

LEGISLATIVE COUNCIL BRIEF

Companies Ordinance
(Cap.622)

Companies Ordinance (Amendment of Schedule 7) Notice 2013

Companies Ordinance (Amendment of Schedule 10) Notice 2013

Companies Ordinance (Commencement) Notice 2013

INTRODUCTION

For the implementation of the new Companies Ordinance (“CO”) (Cap.622) –

- (a) the Financial Secretary (“FS”) has, on 21 October 2013, made –
 - (i) the Companies Ordinance (Amendment of Schedule 7) Notice 2013 (Annex A) in exercise of the power under section 911(1) of the new CO; and
 - (ii) the Companies Ordinance (Amendment of Schedule 10) Notice 2013 (Annex B) in exercise of the power under section 912(2) of the new CO; and
- (b) the Secretary for Financial Services and the Treasury (“SFST”) has, on 21 October 2013, made the Companies Ordinance (Commencement) Notice 2013 (Annex C) in exercise of the power under section 1(2) of the new CO.

JUSTIFICATIONS

2. Our target is to bring the new CO into operation in the first quarter of 2014. We commenced the legislative process to put in place the relevant subsidiary legislation in January 2013, and by July 2013, 12

pieces of subsidiary legislation which provide for various procedural and technical matters have been enacted.

3. To complete the legislative exercise for the commencement of the new CO, it is necessary to make three notices which respectively seek to update Schedules 7 and 10 to the new CO and specify the date for commencement of the new CO respectively.

THE NOTICES

Companies Ordinance (Amendment of Schedule 7) Notice 2013

4. The enacted Schedule 7 to the new CO provides a list of compoundable offences. During scrutiny of the Schedule by the Bills Committee on the Companies Bill in 2011/2012, we had informed the Bills Committee of our plan to include offences relating to the display of company names and liability status as compoundable offences¹. The relevant offences are provided for in section 7(1) and (2) of the Companies (Disclosure of Company Name and Liability Status) Regulation (Cap.622B)² for local companies and section 792(1) and (2) of the new CO for non-Hong Kong companies. The Companies Ordinance (Amendment of Schedule 7) Notice 2013 will add these offences to Schedule 7 to the new CO.

Companies Ordinance (Amendment of Schedule 10) Notice 2013

5. Schedule 10 to the new CO provides for consequential amendments to various primary and subsidiary legislation arising from the new CO. The Schedule has taken into account legislation enacted up to April 2012. It is necessary to update the Schedule to include consequential amendments to legislation enacted after that date. Such amendments include, among others, the updating of references to “Cap.32” (i.e. the existing CO, which will be re-titled Companies (Winding up and Miscellaneous Provisions) Ordinance after the commencement of the new CO) in those pieces of legislation to “Cap.622” (i.e. the new CO).

¹ Paragraph 206 of the Report of the Bills Committee on the Companies Bill (LC Paper No. CB(1)2221/11-12).

² The Companies (Disclosure of Company Name and Liability Status) Regulation (Cap.622B) was approved by LegCo in March 2013.

6. The Companies Ordinance (Amendment of Schedule 10) Notice 2013 will amend Schedule 10 to the new CO by including the necessary supplementary consequential amendments to the following ordinances –

- (a) Specification of Public Offices (Cap.1C);
- (b) Professional Accountants Ordinance (Cap. 50);
- (c) Legal Aid Ordinance (Cap.91);
- (d) Banking Ordinance (Cap.155), Banking (Capital) Rules (Cap.155L) and Banking (Disclosure) Rules (Cap.155M);
- (e) Air Transport (Licensing of Air Services) Regulations (Cap.448A);
- (f) Mandatory Provident Fund Schemes Ordinance (Cap.485);
- (g) Securities and Futures Ordinance (Cap.571), Securities and Futures (Disclosure of Interests - Securities Borrowing and Lending) Rules (Cap.571X) and Securities and Futures (Disclosure of Interests - Exclusions) Regulation (Cap. 571AG);
- (h) Competition Ordinance (Cap.619);
- (i) Residential Properties (First-hand Sales) Ordinance (Cap.621); and
- (j) Statute Law (Miscellaneous Provisions) Ordinance 2012 (in respect of the Legal Services Legislation (Miscellaneous Amendments) Ordinance 1997).

7. Paragraph 6(g) refers to supplementary consequential amendments to some existing provisions in Part XV of the Securities and Futures Ordinance (Cap.571). These provisions involve the calculation of the aggregate nominal value of all the shares comprised in the relevant share capital (i.e. voting shares) of a listed corporation in which a person is interested as a percentage of the nominal value of the issued equity share capital of that listed corporation, to determine whether the person comes under a duty of disclosure. Following the abolition of nominal value (i.e. par value) of shares in a company under the new CO, we would need to align Part XV of the Securities and Futures Ordinance (Cap.571) with relevant provisions in the new CO such that the disclosure mechanism will be based on the number of voting shares rather than the nominal value of voting shares in which the person is interested. The result of the new method of calculation (based on the number of voting

shares) will be the same as the existing method of calculation (based on the nominal value of voting shares). Also the relevant existing forms used for filing disclosure of interest notices would be able to accommodate the amendments. There will therefore be no implication on a practical level to the market.

Companies Ordinance (Commencement) Notice 2013

8. Subject to completion of the legislative process for the Companies Ordinance (Amendment of Schedule 7) Notice 2013 and Companies Ordinance (Amendment of Schedule 10) Notice 2013, the new CO will be ready for commencement in the first quarter of 2014 as planned. To allow sufficient time for the public to prepare for the commencement of the new CO, the Companies Ordinance (Commencement) Notice 2013 will specify 3 March 2014 as the commencement date of the new CO.

