



APPENDIX 3

Seventeenth and Eighteenth Schedule to the Companies Ordinance

Seventeenth Schedule to the Companies Ordinance

[sections 2, 38, 43, 48A,
342 & 360 & 18th Sch.]

PART 1

LIST OF OFFERS, ETC. NOT FALLING WITHIN DEFINITION

1. An offer to professional investors within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571) (including professional investors falling within paragraph (j) of the definition of "professional investor" in that section).
2. An offer—
 - (a) to not more than 50 persons; and
 - (b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.
3. An offer—
 - (a) in respect of which the total consideration payable for the shares or debentures concerned shall not exceed the amount specified in Part 2, or its equivalent in another currency; and
 - (b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.
4. An offer—
 - (a) in respect of which the minimum denomination of, or the minimum consideration payable by any person for, the shares or, in the case of debentures, the minimum principal amount to be subscribed or purchased, is not less than the amount specified in Part 3, or its equivalent in another currency; and
 - (b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.
5. An offer in connection with an invitation made in good faith to enter into an underwriting agreement.
6. An offer in connection with a takeover or merger or a share repurchase which is in compliance with the Codes on Takeovers and Mergers and Share Repurchases issued by the Commission as in force from time to time.
7. An offer of shares in a company—
 - (a) made—
 - (i) for no consideration, to any or all holders of shares in the company;or



(ii) as an alternative to a dividend or other distribution, to all holders of shares of a particular class in the company, provided the offer is of fully paid-up shares of the same class; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

8. An offer—

(a) of shares in or debentures of a company;

(b) to persons who are qualifying persons in respect of the company referred to in paragraph (a) or of another company which is a member of the same group of companies as the company referred to in that paragraph;

(c) by—

(i) the company referred to in paragraph (a);

(ii) another company which is a member of the same group of companies as the company referred to in paragraph (a); or

(iii) the trustees—

(A) of a trust established by any one or more of the companies mentioned in subparagraphs (i) and (ii); and

(B) holding the shares or debentures the subject of the offer;

(d) on terms that the only persons who can acquire the shares or debentures are the qualifying persons to whom they are offered or, if the terms of the offer so permit, any qualifying person; and

(e) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

9. An offer by—

(a) a charitable institution or trust of a public character mentioned in section 88 of the Inland Revenue Ordinance (Cap 112); or

(b) an educational establishment within the meaning of section 2(1) of the Sex Discrimination Ordinance (Cap 480),

where—

(c) the proceeds of the offer will be applied towards the objectives of the charitable institution or trust, or educational establishment, as the case may be; and

(d) the offer contains a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

10. An offer—

(a) to members, or applicants for membership, of a club or association—

(i) who can reasonably be regarded as having a common interest with each other and with the club or association in the affairs of the club or association; and

(ii) where the proceeds of the offer are to be applied for purposes which can reasonably be regarded as concerning the affairs of the club or association; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

11. An offer—

(a) in respect of—

(i) an exchange of shares in the same company which does not result in an increase in the issued share capital of the company; or



- (ii) an exchange of debentures of the same company which does not result in an increase in the aggregate principal amount outstanding under the debentures; and
- (b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

12. An offer—

- (a) in connection with a collective investment scheme authorised under section 104 of the Securities and Futures Ordinance (Cap 571); and
- (b) in connection with which the issue of each advertisement, invitation or document has been authorised under section 105 of the Securities and Futures Ordinance (Cap 571).

PART 2

**AMOUNT SPECIFIED FOR THE PURPOSES OF
SECTION 3 OF PART 1**

\$5000000

PART 3

**AMOUNT SPECIFIED FOR THE PURPOSES OF
SECTION 4 OF PART 1**

\$500000

PART 4

INTERPRETATION OF PART 1

1. Any reference to an offer in Part 1—
 - (a) includes an offer of any right, option or interest in or in relation to the shares or debentures the subject of the offer;
 - (b) does not include the offer to the extent that it is made to persons who are outside Hong Kong.
2. A prospectus, notice, circular, brochure, advertisement, or other document, still falls within Part 1 if it falls entirely within any combination of any of sections 1, 2, 5, 6, 7, 8, 9, 10, 11 or 12 of Part 1.
3. For the purposes of sections 2 and 3 of Part 1, an offer is to be taken together with any other offer of the same class of shares or debentures—
 - (a) which was made by the same person;
 - (b) which was open at any time within the period of 12 months ending with the date on which the first-mentioned offer is first made; and
 - (c) the document issued in respect of which was not a prospectus by virtue of either of those sections being satisfied.
4. For the purposes of section 2 of Part 1—
 - (a) the making of an offer of shares or debentures to trustees or members of a partnership or unincorporated association in their capacity as such; or
 - (b) the making of such an offer to any other 2 or more persons jointly, is to be treated as the making of an offer to a single person.



