

Bills Committee on Companies Bill

Part 20 and Part 21 of the Companies Bill

PURPOSE

This paper explains the major proposals and policy issues in Part 20 (Miscellaneous) and Part 21 (Consequential Amendments, and Transitional and Saving Provisions) of the Companies Bill. It also outlines relevant overseas experience, public views received during earlier public consultations on the major proposals and our responses.

DETAILS

2. Details for each Part are contained in the Annexes:-

Annex A - Part 20 (Miscellaneous)

Annex B - Part 21 (Consequential Amendments, Transitional and Saving Provisions)

ADVICE SOUGHT

3. Members are invited to note the contents of the paper and provide their views.

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

Bills Committee on Companies Bill

Part 20 – Miscellaneous

INTRODUCTION

Part 20 (Miscellaneous) of the Companies Bill (CB) contains miscellaneous provisions that mainly re-enact provisions in the Companies Ordinance (Cap 32) (CO) that may be classified into the following categories:-

- (a) miscellaneous offences, namely the offences for false statements and for improper use of “Limited” or “有限公司” etc., based on sections 349¹ and 350² of the CO respectively;
- (b) miscellaneous provisions relating to investigation or enforcement measures, including provisions mirroring sections 306³, 351A⁴, 351B⁵ and 352⁶ of the CO, and a new power for the Registrar of Companies (the Registrar) to compound specified offences under the CB;
- (c) miscellaneous provisions relating to misconduct by an officer or auditor of a company derived from section 358⁷ of the CO; and

¹ Section 349 of the CO: “*Penalty for false statements*”.

² Section 350 of the CO: “*Penalty for improper use of “Limited”, “Corporation” or “Incorporated”*”.

³ Section 306 of the CO: “*Enforcement of duties under Ordinance by court order*”.

⁴ Section 351A of the CO: “*Limitation on commencement of proceedings*”.

⁵ Section 351B of the CO: “*Production and inspection of books where offence suspected*”.

⁶ Section 352 of the CO: “*Application of fines*”.

⁷ Section 358 of the CO: “*Power of court to grant relief in certain cases*”.

- (d) other miscellaneous provisions, such as those modelled on sections 49Q(3)(b) and (c)⁸, 354⁹, 355¹⁰, 357¹¹, 359A¹² and 360¹³ of the CO, and provisions that deal with paperless holding and transfer of shares and debentures¹⁴.

POLICY OBJECTIVES AND MAJOR PROPOSALS

2. New initiatives under this Part aim at improving the current regulatory regime and removing the anomaly relating to security for costs under the CO, namely:-

- (a) Redefining the scope of the offence for making false statements (paragraphs 4 to 7 below);
- (b) Empowering the Registrar to compound specified offences (paragraphs 8 to 28); and
- (c) Widening the categories of companies in respect of which the court may require security for costs in civil actions (paragraphs 29 to 35).

3. The details of the above proposals in Part 20 are set out in paragraphs 4 to 35 below. Members may wish to note, in particular, paragraphs 11 to 16, which set out our response to issues raised at the Bills Committee meeting on 13 May 2011 relating to the criteria for determining offences that can be compounded by the Registrar.

⁸ Section 49Q of the CO: “*Power for Chief Executive in Council to modify certain sections*”.

⁹ Section 354 of the CO: “*Saving as to private prosecutors*”.

¹⁰ Section 355 of the CO: “*Saving for privileged communications*”.

¹¹ Section 357 of the CO: “*Costs in actions by certain limited companies*”.

¹² Section 359A of the CO: “*Power to make regulations*”.

¹³ Section 360 of the CO: “*Power to amend requirements as to accounts, Schedules, tables, forms and fees*”.

¹⁴ Clause 896 and Schedule 8 of the CB. The provisions in Schedule 8 have been incorporated into the CO after enactment of the Companies (Amendment) Ordinance 2010. Implementation of the provisions would be subject to the enactment of an ordinance for a scripless securities market, the legislative exercise for which is under preparation.