9. The Notice seeks to bring into operation all provisions in the new CO on 3 March 2014, except for certain provisions following previous discussion with LegCo –

- (a) section 908 and Schedule 8 concerning uncertificated securities; and
- (b) relevant provisions in Parts 2, 12 and 16 of, and Schedules 2, 6 and 11 to the new CO concerning the new arrangement for inspection of usual residential addresses of company directors and full identification numbers of individuals (hereafter to be referred to as the “new inspection arrangement”).

10. Regarding section 908 and Schedule 8, as we have explained to the relevant Bills Committee during scrutiny of the Companies Bill in 2011/2012, they are re-enactment of the technical amendments set out in the Companies (Amendment) Ordinance 2010 to remove, or provide exceptions to, the limitations in the CO that compel the use of paper documents of title and paper instruments of transfer in relation to shares and debentures. We have identified and are following up other necessary amendments to the Securities and Futures Ordinance (Cap. 571), the new CO and the Stamp Duty Ordinance (Cap. 117) in order to enable the introduction of an uncertificated securities regime. We aim to introduce the relevant amendment bill in the second half of the 2013-14 legislative session. Accordingly, section 908 and Schedule 8 to the new

CO will not be brought into operation for the time being.

11. As regards the new inspection arrangement, following discussion at the meeting of the Panel on Financial Affairs on 8 April 2013³, it was agreed that the provisions concerning the new inspection arrangement would not be brought into operation together with other provisions in the new CO, and we will consider relevant matters concerning the new inspection arrangement after the new CO has commenced operation.

12. The 12 pieces of subsidiary legislation already made under the new CO as mentioned in paragraph 2 above, and the two notices for amending Schedules 7 and 10 to the new CO will commence operation on the day on which their empowering provisions come into operation. Accordingly, all the subsidiary legislation and notices will commence operation on the same date as the new CO.

LEGISLATIVE TIMETABLE

13. The three notices will be published in the Gazette on 25 October 2013 and tabled at LegCo on 30 October 2013 for negative vetting. The notices for amending schedules 7 and 10 to the new CO will come into operation on the day on which their respective empowering provisions come into operation, i.e. 3 March 2014.

IMPLICATIONS OF THE PROPOSALS

14. The notices do not have civil service, environmental, family, financial, productivity or sustainability implications. They are in conformity with the Basic Law, including the provisions concerning human rights. They will not affect the binding effect of the new CO.

15. As regards economic implications, the notices are necessary for bringing the new company law regime into operation, which will contribute to the achievement of the economic benefits as envisaged to be brought by the CO rewrite, namely to improve Hong Kong's business environment and strengthen our position as an international financial and business centre.

³ Please refer to LC Paper No. CB(1)788/12-13(01) for details.

PUBLIC CONSULTATION

16. We have informed the LegCo Panel on Financial Affairs in January 2013 of our target to bring the new CO into operation in the first quarter of 2014 when we consulted the Panel on various subsidiary legislation to be made under the new CO. We have also briefed the Panel at the same meeting on our plan to update Schedules 7 and 10 in the 2013-14 legislative session.

PUBLICITY

17. We shall issue a press release on the gazettal of the three notices on 25 October 2013, and arrange a spokesman to handle media enquiries.

18. As the commencement date of the new CO approaches, the Administration will step up publicity efforts to prepare relevant stakeholders for the implementation of the new CO. The Companies Registry will issue letters to all companies to draw their attention to the commencement date and the major changes brought by the new CO, and issue guidelines / external circulars to provide further information on specific subjects. Briefing sessions on the new CO for stakeholder groups and members of the public are being organised. There will also be announcements on the commencement of the new CO through television, radio, internet, posters and other channels nearer the time.

BACKGROUND

Rewrite of the Companies Ordinance

19. The rewrite of the existing CO aims to provide a modernised legal regime for the formation and operation of companies in Hong Kong. The Companies Bill was passed by LegCo on 12 July 2012 and it was subsequently gazetted as the new CO on 10 August 2012. This was followed by enactment of 12 pieces of subsidiary legislation between January and July 2013.

Companies Ordinance (Amendment of Schedule 7) Notice 2013

20. The new CO provides the Registrar of Companies (“Registrar”) with a new power to compound, at her discretion, specified offences as set out in Schedule 7 to the new CO. In compounding an offence, the

Registrar will give a notice to a person in breach of the relevant requirement to offer him an opportunity to rectify the default and to pay an amount to the Registrar as a compounding fee within a specified period. If that person accepts and complies with the terms of the notice, no prosecution will be initiated against him for that offence. The compounding regime is confined to straightforward, minor regulatory offences that are easily detectable by the Registrar from objective reliable evidence. Pursuant to section 911(1), FS may amend Schedule 7 by publication of a notice in the Gazette.

Companies Ordinance (Amendment of Schedule 10) Notice 2013

21. Various pieces of legislation contain references to provisions in the existing CO, in particular references to the definitions of “company”, “holding company”, “subsidiary”, etc. under the existing CO. The relocation of provisions concerning live companies from the existing CO (Cap.32) to the new CO (Cap.622) has necessitated consequential amendments to these references in the relevant legislation. On the other hand, various terms in the CO have also been updated, for example the use of “控權公司” in place of “控股公司” as the Chinese rendition of “holding company”. Moreover, the CO rewrite has introduced a number of changes to the company law regime, such as the abolition of par value of shares and the memorandum of association. Any other existing legislation which has been relying on such soon-to-be-retired concepts should be consequentially amended to align with the new CO.

