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G6/123/4C (2003) Pt. 13

15 October 2003

Miss Monna Lai  
Assistant Legal Adviser  
Legal Service Division  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road  
Central

Dear Miss Lai,

**Companies (Amendment) Bill 2003**  
**Schedule 1 – Amendments to the Companies Ordinance**  
**Relating to Prospectuses**

I refer to your letter of 9 October 2003 and would like to set out below our response to your comments on Schedule 1 to the Companies (Amendment) Bill 2003.

**The new section 2**

2. In the proposed new section 2(1), “prospectus” means “any prospectus, notice, circular, brochure, advertisement or other document offering any shares in or debentures of a company.....” In section 2(1) of the Companies Ordinance, “document” **includes** summons, notice, order, and other legal process, and registers. The definition uses the word “includes” which has the effect of extending the definition that otherwise applies, but does not limit it. Therefore, section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) is relevant to the definition of “document”. Under section 3 of Cap. 1, “document” means “any publication and any matter written, expressed or described upon any substance by means of letters, characters, figures or marks”. We are satisfied that the current definition is sufficiently wide to cover prospectuses issued in printed and/or electronic forms.

## **Section 342D**

3. We are giving detailed consideration to your comments on the level of penalties to be imposed under sections 38(3), 38AA(4), 342AB and 342D and would revert when ready.

Yours sincerely,

(Mrs Dorothy Ma)  
for Secretary for Financial Services and  
the Treasury

c.c. Clerk to Bills Committee (Attn: Ms Anita Sit)

DoJ (Attn.: Mr John Wilson  
Mr Allen Lai  
Miss Carmen Chu)

SFC (Attn.: Mr Ashley Alder  
Mr William Pearson  
Ms Sonia Leung)

Internal

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