

**Bills Committee on Companies Bill**  
**Committee Stage Amendments to the Companies Bill**  
**Part 18 – Communications to and by Companies**

CB(1)1747/11-12(05)

The table below sets out the proposed Committee Stage Amendments (CSAs) in relation to Part 18 (“Communications to and by Companies”) (clauses 809 to 825) of the Companies Bill (CB). In preparing the CSAs, the Administration has taken account of, *inter alia*, the views of Members, deputations and the Legislative Council Legal Adviser. Marked-up copy of the proposed CSAs in numerical order is at **Annex** for reference. The marked-up Chinese provisions in the Annex only contain CSAs solely applicable to the Chinese text.

A list of abbreviations used in this table is as follows:

Bills Committee: Bills Committee on Companies Bill

CB: Companies Bill

CSA: Committee Stage Amendment

LegCo: Legislative Council

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
1	Clause 811  Period specified for purposes of sections 816(7)(a), 819(7)(a) and 821(11)(b)	Clause 811 provides that the period specified for purposes of sections 816(7)(a), 819(7)(a) and 821(11)(b) is 48 hours or the period set out in company’s articles, instruments creating the debenture or any other agreement, whichever is longer. The effect of the CSA is that the 48 hours requirement would be subject to any provisions in the company’s articles, the instrument creating the debenture or any other agreement.	<ul style="list-style-type: none"> <li>This CSA is proposed in response to deputations’ comments on the CB and seeks to provide flexibility to companies in their operation. Please see page 53 of LegCo Paper No. CB(1)339/11-12(01) <i>Administration’s Response to Deputations’ Views</i> and the Annex to LegCo Paper No. CB(1)1003/11-12(02) <i>Comparison Table for Part 18 – Communications to and by Companies</i>.</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
2	Clause 812  Time specified for purposes of sections 816(7)(b), 817(5)(a), 819(7)(b) and 820(5)(a)	Remove the reference to the ordinary course of post and expressly state the time in subclause (2)(a) as the second business day after the day on which the document or information is sent or supplied.	<ul style="list-style-type: none"> <li>This CSA is proposed for clarity in response to Members' comment. Please see paragraph 2 of LegCo Paper No. CB(1)1277/11-12(03) <i>Follow-up actions for the meeting held on 10 February 2012 in relation to Part 18 of the Companies Bill.</i></li> </ul>
3	Clause 816  Communication in electronic form	<p>(I) Provide that the deemed receipt of the document or information sent or supplied in electronic form and by post will be rebuttable where the contrary is proved.</p> <p>(II) Amend the Chinese version of subclause (2)(c)(i) as “以肉眼或在輔以適合的矯正視力鏡片的眼睛情況下...”</p>	<ul style="list-style-type: none"> <li>Members were concerned that, while the clause 816(7) provided for deemed receipt of a document or information sent or supplied in electronic form and by post, the document or information might not actually be received. This CSA is proposed to address Members' concern. Similar CSA will be proposed for clause 819. Please see paragraph 3 of LegCo Paper No. CB(1)1277/11-12(03) <i>Follow-up actions for the meeting held on 10 February 2012 in relation to Part 18 of the Companies Bill.</i></li> <li>This is a drafting change proposed for clarity in response to LegCo Legal Adviser's comment. Similar CSA will be proposed for clauses 819 and 821.</li> </ul>
4	Clause 817  Communication in hard copy form	Provide that the deemed receipt of the document or information sent or supplied by post will be rebuttable where the contrary is proved.	<ul style="list-style-type: none"> <li>This CSA is proposed to expressly provide that the deemed receipt of the document or information sent or supplied by post will be rebuttable where the contrary is proved. Please see paragraph 2 of LegCo Paper No. CB(1)1277/11-12(03) <i>Follow-up actions for the meeting held on 10 February 2012 in relation to Part 18 of the Companies Bill.</i> Similar CSA will be proposed for clause 820.</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
5	Clause 819 Communication in electronic form	(I) Provide that the deemed receipt of the document or information sent or supplied in electronic form and by post will be rebuttable where the contrary is proved.	<ul style="list-style-type: none"> <li>• Please see item 3(I) above.</li> </ul>
		(II) Amend the Chinese version of subclause (3)(c)(i) as “以肉眼或在輔以適合的矯正視力鏡片的眼睛情況下...”	<ul style="list-style-type: none"> <li>• Please see item 3(II) above.</li> </ul>
6	Clause 820 Communication in hard copy form	Provide that the deemed receipt of the document or information sent or supplied by post will be rebuttable where the contrary is proved.	<ul style="list-style-type: none"> <li>• Please see item 4 above.</li> </ul>
7	Clause 821 Communication by means of website	(I) Provide that the deemed agreement for website communication will be rebuttable if it is proved that the member or debenture holder has not received the request sent by the company.	<ul style="list-style-type: none"> <li>• Members were concerned whether a member or debenture holder of a company who had not received the company’s request under clause 821(4)(b) or 821(5)(b) would be regarded as having agreed that the company could send document or information to him by means of website. This CSA is proposed to address Members’ concern. Please see paragraphs 6 to 8 of LegCo Paper No. CB(1)1277/11-12(03) <i>Follow-up actions for the meeting held on 10 February 2012 in relation to Part 18 of the Companies Bill.</i></li> </ul>
		(II) Amend the Chinese version of subclause (3)(b)(i) as “以肉眼或在輔以適合的矯正視力鏡片的眼睛情況下...”	<ul style="list-style-type: none"> <li>• Please see item 3(II) above.</li> </ul>