22. The consequential amendments arising from the new CO are set out in two schedules to the new CO. Schedule 9 provides for the consequential amendments to the existing CO (Cap.32) and its relevant subsidiary legislation, whereas Schedule 10 provides for the consequential amendments to 480 sections/schedules in 203 pieces of other legislation which are not covered in Schedule 9. Pursuant to section 912(2) of the new CO, FS may amend Schedule 10 in respect of legislation enacted before commencement of the new CO by publication of a notice in the Gazette.

Companies Ordinance (Commencement) Notice 2013

23. Section 1(2) of the new CO provides that the Ordinance will come into operation on a day to be appointed by SFST by publication of a notice in the Gazette.

ENQUIRIES

24. Any enquiry on this LegCo Brief should be addressed to Mr Arsene Yiu, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services) at 2528 6384.

Financial Services and the Treasury Bureau
23 October 2013

**Companies Ordinance (Amendment of Schedule 7)
Notice 2013**

(Made by the Financial Secretary under section 911(1) of the Companies Ordinance (Cap. 622))

1. Commencement

This Notice comes into operation on the day on which section 911(1) of the Companies Ordinance (Cap. 622) comes into operation.

2. Companies Ordinance amended

The Companies Ordinance (Cap. 622) is amended as set out in section 3.

3. Schedule 7 amended (offences in respect of which proceedings not instituted under certain conditions)

Schedule 7, after item 6—

Add

“7. An offence under section 792(6) (in so far as it relates to the contravention of section 792(1) or (2))

8. An offence under section 7(1) or (2) of the Companies (Disclosure of Company Name and Liability Status) Regulation (Cap. 622 sub. leg. B)”.

Financial Secretary

2013

Explanatory Note

Schedule 7 to the new Companies Ordinance (Cap. 622) specifies the offences in respect of which no proceedings will be instituted under certain conditions. This Notice adds 2 items to that Schedule.

**Companies Ordinance (Amendment of Schedule 10)
Notice 2013**

Contents

| Section | Page |
|---|------|
| 1. Commencement..... | 1 |
| 2. Companies Ordinance amended | 1 |
| 3. Schedule 10, Part 2 heading amended (amendment to Specification of Public Officers (Cap. 1 sub. leg. C)) | 1 |
| 4. Schedule 10, section 2 amended (Schedule amended) | 1 |
| 5. Schedule 10, section 60 amended (section 28D amended (qualification for registration of company as corporate practice))..... | 2 |
| 6. Schedule 10, Part 22A added..... | 3 |
| 7. Schedule 10, section 132 amended (Seventh Schedule amended (minimum criteria for authorization)) | 4 |
| 8. Schedule 10, sections 136 and 137 substituted..... | 4 |
| 9. Schedule 10, sections 137A and 137B added | 4 |
| 10. Schedule 10, section 138 repealed (section 48 amended (deductions from core capital and supplementary capital)) | 5 |
| 11. Schedule 10, sections 138A, 138B and 138C added..... | 5 |
| 12. Schedule 10, section 140 repealed (section 24 amended (capital structure and adequacy))..... | 6 |

| Section | Page |
|---|------|
| 13. Schedule 10, section 142 repealed (section 45 amended (capital structure and adequacy))..... | 6 |
| 14. Schedule 10, Part 98A added..... | 6 |
| 15. Schedule 10, section 258A added..... | 8 |
| 16. Schedule 10, section 327 substituted | 8 |
| 17. Schedule 10, sections 327A, 327B and 327C added..... | 10 |
| 18. Schedule 10, section 328 substituted | 14 |
| 19. Schedule 10, sections 328A to 328J added..... | 19 |
| 20. Schedule 10, section 329A added..... | 29 |
| 21. Schedule 10, section 330A added..... | 30 |
| 22. Schedule 10, section 333 amended (section 336 amended (register of interests in shares and short positions))..... | 31 |
| 23. Schedule 10, section 333A added..... | 31 |
| 24. Schedule 10, section 337A added..... | 32 |
| 25. Schedule 10, section 338 amended (section 366 amended (power of Court of First Instance to impose restrictions on shares, etc. in case of failure to provide information required by listed corporation))..... | 32 |
| 26. Schedule 10, section 339A added..... | 33 |
| 27. Schedule 10, Part 132A added..... | 33 |
| 28. Schedule 10, section 367 amended (section 2 amended (interpretation))..... | 35 |

| Section | Page |
|---|------|
| 29. Schedule 10, sections 367A and 367B added | 35 |
| 30. Schedule 10, Parts 154A and 154B added | 36 |
| 31. Schedule 10, section 476 amended (section 2 amended (Part added)) | 40 |
| 32. Schedule 10, section 477 amended (section 5 amended (sections added)) | 41 |
| 33. Schedule 10, Part 202 repealed (amendments to Air Transport (Licensing of Air Services) (Amendment) Regulation 2011 (L.N. 158 of 2011)) | 42 |

Companies Ordinance (Amendment of Schedule 10) Notice 2013

(Made by the Financial Secretary under section 912(2) of the Companies Ordinance (Cap. 622))

1. Commencement

This Notice comes into operation on the day on which section 912(2) of the Companies Ordinance (Cap. 622) comes into operation.

2. Companies Ordinance amended

The Companies Ordinance (Cap. 622) is amended as set out in sections 3 to 33.

3. Schedule 10, Part 2 heading amended (amendment to Specification of Public Officers (Cap. 1 sub. leg. C))

Schedule 10, English text, Part 2, heading—

Repeal

“Public Officers”

Substitute

“Public Offices”.

4. Schedule 10, section 2 amended (Schedule amended)

(1) Schedule 10—

Renumber section 2 as section 2(2).

