

**Bills Committee on Companies Bill**  
**Follow-up actions to be taken by the Administration for the meeting**  
**on 19 May 2011 in relation to Parts 4, 5 and 9**

**Purpose**

This paper sets out the Administration's response to issues raised by Members at the Bills Committee meeting on 19 May 2011 relating to Parts 4, 5 and 9, as follows:-

**Part 4 – Share Capital**

- (I) Rationale behind the proposal for a mandatory no-par system; and
- (II) Details of the proposal that allows a company to apply its share capital in writing off preliminary expenses and expenses of any issue of shares of the company (clause 144).

**Part 5 – Transactions in relation to Share Capital**

- (I) Reasons for not including a balance sheet test in the uniform solvency test under this Part;
- (II) Reasons for requiring a 12-month period of solvency for the uniform solvency test (clause 200); and
- (III) Reasons for not requiring a solvency statement to be accompanied by an auditor's report under the uniform solvency test for the types of transactions under this Part.

**Part 9 – Accounts and Audit**

Details of disclosure requirements of directors' remuneration in the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited (Listing Rules), and directors' remuneration report in the United Kingdom (UK).

## **Administration's response**

### **Part 4 – Share Capital**

#### ***(I) Rationale behind the proposal for a mandatory no-par system***

There has been a growing recognition and acceptance in the past decade or so in other comparable common law jurisdictions of a no-par system, and such has been adopted in Australia, New Zealand and Singapore. The UK would also have migrated to a no-par system, but for restrictions in European legislation.

2. In considering whether Hong Kong should migrate to a no-par regime and whether the regime should be mandatory, the Administration has conducted consultations in 2003, 2008 and 2010 to gauge the views of the public and practitioners.

3. In the public consultation conducted by a consultant commissioned in 2003<sup>1</sup>, a significant portion of the respondents considered that par value had indeed given rise to a host of practical problems, as follows:-

- (a) giving rise to an unnecessarily complex accounting system, as the capital contributed to a company has to be “split” between a number of different accounts (share capital, share premium, etc.), each of which is subject to different use restrictions;
- (b) inhibiting raising of new capital, because if a company's shares have a real value below par, the company cannot issue shares at a discount to par value without seeking approval of the court or creating a new class of shares;
- (c) creating unnecessary work for share registries and costs, as a company wishing to capitalise profits is required to make an issue of bonus shares, which would entail release of extra

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<sup>1</sup> See Freshfields Bruckhaus Deringer, *Consultation Study Concerning the Implications of Adopting a No-par Value Share Regime in Hong Kong: Final Report (29 November 2004)*, pages 16 to 18 (available at [http://www.fstb.gov.hk/fsb/co\\_rewrite/eng/pub-press/doc/no-par\\_e.pdf](http://www.fstb.gov.hk/fsb/co_rewrite/eng/pub-press/doc/no-par_e.pdf)).

paper (i.e. share certificates) while providing no added value to the shareholder; and

- (d) misleading to the unsophisticated investor, as where a par value is attributed to a share, it tends to deflect recognition of a share and cause misconceptions as to the real worth of a share. For instance, a share with a par value of \$5.00 being offered for sale by an existing shareholder at \$2.00 may appear to an unsophisticated investor to be a bargain. However, the share might in fact be worth less than \$2.00.

4. Having identified the problems associated with a par system and considered the majority views in response to the 2003 consultation study, and with the support of the Standing Committee on Company Law Reform (SCCLR), we sought views from the public on, *inter alia*, the mechanics of a change to a no-par regime in the 2008 topical Consultation on Share Capital, the Capital Maintenance Regime, Statutory Amalgamation Procedure<sup>2</sup>. The majority (including major chambers of commerce<sup>3</sup> and professional bodies<sup>4</sup>) supported migration to a mandatory no-par regime and agreed that a mandatory system would be simpler for all concerned while an optional no-par system would require legislating for and administering two parallel legal systems necessitating added costs and complexity.

5. The same issue was covered in the second phase consultation of the draft CB in May to August 2010<sup>5</sup> and no strong views were received.

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<sup>2</sup> Financial Services and the Treasure Bureau (FSTB), *Consultation Conclusions on Share Capital, the Capital Maintenance Regime, Statutory Amalgamation Procedure* (February 2009), paragraphs 5 to 10 (Available at [http://www.fstb.gov.hk/fsb/co\\_rewrite/eng/pub-press/doc/cmrsap\\_conclusion\\_e.pdf](http://www.fstb.gov.hk/fsb/co_rewrite/eng/pub-press/doc/cmrsap_conclusion_e.pdf)).

<sup>3</sup> Including Hong Kong General Chamber of Commerce, Chinese General Chamber of Commerce and Chinese Manufacturers' Association of Hong Kong.

<sup>4</sup> Including the Law Society of Hong Kong, Hong Kong Bar Association, Hong Kong Stockbrokers Association, Hong Kong Institute of Chartered Secretaries and Hong Kong Institute of Certified Public Accountants.

<sup>5</sup> FSTB, *Consultation Conclusions on Second Phase Consultation on the Draft Companies Bill* (October 2010) (Available at [http://www.fstb.gov.hk/fsb/co\\_rewrite/eng/pub-press/doc/ccsp\\_conclusion\\_e.pdf](http://www.fstb.gov.hk/fsb/co_rewrite/eng/pub-press/doc/ccsp_conclusion_e.pdf)).

***(II) Details of the proposal that allows a company to apply its share capital in writing off preliminary expenses and expenses of any issue of shares of the company (clause 144)***

6. Currently, under section 48B(3)(b) of the Companies Ordinance (CO), the share premium account may be applied by the company to write off preliminary expenses and expenses of any issue of shares of the company. In the CB, upon migration to a mandatory no-par regime, the share premium account will be dispensed with and a company will be allowed to apply its share capital in writing off preliminary expenses and expenses of any issue of shares of the company (clause144).

7. Clause 144 stems from a proposal put forth by the Law Society of Hong Kong in the 2008 Consultation on Share Capital, the Capital Maintenance Regime, Statutory Amalgamation Procedure<sup>6</sup>. The Law Society argued that despite the migration to no-par, and thus the amalgamation of the the share premium amount and the share capital amount, the expenses for issuing shares (which is now deductible from the share premium account) should be allowed to be deducted from the share capital under the CB, just as such expenses are allowed to be deducted from the share premium account under the CO. Having considered the matter, in consultation with the relevant practitioners, we agreed to incorporate the proposal in the CB, for the following reasons:-

- (a) If a company is not allowed to write off preliminary and share issue expenses against its capital, it will be deprived of a means to write off these expenses which is currently provided under the CO.
- (b) The proposal is consistent with the relevant accounting principles, i.e. the transaction costs of an equity transaction are accounted for as a deduction from equity to the extent they are incremental costs directly attributable to the equity transaction that otherwise would have been avoided<sup>7</sup>.

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<sup>6</sup> See footnote 2.

<sup>7</sup> See paragraph 37 of the Hong Kong Accounting Standard 32 - Financial Instruments: Presentation. Paragraph 37 states that “An entity typically incurs various costs in issuing or acquiring its own

- (c) The proposal does not in practice change the current position. A listed company usually has a large part of its capital received in the form of “share premium”, so its position is substantially the same under both the CO and CB; while for a non-listed company, it is unlikely that its preliminary and share issue expenses will be so large that it would significantly reduce the company’s capital.

## **Part 5 – Transactions in relation to Share Capital**

### ***(I) Reasons for not including a balance sheet test in the uniform solvency test under this Part***

8. There are traditionally two types of solvency tests, namely the cash flow (or liquidity) test and the balance sheet (or net assets) test. The cash flow test, generally speaking, requires the company to be able to meet all debts as they fall due, while the balance sheet test requires that liabilities must not exceed assets.

9. In Hong Kong, the solvency test currently used in the context of the capital maintenance rules (being an exception to financial assistance for unlisted companies and a condition to buy-backs out of capital by private companies) is basically a cash flow test. In consultation with the SCCLR, we have considered and eventually decided against importing the balance sheet test into the solvency test (as a second limb) under the CB.

10. Generally speaking, a balance sheet is a snapshot report of the affairs of the company as at a particular date. It is a mere mechanical and rigid application of a calculation of net asset value without

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*equity instruments. Those costs might include registration and other regulatory fees, amounts paid to legal, accounting and other professional advisers, printing costs and stamp duties. The transaction costs of an equity transaction are accounted for as a deduction from equity (net of any related income tax benefit) to the extent they are incremental costs directly attributable to the equity transaction that otherwise would have been avoided. The costs of an equity transaction that is abandoned are recognised as an expense.” An “equity instrument” is any contract that evidences a residual interest in the assets of an entity after deducting all of its liabilities (Hong Kong Accounting Standard 32). An example of an equity instrument is non-puttable ordinary shares.*

considering the quality of a company's assets and liabilities and their linkage over time. The test does not reflect the assets coming into the company (such as future revenue streams which may be adequate to pay long-term liabilities) while equally fails to project any expected deterioration of revenues.