**Financial Services and the Treasury Bureau**  
**Companies Registry**  
**27 April 2012**

**<sup>1</sup>811. Period specified for purposes of sections 816(7)(a), 819(7)(a) and 821(11)(b)**

- (1) This section specifies—
- (a) the period, in relation to a document or information sent or supplied to a company by another person, for the purposes of section 816(7)(a); and
  - (b) the period, in relation to a document or information sent or supplied by a company to another person, for the purposes of sections 819(7)(a) and 821(11)(b).
- (2) The period is ~~whichever is the longer of the following—~~
- ~~(a) a period of 48 hours;~~
  - ~~(b) the period set out in subsection (3), ~~or~~ (4) or (4A).~~
- (3) If that other person is not a company, the period set out for the purposes of subsection (2)~~(b)~~ is—
- (a) where that other person is a member of the company, the period specified for the purpose in the company's articles;
  - (b) where that other person is a debenture holder of the company, the period specified for the purpose in the instrument creating the debenture; or
  - (c) where that other person is not such a member or holder, the period specified for the purpose in any agreement between the person and the company.
- (4) If that other person is a company, the period set out for the purposes of subsection (2)~~(b)~~ is—
- (a) where that other person is a member of the company, the period specified for the purpose in the company's articles;
  - (b) where the company is a member of that other person, the period specified for the purpose in the person's articles;
  - (c) where that other person is a debenture holder of the company or where the company is a debenture holder of that other person, the period specified for the purpose in the instrument creating the debenture; or
  - (d) where neither that other person nor the company is such a member or holder, the period specified for the purpose in any agreement between the person and the company.
- ~~(4A) If the articles, instrument or agreement does not specify the period, the period set out for the purposes of subsection (2) is 48 hours.~~
- (5) In calculating a period of hours mentioned in subsection ~~(4A)(2)(a)~~, any part of a day that is not a business day is to be disregarded.

**812. Time specified for purposes of sections 816(7)(b), 817(5)(a), 819(7)(b) and 820(5)(a)**

- (1) This section specifies—
  - (a) the time, in relation to a document or information sent or supplied to a company by another person, for the purposes of sections 816(7)(b) and 817(5)(a); and
  - (b) the time, in relation to a document or information sent or supplied by a company to another person, for the purposes of sections 819(7)(b) and 820(5)(a).
- (2) The time is whichever is the later of the following—
  - (a) ~~the time at the second business day after the day on~~ which the document or information is sent or supplied~~would be delivered in the ordinary course of post;~~<sup>2</sup>
  - (b) the time set out in subsection (3) or (4).
- (3) If that other person is not a company, the time set out for the purposes of subsection (2)(b) is—
  - (a) where that other person is a member of the company, the time specified for the purpose in the company's articles;
  - (b) where that other person is a debenture holder of the company, the time specified for the purpose in the instrument creating the debenture; or
  - (c) where that other person is not such a member or holder, the time specified for the purpose in any agreement between the person and the company.
- (4) If that other person is a company, the time set out for the purposes of subsection (2)(b) is—
  - (a) where that other person is a member of the company, the time specified for the purpose in the company's articles;
  - (b) where the company is a member of that other person, the time specified for the purpose in the person's articles;
  - (c) where that other person is a debenture holder of the company or where the company is a debenture holder of that other person, the time specified for the purpose in the instrument creating the debenture; or
  - (d) where neither that other person nor the company is such a member or holder, the time specified for the purpose in any agreement between the person and the company.