(2) Schedule 10, before section 2(2)—

Add

“(1) The Schedule, the second entry relating to the Chief Justice—

Repeal

“Companies Ordinance”

Substitute

“Companies (Winding Up and Miscellaneous Provisions) Ordinance”.

- (3) Schedule 10, after section 2(2)—

Add

- “(3) The Schedule, the first entry relating to the Registrar of Companies—

Repeal

“Companies Ordinance”

Substitute

“Companies (Winding Up and Miscellaneous Provisions) Ordinance”.

- (4) The Schedule, before the first entry relating to the Registrar of Companies—

Add

“Registrar of Companies Companies Ordinance (Cap. 622).”.

5. **Schedule 10, section 60 amended (section 28D amended (qualification for registration of company as corporate practice))**

Schedule 10, after section 60(2)—

Add

- “(2A) Section 28D(2)(a)—

Repeal

“subsection (1)”

Substitute

“subsection (1A)”.

6. **Schedule 10, Part 22A added**
Schedule 10, after Part 22—
Add

“Part 22A**Amendments to Legal Aid Ordinance (Cap. 91)**

- 81A. **Schedule 3 amended (Proceedings for which legal aid may be given under section 5A)**

- (1) Schedule 3, Part 3, paragraph 1, definition of *company*—

Repeal

“(Cap. 32)”

Substitute

“(Cap. 622)”.

- (2) Schedule 3, Part 3, paragraph 1, definition of *holding company*—

Repeal

“(Cap. 32)”

Substitute

“(Cap. 622)”.

- (3) Schedule 3, Part 3, paragraph 1, definition of *subsidiary*—

Repeal

“(Cap. 32)”

Substitute

“(Cap. 622)”.

7. **Schedule 10, section 132 amended (Seventh Schedule amended (minimum criteria for authorization))**

Schedule 10, section 132—

Repeal subsection (3).

8. **Schedule 10, sections 136 and 137 substituted**

Schedule 10—

Repeal sections 136 and 137**Substitute**

- “136. **Section 35 amended (Interpretation of Part 3)**

Section 35, Chinese text, definition of 有連繫公司, paragraph (a)—

Repeal

“控股公司”

Substitute

“控權公司”.

137. **Section 38 amended (CET1 capital)**

Section 38(1)(b), after “share premium account”—

Add

“(if any)”.

9. **Schedule 10, sections 137A and 137B added**

Schedule 10, after section 137—

Add

- “137A. **Section 39 amended (Additional Tier 1 capital)**

Section 39(1)(b), after “share premium account”—

Add

“(if any)”.

- 137B. **Section 40 amended (Tier 2 capital)**

Section 40(1)(b), after “share premium account”—

Add

“(if any)”.

10. **Schedule 10, section 138 repealed (section 48 amended (deductions from core capital and supplementary capital))**

Schedule 10—

Repeal section 138.

11. **Schedule 10, sections 138A, 138B and 138C added**

Schedule 10, at the end of Part 40—

Add

- “138A. **Section 157A amended (Provisions supplementary to section 156(2) and (5)—asset value correlation multiplier for exposures to certain financial institutions)**

Section 157A(3), Chinese text, definition of 大型受監管金融機構, paragraph (b)—

Repeal

“控股公司”

Substitute

“控權公司”.

138B. Schedule 4B amended (Qualifying criteria to be met to be Additional Tier 1 capital)

Schedule 4B, Chinese text, section 1(m) and (p)—

Repeal

“控股公司” (wherever appearing)

Substitute

“控權公司”.

138C. Schedule 4C amended (Qualifying criteria to be met to be Tier 2 capital)

Schedule 4C, Chinese text, section 1(h) and (j)—

Repeal

“控股公司” (wherever appearing)

Substitute

“控權公司”.

12. Schedule 10, section 140 repealed (section 24 amended (capital structure and adequacy))

Schedule 10—

Repeal section 140.**13. Schedule 10, section 142 repealed (section 45 amended (capital structure and adequacy))**

Schedule 10—

Repeal section 142.**14. Schedule 10, Part 98A added**

Schedule 10, after Part 98—

Add**“Part 98A****Amendments to Air Transport (Licensing of Air Services) Regulations (Cap. 448 sub. leg. A)****243A. Regulation 6 amended (Applications for licences)**Regulation 6(6), definition of *related undertaking*, paragraph (a)—**Repeal**

“the Twenty-third Schedule to the Companies Ordinance (Cap. 32)”

Substitute

“Schedule 1 to the Companies Ordinance (Cap. 622)”.

243B. Regulation 15A amended (Corporate licensees' duties to provide audited financial statements and other information)

(1) Regulation 15A(3)(a) and (b), (5)(a)(i) and (ii) and (b), (6) and (7), Chinese text—

Repeal

“控股公司” (wherever appearing)

Substitute

“控權公司”.

(2) Regulation 15A(8)—

Repeal the definition of *holding company***Substitute**“*holding company* (控權公司) has the meaning given by section 13 of the Companies Ordinance (Cap. 622) for the purposes of that Ordinance.”.

15. Schedule 10, section 258A added

Schedule 10, after section 258—

Add**“258A. Section 42AA amended (Authority or specified entity may disclose information obtained under Part 4A despite section 41)**

Section 42AA(3)(e)—

Repeal

“Companies Ordinance”

Substitute

“Companies (Winding Up and Miscellaneous Provisions) Ordinance”.

16. Schedule 10, section 327 substituted

Schedule 10—

Repeal section 327**Substitute****“327. Section 308 amended (Interpretation of Part XV)**

(1) Section 308(1), Chinese text, definition of 相聯法團, paragraph (a)—

Repeal

“控股公司” (wherever appearing)

Substitute

“控權公司”.