11. Given the rigidity of the balance sheet test, importing it into the solvency test would give rise to undue hardship to companies. This is because the current accounting practices require annual revaluation of investment properties, which could result in large fluctuation of asset values on paper (especially when the economic climate is highly volatile). Even though such change in value of a company's long-term assets normally does not affect a company's ability to meet its liabilities when due, it might affect the result of the balance sheet test. Also, the wide scope of the definition of "liability" under the current accounting standards and the changes to the definition from time to time could cause any statutory balance sheet test to be unduly restrictive.

12. Practically, directors must, in considering whether their company can pay its debts as they fall due, have regard to the availability of assets, present and future, to meet liabilities, present and future. Thus, where there is a proper application of the cash flow test, to add the balance sheet test as a second limb to the solvency test would serve no useful purpose.

13. The SCCLR also agreed that the balance sheet test should not be added in the solvency test requirement under Part 5.

***(II) Reasons for requiring a 12-month period of solvency for the uniform solvency test (clause 200)***

14. Clause 200 of the CB sets out the details of the uniform solvency test applicable to transactions under Part 5. Clause 200, which in substance re-enacts section 47F(1)(d) of the CO, provides that a company satisfies the solvency test if immediately after the transaction, there will be no ground on which the company could be found to be unable to pay its debts, **and** that (a) if the company intends to commence

winding up within 12 months after the transaction, it will be able to pay its debts in full within 12 months after the commencement of the winding up; *or* (b) the company will be able to pay its debts as they become due during the period of 12 months immediately following the date of the transaction.

15. According to our study of other comparable common law jurisdictions, there are three types of formulation in respect of the solvency period requirements, as follows:-

- (a) **Type 1** – Under the New Zealand Companies Act, a company must be able to pay its debts as they become due in the normal course of business<sup>8</sup>;
- (b) **Type 2** – Under the UK Companies Act 2006 (UKCA 2006)<sup>9</sup>, Singapore Companies Act (SCA)<sup>10</sup>, as well as the CO<sup>11</sup>, in relation to buy-backs, a company must be able to pay its debts immediately after distribution, and the company must be able to pay its debts as they become due in the 12 months following that date; and
- (c) **Type 3** – Under the UKCA 2006 (in relation to capital reduction)<sup>12</sup>, SCA (in relation to redemption, financial assistance and capital reduction)<sup>13</sup> as well as the CO (in relation to financial assistance)<sup>14</sup> and the CB (see paragraph 14 above), immediately after the transaction, the company must be able to pay its debts and either (i) if it is intended to commence winding up within 12 months, the company will be able to pay its debts in full within 12 months of the

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<sup>8</sup> Section 4(1)(a) of the New Zealand Companies Act.

<sup>9</sup> Section 714(3) of the UKCA 2006.

<sup>10</sup> Section 76F(4)(a) of the SCA.

<sup>11</sup> Section 49K(3) of the CO.

<sup>12</sup> Section 643(1) of the UKCA 2006.

<sup>13</sup> Section 7A(1)(b) of the SCA.

<sup>14</sup> Section 47F(1)(d) of the CO.

commencement of the winding up; or (ii) in the 12 months following the date of the transaction the company must be able to pay its debts as they become due.

16. Under Type 1 formulation, the requirement that the company must be able to pay its debts “as they become due in the normal course of business” could cause grave uncertainty and difficulty to business sector and practitioners in practice. It provides no guide as to how far ahead the directors should look, and the provision could well be read as requiring an indefinite assurance of liquidity.

17. Comparing with Type 2 formulation, we consider that Type 3 formulation gives clarity and certainty as to how the solvency test may apply in different scenarios. As such, Type 3 formulation is preferred and is adopted in the CB (as clause 200).

***(III) Reasons for not requiring a solvency statement to be accompanied by an auditors’ report under the uniform solvency test for the types of transactions under this Part***

18. Currently, under section 49K(5) of the CO, a cash flow solvency statement for buy-backs by a private company must be accompanied by an auditors’ report. In the CB, we dispense with this requirement for the uniform solvency test (for buy-backs by all companies, reduction of capital and financial assistance) as we consider that the auditors are not in a better position than the directors in ascertaining the company’s solvency.

19. A solvency statement is a forward-looking business judgment. Its validity hinges on the directors’ assessments of the solvency of the company. The auditor can only express his opinion on the directors’ assessment based on the latter’s assumptions made in the forecast. Under the current law, the auditor does not certify that the directors’ assessments and forecast is a correct one, but that he is not aware of evidence that the judgments reached by directors had been reached on grounds other than proper grounds. Given the foregoing, we do not consider it necessary to include an audit requirement for the uniform

solvency test under the CB as it appears to be onerous and brings little benefit. The issue of the uniform solvency test was covered in the second phase consultation of the draft CB and no views were received on the removal of the audit requirement.

20. Despite the proposed removal of the audit requirement for buy-backs by private companies in the CO as abovementioned, there are adequate safeguards under the CB to protect creditors and shareholders for buy-backs, as well as reduction of capital. For example, under the CB, reduction of capital or buy-backs must be supported by a special resolution passed by disinterested shareholders<sup>15</sup>. Also, the company is required to publish notice of the proposed reduction or buy-back in the Government Gazette, and in one English and one Chinese newspaper or give written notice to each creditor<sup>16</sup>. A creditor or shareholder may apply to the court for cancellation of the special resolution<sup>17</sup>.

21. In other comparable common law jurisdictions, the audit requirement only applies in a few circumstances. In the UK, an auditors' report is required for buy-backs<sup>18</sup> but not for capital reduction. In Singapore, an auditors' report is required for redemption of preference shares out of capital, reduction of capital and financial assistance, but companies have the option to use a statutory declaration in lieu<sup>19</sup>. In New Zealand, no auditors' report is required.

#### Specified forms including a solvency statement and sample auditors' reports

22. The relevant specified forms currently used under the CO that have a pro forma solvency statement are attached at **Annex A**, as follows:-

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<sup>15</sup> Clauses 210(1) and 212(1) and (2) for reduction of capital; and clause 253(1) and 255(1) and (2) for buy-backs.

<sup>16</sup> Clause 213 for reduction of capital and clause 256 for buy-backs out of capital.

<sup>17</sup> Clause 215 for reduction of capital and clause 258 for buy-backs out of capital.

<sup>18</sup> Section 714(6) of the UKCA 2006.

<sup>19</sup> Section 7A(2) of the SCA.

- (a) Form SC7, “*Statement of Financial Assistance for the Acquisition of Shares*”<sup>20</sup>. The solvency statement can be found in paragraph 7 of the Form;
- (b) Form SC8, “*Statement of Financial Assistance for the Acquisition of Shares (By a Majority of Directors of a Holding Company)*”<sup>21</sup>. The solvency statement can be found in paragraph 8 of the Form; and
- (c) Form SC10, “*Statement of Redemption or Purchase of Shares out of Capital*”<sup>22</sup>. The solvency statement can be found in paragraph 3 of the Form.

23. Two sample auditors’ reports filed with Form SC10 pursuant to section 49K of the CO are also attached at **Annex B**.

## **Part 9 – Accounts and Audit**

### ***Directors’ Remuneration Report***

#### **Current position in the CO and Listing Rules**

24. Section 161 of the CO requires all companies to set out the aggregate amount of the directors’ emoluments, the aggregate amount of directors’ or past directors’ pensions, and the aggregate amount of any compensation to directors or past directors in respect of loss of office in the accounts of the company. In addition, all listed companies in Hong Kong are required under the Listing Rules to disclose in their financial statements, on a named basis, details of directors’ and past directors’ emoluments. Relevant provisions in the Listing Rules are extracted at **Annex C**.

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<sup>20</sup> The Form is required under section 47E(6) of the CO for unlisted company giving financial assistance for the purpose of acquisition of shares in the company or its holding company.

<sup>21</sup> This Form is required under section 47E(6) to be submitted by the holding company where its unlisted subsidiary company gives financial assistance for the purpose of acquisition of shares in the holding company.

<sup>22</sup> This Form is required under sections 49K(3) and (5) and 49M(4) for redemption or purchase out of capital by a private company.