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<sup>2</sup> Item 2 / 第 2 項

**816. Communication in electronic form**

- (1) This section applies if a document or information is sent or supplied, in electronic form, to a company by a person who is not a company.
- (2) The document or information is sent or supplied to the company for the purposes of an applicable provision if—
  - (a) the company—
    - (i) has agreed, generally or specifically, that the document or information may be sent or supplied to it in electronic form and has not revoked the agreement; or
    - (ii) is to be regarded under a provision of this Ordinance as having so agreed;
  - (b) the document or information is sent or supplied—
    - (i) by electronic means to an address—
      - (A) specified for the purpose by the company generally or specifically; or
      - (B) regarded under a provision of this Ordinance as having been so specified for the purpose; or
    - (ii) by hand or by post to an address specified in subsection (4); and
  - (c) the document or information is sent or supplied in a form, and by a means, that, in the person's reasonable opinion, will enable the recipient—
    - (i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with the eye with suitable corrective lens; and
    - (ii) to retain a copy of the document or information.
- (3) The company has not revoked the agreement for the purposes of subsection (2)(a)(i) unless it has given the person a notice of revocation of not less than the period specified in section 810.
- (4) The address specified for the purposes of subsection (2)(b)(ii) is—
  - (a) an address specified for the purpose by the company generally or specifically;
  - (b) the company's registered office; or
  - (c) an address to which a provision of this Ordinance authorizes or requires the document or information to be sent or supplied.
- (5) For the purposes of an applicable provision that authorizes or requires the document or information to be authenticated, the document or information is sufficiently authenticated if—
  - (a) the person's identity is confirmed in a manner specified by the company; or
  - (b) where no manner has been specified, the communication contains or is accompanied by a statement of the person's identity, and the company has no reason to doubt the truth of the statement.
- (6) If the document or information is sent or supplied by a person on behalf of another, subsection (5) does not affect any provision of the company's articles under which the company may require reasonable evidence of the former's authority to act on behalf of the latter.
- (7) If the document or information is sent or supplied to a company for the purposes of an applicable provision, it is to be regarded as being received by the company—
  - (a) where the document or information is sent or supplied by electronic means, at the end of the period specified in section 811 after it is sent or supplied, **unless the contrary is proved**<sup>3</sup>;
  - (b) where the document or information is sent or supplied by post, at the time specified in section 812, **unless the contrary is proved**<sup>3</sup>; or
  - (c) where the document or information is sent or supplied by hand, at the time when the document or information is delivered.

<sup>3</sup> Item 3(I) / 第3(I)項

**816. 電子形式的通訊** (Note: CSAs to this provision in the Chinese text do not include the CSA(s) in the English text.  
/ 這條條文中文本的修正案並不包括英文本中的修正案。)