(2) Section 308(1), definition of *associated corporation*, paragraph (b)—**Repeal**

“nominal value” (wherever appearing)

Substitute

“number”.

(3) Section 308(1), definition of *relevant event*, paragraph (a)(iii)—**Repeal**

“share capital of a particular class becomes relevant share capital”

Substitute

“shares of a particular class become voting shares”.

(4) Section 308(1), definition of *underlying shares*, paragraph (a)(i) and (ii)—**Repeal**

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(5) Section 308(1), English text, definition of *underlying shares*, paragraph (b)—**Repeal the full stop****Substitute a semicolon.**

(6) Section 308(1)—

(a) definition of *issued equity share capital*;(b) definition of *relevant share capital*—**Repeal the definitions.**

(7) Section 308(1)—

Add in alphabetical order

“*issued voting shares* (已發行的有投票權股份), in relation to a listed corporation, means the listed corporation’s issued shares of a class which carry rights to vote in all circumstances at general meetings of the corporation;

voting shares (有投票權股份), in relation to a listed corporation—

- (a) means the listed corporation’s issued voting shares; and
- (b) includes the listed corporation’s unissued shares of a class which, if issued, would carry rights to vote in all circumstances at general meetings of the corporation.”.

(8) Section 308(2)—

Repeal

“share capital of”

Substitute

“shares in”.

(9) Section 308(6)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

17. Schedule 10, sections 327A, 327B and 327C added

Schedule 10, after section 327—

Add

“327A. Section 310 amended (Duty of disclosure: cases in which it may arise)

(1) Section 310(1)(a)—

Repeal

everything after “acquires an interest in”

Substitute

“, or ceases to be interested in, voting shares in a listed corporation (whether or not having or retaining an interest in other voting shares in the listed corporation); or”.

(2) Section 310(1)(b)—

Repeal

“comprised in a listed corporation’s share capital of any description”

Substitute

“of any description in a listed corporation”.

(3) Section 310(2)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(4) Section 310(2)(b)—

Repeal

everything after “interested in”

Substitute

“a listed corporation’s shares of a particular class at the time when the listed corporation’s shares of that class become voting shares; or”.

- (5) Section 310(2)(c)—
Repeal
 “shares comprised in the relevant share capital of”
Substitute
 “voting shares in”.
- (6) Section 310(3)—
Repeal
 “shares comprised in the relevant share capital of”
Substitute
 “voting shares in”.
- (7) Section 310(4)(a)—
Repeal
 everything after “, a short position in”
Substitute
 “voting shares in a listed corporation (whether or not having or retaining a short position in other voting shares in the listed corporation); or”.
- (8) Section 310(4)(b)—
Repeal
 “comprised in a listed corporation’s share capital of any description”
Substitute
 “of any description in a listed corporation”.
- (9) Section 310(5) and (6)—
Repeal
 “shares comprised in the relevant share capital of”
Substitute

“voting shares in”.

327B. Section 311 amended (Interests to be disclosed)

- (1) Section 311(1)—
Repeal
 “shares comprised in the relevant share capital of”
Substitute
 “voting shares in”.
- (2) Section 311(2)—
Repeal
 “shares comprised in the relevant share capital of”
Substitute
 “voting shares in”.
- (3) Section 311(2)—
Repeal
 “shares so comprised”
Substitute
 “such voting shares”.
- (4) Section 311(3)—
Repeal
 everything after “when”
Substitute
 “the aggregate number of voting shares in the listed corporation concerned in which the person is interested, when expressed as a percentage of the number of issued voting shares in the listed corporation at that time, is equal to or more than the notifiable percentage level for the time being”.

327C. Section 312 amended (Short positions to be disclosed)

Section 312—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

18. Schedule 10, section 328 substituted

Schedule 10—

Repeal section 328**Substitute****“328. Section 313 amended (Circumstances in which duty of disclosure arises)**

(1) Section 313(4)(a)(i)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(2) Section 313(4)(a)—

Repeal

“shares so comprised” (wherever appearing)

Substitute

“such voting shares”.

(3) Section 313(4)(b) and (c)—

Repeal

“shares so comprised” (wherever appearing)

Substitute

“such voting shares”.

(4) Section 313(5)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(5) Section 313(6)(b)—

Repeal

“shares so comprised immediately before”

Substitute

“voting shares in the listed corporation concerned immediately before”.

(6) Section 313(6)(b)—

Repeal

“shares so comprised immediately after”

Substitute

“such voting shares immediately after”.

(7) Section 313(7)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(8) Section 313(7)(a)—

Repeal

“shares so comprised”

- Substitute**
“such voting shares”.
- (9) Section 313(7)(b)(i) and (ii)—
Repeal
“shares so comprised”
Substitute
“such voting shares”.
- (10) Section 313(8)—
Repeal
“shares comprised in the relevant share capital of”
Substitute
“voting shares in”.
- (11) Section 313(8)—
Repeal
“nominal value of all the shares”
Substitute
“number of all the voting shares”.
- (12) Section 313(8)—
Repeal
“nominal value of the shares”
Substitute
“number of the voting shares”.
- (13) Section 313(8)(a)—
Repeal
“shares so comprised”
Substitute

- “such voting shares”.
- (14) Section 313(8)(b)—
Repeal
“shares so comprised at the time”
Substitute
“such voting shares at the time”.
- (15) Section 313(8)(b)(i) and (ii)—
Repeal
“shares so comprised”
Substitute
“such voting shares”.
- (16) Section 313(9)(a)—
Repeal
“shares comprised in the relevant share capital of”
Substitute
“voting shares in”.
- (17) Section 313(9)(a)—
Repeal
“shares so comprised”
Substitute
“such voting shares”.
- (18) Section 313(9)(b)(i) and (ii)—
Repeal
“shares so comprised”
Substitute
“such voting shares”.