## Position in the draft CB and the UK

25. During the second phase consultation on the draft CB, we consulted the public whether the CB should require (a) all listed companies incorporated in Hong Kong; and (b) unlisted companies incorporated in Hong Kong where members holding not less than 5% of the total voting rights have so requested, to prepare separate directors' remuneration reports. Detailed requirements of such reports could be set out in regulations to be made by the Financial Secretary with reference to the requirements in Schedule 8 to The Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (UK Regulations). Relevant extracts from the UK Regulations is at **Annex D**. The requirements under the UK Regulations are detailed and prescriptive in nature. In gist, the report covers various types of benefits given to individual directors by name, including the basic salary, fees, expenses allowances, benefits in kind, pension benefits and contributions, bonuses, compensation for loss of office, share options and long-term incentive schemes. The information in relation to the directors' benefits is subject to audit and the report should be approved by the board of directors and signed on behalf of the board by a director.

## Reasons for not adopting provisions in the draft CB

26. As explained at the meeting on 19 May 2011, the majority of respondents, including the major chambers of commerce such as the Hong Kong General Chamber of Commerce, and Chinese General Chamber of Commerce and professional bodies such as the Law Society of Hong Kong, Hong Kong Institute of Chartered Secretaries and Hong Kong Institute of Certified Public Accountants, considered that the proposed requirement was unnecessary.

27. For unlisted companies, the requirement of directors' remuneration reports would be too onerous and would increase compliance costs. We therefore propose to restate the existing requirements under section 161 of the CO for accounts to include information on directors' emoluments, retirement benefits and compensation for loss of office and to further include new disclosures to be prescribed in regulations to be made under clause 378 of the CB. As

the vast majority of unlisted companies in Hong Kong are SMEs and most of them are closely held, we agree that the requirement of directors' remuneration reports should not be extended to unlisted companies.

28. For listed companies, we are of the view that any improvements to the disclosure of the remuneration of directors of listed companies should be better considered under the Listing Rules and/or the Securities and Futures Ordinance (Cap 571). In this regard, we have invited the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited to keep under review the compliance and effectiveness of the relevant Listing Rules. We therefore propose not to pursue the proposal to require directors' remuneration reports in the CB.

**Financial Services and the Treasury Bureau**  
**Companies Registry**  
**8 June 2011**



公司註冊處  
Companies Registry

資助收購股份陳述書  
Statement of Financial Assistance for  
the Acquisition of Shares

(公司條例第 47E(6)條)  
(Companies Ordinance s. 47E(6))

Annex A / 附件A

表格  
Form **SC7**

**重要事項 Important Notes**

- 填表前請參閱《填表須知》。  
請用黑色墨水列印。
- Please read the accompanying notes before completing this form.  
Please print in black ink.

公司編號 Company Number

公司名稱 Company Name

我／我們 \* 是上述公司的 唯一董事／過半數董事／全體董事 \*，現按照《公司條例》第 47F 條陳述 -

I / We \*, being the sole director / a majority of the directors / all the directors \* of the company, hereby state in accordance with section 47F of the Companies Ordinance that -

- 1 上述公司建議為收購 本身／其控股公司 \* 的股份而給予資助。

(請填報控股公司的名稱)

The company is proposing to give financial assistance in connection with the acquisition of shares in it / in its holding company \*

(Please state the name of the holding company)

(註 Note 6)

**2 接受此項資助的人士或公司的資料 Particulars of the Person(s) Receiving the Assistance**

姓名／名稱 Name	地址 Address

\*請刪去不適用者 Delete whichever does not apply

(註 Note 4)

提交人的資料 Presentor's Reference

請勿填寫本欄 For Official Use

姓名 Name:

地址 Address:

電話 Tel:

傳真 Fax:

電郵地址 E-mail Address:

檔號 Reference:

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(註 Note 7) **3 資助的目的 Purpose of the Assistance**  
 請在有關空格內加 ✓ 號 Please tick the relevant box

- 收購下列第 4 項所述的股份  
**Acquiring the shares referred to in Section 4 below**
- 減少或解除為收購該等股份而招致的一項債務  
**Reducing or discharging a liability incurred for the purpose of that acquisition**

**4 已收購或將收購的股份的詳情 Details of the Shares Acquired or to be Acquired**

股份數目 Number of Shares	股份類別 Class of Shares	已收購 / 將收購 * 該等股份的人 Person who has acquired / will acquire * the shares

**5 資助的形式 Form of the Assistance**

	<b>貨幣單位 Currency</b>	<b>款額 Amount</b>
(a) 現金資助 Assistance in Cash		

(b) 非現金資助  
Assistance Other than in Cash

(1) 概述  
Brief Description

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(2) 價值  
Value

<b>貨幣單位 Currency</b>	<b>款額 Amount</b>

**6 給予上述資助的日期  
Date on which the Assistance is to be Given**

日 DD	月 MM	年 YYYY

\*請刪去不適用者 Delete whichever does not apply



**公司條例(香港法例第 32 章)**  
**第 47E(6)條規定提交的**  
**資助收購股份陳述書**

**填表須知 — 表格 SC7**

**附註**

**引言**

1. 在符合《公司條例》第 47E 至 48 條規定的情況下，非上市公司可為收購本身或其控股公司的股份而給予資助。
2. 公司的過半數董事須在給予資助前以本表格作出陳述，並須在作出陳述的日期後 15 日內提交公司註冊處處長。
3. 請劃一以中文 或 英文填報各項所需資料。如以中文填報，請用繁體字。公司註冊處不接納手寫的表格。
4. 請填報提交人的資料。除非有特別事項需要公司註冊處注意，否則毋須另加附函。

**簽署**

5. 本表格必須由公司的唯一董事或過半數董事或全體董事簽署。此外，所填報的董事姓名 必須 與公司註冊處的紀錄相同。

**接受此項資助的人士或公司的資料 (第 2 項)**

6. 請述明獲資助的人的全名及地址。如接受資助者是一間公司，請述明其全名及註冊辦事處地址。

**資助的目的 (第 3 項)**

7. 有關「減少或解除某人因收購股份而招致的一項債務」的涵義，請參閱《公司條例》第 47B(3)(b) 條。

**STATEMENT OF FINANCIAL ASSISTANCE FOR THE ACQUISITION OF SHARES**  
**Required by Companies Ordinance (Cap. 32)**  
**Section 47E(6)**

**Notes for Completion of Form SC7**

**Introduction**

1. Subject to compliance with sections 47E to 48 of the Companies Ordinance, an unlisted company may give financial assistance for the purpose of acquisition of shares in the company or in the company's holding company.
2. Before the financial assistance is given, a majority of the directors of the company shall make and deliver a statement to the Registrar of Companies. This form should be used for making such statement and should be submitted within 15 days after the statement is made.
3. Please fill in all particulars and complete all items consistently in either Chinese ***OR*** English. In the case of Chinese, traditional Chinese characters should be used. Please note that handwritten forms will be rejected by the Companies Registry.
4. Please complete the Presenter's Reference. Unless the presenter needs to raise a specific issue for the attention of the Companies Registry, no covering letter is required.

**Signature**

5. This form must be signed by the sole Director or a majority of the Directors or all the Directors of the company. Please note that the name of any Director as given under this Section ***must be*** identical to the name recorded at the Companies Registry.

**Particulars of the Person(s) Receiving the Assistance (Section 2)**

6. Please state the full names and addresses of the persons to whom assistance is to be given. If a recipient is a company, please state the full name and registered office address of the company.

**Purpose of the Assistance (Section 3)**

7. For the meaning of 'reducing or discharging a liability incurred for the purpose of the acquisition of shares', please refer to section 47B(3)(b) of the Companies Ordinance.



公司註冊處  
Companies Registry

資助收購股份陳述書  
(由控股公司的過半數董事作出)

Statement of Financial Assistance for  
the Acquisition of Shares  
(By a Majority of Directors of a Holding Company)

(公司條例第 47E(6)條)  
(Companies Ordinance s. 47E(6))

表格  
Form SC8

**重要事項 Important Notes**

- 填表前請參閱《填表須知》。  
請用黑色墨水列印。
- Please read the accompanying notes before completing this form.  
Please print in black ink.

