

LS/B/40/02-03
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2877 5029

Secretary for Financial Services
and the Treasury
Financial Services and the Treasury Bureau
(Attn: Mrs Dorothy MA, PAS (FS) 1)
18/F, Tower 1
Admiralty Centre
18 Harcourt Road
Hong Kong

By Fax (2861 1494) and By Post

25 November 2003

Dear Mrs MA

Companies (Amendment) Bill 2003

I refer to your draft Committee Stage Amendments to the above Bill and enclose my comments on sections 38A(8)(b), 342A(8)(b) and 342CC(b)(iv) and section 12(a) of Part I of the 17th Schedule.

Please also let me have your reply to my query raised in my letter dated 10 September 2003 on the power of the Commission to suspend or withdraw the exemption granted under section 38A as soon as possible.

It is appreciated that your reply in both Chinese and English could reach us as soon as possible.

Yours sincerely

(Monna LAI)
Assistant Legal Adviser

Encl

表它認為適當的關於根據第(1)款批給、暫時撤銷或撤回豁免的詳情。”。

(7) 凡監察委員會擬 一

(a) 根據第(2)款發出豁免公
告；或

(b) 根據第(5)款作出修訂命
令；

它須以它認為適當的方式發表該擬發出的公告
或擬作出的命令的草擬本，以邀請公眾就該擬
發出的公告或擬作出的命令作出申述。

(8) 凡監察委員會在根據第(7)款就
該款所述的公告或命令發表草擬本後，發出該
公告或作出該命令，它須 一

(a) 以它認為適當的方式發表
報告，以概括用詞列
出 一

(i) 就該草擬本所作
出的申述；及

(ii) 監察委員會對該
等申述的回應；
及

(b) (如該公告或命令在刊登？
前經過修改，而監察委員
會認為該等修改導致該公
告或命令與草擬本有重大
差異)以它認為適當的方
式發表該等差異的細節。

(9) 如監察委員會認為在有關個案的

(b) where the notice or order is
issued
published with modifications
which in the opinion of the
Commission result in the notice or
order being significantly
different from the draft, publish
in such manner as it considers
appropriate, details of the
difference.

(9) Subsections (7) and (8) do not apply if
the Commission considers, in the
circumstances of the case, that -

(a) it is inappropriate or unnecessary
that such subsections should apply;

or

(b) any delay involved in complying
with such subsections would not
be -

(i) in the interest of the

(6) 監察委員會須藉聯機媒介，發表它認為適當的關於根據第(1)款批給、暫時撤銷或撤回豁免的詳情。”。

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(a) 根據第(2)款發出豁免公
告；或

(b) 根據第(5)款作出修訂命
令。

它須以它認為適當的方式發表該擬發出的公告
或擬作出的命令的草擬本，以邀請公眾就該擬
發出的公告或擬作出的命令作出申述。

(8) 凡監察委員會在根據第(7)款就
該款所述的公告或命令發表草擬本後，發出該
公告或作出該命令，它須 一

(a) 以它認為適當的方式發表
報告，以概括用詞列
出 一

(i) 就該草擬本所作
出的申述；及

(ii) 監察委員會對該
等申述的回應；
及

(b) (如該公告或命令在刊登)
前經過修改，而監察委員
會認為該等修改導致該公
告或命令與草擬本有重大
差異)以它認為適當的方
式發表該等差異的細節。

mentioned in subsection (7), after a draft is published under that subsection in relation to the notice or order, it shall -

(a) publish, in such manner as it considers appropriate, an account setting out in general terms -

(i) the representations made on the draft;

and

(ii) the response of the Commission to the representations; and

(b) where the notice or order is ^{Issued?} published with modifications which in the opinion of the Commission result in the notice or order being significantly different from the draft, publish, in such manner as it considers appropriate, details of the difference.

(9) Subsections (7) and (8) do not apply if the Commission considers, in the circumstances of the case, that -

(a) it is inappropriate or unnecessary that

Where any document (howsoever described), other than a prospectus, is required under this Part to be submitted to the Registrar by a company incorporated outside Hong Kong, the requirement shall be deemed to be satisfied by the submission to the Registrar of a copy of the document certified -

(a) to be a true copy of the document; and

(b) by -

- (i) ~~a director or secretary of the company or an agent of the director or secretary authorized in writing for the purpose by the director or secretary~~ a member of the governing body of the company;
- (ii) the secretary of the company;
- (iii) an agent of a member of the governing body or secretary of the company, authorized in writing for the purpose by the member or secretary-;¹⁵
- ~~(ii)~~ (iv) a solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap. 159) or a professional accountant within the meaning ^{of section 2} of the Professional Accountants Ordinance (Cap. 50); or

¹⁵ Technical amendment for greater clarity and consistency in response to the comment of the Assistant Legal Advisor to the Bills Committee via her letter dated 10 September 2003. The requisite party "a director" making certified copy is changed to "a member of the governing body" so as to be consistent with the wording adopted under section 342C(3).

11. An offer -

(a) in respect of -

(i) an exchange of shares in the same company which does not result in an increase in the issued share capital of the company; or

(ii) an exchange of debentures of the same company which does not result in an increase in the aggregate principal amount outstanding under the debentures; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

12. An offer -

(a) ^{IN} connection with a collective investment scheme authorized under section 104 of the Securities and Futures Ordinance (Cap. 571); and

(b) in connection with which the issue of each advertisement, invitation or document has been authorized under section 105 of the Securities and Futures Ordinance (Cap. 571).