- (1) 如並非公司的人以電子形式，向公司送交或提供任何文件或資料，則本條適用。
- (2) 如有以下情況，有關文件或資料即屬為適用條文的目的向有關公司送交或提供 —
  - (a) 該公司 —
    - (i) 已一般地或明確地同意可藉電子形式向它送交或提供該文件或資料，且沒有撤銷該項同意；或
    - (ii) 根據本條例的條文，須視為已給予上述同意；
  - (b) 該文件或資料是 —
    - (i) 以電子方式送交或提供至 —
      - (A) 該公司為此目的而一般地或明確地指明的地址；或
      - (B) 根據本條例的條文，被視為已為此目的而如此指明的地址；或
    - (ii) 由專人或以郵遞方式送交或提供至第(4)款指明的地址；及
  - (c) 按有關的人的合理意見，該文件或資料在送交或提供時的形式，以及送交或提供的方式，讓接收者能夠 —
    - (i) 以肉眼或在輔以適合的矯正視力鏡片的眼睛情況下<sup>4</sup>，閱讀該文件或資料或(在該文件或資料是由影像組成的範圍內)觀看該文件或資料；及
    - (ii) 保存該文件或資料的文本。
- (3) 就第(2)(a)(i)款而言，除非有關公司已向有關的人發出不少於第 810 條指明的期間的撤銷通知，否則它沒有撤銷有關同意。
- (4) 為施行第(2)(b)(ii)款而指明的地址為 —
  - (a) 有關公司為此目的而一般地或明確地指明的地址；
  - (b) 有關公司的註冊辦事處；或
  - (c) 本條例的條文批准有關文件或資料可送交或提供所至的地址，或本條例的條文規定有關文件或資料須送交或提供所至的地址。
- (5) 就批准有關文件或資料可予認證的適用條文而言，或就規定有關文件或資料須予認證的適用條文而言，如 —
  - (a) 有關的人的身分，按有關公司指明的方式確認；或
  - (b) (凡該公司沒有指明確認方式)有關通訊載有或隨附關於有關的人的身分的陳述，而該公司沒有理由懷疑該陳述的真確性，  
則該文件或資料即屬已獲充分認證。
- (6) 如有關文件或資料是由某人代另一人送交或提供的，則有關公司的章程細則中該公司可據以要求提供關於前者可代後者行事的權限的合理證據的條文，不受第(5)款影響。
- (7) 如有關文件或資料是為適用條文的目的向公司送交或提供的，而 —
  - (a) 該文件或資料是以電子方式送交或提供的，則該文件或資料須視作在它送交或提供之後，於第 811 條指明的期間終結時，由該公司收到；
  - (b) 該文件或資料是以郵遞方式送交或提供的，則該文件或資料須視作在第 812 條指明的時間，由該公司收到；或

<sup>4</sup> Item 3(II) / 第 3(II)項



- (c) 該文件或資料是由專人送交或提供的，則該文件或資料須視作在該文件或資料送抵之時，由該公司收到。

**817. Communication in hard copy form**

- (1) This section applies if a document or information is sent or supplied, in hard copy form, to a company by a person who is not a company.
- (2) The document or information is sent or supplied to the company for the purposes of an applicable provision if the document or information is sent or supplied by hand or by post to—
  - (a) an address specified for the purpose by the company generally or specifically;
  - (b) the company's registered office; or
  - (c) an address to which a provision of this Ordinance authorizes or requires the document or information to be sent or supplied.
- (3) For the purposes of an applicable provision that authorizes or requires the document or information to be authenticated, the document or information is sufficiently authenticated if it is signed by the person.
- (4) If the document or information is sent or supplied by a person on behalf of another, subsection (3) does not affect any provision of the company's articles under which the company may require reasonable evidence of the former's authority to act on behalf of the latter.
- (5) If the document or information is sent or supplied to a company for the purposes of an applicable provision, it is to be regarded as being received by the company—
  - (a) where the document or information is sent or supplied by post, at the time specified in section 812, unless the contrary is proved<sup>5</sup>; or
  - (b) where the document or information is sent or supplied by hand, at the time when the document or information is delivered.

**819. Communication in electronic form**

- (1) Subject to subsection (2), this section applies if a document or information is sent or supplied, in electronic form, by a company to another person.
- (2) This section does not apply if the document or information is sent or supplied by the company to that other person by making it available on a website.
- (3) The document or information is sent or supplied to that other person for the purposes of an applicable provision if—
  - (a) that other person—
    - (i) where that other person is not a company, has agreed, generally or specifically, that the document or information may be sent or supplied to the person in electronic form and has not revoked the agreement; or
    - (ii) where that other person is a company, has so agreed and has not revoked the agreement, or is to be regarded under a provision of this Ordinance as having so agreed;
  - (b) the document or information is sent or supplied—
    - (i) by electronic means to an address—
      - (A) where that other person is not a company, specified for the purpose by that other person generally or specifically; or
      - (B) where that other person is a company, so specified for the purpose, or regarded under a provision of this Ordinance as having been so specified for the purpose;
    - (ii) by hand to that other person; or
    - (iii) by hand or by post to an address specified in section 813; and
  - (c) the document or information is sent or supplied in a form, and by a means, that, in the company's reasonable opinion, will enable the recipient—
    - (i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with the eye with suitable corrective lens; and
    - (ii) to retain a copy of the document or information.
- (4) That other person has not revoked the agreement for the purposes of subsection (3)(a) unless the person has given the company a notice of revocation of not less than the period specified in section 810.
- (5) For the purposes of an applicable provision that authorizes or requires the document or information to be authenticated, the document or information is sufficiently authenticated if—
  - (a) the company's identity is confirmed in a manner specified by that other person; or
  - (b) where no manner has been specified, the communication contains or is accompanied by a statement of the company's identity, and that other person has no reason to doubt the truth of the statement.
- (6) If the document or information is sent or supplied by a person on behalf of the company to another company, subsection (5) does not affect any provision of that other company's articles under which that other company may require reasonable evidence of the person's authority to act on behalf of the company for which the document or information is sent or supplied.
- (7) If the document or information is sent or supplied to that other person for the purposes of an applicable provision, it is to be regarded as being received by that other person—
  - (a) where the document or information is sent or supplied by electronic means, at the end of the period specified in section 811 after it is sent or supplied, unless the contrary is proved<sup>6</sup>;
  - (b) where the document or information is sent or supplied by post, at the time specified in section 812, unless the contrary is proved<sup>6</sup>; or