公司編號 Company Number

公司名稱 Company Name

我／我們 \* 是上述公司(下稱「本公司」)的 唯一董事／過半數董事／全體董事 \*，現按照《公司條例》第 47F 條陳述 -

I / We \*, being the sole director / a majority of the directors / all the directors \* of the company (hereinafter called 'this Company'), hereby state in accordance with section 47F of the Companies Ordinance that -

- 1 本公司是下述公司的 唯一／其中\* 一間控股公司

This Company is the / a \* holding company of the following company

(下稱「該附屬公司」 hereinafter called 'the Subsidiary Company')

- 2 該附屬公司建議為收購 本公司／本公司的控股公司 \*

(請填報控股公司的名稱)

的股份而給予資助。

The Subsidiary Company is proposing to give financial assistance in connection with the acquisition of shares in this Company / in the holding company of this Company \*

(Please state the name of the holding company)

\*請刪去不適用者 Delete whichever does not apply

(註 Note 4)

提交人的資料 Presentor's Reference

請勿填寫本欄 For Official Use

姓名 Name:

地址 Address:

電話 Tel:

傳真 Fax:

電郵地址 E-mail Address:

檔號 Reference:

--

(註 Note 6) **3 接受此項資助的人士或公司的資料 Particulars of the Person(s) Receiving the Assistance**

姓名／名稱 Name	地址 Address

(註 Note 7) **4 資助的目的 Purpose of the Assistance**

請在有關空格內加 ✓ 號 Please tick the relevant box

- 收購下列第 5 項所述的股份  
Acquiring the shares referred to in Section 5 below
- 減少或解除為收購該等股份而招致的一項債務  
Reducing or discharging a liability incurred for the purpose of that acquisition

**5 已收購或將收購的股份的詳情 Details of the Shares Acquired or to be Acquired**

股份數目 Number of Shares	股份類別 Class of Shares	已收購／將收購 * 該等股份的人 Person who has acquired / will acquire * the shares

**6 資助的形式 Form of the Assistance**

	貨幣單位 Currency	款額 Amount
(a) 現金資助 Assistance in Cash		

(b) 非現金資助 Assistance Other than in Cash	
(1) 概述 Brief Description	

(2) 價值 Value	貨幣單位 Currency	款額 Amount

**7 給予上述資助的日期  
Date on which the Assistance is to be Given**

日 DD	月 MM	年 YYYY

\*請刪去不適用者 Delete whichever does not apply



**公司條例(香港法例第 32 章)**  
**第 47E(6)條規定提交的**  
**資助收購股份陳述書**  
**(由控股公司的過半數董事作出)**

**填表須知 — 表格 SC8**

**附註**

**引言**

1. 在符合《公司條例》第 47E 至 48 條規定的情況下，非上市公司可為收購本身或其控股公司的股份而給予資助。
2. 建議給予資助的公司的過半數董事須在給予資助前作出陳述(使用表格 SC7)，並將該陳述書送交公司註冊處處長。如給予資助的目的是收購其控股公司的股份，則該控股公司的過半數董事，以及同時屬上述給予資助的公司的控股公司及首述控股公司的附屬公司的任何其他公司的過半數董事，亦須以本表格作出陳述，並在作出陳述的日期後 15 日內提交處長。
3. 請劃一以中文 或 英文填報各項所需資料。如以中文填報，請用繁體字。公司註冊處不接納手寫的表格。
4. 請填報提交人的資料。除非有特別事項需要公司註冊處注意，否則毋須另加附函。

**簽署**

5. 本表格必須由公司的唯一董事或過半數董事或全體董事簽署。此外，所填報的董事姓名 必須 與公司註冊處的紀錄相同。

**接受此項資助的人士或公司的資料 (第 3 項)**

6. 請述明獲資助的人的全名及地址。如接受資助者是一間公司，請述明其全名及註冊辦事處地址。

**資助的目的 (第 4 項)**

7. 有關「減少或解除某人因收購股份而招致的一項債務」的涵義，請參閱《公司條例》第 47B(3)(b)條。

**STATEMENT OF FINANCIAL ASSISTANCE FOR THE ACQUISITION OF SHARES  
(BY A MAJORITY OF DIRECTORS OF A HOLDING COMPANY)**

**Required by Companies Ordinance (Cap. 32)**

**Section 47E(6)**

**Notes for Completion of Form SC8**

**Introduction**

1. Subject to compliance with sections 47E to 48 of the Companies Ordinance, an unlisted company may give financial assistance for the purpose of acquisition of shares in the company or in the company's holding company.
2. Before the financial assistance is given, a majority of the directors of the company proposing to give the financial assistance shall make and deliver a statement (on Form SC7) to the Registrar of Companies. Where the financial assistance is given for the acquisition of shares in the company's holding company, a majority of the directors of that holding company and of any other company which is both the company's holding company and a subsidiary of that other holding company shall also make a statement in this form. This statement should be delivered to the Registrar within 15 days after the statement is made.
3. Please fill in all particulars and complete all items consistently in either Chinese ***OR*** English. In the case of Chinese, traditional Chinese characters should be used. Please note that handwritten forms will be rejected by the Companies Registry.
4. Please complete the Presentor's Reference. Unless the presentor needs to raise a specific issue for the attention of the Companies Registry, no covering letter is required.

**Signature**

5. This form must be signed by the sole Director or a majority of the Directors or all the Directors of the company. Please note that the name of any Director as given under this Section ***must be*** identical to the name recorded at the Companies Registry.

**Particulars of the Person(s) Receiving the Assistance (Section 3)**

6. Please state the full names and addresses of the persons to whom assistance is to be given. If a recipient is a company, please state the full name and registered office address of the company.

**Purpose of the Assistance (Section 4)**

7. For the meaning of 'reducing or discharging a liability incurred for the purpose of the acquisition of shares', please refer to section 47B(3)(b) of the Companies Ordinance.



公司註冊處  
Companies Registry

從資本中撥款  
贖回或購買股份的陳述書  
Statement of Redemption or Purchase of  
Shares out of Capital

(公司條例第 49K(3)、(5) 及 49M(4)條)  
(Companies Ordinance ss. 49K(3), (5) & 49M(4))

表格  
Form **SC10**

**重要事項 Important Notes**

- 填表前請參閱《填表須知》。  
請用黑色墨水列印。
- Please read the accompanying notes before completing this form.  
Please print in black ink.

公司編號 Company Number

--

公司名稱 Company Name

--

我／我們 \* 是上述公司的 唯一董事／全體董事 \*，現按照《公司條例》第 49K 條陳述 -  
I / We \*, being the sole director / all the directors \* of the company, hereby state in accordance with  
section 49K of the Companies Ordinance that -

- 1 上述公司建議從資本中撥款贖回或購買本身的股份。  
The company is proposing to make a payment out of capital for the redemption or purchase of its own shares.

(註 Note 6)

- 2 有關股份的容許資本付款額  
The Amount of the Permissible Capital  
Payment for the Shares in Question

貨幣單位 Currency

款額 Amount

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(註 Note 4)

提交人的資料 Presentor's Reference

請勿填寫本欄 For Official Use

姓名 Name:

地址 Address:

電話 Tel:

傳真 Fax:

電郵地址 E-mail Address:

檔號 Reference:



**公司條例(香港法例第 32 章)**  
**第 49K(3)、(5) 及 49M(4)條規定提交的**  
**從資本中撥款贖回或購買股份的陳述書**

**填表須知 — 表格 SC10**

**附註**

**引言**

1. 除《公司條例》第 49O 條所指的任何法院命令另有規定外，私人公司可在符合第 49K 至 49M 條的情況下，從資本中撥款贖回或購買本身的股份。從資本中撥款須經公司藉特別決議批准，公司的董事亦須作出有關的陳述。本表格是用以作出此項陳述。
2. 本陳述書的文本連同《公司條例》第 49K(5) 條所規定的核數師報告書文本，必須在不遲於公司首次刊登第 49M(1) 條所規定的公告的日期，或不遲於公司首次刊登或發出第 49M(2) 條所規定的公告或通知的日期(以較早的日期為準)，提交公司註冊處處長。
3. 請劃一以中文 或 英文填報各項所需資料。如以中文填報，請用繁體字。公司註冊處不接納手寫的表格。
4. 請填報提交人的資料。除非有特別事項需要公司註冊處注意，否則毋須另加附函。

**簽署**

5. 本表格必須由公司的唯一董事或全體董事簽署。此外，所填報的董事姓名 必須 與公司註冊處的紀錄相同。

**容許資本付款額 (第 2 項)**

6. 「容許資本付款額」指一項款額，該項款額是連同以下兩項計算 -
  - (a) 公司任何可動用的利潤；及
  - (b) 公司為贖回或購買本身股份而發行新股份所得收益，

乃相等於贖回價或購買價。「可動用的利潤」是《公司條例》第 49J 及 79B 條所指的可供分發的公司利潤。關於公司是否有此筆可動用的利潤的問題以及此等利潤的款額，均須按照第 49J 條予以釐定。

## STATEMENT OF REDEMPTION OR PURCHASE OF SHARES OUT OF CAPITAL

Required by Companies Ordinance (Cap. 32)

Sections 49K(3), (5) & 49M(4)

### Notes for Completion of Form SC10

#### Introduction

1. Subject to any order of the court under section 49O of the Companies Ordinance, a private company may make a payment out of capital for the redemption or purchase of its own shares provided that the requirements of sections 49K to 49M are satisfied. The payment out of capital should be approved by a special resolution of the company. The director(s) shall also make a statement to that effect. This form should be used for making such statement.
2. A copy of this statement, together with a copy of the auditors' report required by section 49K(5) of the Companies Ordinance, must be delivered to the Registrar of Companies not later than the day on which the company first publishes the notice required by section 49M(1), or first publishes or gives the notice required by section 49M(2), whichever is the earlier.
3. Please fill in all particulars and complete all items consistently in either Chinese **OR** English. In the case of Chinese, traditional Chinese characters should be used. Please note that handwritten forms will be rejected by the Companies Registry.
4. Please complete the Presentor's Reference. Unless the presentor needs to raise a specific issue for the attention of the Companies Registry, no covering letter is required.

