and how could they be adapted in an Asian context.

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## Economic, Financing and Governance Models

by Prof. Tom Kirchmaier

In 1994, Paul Krugman said that “productivity isn’t everything, but in the long run it is almost everything”. The productivity of an economy is determined by many factors, with the most important one being an economy’s ability to automate many of its processes. The latter in turn is determined by the cost of capital, in itself a function of the inflation rate, and the effectiveness of the governance system. In short, governance determines productivity, and a country’s wealth.

Developed economies have by definition mitigated the governance problem reasonably well, but often choosing very different paths and combinations of internal and external mechanisms. The most important internal mechanisms are the corporate board and ownership structure, the most important external mechanism is the legal framework. This way, countries react to the different needs of the dominant industries, economic history, institutional structure and culture, to just name a few.

In this talk I will present some empirical evidence that shows how firms in Asia are affected by its governance practices, and compare it with other parts of the world which seem to have better or worse arrangements. I will also show evidence of how ownership structure has adjusted in different parts of the world.

I will then discuss in detail the various dimension of governance, and show how different countries have configured the governance system. This will provide the framework so my colleagues can then discuss in more detail the legal dimensions (Carsten Gerner-Beuerle), as well as board diversity (Renee Adams), and the role of independent directors (Dan Puchniak).

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## Corporate Governance - Role of Shareholders

by Prof. Carsten Gerner-Beuerle

This session will discuss the corporate governance role of shareholders. It will assess the wider implications of strong investor protection for financial development and give an overview of the most important legal and regulatory mechanisms that facilitate shareholder involvement and safeguard the role of shareholders within the corporate governance framework of the firm. The analysis will consider both binding legal mechanisms and best practice standards as set out in corporate governance codes and stewardship codes. Binding legal mechanisms that define the corporate governance role of shareholders include appointment and removal rights, instruction rights, the right to call a general meeting, access to the firm's proxy machinery, and fiduciary standards such as fair dealing and fair price. The importance of these mechanisms cannot be assessed in isolation, but depends crucially on the ownership structure of the firm and the relevant industry, with strategies strengthening shareholder voice being comparatively more important in dispersed ownership industries and strategies imposing duties of loyalty and fair dealing in related-party transactions and control transactions being comparatively more important in concentrated ownership industries.

Stewardship codes addressed at institutional investors regulate the engagement between investors and companies with the goal of promoting the long-term success of companies. Again, the effectiveness of these best practice standards can only be assessed against the backdrop of both ownership structure (type of institutional investor: foreign vs. domestic, active vs. passive, state vs. private) and the binding legal framework, in particular the distribution of corporate power between the shareholders and directors under corporate law. In addition, because of its character as soft law, it can be questioned whether stewardship codes are a suitable regulatory response to increasingly aggressive short-term strategies of hedge funds and other activist investors, which compromise longer-term business policies involving the retention of earnings.

Finally, this session will briefly discuss the enforcement of shareholder rights and the design of effective enforcement mechanisms in light of differences in ownership structure and wider institutional structure.

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## Women on Boards: The Superheroes of Tomorrow?

by Prof. Renée B. Adams

Between 2008 and 2015 32 countries implemented 42 boardroom gender diversity policies. Most policy makers justify their intervention by appealing to the “business case” argument that firms with more women on boards perform better. By extension, policy makers argue that adding more female directors to boards should also increase growth. In this talk, I will discuss whether female directors can help save economies and the firms on whose boards they sit.

There is little doubt that economies can do better when women are fully able to realize their potential. But, more research needs to be done to understand the benefits of board diversity. Most studies making the “business case” argument are produced by consulting companies, not academics. Thus, they are not held to the high methodological and peer review standards that academic work is subject to. I will discuss that the literature faces three main challenges: data limitations, selection and causal inference.

Because of data limitations, most surveys of board diversity focus on large firms. I show that this creates a biased picture of the representation of female directors. Women are much more likely to be on the boards of large firms than small firms. Thus, the representation of women is actually much worse than people argue. Progress towards increasing diversity may also be slower than is commonly argued.