<sup>6</sup> Item 5(I) / 第 5(I)項

- (c) where the document or information is sent or supplied by hand, at the time when the document or information is delivered.

**819. 電子形式的通訊** (Note: CSAs to this provision in the Chinese text do not include the CSA(s) in the English text.  
/ 這條條文中文本的修正案並不包括英文本中的修正案。)

- (1) 除第(2)款另有規定外，如公司以電子形式，向另一人送交或提供任何文件或資料，則本條適用。
- (2) 如有關公司可以在網站上提供有關文件或資料的方式，向有關的另一人送交或提供該文件或資料，則本條不適用。
- (3) 如有以下情況，有關文件或資料即屬為適用條文的目的是向有關的另一人送交或提供 —
  - (a) 以下情況 —
    - (i) 該另一人並非公司，而該人已一般地或明確地同意可藉電子形式向該人送交或提供該文件或資料，且沒有撤銷該項同意；或
    - (ii) 該另一人是公司，而該人已給予上述同意，且沒有撤銷該項同意，或根據本條例的條文，須視為已給予上述同意；
  - (b) 該文件或資料是 —
    - (i) 以電子方式送交或提供至 —
      - (A) (凡該另一人並非公司)該另一人為此目的而一般地或明確地指明的地址；或
      - (B) (凡該另一人是公司)為此目的而一般地或明確地指明的地址，或根據本條例的條文被視為已為此目的而如此指明的地址；
    - (ii) 由專人送交或提供予該另一人；或
    - (iii) 由專人或以郵遞方式送交或提供至第 813 條指明的地址；及
  - (c) 按有關公司的合理意見，該文件或資料在送交或提供時的形式，以及送交或提供的方式，讓接收者能夠 —
    - (i) 以肉眼或在輔以適合的矯正視力鏡片的眼睛情況下<sup>7</sup>，閱讀該文件或資料或(在該文件或資料是由影像組成的範圍內)觀看該文件或資料；及
    - (ii) 保存該文件或資料的文本。
- (4) 就第(3)(a)款而言，除非有關的另一人已向有關公司發出不少於第 810 條指明的期間的撤銷通知，否則該人沒有撤銷有關同意。
- (5) 就批准有關文件或資料可予認證的適用條文而言，或就規定有關文件或資料須予認證的適用條文而言，如 —
  - (a) 有關公司的身分，按有關的另一人指明的方式確認；或
  - (b) (凡該另一人沒有指明確認方式)有關通訊載有或隨附關於有關公司的身分的陳述，而該另一人沒有理由懷疑該陳述的真確性，則該文件或資料即屬已獲充分認證。
- (6) 如有關文件或資料是由某人代公司送交或提供予另一公司的，則該另一公司的章程細則中該另一公司可據以要求提供關於該人可代首述的公司行事的權限的合理證據的條文，不受第(5)款影響。
- (7) 如有關文件或資料是為適用條文的目的是向有關的另一人送交或提供的，而 —
  - (a) 該文件或資料是以電子方式送交或提供的，則該文件或資料須視作在它送交或提供之後，於第 811 條指明的期間終結時，由該另一人收到；
  - (b) 該文件或資料是以郵遞方式送交或提供的，則該文件或資料須視作在第 812 條指明的時間，由該另一人收到；或
  - (c) 該文件或資料是由專人送交或提供的，則該文件或資料須視作在該文件或資料送抵之時，由該另一人收到。