- (19) Section 313(10), (11) and (12), Chinese text—

Repeal

“控股公司” (wherever appearing)

Substitute

“控權公司”.

- (20) Section 313(13)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (21) Section 313(13)(b)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (22) Section 313(13)(c)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (23) Section 313(13)(d)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (24) Section 313(13), English text—

Repeal

“shares so comprised—”

Substitute

“such voting shares—”.

- (25) Section 313(13)(i), (ii), (iii) and (iv), Chinese text—

Repeal

“該等股份” (wherever appearing)

Substitute

“上述有投票權股份”.

- (26) Section 313(13)(v), Chinese text—

Repeal

“控股公司”

Substitute

“控權公司”.

- (27) Section 313(13)(v), Chinese text—

Repeal

“該等” (wherever appearing)

Substitute

“上述有投票權”.

19. Schedule 10, sections 328A to 328J added

Schedule 10, after section 328—

Add**“328A. Section 314 amended (Percentage level in relation to notifiable interests and short positions)**

- (1) Section 314(1)—

Repeal

“nominal value of all the shares comprised in the relevant share capital of”

Substitute

“number of all the voting shares in”.

- (2) Section 314(1)—

Repeal

“nominal value of the issued equity share capital of”

Substitute

“number of issued voting shares in”.

- (3) Section 314(2)—

Repeal

“shares comprised in its relevant share capital, the nominal value of the issued equity share capital of”

Substitute

“voting shares, the number of issued voting shares in”.

- (4) Section 314(2)(a)—

Repeal

“nominal value of the issued equity share capital of”

Substitute

“number of issued voting shares in”.

- (5) Section 314(2)(b)—

Repeal

“nominal value of the new shares”

Substitute

“number of new voting shares”.

- (6) Section 314(3)—

Repeal

“nominal value of shares comprised in the relevant share capital of”

Substitute

“number of voting shares in”.

- (7) Section 314(3)—

Repeal

everything after “has in”

Substitute

“such voting shares which, if included in the calculation of the aggregate number of such voting shares in which the person is interested, would reduce the aggregate number of such voting shares.”.

- (8) Section 314(4)—

Repeal

“nominal value of all the shares comprised in the relevant share capital of”

Substitute

“number of all the voting shares in”.

- (9) Section 314(4)—

Repeal

“nominal value of the issued equity share capital of”

Substitute

“number of issued voting shares in”.

- (10) Section 314(5)(a)—

Repeal

“nominal value of shares comprised in the relevant share capital of”

Substitute

“number of voting shares in”.

(11) Section 314(5)(a)—

Repeal

“nominal value of the shares comprised”

Substitute

“number of the voting shares”.

(12) Section 314(5)(b)—

Repeal

everything after “this section to” and before “in each”

Substitute

“a percentage of the number of the listed corporation’s issued voting shares is to be construed as a reference to a percentage of the number of the issued voting shares”.

(13) Section 314(6)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

328B. Section 317 amended (Agreement to acquire interests in particular listed corporation)

Section 317(1), (2) and (3)—

Repeal

“shares comprised in the relevant share capital of”
(wherever appearing)

Substitute

“voting shares in”.

328C. Section 318 amended (Interests of parties to agreement)

Section 318(1), (2) and (3)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

328D. Section 319 amended (Duty of parties to agreement acting together to keep each other informed)

(1) Section 319(1)(b)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(2) Section 319(2)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(3) Section 319(3)—

Repeal

“shares (if any) comprised in the relevant share capital of”

Substitute

“voting shares (if any) in”.

328E. Section 320 amended (Circumstances in which persons have interests in shares or short positions by attribution)

- (1) Section 320(1)(a)—

Repeal

everything after “interest in” and before “includes”

Substitute

“, or ceasing to be interested in, voting shares in a listed corporation”.

- (2) Section 320(1)(a), Chinese text, before “權益；”—

Add

“股份”.

- (3) Section 320(1)(b)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (4) Section 320(1)(c)—

Repeal

everything after “coming to have a short position in” and before “includes”

Substitute

“, or ceasing to have a short position in, voting shares in a listed corporation”.

- (5) Section 320(2)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (6) Section 320(2)(b)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (7) Section 320(2)(c)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (8) Section 320(3)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (9) Section 320(3)(b) and (c)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (10) Section 320(4)(a), Chinese text—

Repeal

“有關股本中的”

Substitute

“的有投票權”.

- (11) Section 320(5), Chinese text—

Repeal

“有關股本中的”

Substitute

“的有投票權”。

328F. Section 321 amended (Notification by agents)

- (1) Section 321(a)—

Repeal

“shares comprised in relevant share capital of”

Substitute

“voting shares in”。

- (2) Section 321(b)—

Repeal

“shares so comprised”

Substitute

“such voting shares”。

328G. Section 322 amended (Interests and short positions to be taken into account for the purpose of notification)

- (1) Section 322(1)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”。

- (2) Section 322(9)—

Repeal

everything after “or absolute”

Substitute a full stop.

- (3) Section 322(11) and (12)—

Repeal

everything after “the stock futures contract”

Substitute a full stop.