#### Signature

5. This form must be signed by the sole Director or all the Directors of the company. Please note that the name of any Director as given under this Section ***must be*** identical to the name recorded at the Companies Registry.

#### Permissible Capital Payment (Section 2)

6. 'Permissible Capital Payment' means an amount which, taken together with -
  - (a) any available profits of the company; and
  - (b) the proceeds of any fresh issue of shares made for the purposes of the redemption or purchase,

is equal to the price of redemption or purchase. 'Available profits' means the company's profits which are available for distribution (within the meaning of sections 49J and 79B of the Companies Ordinance). The question whether the company has any profits so available and the amount of any such profits are to be determined in accordance with section 49J.

**REPORT TO THE BOARD OF DIRECTORS  
OF  
LIMITED (the "Company")**

We have performed an engagement on the permissible capital payment and opinion expressed by the directors in the Statement of Redemption or Purchase of Shares out of Capital of the Company as at . . . . . (the "Statement") attached in Appendix which have been prepared in accordance with section 49K of the Hong Kong Companies Ordinance ("Companies Ordinance").

**Directors' Responsibility for the Statement**

Pursuant to the requirement of section 49K(3) of the Companies Ordinance, the directors of the Company are responsible for ensuring that the permissible capital payment and opinion expressed by the directors in the Statement have been prepared in accordance with section 49K of the Companies Ordinance. This responsibility includes designing, implementing and maintaining internal controls relevant to the preparation and presentation of the Statement and applying an appropriate basis of preparation; and making estimates that are reasonable in the circumstances.

**Auditor's Responsibility**

It is our responsibility to express a conclusion on the Statement, based on our work performed and to report our conclusion solely to you, as a body, in accordance with our agreed terms of engagement and for no other purpose. We do not assume responsibility towards or accept liability to any other person for the contents of this report.

We conducted our work in accordance with the Hong Kong Standard on Assurance Engagements 3000 "Assurance Engagements Other Than Audits or Reviews of Historical Financial Information" issued by the Hong Kong Institute of Certified Public Accountants. This standard requires that we comply with ethical requirements and plan and perform the assurance engagement as to whether the Statement complies in all material respects with section 49K(3) of the Companies Ordinance.

In relation to our conclusion, we have performed such procedures as we considered necessary. Within the scope of our work, we enquired into the state of the Company's affairs so far as it is necessary for us to review the bases for the Statement and examination of the information and documentation provided to us by the Company in support of the Statement which has been prepared in accordance with section 49K(3) of the Companies Ordinance as at

**REPORT TO THE BOARD OF DIRECTORS  
OF LIMITED (CONTINUED)**

**Inherent limitations**

Although we planned our work as to whether the Statement complies in all material respects with section 49K(3) of the Companies Ordinance, our examination should not be relied upon to disclose all such material exceptions including fraud, errors and instances of non-compliance which may exist.

Accordingly, we do not provide any assurance on the design or operational effectiveness of the internal control relating to the information and document we have examined.

**Conclusion**

Based on the procedures performed by us,

- (a) in our opinion, the amount of HK\$ specified in the Statement as the permissible capital payment for the redeemable preference shares to be purchased is properly determined in accordance with sections 49I and 49J of the Companies Ordinance as at , and
- (b) we are not aware of anything to indicate that the opinion expressed by the directors in the Statement as to any of the matters mentioned in section 49K(3) of the Companies Ordinance is unreasonable in all the circumstances.

**Restriction on Use and Distribution**

Our report is intended solely for the Company to file with the Hong Kong Company Registrar together with the Statement pursuant to section 49K(5) of the Companies Ordinance and may not be suitable for another purpose. This report is not intended to be, and should not be distributed to or used for any other purpose.

Certified Public Accountants

Hong Kong,



**Extract of the Listing Rules**

**Disclosure requirements**

17.07 In relation to each scheme of a listed issuer or any of its subsidiaries, the listed issuer must disclose in its annual report and interim report the following information in relation to: (i) each of the directors, chief executive or substantial shareholders of the listed issuer, or their respective associates; (ii) each participant with options granted in excess of the individual limit; (iii) aggregate figures for employees working under employment contracts that are regarded as “continuous contracts” for the purposes of the Employment Ordinance; (iv) aggregate figures for suppliers of goods or services; and (v) all other participants as an aggregate whole:

- (1) particulars of outstanding options at the beginning and at the end of the financial year/period, including number of options, date of grant, vesting period, exercise period and exercise price;
- (2) particulars of options granted during the financial year/period, including number of options, date of grant, vesting period, exercise period, exercise price and (for options over listed securities) the closing price of the securities immediately before the date on which the options were granted;
- (3) the number of options exercised during the financial year/period with the exercise price and (for options over listed securities) the weighted average closing price of the securities immediately before the dates on which the options were exercised;
- (4) the number of options cancelled during the financial year/period together with the exercise price of the cancelled options; and
- (5) the number of options which lapsed in accordance with the terms of the scheme during the financial year/period.

## Appendix 16

### DISCLOSURE OF FINANCIAL INFORMATION

24. A listed issuer shall disclose in its financial statements details of director's and past director's emoluments, on a named basis, as follows:—

- (1) the directors' fees for the financial year;
- (2) the directors' basic salaries, housing allowances, other allowances and benefits in kind;
- (3) the contributions to pension schemes for directors or past directors for the financial year;
- (4) the bonuses paid or receivable by directors which are discretionary or are based on the listed issuer's, the group's or any member of the group's performance (excluding amounts disclosed in (5) and (6) below) for the financial year;
- (5) the amounts paid during the financial year or receivable by directors as an inducement to join or upon joining the listed issuer; and
- (6) the compensation paid during the financial year or receivable by directors or past directors for the loss of office as a director of any member of the group or of any other office in connection with the management of the affairs of any member of the group distinguishing between contractual and other payments (excluding amounts disclosed in (2) to (5) above).

*24.1 Sub-paragraphs (2) to (6) above inclusive require an analysis of the amounts to be disclosed in the listed issuer's financial statements under the provisions of section 161(1) of the Companies Ordinance.*

*24.2 Where a director is contractually entitled to bonus payments which are fixed in amount such payments are more in the nature of basic salary and accordingly must be disclosed under sub-paragraph (2) above.*

*24.3 In addition to discretionary bonus payments, all bonus payments to which a director is contractually entitled and which are not fixed in amount, together with the basis upon*

*which they are determined, must be disclosed under subparagraph (4) above.*

*24.4 In the case of a PRC issuer, references to directors or past directors shall also mean and include supervisors and past supervisors (as appropriate).*

24A. A listed issuer shall include particulars of any arrangement under which a director has waived or agreed to waive any emoluments.

*24A.1 Where a director has agreed to waive future emoluments, particulars of such waiver must be given together with those relating to emoluments which accrued during the past financial year. This applies in respect to emoluments from the listed issuer or any of its subsidiaries or other person.*

24B. A listed issuer shall include the following information in respect of the group's emolument policy:

- (1) a general description of the emolument policy and any long-term incentive schemes of the group; and
- (2) the basis of determining the emolument payable to its directors.

28. A listed issuer (whether or not it is incorporated in Hong Kong) shall include disclosures required under the following provisions of the Companies Ordinance:—

- (1) The Tenth Schedule;
- (2) S128 (details of subsidiaries);
- (3) S129 (details of investments);
- (4) S129A (details of ultimate holding company);
- (5) S129D (contents of the directors' report);
- (6) S161 (directors' remuneration);
- (7) S161A (corresponding figures);
- (8) S161B (loans to company officers);
- (9) S162 (directors' interests in contracts); and
- (10) S162A (management contracts).