<sup>7</sup> Item 5(II) / 第 5(II)項

**820. Communication in hard copy form**

- (1) This section applies if a document or information is sent or supplied, in hard copy form, by a company to another person.
- (2) The document or information is sent or supplied to that other person for the purposes of an applicable provision if the document or information is sent or supplied—
  - (a) by hand to that other person; or
  - (b) by hand or by post to an address specified in section 813.
- (3) For the purposes of an applicable provision that authorizes or requires the document or information to be authenticated, the document or information is sufficiently authenticated if it is signed by a director or company secretary of the company or by an officer of the company authorized for the purpose.
- (4) If the document or information is sent or supplied by a person on behalf of the company to another company, subsection (3) does not affect any provision of that other company's articles under which that other company may require reasonable evidence of the person's authority to act on behalf of the company for which the document or information is sent or supplied.
- (5) If the document or information is sent or supplied to that other person for the purposes of an applicable provision, it is to be regarded as being received by that other person—
  - (a) where the document or information is sent or supplied by post, at the time specified in section 812, **unless the contrary is proved**<sup>8</sup>; or
  - (b) where the document or information is sent or supplied by hand, at the time when the document or information is delivered.

**821. Communication by means of website**

- (1) Subject to subsection (2), this section applies if a document or information is sent or supplied by a company to another person by making it available on a website.
- (2) This section does not apply if the document or information is sent or supplied by a member of a company to the company.
- (3) The document or information is sent or supplied to that other person for the purposes of an applicable provision if—
  - (a) that other person—
    - (i) has agreed, generally or specifically, that the document or information may be sent or supplied by the company to the person by making it available on a website, or is to be regarded under subsection (4) or (5) as having so agreed; and
    - (ii) has not revoked the agreement;
  - (b) the document or information is sent or supplied in a form, and by a means, that, in the company's reasonable opinion, will enable the recipient—
    - (i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with the eye with suitable corrective lens; and
    - (ii) to retain a copy of the document or information;
  - (c) subject to subsection (10), the company has notified that other person of the matters specified in subsection (8); and
  - (d) the company has made the document or information available on the website throughout—
    - (i) the period specified by the applicable provision; or
    - (ii) where no period is specified, the period of 28 days beginning on the date on which the notification under paragraph (c) is sent to that other person.
- (4) For the purposes of subsection (3)(a)(i), a person who is a member of the company is, subject to subsection (10A)<sup>9</sup>, to be regarded as having agreed that the document or information may be sent or supplied by the company to the person by making it available on a website if—
  - (a) the company's members have resolved, or the company's articles contain a provision to the effect, that documents or information generally may be so sent or supplied by the company to its members;
  - (b) subject to subsection (10), the company has individually requested the person to agree that documents or information generally, or the document or information, may be so sent or supplied by the company to the person and has not received a response to the request within 28 days beginning on the date on which the request was sent; and
  - (c) subject to subsection (10), the request—
    - (i) stated clearly the effect of a failure to respond within those 28 days; and
    - (ii) was sent at least 12 months after any prior request made to the person for the purposes of paragraph (b) in respect of the same or a similar class of documents or information.
- (5) For the purposes of subsection (3)(a)(i), a person who is a debenture holder of the company is, subject to subsection (10A)<sup>9</sup>, to be regarded as having agreed that the document or information may be sent or supplied by the company to the person by making it available on a website if—
  - (a) the instrument creating the debenture contains a provision to the effect, or the equivalent debenture holders have resolved in accordance with the provisions of that instrument, that documents or information generally may be so sent or supplied by the company to those holders;
  - (b) subject to subsection (10), the company has individually requested the person to agree that documents or information generally, or the document or information, may be so sent or supplied by the company to the person and has not received a response to the request within 28 days beginning on the date on which the request was sent; and