5. For the purposes of section 7 of Part 1, a holder of shares in a company, in relation to an offer mentioned in that section, means a person who, at the close of business on a date—

- (a) specified in the offer; or
 - (b) falling within the period of 60 days ending with the date on which the offer is first made,
- is a holder of shares in the company.

6. For the purposes of this section and section 8 of Part 1—

- (a) “qualifying person” (合資格的人), in relation to a company—
 - (i) means—
 - (A) a bona fide director, employee, officer, consultant, former director, former employee, former officer or former consultant of the company;
 - (B) a bona fide dependent of any person mentioned in subparagraph (A);
 - (ii) includes the trustees of a trust—
 - (A) established by any one or more of the companies mentioned in section 8(c)(i) and (ii) of Part 1; and
 - (B) which can hold shares or debentures on behalf of any person referred to in subparagraph (i);
- (b) “consultant” (顧問) means a person who, pursuant to a contract for services, renders services to a company (“the relevant company”) which are commonly rendered by an employee of—
 - (i) the relevant company; or
 - (ii) a company belonging to the class of companies which predominantly carry out the same kind of business as the relevant company;
- (c) “dependent” (受養人), in relation to a person, means—
 - (i) the wife, husband, widow or widower of the person; or
 - (ii) any child, or stepchild, of the person under the age of 18 years.

7. The Commission may prepare and publish guidelines in relation to the provisions of this Schedule.

8. Guidelines published under section 7 are not subsidiary legislation.

Eighteenth Schedule to the Companies Ordinance

PART 1

**STATEMENT TO BE CONTAINED IN PROSPECTUS TO WHICH
SECTION 38(1) OF THIS ORDINANCE APPLIES**

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

“IMPORTANT

If you are in any doubt about any of the contents of this prospectus, you should obtain independent professional advice.”;
and, if in the Chinese language, a statement in the following form or a form to the like effect—

“重要提示

如你對此招股章程的任何內容有任何疑問，你應尋求獨立專業意見。”。

PART 2

**STATEMENT TO BE CONTAINED IN PROSPECTUS TO WHICH
SECTION 342(1) OF THIS ORDINANCE APPLIES**

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

“IMPORTANT

If you are in any doubt about any of the contents of this prospectus, you should obtain independent professional advice.”;
and, if in the Chinese language, a statement in the following form or a form to the like effect—

“重要提示

如你對此招股章程的任何內容有任何疑問，你應尋求獨立專業意見。”。

PART 3

**STATEMENT TO BE CONTAINED IN CERTAIN OFFERS
SPECIFIED IN PART 1 OF THE
SEVENTEENTH SCHEDULE**

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

“WARNING

The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the



offer. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.”;
and, if in the Chinese language, a statement in the following form or a form to the like effect—

“警告

本文件的內容未經在香港的規管當局審核。你應就有關要約謹慎行事。如你對本文件的任何內容有任何疑問，你應尋求獨立專業意見。”。

PART 4

**STATEMENT TO BE CONTAINED IN ISSUE
PROSPECTUS, ETC. MENTIONED IN
THE TWENTY-FIRST SCHEDULE**

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

“Potential investors should read the issue prospectus in conjunction with the programme prospectus to which it relates in order to understand the offer to which the documents relate, in particular before making an application in response to the offer.”;

and, if in the Chinese language, a statement in the following form or a form to the like effect—

“潛在投資者應參閱發行章程並一併參閱與其相關的計劃章程，以明白該文件所關乎的要約，你尤其應該在應有關要約提出申請前參閱上述文件。”。

PART 5

**STATEMENT TO BE CONTAINED IN AMENDMENT
TO ISSUE PROSPECTUS MENTIONED IN
THE TWENTY-FIRST SCHEDULE**

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

“Potential investors should read this amendment in conjunction with the issue prospectus which it amends in order to understand the offer to which the documents relate, in particular before making an application in response to the offer.”;

and, if in the Chinese language, a statement in the following form or a form to the like effect—

“潛在投資者應參閱本修訂並一併參閱被修訂的發行章程，以明白該文件所關乎的要約，你尤其應該在應有關要約提出申請前參閱上述文件。”。

(Eighteenth Schedule added 30 of 2004 s. 2)