Even with better data, the challenge is to disentangle correlation from causation. I illustrate that correlation does not imply causation by showing that the positive correlation between board gender diversity and firm performance that underlies the “business case” argument is not robust.

Ignoring causality might seem to work in women’s favour. But I argue that if we do not try to identify causal effects, we are in danger of perpetuating further stereotypes about women. These stereotypes can create unrealistic expectations for women. I believe women (and society) are better served if we put wishful thinking aside and try to uncover the facts about boardroom diversity in the most careful and rigorous manner possible. After doing so,

it can be easy to make a case for board diversity. For example, I discuss research that shows that female directors are quite different from both women in the population and male directors. Female directors may bring different values to the table and these values may feed into how they, and the board, make decisions. Depending on the circumstances, diversity in values may lead to better decisions. More research is needed to understand how and when the presence of female directors may affect decision-making and corporate outcomes. But it is clear that board diversity can add value.

While female directors may not (always) be superheroes, there is little doubt that they will influence firm and societal outcomes. To characterize this influence we need a better understanding of what women bring to the boardroom table and how diversity affects firm outcomes. We have an even longer way to go towards breaking the boardroom glass ceiling than many would have us believe.

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## **Independent Directors in Asia: The Complexities of State-Owned Enterprise (SOE) Governance Revealed**

by *Dr. Dan W. Puchniak*

This presentation will be primarily based on a co-authored chapter with Professor Kon Sik Kim (Seoul National University) entitled ‘Varieties of Independent Directors in Asia: A Taxonomy’, in ‘Independent Directors in Asia: A Historical, Contextual and Comparative Approach’ (Dan W. Puchniak et al. eds., Cambridge University Press, 2017). The chapter reveals a reality which is the opposite of what conventional wisdom suggests: many of Asia’s leading economies have surpassed those in the West in terms of the proportion of ‘independent directors’ on corporate boards and the strictness of the laws promoting ‘independent directors’.

The chapter explains why the meteoric rise of the ‘independent director’ in Asia is complex. Although the label ‘independent director’ has been transplanted precipitously from the US (in some cases via the UK) throughout Asia, who is labelled an ‘independent director’ (i.e., the ‘form’ that independent directors take) and what independent directors do (i.e., the function they perform) in Asia differ significantly from the American concept of the independent director. To add to the complexity, the form and function of ‘independent directors’ varies within Asia from jurisdiction to jurisdiction. As



such, in reality, there are ‘varieties of independent directors in Asia’—none of which conform to the American concept of the independent director.

This challenges the widely-held assumption that independent directors are universally similar, and complicates inter-jurisdictional comparisons. The chapter attempts to overcome this comparative hurdle by identifying six factors that have driven the evolution of diverse, jurisdiction-specific, varieties of independent directors in Asia: (1) shareholder ownership structures; (2) legal origins; (3) types of shareholders; (4) functional substitutes; (5) political economy; and, (6) cultural norms. These factors provide a basis for constructing a ‘loose taxonomy’ of the varieties of independent directors in Asia, which creates a useful tool for identifying which inter-jurisdictional comparisons are likely to yield significant insights and which are likely to mislead. There will be a discussion on how an understanding of the varieties of independent directors in Asia can advance corporate governance practice and contribute to comparative corporate governance theory.

The presentation will conclude by briefly explaining my research with Professor Luh Lan (NUS Law) which explains the intriguing role played by independent directors in Singapore’s State Owned Enterprises (See: *Independent Directors in Singapore: Puzzling Compliance Requiring Explanation*). The Singapore case study will provide a window into the complex problems that the governance of SOEs present for corporate governance in Asia. It will also suggest that some answers to the problems of effectively governing SOEs may be found in the Singapore corporate governance model. However, whether this model is transplantable remains an open question (See: *State-Owned Enterprises in Singapore: Historical Insights into a Potential Model for Reform*).

# Conference Secretariat



**IRUM AHSAN**

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**JOGENDRA GHIMIRE**

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**AYSHA QADIR**

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### **MA. CELESTE GRACE A. SANIEL-GOIS**

Is currently holding the position of Legal Operations Officer at the Office of the General Counsel (OGC) of the Asian Development Bank (ADB). She provides technical, analytical, and coordination support for OGC's operational work, particularly on the Law and Policy Reform Program of OGC.

