

**Legislative proposal to provide an enabling
environment for the introduction of an
uncertificated securities market**

6 January 2014

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Benefits of introducing an uncertificated securities regime

- Modernize HK's financial infrastructure and enhance overall efficiency in the securities market
- Enhance corporate governance, and secure an improved level of investor choice and protection
- Ensure Hong Kong is on a par with other leading markets, e.g. Mainland China, Australia and the UK

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Legislative and Regulatory Framework

- Mainly require amendments to:
 - The Securities and Futures Ordinance (“SFO”)
 - The New Companies Ordinance (“New CO”)
 - The Stamp Duty Ordinance (“SDO”)
- Broad framework to be set out in primary legislation
- Details on operation and regulation of the uncertificated securities market environment to be set out in new subsidiary legislation to be made under the SFO

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Dual system for securities market

- Transitional period with a dual system (i.e. the existing paper-based system; and the proposed uncertificated securities system).
- Investors can choose to hold their securities in paper form or in uncertificated form and convert their holdings from one to the other at any time.
- Amend New CO to dispense with the need for paper certificates and paper instruments of transfer.

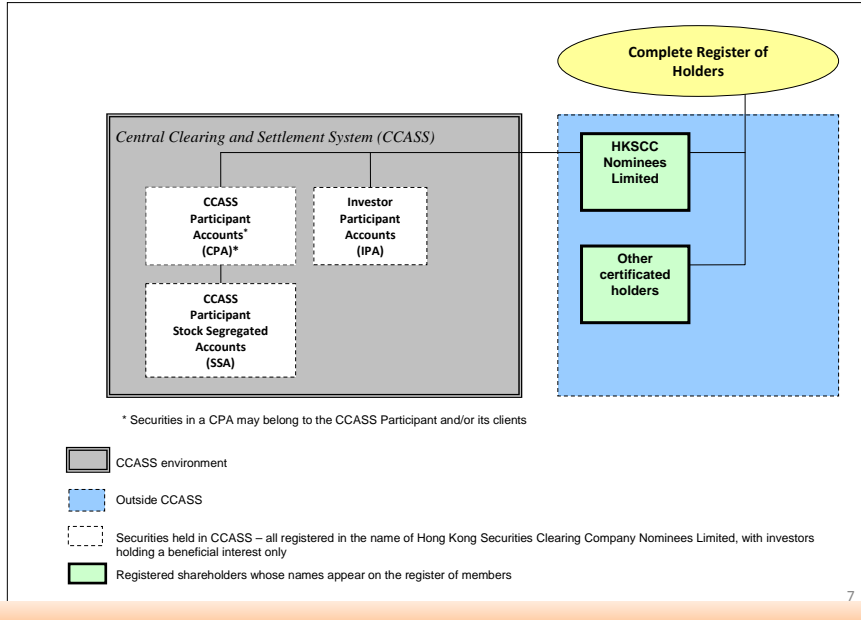
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Phased approach for implementation

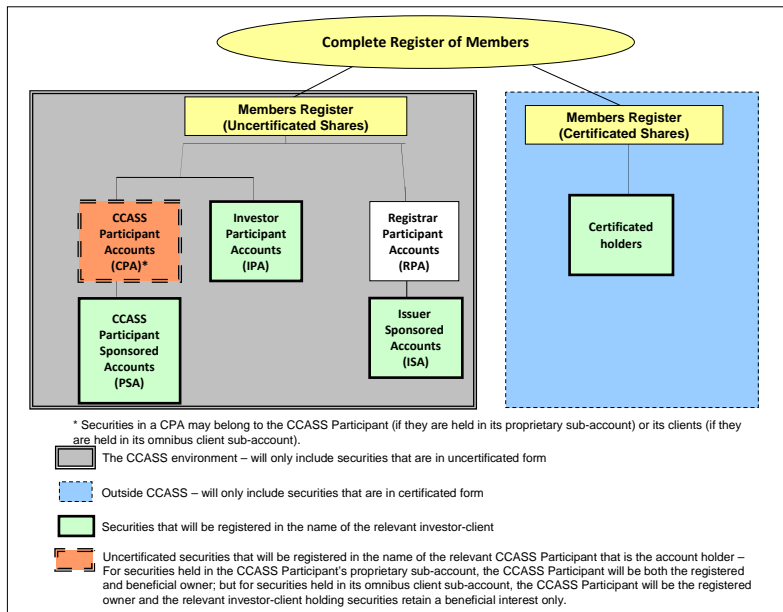
- Initial focus: shares of Hong Kong incorporated companies listed on the SEHK
- Extend to shares of companies incorporated under other jurisdictions when necessary approvals/laws of such jurisdictions are in place.

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Existing Market Structure



Proposed Operational Model



Phased approach for implementation

- Introduce new terms in the SFO and the new CO to reflect status of securities and companies -
 - **Prescribed securities:** securities that are listed or to be listed, and that are eligible to be accepted into an uncertificated securities system.
 - **Participating securities:** specific prescribed securities which have actually been accepted into the uncertificated securities system for holding and transfer through that system.
 - **Participating company:** a company that has issued any shares that are participating securities.

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Register of members of participating companies

- Register of members consist of two parts:
 - **Members register (uncertificated shares):**
Recording uncertificated shares. Kept and maintained by HKSCC.
 - **Members register (certificated shares):**
Recording certificated shares. Kept and maintained by the relevant share registrar as agent of the company.

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Register of members of participating companies

- Legislative Amendments:
 - Amend CO to re-define what constitutes the register of members in the case of a participating company.
 - Introduce new rule-making powers under the SFO to enable the SFC to provide for how the two parts of register of members are to be kept, what matters may or must be entered in them and how their contents are to be made available for inspection.

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Name on register

- Investors holding securities in CCASS (i.e. in uncertificated form) have the option to register their securities in their own names and enjoy the full benefits of legal ownership.
- Investors might also hold their securities in CCASS in the name of a nominee.

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Regulatory oversight and rules

- Regulatory and operational matters relating to the new uncertificated securities market environment be overseen by the SFC
- New Part in the SFO:
 - a. Define “prescribed securities”
 - b. Define “uncertificated securities system”
 - Such a system may only be operated by a recognized clearing house (“RCH”) approved by the SFC.
 - Existing regulatory regime for RCHs will be expanded to cover the operation of such systems.

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Regulatory oversight and rules

- SFC to make rules to provide for the operation and regulation of the uncertificated securities market environment and prescribe penalties for breach.
- SFC to authorise and regulate share registrars who wish to provide share registrar services in respect of participating companies.
- All rules made by the SFC will constitute subsidiary legislation and subject to negative vetting by the Legislative Council.

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Fees and charges

- Guiding principles:
 - Reasonable (for all parties concerned)
 - Commensurate with services provided
 - Conducive to encouraging innovation and market development
 - Contributing to the longer term benefits of a paperless environment
- Fees by an uncertificated securities system operator subject to the SFC's approval, i.e. in line with the existing legislation which requires fees charged by an RCH to be approved by the SFC.

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Stamp duty

- **\$5 fixed duty will not be charged** on transfers of participating securities which are effected without an instrument of transfer and in accordance with the Rules.
- **Ad valorem stamp duty not affected:** -
 - Ad valorem stamp duty would be collected electronically through the SEHK for all on-exchange transfers
 - Setting up of a new stamping arrangement for the collection of ad valorem stamp duty for off-Exchange transfers of participating securities where no instrument of transfer is needed

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Legislative Timetable



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The End

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