- (4) Section 322(13)—

Repeal

everything after “or otherwise”

Substitute a full stop.**328H. Section 323 amended (Interests and short positions to be disregarded for the purpose of notification)**

Section 323(1)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”。

328I. Section 324 amended (Notification to be given)

- (1) Section 324(1)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”。

- (2) Section 324(1)(b)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

328J. Section 326 amended (Particulars to be contained in notification)

- (1) Section 326(1)(a)(ii)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (2) Section 326(1)(b)(i)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (3) Section 326(1)(b)(ii)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (4) Section 326(1)(c)(i)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (5) Section 326(1)(c)(ii)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (6) Section 326(1)(e), (g), (h) and (i)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

20. Schedule 10, section 329A added

Schedule 10, after section 329—

Add

“329A. Section 329 amended (Power of listed corporation to investigate ownership of interests in its shares, etc.)

- (1) Section 329(1)(a)—

Repeal

“shares comprised in its relevant share capital”

Substitute

“its voting shares”.

- (2) Section 329(1)(b)—

Repeal

“shares comprised in its relevant share capital”

Substitute

“its voting shares”.

- (3) Section 329(1)(c)—

Repeal

“shares comprised in its relevant share capital”

Substitute

“its voting shares”.

- (4) Section 329(8)—

Repeal

“comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (5) Section 329(8)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

- (6) Section 329(8)—

Repeal

“be so comprised”

Substitute

“be such voting shares”.

21. Schedule 10, section 330A added

Schedule 10, after section 330—

Add

“330A. Section 331 amended (Listed corporation to investigate ownership of interests in its shares, etc. on requisition by members)

Section 331(1)—

Repeal

everything after “requisition,”

Substitute

“in aggregate not less than 10% of the total number of issued voting shares in the corporation.”.

22. Schedule 10, section 333 amended (section 336 amended (register of interests in shares and short positions))

Schedule 10, after section 333(1)—

Add

“(1A) Section 336(10)(b)(i)(A)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

23. Schedule 10, section 333A added

Schedule 10, after section 333—

Add

“333A. Section 338 amended (Removal of entries from register)

(1) Section 338(1)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(2) Section 338(2)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(3) Section 338(2)—

Repeal

“shares so comprised”

Substitute

“such voting shares”.

24. Schedule 10, section 337A added

Schedule 10, after section 337—

Add

“337A. Section 363 amended (Expenses of investigation of affairs of corporation)

Section 363(1)(d)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

25. Schedule 10, section 338 amended (section 366 amended (power of Court of First Instance to impose restrictions on shares, etc. in case of failure to provide information required by listed corporation))

(1) Schedule 10—

Re-number section 338 as section 338(2).

(2) Schedule 10, before section 338(2)—

Add

“(1) Section 366(1)(a)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

26. Schedule 10, section 339A added

Schedule 10, after section 339—

Add

“339A. Section 377 amended (Rules by Commission)

Section 377(a) and (c)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

27. Schedule 10, Part 132A added

Schedule 10, after Part 132—

Add

“Part 132A**Amendments to Securities and Futures
(Disclosure of Interests—Securities Borrowing
and Lending) Rules (Cap. 571 sub. leg. X)****356A. Section 2 amended (Interpretation)**

- (1) Section 2(1), definition of *equivalent shares*, after “nominal value”—

Add

“(if any)”.

- (2) Section 2(1), definition of *shares*—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

- (3) Section 2(1), definition of *shares*, paragraph (a)—

Repeal

“the shares so comprised”

Substitute

“such voting shares”.

- (4) Section 2(1), English text, definition of *short position*—

Repeal the full stop**Substitute a semicolon.**

- (5) Section 2(1)—

Repeal the definition of *relevant share capital*.

- (6) Section 2(1)—

Add in alphabetical order

“*voting shares* (有投票權股份) has the meaning given by section 308 of the Ordinance.”.

28. **Schedule 10, section 367 amended (section 2 amended (interpretation))**

- (1) Schedule 10—

Renumber section 367 as section 367(2).

- (2) Schedule 10, before section 367(2)—

Add

“(1) Section 2, English text, definition of *trading day*, paragraph (d)—

Repeal the full stop**Substitute a semicolon.”.**

- (3) Schedule 10, after section 367(2)—

Add

“(3) Section 2—

Repeal the definition of *relevant share capital*.

- (4) Section 2—

Add in alphabetical order

“*voting shares* (有投票權股份) has the meaning given by section 308 of the Ordinance.”.

29. **Schedule 10, sections 367A and 367B added**

Schedule 10, Part 139, after section 367—

Add

“367A. Section 3 amended (Prescribed interests and short positions to be disregarded for the purpose of notification)

Section 3(1)—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

367B. Section 5 amended (Exclusion from requirements for notification in certain circumstances of change in nature of interest)

(1) Section 5—

Repeal

“shares comprised in the relevant share capital of”

Substitute

“voting shares in”.

(2) Section 5—

Repeal

“the shares so comprised”

Substitute

“such voting shares”.

30. Schedule 10, Parts 154A and 154B added

Schedule 10, after Part 154—

Add**“Part 154A****Amendments to Competition Ordinance (Cap. 619)****401A. Section 2 amended (Interpretation)**(1) Section 2(1), definition of *company*—**Repeal**

“(Cap. 32)”

Substitute

“(Cap. 622)”.

(2) Section 2(1), definition of *company*—**Repeal**

“Part IX of that Ordinance”

Substitute

“Part IX of the Companies Ordinance (Cap. 32) as in force from time to time before the commencement date of section 2 of Schedule 9 to the Companies Ordinance (Cap. 622) or under Part 17 of the Companies Ordinance (Cap. 622)”.

401B. Schedule 8 amended (Consequential and related amendments)

(1) Schedule 8, Part 1, heading—

Repeal

“COMPANIES ORDINANCE”

Substitute

“COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE”.