**Extract of the UK Regulations**

PART 4  
DIRECTORS' REMUNERATION REPORT

**Directors' remuneration report (quoted companies)**

**11.**—(1) The remuneration report which the directors of a quoted company are required to prepare under section 420 of the 2006 Act (duty to prepare directors' remuneration report) must contain the information specified in Schedule 8 to these Regulations, and must comply with any requirement of that Schedule as to how information is to be set out in the report.

(2) In Schedule 8—

Part 1 is introductory,

Part 2 relates to information about remuneration committees, performance related remuneration, consideration of conditions elsewhere in company and group and liabilities in respect of directors' contracts,

Part 3 relates to detailed information about directors' remuneration (information included under Part 3 is required to be reported on by the auditor (see subsection (3)), and

Part 4 contains interpretative and supplementary provisions.

(3) For the purposes of section 497 in Part 16 of the 2006 Act (auditor's report on auditable part of directors' remuneration report), "the auditable part" of a directors' remuneration report is the part containing the information required by Part 3 of Schedule 8 to these Regulations.

SCHEDULE 8  
QUOTED COMPANIES: DIRECTORS' REMUNERATION REPORT

PART 1  
INTRODUCTORY

**1.**—(1) In the directors' remuneration report for a financial year ("the relevant financial year") there must be shown the information specified in Parts 2 and 3.

(2) Information required to be shown in the report for or in respect of a particular person must be shown in the report in a manner that links the information to that person identified by name.

PART 2  
INFORMATION NOT SUBJECT TO AUDIT

**Consideration by the directors of matters relating to directors' remuneration**

**2.**—(1) If a committee of the company's directors has considered matters relating to the directors' remuneration for the relevant financial year, the directors' remuneration report must—

- (a) name each director who was a member of the committee at any time when the committee was considering any such matter;
- (b) name any person who provided to the committee advice, or services, that materially assisted the committee in their consideration of any such matter;
- (c) in the case of any person named under paragraph (b), who is not a director of the company, state—
  - (i) the nature of any other services that that person has provided to the company during the relevant financial year; and
  - (ii) whether that person was appointed by the committee.

(2) In sub-paragraph (1)(b) "person" includes (in particular) any director of the company who does not fall within sub-paragraph (1)(a).

**Statement of company's policy on directors' remuneration**

**3.**—(1) The directors' remuneration report must contain a statement of the company's policy on directors' remuneration for the following financial year

and for financial years subsequent to that.

(2) The policy statement must include—

- (a) for each director, a detailed summary of any performance conditions to which any entitlement of the director—
  - (i) to share options, or
  - (ii) under a long term incentive scheme,  
is subject;
- (b) an explanation as to why any such performance conditions were chosen;
- (c) a summary of the methods to be used in assessing whether any such performance conditions are met and an explanation as to why those methods were chosen;
- (d) if any such performance condition involves any comparison with factors external to the company—
  - (i) a summary of the factors to be used in making each such comparison, and
  - (ii) if any of the factors relates to the performance of another company, of two or more other companies or of an index on which the securities of a company or companies are listed, the identity of that company, of each of those companies or of the index;
- (e) a description of, and an explanation for, any significant amendment proposed to be made to the terms and conditions of any entitlement of a director to share options or under a long term incentive scheme; and
- (f) if any entitlement of a director to share options, or under a long term incentive scheme, is not subject to performance conditions, an explanation as to why that is the case.

(3) The policy statement must, in respect of each director's terms and conditions relating to remuneration, explain the relative importance of those elements which are, and those which are not, related to performance.

(4) The policy statement must summarise, and explain, the company's policy

on—

- (a) the duration of contracts with directors, and
- (b) notice periods, and termination payments, under such contracts.

(5) In sub-paragraphs (2) and (3), references to a director are to any person who serves as a director of the company at any time in the period beginning with the end of the relevant financial year and ending with the date on which the directors' remuneration report is laid before the company in general meeting.

#### **Statement of consideration of conditions elsewhere in company and group**

4. The directors' remuneration report must contain a statement of how pay and employment conditions of employees of the company and of other undertakings within the same group as the company were taken into account when determining directors' remuneration for the relevant financial year.

#### **Performance graph**

5.—(1) The directors' remuneration report must—

- (a) contain a line graph that shows for each of—
  - (i) a holding of shares of that class of the company's equity share capital whose listing, or admission to dealing, has resulted in the company falling within the definition of "quoted company", and
  - (ii) a hypothetical holding of shares made up of shares of the same kinds and number as those by reference to which a broad equity market index is calculated,

a line drawn by joining up points plotted to represent, for each of the financial years in the relevant period, the total shareholder return on that holding; and

- (b) state the name of the index selected for the purposes of the graph and set out the reasons for selecting that index.

(2) For the purposes of sub-paragraphs (1) and (4), "relevant period" means the five financial years of which the last is the relevant financial year.

(3) Where the relevant financial year—

- (a) is the company's second, third or fourth financial year, sub-paragraph (2) has effect with the substitution of "two", "three" or "four" (as the

case may be) for “five”; and

(b) is the company’s first financial year, “relevant period”, for the purposes of sub-paragraphs (1) and (4), means the relevant financial year.

(4) For the purposes of sub-paragraph (1), the “total shareholder return” for a relevant period on a holding of shares must be calculated using a fair method that—

(a) takes as its starting point the percentage change over the period in the market price of the holding;

(b) involves making—

(i) the assumptions specified in sub-paragraph (5) as to reinvestment of income, and

(ii) the assumption specified in sub-paragraph (7) as to the funding of liabilities, and

(c) makes provision for any replacement of shares in the holding by shares of a different description;

and the same method must be used for each of the holdings mentioned in sub-paragraph (1).

(5) The assumptions as to reinvestment of income are—

(a) that any benefit in the form of shares of the same kind as those in the holding is added to the holding at the time the benefit becomes receivable; and

(b) that any benefit in cash, and an amount equal to the value of any benefit not in cash and not falling within paragraph (a), is applied at the time the benefit becomes receivable in the purchase at their market price of shares of the same kind as those in the holding and that the shares purchased are added to the holding at that time.

(6) In sub-paragraph (5) “benefit” means any benefit (including, in particular, any dividend) receivable in respect of any shares in the holding by the holder from the company of whose share capital the shares form part.

(7) The assumption as to the funding of liabilities is that, where the holder has a liability to the company of whose capital the shares in the holding form part, shares are sold from the holding—

(a) immediately before the time by which the liability is due to be satisfied, and

(b) in such numbers that, at the time of the sale, the market price of the shares sold equals the amount of the liability in respect of the shares in the holding that are not being sold.

(8) In sub-paragraph (7) “liability” means a liability arising in respect of any shares in the holding or from the exercise of a right attached to any of those shares.

### **Service contracts**

6.—(1) The directors’ remuneration report must contain, in respect of the contract of service or contract for services of each person who has served as a director of the company at any time during the relevant financial year, the following information—

(a) the date of the contract, the unexpired term and the details of any notice periods;

(b) any provision for compensation payable upon early termination of the contract; and

(c) such details of other provisions in the contract as are necessary to enable members of the company to estimate the liability of the company in the event of early termination of the contract.

(2) The directors’ remuneration report must contain an explanation for any significant award made to a person in the circumstances described in paragraph 15.

## **PART 3**

### **INFORMATION SUBJECT TO AUDIT**

#### **Amount of each director’s emoluments and compensation in the relevant financial year**

7.—(1) The directors’ remuneration report must for the relevant financial year show, for each person who has served as a director of the company at any time during that year, each of the following—

(a) the total amount of salary and fees paid to or receivable by the person in respect of qualifying services;

- (b) the total amount of bonuses so paid or receivable;
- (c) the total amount of sums paid by way of expenses allowance that are—
  - (i) chargeable to United Kingdom income tax (or would be if the person were an individual), and
  - (ii) paid to or receivable by the person in respect of qualifying services;
- (d) the total amount of—
  - (i) any compensation for loss of office paid to or receivable by the person, and
  - (ii) any other payments paid to or receivable by the person in connection with the termination of qualifying services;
- (e) the total estimated value of any benefits received by the person otherwise than in cash that—
  - (i) do not fall within any of paragraphs (a) to (d) or paragraphs 8 to 12,
  - (ii) are emoluments of the person, and
  - (iii) are received by the person in respect of qualifying services; and
- (f) the amount that is the total of the sums mentioned in paragraphs (a) to (e).

(2) The directors' remuneration report must show, for each person who has served as a director of the company at any time during the relevant financial year, the amount that for the financial year preceding the relevant financial year is the total of the sums mentioned in paragraphs (a) to (e) of sub-paragraph (1).