Ms. Saniel-Gois has been with ADB for over 19 years. Before joining OGC, she was part of the urban sector team, administering regional TAs on urban infrastructure projects, and was the core Secretariat of ADB's Urban Community of Practice. She also administered ADB's Urban Financing Partnership Facility, which supported urban infrastructure projects. Prior to this, she was part of the gender and development (GAD) team of ADB, serving as the coordinator for the multidonor Gender and Development Cooperation Fund; which provided resources for developing member countries and regional TA projects aimed at building gender capacity and conducting research on emerging and critical gender issues.

Ms. Saniel-Gois holds a master's degree in Social Services and Development from the Asian Social Institute, Manila; academic credits for master in Women and Development at the University of the Philippines, and a Bachelor's degree in Communication Arts at St. Scholastica's College, Manila.



### **GREGORIO RAFAEL BUETA**

Has a Bachelor of Arts degree in Political Science from the Ateneo de Manila University. He earned his Juris Doctor Degree from the same institution and was the recipient of the St. Thomas More Most Distinguished Award for his graduating class. Grip is currently a Consultant with the Asian Development Bank as a Legal and Policy Specialist working on environment and climate change law with the judiciaries, as well as, legal and regulatory reforms in South Asia in areas such as energy trade and corporate governance. Prior to joining ADB, he headed the Strategic Initiatives Management Office in the Office of the President of the Philippines focusing on environment and climate change related government policies and programs. As a private legal practitioner and independent consultant, Grip is an advocate for environmental rights and justice, protection of biodiversity, promotion of human rights, development of good governance, and integrity in the public service. He has written several published works on environment and natural resources law and human rights, among others. Grip has also worked with the United Nations Development Programme, the Philippine Judicial Academy, the Ateneo School of Government, the Council for the Welfare of Children, Ayala Corporation, the EcoWaste Coalition, and various NGOs and private companies.



### **FRANCESSE JOY “HAPPY” J. CORDON-NAVARRO**

Happy graduated magna cum laude in BS Business Economics in 2007 and with a dean's medal for academic excellence in Juris Doctor (Law) in 2011 from the University of the Philippines. She finished her masters in Environmental Policy at the University of Cambridge, where she was a Peter Wilson Estates Gazette scholar. She is an associate fellow and international law on sustainable development project coordinator at the Centre for International Sustainable Development Law. Since 2013, she has worked for the OGC Law and Policy Reform Program, preparing all proceedings of the annual ASEAN Chief Justices' Roundtable on Environment and the Symposium on Combating Wildlife Crime: Securing Enforcement, Ensuring Justice and Upholding the Rule of Law, serving on needs assessment and liaison missions, and providing general legal research and writing support. Outside ADB, she worked as an associate at Siguion Reyna, Montecillo & Ongsiako Law Offices, consultant for the University of the Philippines Law Center and lecturer on law, children and the environment at the Oxbridge Academic Programs in Cambridge.



### **GLADYS SANGALANG**

Gladys has over 18 years of operations and administrative support experience. Before joining ADB, she worked as a paralegal in a full-service law firm that helped top multinational and domestic companies drive their growth in the country. Subsequently she became the Executive Administrator to the Global Chief Operating Officer of a multinational law firm and later as a Global Talent Management Specialist. She also worked as a Purchasing Associate in a subsidiary of the largest media conglomerate in the Philippines that brought an indoor family educational entertainment center to Manila. She graduated from the University of the Philippines with a Bachelor of Arts degree in Political Science (with minor in Economics and Psychology) and earned her Certificate as a Paralegal from the University of the Philippines Law Center.



### **RYAH SANVICENTE**

She joined the Asian Development Bank in 2005. Currently serves as the Executive Assistant of the General Counsel. Graduated from the University of Sto. Tomas with Bachelor's Degree in Communication Arts in 2000.

## About the Asian Development Bank

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to a large share of the world's poor. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.



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