<sup>9</sup> Item 7(I) / 第7(I)項

- (c) subject to subsection (10), the request—
- (i) stated clearly the effect of a failure to respond within those 28 days; and
  - (ii) was sent at least 12 months after any prior request made to the person for the purposes of paragraph (b) in respect of the same or a similar class of documents or information.
- (6) That other person has not revoked the agreement for the purposes of subsection (3)(a)(ii) unless the person has given the company a notice of revocation of not less than the period specified in section 810.
- (7) For the purposes of subsection (3)(c), if the applicable provision specifies the time by which or the period within which the notification is to be sent, the notification must be sent by that time or within that period.
- (8) The matters specified for the purposes of subsection (3)(c) are—
- (a) the presence of the document or information on the website;
  - (b) if the document or information is not available on the website on the date of the notification, the date on which it will be so available;
  - (c) the address of the website;
  - (d) the place on the website where the document or information may be accessed; and
  - (e) how to access the document or information.
- (9) For the purposes of subsection (3)(d), a failure to make a document or information available on a website throughout the period mentioned in that subsection is to be disregarded if—
- (a) the document or information is made available on the website for part of that period; and
  - (b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.
- (10) Subsections (3)(c), (4)(b) and (c) and (5)(b) and (c) do not apply if—
- (a) that other person—
    - (i) where that other person is not a company—
      - (A) has not agreed that the document or information may be sent or supplied to the person in electronic form for the purposes of section 819(3)(a)(i); or
      - (B) has not specified an address to which the document or information may be sent or supplied to the person for the purposes of section 819(3)(b)(i)(A); or
    - (ii) where that other person is a company, has not so agreed or specified or is not regarded under a provision of this Ordinance as having so agreed or specified; and
  - (b) any document or information has been sent or supplied, in hard copy form, by the company to that other person by post to an address specified for the purposes of section 820(2)(b), and it has been returned by the post office as undeliverable at the address.
- (10A) For the purposes of subsections (4) and (5), a person is not to be regarded as having agreed that the document or information may be sent or supplied by the company to the person by making it available on a website if—
- (a) in case of subsection (4), except where subsection (4)(b) does not apply by virtue of subsection (10), it is proved that the person has not received the request under subsection (4)(b); or
  - (b) in the case of subsection (5), except where subsection (5)(b) does not apply by virtue of subsection (10), it is proved that the person has not received the request under subsection (5)(b).<sup>10</sup>
- (11) If the document or information is sent or supplied to that other person for the purposes of an applicable provision—
- (a) it is to be regarded as being sent or supplied on whichever is the later of the following—
    - (i) the date on which the document or information is first made available on the website;
    - (ii) the date on which a notification under subsection (3)(c) is sent; and

<sup>10</sup> Item 7(I) / 第7(I)項



- (b) it is to be regarded as being received by that other person at the end of the period specified in section 811 after whichever is the later of the following—
- (i) the time when the document or information is first made available on the website;
  - (ii) the time when that other person receives a notification under subsection (3)(c).
- (12) In this section—
- equivalent debenture holders*** (相應債權證持有人), in relation to a person to whom a document or information is sent or supplied by a company, means the debenture holders of the company ranking equally for all purposes with the person.

821. 通過網站作出的通訊 (Note: CSAs to this provision in the Chinese text do not include the CSA(s) in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)

- (1) 除第(2)款另有規定外，如公司可以在網站上提供文件或資料的方式，向另一人送交或提供文件或資料，則本條適用。
- (2) 如有關文件或資料是由公司的成員向公司送交或提供，則本條不適用。
- (3) 如有以下情況，有關文件或資料即屬為適用條文的目的是向有關的另一人送交或提供 —
  - (a) 該另一人 —
    - (i) 已一般地或明確地同意有關公司可藉在網站上提供該文件或資料的方式，向該人送交或提供該文件或資料，或根據第(4)或(5)款，須視為已給予上述同意；且
    - (ii) 沒有撤銷該項同意；
  - (b) 按該公司的合理意見，該文件或資料在送交或提供時的形式，以及送交或提供的方式，讓接收者能夠 —
    - (i) 以肉眼或在輔以適合的矯正視力鏡片的眼睛情況下<sup>11</sup>，閱讀該文件或資料或(在該文件或資料是由影像組成的範圍內)觀看該文件或資料；及
    - (ii) 保存該文件或資料的文本；
  - (c) 除第(10)款另有規定外，該公司已將第(8)款指明的事宜通知該另一人；及
  - (d) 該公司已於整段以下期間內在網站上提供該文件或資料 —
    - (i) 該適用條文指明的期間；或
    - (ii) (凡該適用條文沒有指明任何期間)自(c)段所指的通知向該另一人送交的日期起計的 28 日的期間。
- (4) 就第(3)(a)(i)款而言，如有以下情況，則本身是有關公司的成員的人，須視作已同意該公司可藉在網站上提供有關文件或資料的方式，向該人送交或提供該文件或資料 —
  - (a) 該公司的成員已議決，該公司可如此向其成員送交或提供一般文件或資料，或該公司的章程細則內，載有具如此效力的條文；
  - (b) 除第(10)款另有規定外，該公司已個別地要求該人同意，該公司可如此向該人送交或提供一般文件或資料，或送交或提供該文件或資料，且自送交該要求的日期起計的 28 日內，該公司沒有收到對該要求的回應；及
  - (c) 除第(10)款另有規定外 —
    - (i) 該要求清楚述明沒有在該 28 日內作出回應的效果；及
    - (ii) 該要求的送交日期，是在對上一次為(b)段的目的就相同或相近的類別的文件或資料而向該人作出要求後的 12 個月之後。
- (5) 就第(3)(a)(i)款而言，如有以下情況，則本身是有關公司的債權證持有人的，須視作已同意該公司可藉在網站上提供有關文件或資料的方式，向該人送交或提供該文件或資料 —
  - (a) 設立該債權證的文書內載有條文，表明該公司可如此向相應債權證持有人送交或提供一般文件或資料，或相應債權證持有人已按照該文書的條文議決，該公司可如此向該等相應債權證持有人送交或提供一般文件或資料；
  - (b) 除第(10)款另有規定外，該公司已個別地要求該人同意，該公司可如此向該人送交或提供一般文件或資料，或送交或提供該文件或資料，且自送交該要求的日期起計的 28 日內，該公司沒有收到對該要求的回應；及
  - (c) 除第(10)款另有規定外 —