(3) The directors' remuneration report must also state the nature of any element of a remuneration package which is not cash.

(4) The information required by sub-paragraphs (1) and (2) must be presented in tabular form.

### **Share options**

**8.—**(1) The directors' remuneration report must contain, in respect of each person who has served as a director of the company at any time in the relevant

financial year, the information specified in paragraph 9.

(2) Sub-paragraph (1) is subject to paragraph 10 (aggregation of information to avoid excessively lengthy reports).

(3) The information specified in sub-paragraphs (a) to (c) of paragraph 9 must be presented in tabular form in the report.

(4) In paragraph 9 “share option”, in relation to a person, means a share option granted in respect of qualifying services of the person.

**9.** The information required by sub-paragraph (1) of paragraph 8 in respect of such a person as is mentioned in that sub-paragraph is—

(a) the number of shares that are subject to a share option—

(i) at the beginning of the relevant financial year or, if later, on the date of the appointment of the person as a director of the company, and

(ii) at the end of the relevant financial year or, if earlier, on the cessation of the person’s appointment as a director of the company, in each case differentiating between share options having different terms and conditions;

(b) information identifying those share options that have been awarded in the relevant financial year, those that have been exercised in that year, those that in that year have expired unexercised and those whose terms and conditions have been varied in that year;

(c) for each share option that is unexpired at any time in the relevant financial year—

(i) the price paid, if any, for its award,

(ii) the exercise price,

(iii) the date from which the option may be exercised, and

(iv) the date on which the option expires;

(d) a description of any variation made in the relevant financial year in the terms and conditions of a share option;

(e) a summary of any performance criteria upon which the award or

exercise of a share option is conditional, including a description of any variation made in such performance criteria during the relevant financial year;

(f) for each share option that has been exercised during the relevant financial year, the market price of the shares, in relation to which it is exercised, at the time of exercise; and

(g) for each share option that is unexpired at the end of the relevant financial year—

(i) the market price at the end of that year, and

(ii) the highest and lowest market prices during that year,

of each share that is subject to the option.

**10.**—(1) If, in the opinion of the directors of the company, disclosure in accordance with paragraphs 8 and 9 would result in a disclosure of excessive length then, (subject to sub-paragraphs (2) and (3))—

(a) information disclosed for a person under paragraph 9(a) need not differentiate between share options having different terms and conditions;

(b) for the purposes of disclosure in respect of a person under paragraph 9(c)(i) and (ii) and (g), share options may be aggregated and (instead of disclosing prices for each share option) disclosure may be made of weighted average prices of aggregations of share options;

(c) for the purposes of disclosure in respect of a person under paragraph 9(c)(iii) and (iv), share options may be aggregated and (instead of disclosing dates for each share option) disclosure may be made of ranges of dates for aggregation of share options.

(2) Sub-paragraph (1)(b) and (c) does not permit the aggregation of—

(a) share options in respect of shares whose market price at the end of the relevant financial year is below the option exercise price, with

(b) share options in respect of shares whose market price at the end of the relevant financial year is equal to, or exceeds, the option exercise price.

(3) Sub-paragraph (1) does not apply (and accordingly, full disclosure must be made in accordance with paragraphs 8 and 9) in respect of share options that

during the relevant financial year have been awarded or exercised or had their terms and conditions varied.

### **Long term incentive schemes**

**11.**—(1) The directors' remuneration report must contain, in respect of each person who has served as a director of the company at any time in the relevant financial year, the information specified in paragraph 12.

(2) Sub-paragraph (1) does not require the report to contain share option details that are contained in the report in compliance with paragraphs 8 to 10.

(3) The information specified in paragraph 12 must be presented in tabular form in the report.

(4) For the purposes of paragraph 12—

(a) “scheme interest”, in relation to a person, means an interest under a long term incentive scheme that is an interest in respect of which assets may become receivable under the scheme in respect of qualifying services of the person; and

(b) such an interest “vests” at the earliest time when—

(i) it has been ascertained that the qualifying conditions have been fulfilled, and

(ii) the nature and quantity of the assets receivable under the scheme in respect of the interest have been ascertained.

(5) In this Schedule “long term incentive scheme” means any agreement or arrangement under which money or other assets may become receivable by a person and which includes one or more qualifying conditions with respect to service or performance that cannot be fulfilled within a single financial year, and for this purpose the following must be disregarded, namely—

(a) any bonus the amount of which falls to be determined by reference to service or performance within a single financial year;

(b) compensation in respect of loss of office, payments for breach of contract and other termination payments; and

(c) retirement benefits.

**12.**—(1) The information required by sub-paragraph (1) of paragraph 11 in

respect of such a person as is mentioned in that sub-paragraph is—

- (a) details of the scheme interests that the person has at the beginning of the relevant financial year or if later on the date of the appointment of the person as a director of the company;
- (b) details of the scheme interests awarded to the person during the relevant financial year;
- (c) details of the scheme interests that the person has at the end of the relevant financial year or if earlier on the cessation of the person's appointment as a director of the company;
- (d) for each scheme interest within paragraphs (a) to (c)—
  - (i) the end of the period over which the qualifying conditions for that interest have to be fulfilled (or if there are different periods for different conditions, the end of whichever of those periods ends last); and
  - (ii) a description of any variation made in the terms and conditions of the scheme interests during the relevant financial year; and
- (e) for each scheme interest that has vested in the relevant financial year—
  - (i) the relevant details (see sub-paragraph (3)) of any shares,
  - (ii) the amount of any money, and
  - (iii) the value of any other assets,that have become receivable in respect of the interest.

(2) The details that sub-paragraph (1)(b) requires of a scheme interest awarded during the relevant financial year include, if shares may become receivable in respect of the interest, the following—

- (a) the number of those shares;
- (b) the market price of each of those shares when the scheme interest was awarded; and
- (c) details of qualifying conditions that are conditions with respect to performance.

(3) In sub-paragraph (1)(e)(i) “the relevant details”, in relation to any shares

that have become receivable in respect of a scheme interest, means—

- (a) the number of those shares;
- (b) the date on which the scheme interest was awarded;
- (c) the market price of each of those shares when the scheme interest was awarded;
- (d) the market price of each of those shares when the scheme interest vested; and
- (e) details of qualifying conditions that were conditions with respect to performance.

### **Pensions**

**13.**—(1) The directors' remuneration report must, for each person who has served as a director of the company at any time during the relevant financial year, contain the information in respect of pensions that is specified in sub-paragraphs (2) and (3).

(2) Where the person has rights under a pension scheme that is a defined benefit scheme in relation to the person and any of those rights are rights to which he has become entitled in respect of qualifying services of his—

- (a) details—
  - (i) of any changes during the relevant financial year in the person's accrued benefits under the scheme, and
  - (ii) of the person's accrued benefits under the scheme as at the end of that year;
- (b) the transfer value, calculated in a manner consistent with "Retirement Benefit Schemes – Transfer Values (GN 11)" published by the Institute of Actuaries and the Faculty of Actuaries and dated 6th April 2001, of the person's accrued benefits under the scheme at the end of the relevant financial year;
- (c) the transfer value of the person's accrued benefits under the scheme that in compliance with paragraph (b) was contained in the directors' remuneration report for the previous financial year or, if there was no such report or no such value was contained in that report, the transfer value, calculated in such a manner as is mentioned in paragraph (b), of

the person's accrued benefits under the scheme at the beginning of the relevant financial year;

(d) the amount obtained by subtracting—

- (i) the transfer value of the person's accrued benefits under the scheme that is required to be contained in the report by paragraph (c), from
- (ii) the transfer value of those benefits that is required to be contained in the report by paragraph (b),

and then subtracting from the result of that calculation the amount of any contributions made to the scheme by the person in the relevant financial year.

(3) Where—

- (a) the person has rights under a pension scheme that is a money purchase scheme in relation to the person, and
- (b) any of those rights are rights to which he has become entitled in respect of qualifying services of his,

details of any contribution to the scheme in respect of the person that is paid or payable by the company for the relevant financial year or paid by the company in that year for another financial year.

### **Excess retirement benefits of directors and past directors**

**14.**—(1) Subject to sub-paragraph (3), the directors' remuneration report must show in respect of each person who has served as a director of the company—

- (a) at any time during the relevant financial year, or
- (b) at any time before the beginning of that year,

the amount of so much of retirement benefits paid to or receivable by the person under pension schemes as is in excess of the retirement benefits to which he was entitled on the date on which the benefits first became payable or 31st March 1997, whichever is the later.