- (2) Schedule 8, section 1(1)—
Repeal
 “Companies Ordinance”
Substitute
 “Companies (Winding Up and Miscellaneous Provisions) Ordinance”.
- (3) Schedule 8, section 3—
Repeal
 “Companies Ordinance (“CO”)”
Substitute
 “Companies (Winding Up and Miscellaneous Provisions) Ordinance (*C(WUMP)O*)”.
- (4) Schedule 8, English text, section 3—
Repeal
 “CO” (wherever appearing)
Substitute
 “C(WUMP)O”.

Part 154B

Amendments to Residential Properties (First-hand Sales) Ordinance (Cap. 621)

- 401C. Section 2 amended (Interpretation)**
- (1) Section 2(1), definition of *corporation*, paragraph (a)—
Repeal
 “(Cap. 32)”
Substitute

- “(Cap. 622)”.
- (2) Section 2(1), definition of *holding company*—
Repeal
 “(Cap. 32)”
Substitute
 “(Cap. 622)”.
- (3) Section 2(1), definition of *subsidiary*—
Repeal
 “(Cap. 32)”
Substitute
 “(Cap. 622)”.
- 401D. Section 59 amended (Contents of, and entries in, Register of Transactions)**
- (1) Section 59(8), definition of *manager*—
Repeal
 “(Cap. 32)”
Substitute
 “(Cap. 622)”.
- (2) Section 59(8), definition of *private company*—
Repeal
 “section 29(1) of the Companies Ordinance (Cap. 32)”
Substitute
 “section 11 of the Companies Ordinance (Cap. 622)”.
- 401E. Section 84 amended (Liability of officers etc. for offence committed by corporation or specified body)**
- Section 84(3), definition of *officer*, paragraph (a)—

Repeal

“(Cap. 32)”

Substitute

“(Cap. 622)”.

401F. Schedule 1 amended (Information in sales brochure)

- (1) Schedule 1, section 3(6), definition of
- listed company*
-

Repeal

“(Cap. 32)”

Substitute

“(Cap. 622)”.

- (2) Schedule 1, section 3(6), definition of
- private company*
-

Repeal

“section 29(1) of the Companies Ordinance (Cap. 32)”

Substitute

“section 11 of the Companies Ordinance (Cap. 622)”.

31. Schedule 10, section 476 amended (section 2 amended (Part added))

Schedule 10, after section 476(11)—

Add

- “(12) Section 2, new section 7L, heading—

Repeal

“applies”

Substitute

“etc. apply”.

- (13) Section 2, new section 7L(1)—

Repeal

everything after “subsection (2),”

Substitute

“the following Ordinances apply in relation to a company that is a solicitor corporation—

- (a) the Companies Ordinance (Cap. 622);
-
- (b) the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32).”.

- (14) Section 2, new section 7L(2)—

Repeal

“114C(1) of the Companies Ordinance (Cap. 32)”

Substitute

“596(1) of the Companies Ordinance (Cap. 622)”.

32. Schedule 10, section 477 amended (section 5 amended (sections added))

- (1) Schedule 10—

Renumber section 477 as section 477(3).

- (2) Schedule 10, before section 477(3)—

Add

- “(1) Section 5, new section 39BA(3)—

Repeal

“register of non-Hong Kong companies”

Substitute

“Companies Register”.

- (2) Section 5, new section 39BA—

Repeal subsection (8)

Substitute

“(8) In this section—

Companies Register (公司登記冊) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622);

company (公司) means a company formed and registered under the Companies Ordinance (Cap. 622) or under a former Companies Ordinance as defined by section 2(1) of the Companies Ordinance (Cap. 622);

constitution (章程), in relation to a foreign lawyer corporation that is a company, means the articles of association of the company;

non-Hong Kong company (非香港公司) has the meaning given by section 2(1) of the Companies Ordinance (Cap. 622).”.

33. Schedule 10, Part 202 repealed (amendments to Air Transport (Licensing of Air Services) (Amendment) Regulation 2011 (L.N. 158 of 2011))

Schedule 10—

Repeal Part 202.

Financial Secretary

2013

Explanatory Note

Schedule 10 to the new Companies Ordinance (Cap. 622) contains consequential and related amendments to Ordinances and subsidiary legislation other than the existing Companies Ordinance (Cap. 32) and its subsidiary legislation.

2. This Notice amends that Schedule by incorporating additional consequential and related amendments, including those necessitated by legislative changes since the enactment of that Schedule. It also repeals obsolete provisions in that Schedule and makes miscellaneous amendments.

Companies Ordinance (Commencement) Notice 2013

Under section 1(2) of the Companies Ordinance (Cap. 622), I appoint 3 March 2014 as the day on which the following provisions of the Ordinance come into operation—

- (a) Parts 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 18, 19 and 21;
- (b) Part 2, except—
 - (i) section 27(3), (4), (5) and (6) in so far as it relates to a director or reserve director; and
 - (ii) sections 47, 49, 50, 51 and 52 and Subdivision 2 of Division 7;
- (c) Part 12, except—
 - (i) section 643(1)(a)(ii), (2)(b) and (3)(b) in so far as it relates to a correspondence address; and
 - (ii) sections 643(5), 644, 645(5), 647(4) and (5), 651 and 657(2)(g);
- (d) Part 16, except sections 791(4) and 802(4) and (5);
- (e) Part 20, except section 908;
- (f) Schedules 1, 3, 4, 5, 7, 9 and 10;
- (g) Schedule 2, except section 3(1)(a)(iii) and (2);
- (h) Schedule 6, except sections 3 and 4;
- (i) Schedule 11, except section 115.

Secretary for Financial Services and
the Treasury

2013