<sup>11</sup> Item 7(II) / 第 7(II)項

- (i) 該要求清楚述明沒有在該 28 日內作出回應的效果；及
  - (ii) 該要求的送交日期，是在對上一次為(b)段的目的就相同或相近的類別的文件或資料而向該人作出要求後的 12 個月之後。
- (6) 就第(3)(a)(ii)款而言，除非有關的另一人已向有關公司發出不少於第 810 條指明的期間的撤銷通知，否則該人沒有撤銷有關同意。
- (7) 就第(3)(c)款而言，如有關適用條文指明須送交有關通知的時限或限期，則須在該時限前或該限期內送交該通知。
- (8) 為施行第(3)(c)款而指明的事宜為 —
- (a) 有關文件或資料出現於網站上；
  - (b) (如在通知日期，該文件或資料沒有在網站上提供)該文件或資料將會如此提供的日期；
  - (c) 網站的網址；
  - (d) 可於網站上何處取覽該文件或資料；及
  - (e) 如何取覽該文件或資料。
- (9) 為施行第(3)(d)款，如有以下情況，即使沒有在整段該款所述的期間內在網站上提供有關文件或資料，亦無須理會 —
- (a) 於該期間內的部分時間，該文件或資料在網站上提供；及
  - (b) 沒有在該期間內如此提供該文件或資料，是完全歸因於某些情況，而按理是不能預期公司防止或避免這些情況出現的。
- (10) 如有以下情況，第(3)(c)、(4)(b)及(c)及(5)(b)及(c)款不適用 —
- (a) 有關的另一人 —
    - (i) 不是公司，而 —
      - (A) 有關的人沒有為第 819(3)(a)(i)條的目的而同意有關文件或資料以電子形式送交或提供予該人；或
      - (B) 有關的人沒有為第 819(3)(b)(i)(A)條的目的而指明有關文件或資料可送交或提供予該人的地址；或
    - (ii) 是公司，而該人沒有如此同意或指明地址，亦不根據本條例的條文的被視為已如此同意或指明地址；及
  - (b) 公司已將採用印本形式的該文件或資料，以郵遞方式送交或提供至該另一人，而郵寄地址是為第 820(2)(b)條的目的而指明的地址，但郵政局以無法派遞至該地址為理由，退回該印本。
- (11) 如有關文件或資料是為適用條文的目的向有關的另一人送交或提供的，則 —
- (a) 該文件或資料須視作於以下日期(以較遲者為準)送交或提供 —
    - (i) 該文件或資料首次在網站上提供的日期；
    - (ii) 第(3)(c)款所指的通知送交的日期；及
  - (b) 該文件或資料須視作由該另一人在以下時間(以較遲者為準)之後，於第 811 條指明的期間終結時收到 —
    - (i) 該文件或資料首次在網站上提供之時；
    - (ii) 該另一人收到第(3)(c)款所指的通知之時。
- (12) 在本條中 —
- 相應債權證持有人** (equivalent debenture holders)就獲公司送交或提供文件或資料的人而言，指該公司的債權證持有人中，為所有目的之排序均與該人相同的人。