(2) In subsection (1) "retirement benefits" means retirement benefits to which the person became entitled in respect of qualifying services of his.

(3) Amounts paid or receivable under a pension scheme need not be included in

an amount required to be shown under sub-paragraph (1) if—

- (a) the funding of the scheme was such that the amounts were or, as the case may be, could have been paid without recourse to additional contributions; and
- (b) amounts were paid to or receivable by all pensioner members of the scheme on the same basis;

and in this sub-paragraph “pensioner member”, in relation to a pension scheme, means any person who is entitled to the present payment of retirement benefits under the scheme.

(4) In this paragraph—

- (a) references to retirement benefits include benefits otherwise than in cash; and
- (b) in relation to so much of retirement benefits as consists of a benefit otherwise than in cash, references to their amount are to the estimated money value of the benefit,

and the nature of any such benefit must also be shown in the report.

### **Compensation for past directors**

**15.** The directors’ remuneration report must contain details of any significant award made in the relevant financial year to any person who was not a director of the company at the time the award was made but had previously been a director of the company, including (in particular) compensation in respect of loss of office and pensions but excluding any sums which have already been shown in the report under paragraph 7(1)(d).

### **Sums paid to third parties in respect of a director’s services**

**16.—(1)** The directors’ remuneration report must show, in respect of each person who served as a director of the company at any time during the relevant financial year, the aggregate amount of any consideration paid to or receivable by third parties for making available the services of the person—

- (a) as a director of the company, or
- (b) while director of the company—
  - (i) as director of any of its subsidiary undertakings, or

- (ii) as director of any other undertaking of which he was (while director of the company) a director by virtue of the company's nomination (direct or indirect), or
- (iii) otherwise in connection with the management of the affairs of the company or any such other undertaking.

(2) The reference to consideration includes benefits otherwise than in cash; and in relation to such consideration the reference to its amount is to the estimated money value of the benefit.

The nature of any such consideration must be shown in the report.

- (3) The reference to third parties is to persons other than—
- (a) the person himself or a person connected with him or a body corporate controlled by him, and
  - (b) the company or any such other undertaking as is mentioned in sub-paragraph (1)(b)(ii).

#### PART 4 INTERPRETATION AND SUPPLEMENTARY

**17.—**(1) In this Schedule—

“amount”, in relation to a gain made on the exercise of a share option, means the difference between—

- (a) the market price of the shares on the day on which the option was exercised; and
- (b) the price actually paid for the shares;

“company contributions”, in relation to a pension scheme and a person, means any payments (including insurance premiums) made, or treated as made, to the scheme in respect of the person by anyone other than the person;

“defined benefit scheme”, in relation to a person, means a pension scheme which is not a money purchase scheme in relation to the person;

“emoluments” of a person—

- (a) includes salary, fees and bonuses, sums paid by way of expenses allowance (so far as they are chargeable to United Kingdom income tax or would be if the person were an individual), but

- (b) does not include any of the following, namely—
- (i) the value of any share options granted to him or the amount of any gains made on the exercise of any such options;
  - (ii) any company contributions paid, or treated as paid, in respect of him under any pension scheme or any benefits to which he is entitled under any such scheme; or
  - (iii) any money or other assets paid to or received or receivable by him under any long term incentive scheme;

“long term incentive scheme” has the meaning given by paragraph 11(5);

“money purchase benefits”, in relation to a person, means retirement benefits the rate or amount of which is calculated by reference to payments made, or treated as made, by the person or by any other person in respect of that person and which are not average salary benefits;

“money purchase scheme”, in relation to a person, means a pension scheme under which all of the benefits that may become payable to or in respect of the person are money purchase benefits in relation to the person;

“pension scheme” means a retirement benefits scheme within the meaning given by section 611 of the Income and Corporation Taxes Act 1988;

“qualifying services”, in relation to any person, means his services as a director of the company, and his services at any time while he is a director of the company—

- (a) as a director of an undertaking that is a subsidiary undertaking of the company at that time;
- (b) as a director of any other undertaking of which he is a director by virtue of the company’s nomination (direct or indirect); or
- (c) otherwise in connection with the management of the affairs of the company or any such subsidiary undertaking or any such other undertaking;

“retirement benefits” means relevant benefits within the meaning given by section 612(1) of the Income and Corporation Taxes Act 1988;

“shares” means shares (whether allotted or not) in the company, or any undertaking which is a group undertaking in relation to the company, and

includes a share warrant as defined by section 779(1) of the 2006 Act;

“share option” means a right to acquire shares;

“value”, in relation to shares received or receivable on any day by a person who is or has been a director of the company, means the market price of the shares on that day.

(2) In this Schedule “compensation in respect of loss of office” includes compensation received or receivable by a person for—

- (a) loss of office as director of the company, or
- (b) loss, while director of the company or on or in connection with his ceasing to be a director of it, of—
  - (i) any other office in connection with the management of the company’s affairs, or
  - (ii) any office as director or otherwise in connection with the management of the affairs of any undertaking that, immediately before the loss, is a subsidiary undertaking of the company or an undertaking of which he is a director by virtue of the company’s nomination (direct or indirect);
- (c) compensation in consideration for, or in connection with, a person’s retirement from office; and
- (d) where such a retirement is occasioned by a breach of the person’s contract with the company or with an undertaking that, immediately before the breach, is a subsidiary undertaking of the company or an undertaking of which he is a director by virtue of the company’s nomination (direct or indirect)—
  - (i) payments made by way of damages for the breach; or
  - (ii) payments made by way of settlement or compromise of any claim in respect of the breach.

(3) References in this Schedule to compensation include benefits otherwise than in cash; and in relation to such compensation references in this Schedule to its amounts are to the estimated money value of the benefit.

(4) References in this Schedule to a person being “connected” with a director, and to a director “controlling” a body corporate, are to be construed in

accordance with sections 252 to 255 of the 2006 Act.

**18.**—(1) For the purposes of this Schedule emoluments paid or receivable or share options granted in respect of a person's accepting office as a director are to be treated as emoluments paid or receivable or share options granted in respect of his services as a director.

(2) Where a pension scheme provides for any benefits that may become payable to or in respect of a person to be whichever are the greater of—

- (a) such benefits determined by or under the scheme as are money purchase benefits in relation to the person; and
- (b) such retirement benefits determined by or under the scheme to be payable to or in respect of the person as are not money purchase benefits in relation to the person,

the company may assume for the purposes of this Schedule that those benefits will be money purchase benefits in relation to the person, or not, according to whichever appears more likely at the end of the relevant financial year.

(3) In determining for the purposes of this Schedule whether a pension scheme is a money purchase scheme in relation to a person or a defined benefit scheme in relation to a person, any death in service benefits provided for by the scheme are to be disregarded.

**19.**—(1) The following applies with respect to the amounts to be shown under this Schedule.

(2) The amount in each case includes all relevant sums paid by or receivable from—

- (a) the company; and
- (b) the company's subsidiary undertakings; and
- (c) any other person,

except sums to be accounted for to the company or any of its subsidiary undertakings or any other undertaking of which any person has been a director while director of the company, by virtue of section 219 of the 2006 Act (payment in connection with share transfer: requirement of members' approval), to past or present members of the company or any of its subsidiaries or any class of those members.

(3) Reference to amounts paid to or receivable by a person include amounts paid to or receivable by a person connected with him or a body corporate controlled by him (but not so as to require an amount to be counted twice).

**20.**—(1) The amounts to be shown for any financial year under Part 3 of this Schedule are the sums receivable in respect of that year (whenever paid) or, in the case of sums not receivable in respect of a period, the sums paid during that year.

(2) But where—

(a) any sums are not shown in the directors' remuneration report for the relevant financial year on the ground that the person receiving them is liable to account for them as mentioned in paragraph 19(2), but the liability is thereafter wholly or partly released or is not enforced within a period of 2 years; or

(b) any sums paid by way of expenses allowance are charged to United Kingdom income tax after the end of the relevant financial year or, in the case of any such sums paid otherwise than to an individual, it does not become clear until the end of the relevant financial year that those sums would be charged to such tax were the person an individual,

those sums must, to the extent to which the liability is released or not enforced or they are charged as mentioned above (as the case may be), be shown in the first directors' remuneration report in which it is practicable to show them and must be distinguished from the amounts to be shown apart from this provision.

**21.** Where it is necessary to do so for the purpose of making any distinction required by the preceding paragraphs in an amount to be shown in compliance with this Part of this Schedule, the directors may apportion any payments between the matters in respect of which these have been paid or are receivable in such manner as they think appropriate.

**22.** The Schedule requires information to be given only so far as it is contained in the company's books and papers, available to members of the public or the company has the right to obtain it.