Redefining the scope of the offence for making false statements (Clause 883)

Current position

4. Section 349 of the CO provides for a criminal offence where any person wilfully makes a statement to the Registrar which is false in any material particular, knowing it to be false. The requisite mental element of the offence requires proof of knowledge and wilful intent and does not cover the making of a misleading statement or making of false statements recklessly.

Proposal and key provisions in the Bill

5. **Clause 883** provides for the matters currently covered by section 349 of the CO subject to the modifications that the offence is extended to cover “a statement that is misleading, false or deceptive in any material particular” and that the mental element covers acts committed “knowingly or recklessly”.

Overseas experience

6. In other comparable common law jurisdictions such as Australia¹⁵ and Singapore¹⁶, there are similar offences which also cover misleading statements. In the UK, the similar offence covers any statement that is misleading, false or deceptive in a material particular which is committed “knowingly or recklessly”¹⁷.

Public consultation

7. We consulted the public on Part 20 during the second phase consultation of the draft CB¹⁸. Some considered that the new element of

¹⁵ Section 1308 of the Australia Corporations Act 2001 (ACA).

¹⁶ Section 401 of the Singapore Companies Act (SCA).

¹⁷ Section 1112(1) of the UKCA 2006.

¹⁸ Financial Services and the Treasury Bureau, *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).

“recklessness” under clause 883 should be defined in the CB. As the concept of “recklessness” is well established under the common law, we are not inclined to define the term “recklessly” in clause 883 statutorily.

Empowering the Registrar to compound specified offences (Clause 887)

Current position

8. The Registrar has implemented a range of administrative measures to encourage due compliance with the filing obligations under the CO in addition to prosecution for non-compliance¹⁹.

Proposal

9. To further expand the repertoire of measures to encourage due compliance with the CO filing obligations and to optimise the use of judicial resources, we propose to give the Registrar a new power to compound, at her discretion, specified offences as set out in Schedule 7 of the CB.

10. In compounding an offence, the Registrar will give a notice to a person in breach to offer him an opportunity to rectify the default by paying an amount to the Registrar as a compounding fee and remedying the breach constituting the offence 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.

Bills Committee’s enquiries at the meeting on 13 May 2011

11. At the Bills Committee meeting on 13 May 2011, Members enquired about the criteria used by the Registrar for determining the compoundable offences specified in Schedule 7.

¹⁹ These include publication of various information pamphlets, posters and external circulars to provide general guidelines on compliance. While information pamphlets are distributed to company promoters on incorporation or registration of companies, posters on compliance are placed in the public areas of the Registry. In addition, companies may also subscribe to an Annual Return e-Alert Service to receive email notifications on filing of annual returns.

12. The general principles for determining which offences should be compoundable offences were developed by an expert working group²⁰ and agreed by the Standing Committee on Company Law Reform. They are as follows:-

- (a) The compoundable offences should be limited to non-compliance of obligations that are not of serious nature, which are punishable only by a fine or a fine and a daily default fine (i.e. not imprisonment) and triable summarily (i.e. not on indictment); and
- (b) It is not appropriate to compound offences:-
 - (i) that are intermediate offences that would form part of a more serious offence;
 - (ii) that involve proof of reasonableness on the part of the person in breach; and
 - (iii) where compounding may be detrimental to members, e.g. where members may need to rely upon conviction to claim damages.

13. In accordance with these principles, we propose in the CB to confine the compounding regime to straightforward, minor regulatory offences committed by companies that are easily detectable by the Registrar from objective reliable evidence. Schedule 7 of the CB sets out the offences identified as appropriate for compounding. These are failure to engrave name on its common seal²¹, improper use of the

²⁰ Advisory Group on Inspections, Investigation and Offences and Punishment Provisions (“AG4”) which comprised representatives from the relevant professional organisations including the Hong Kong Bar Association, Law Society of Hong Kong, Hong Kong Exchange and Clearing Limited, Securities and Futures Commission, Hong Kong Institute of Certified Public Accountants, Hong Kong Institute of Chartered Secretaries and Hong Kong Institute of Directors, as well as representatives from the chambers of commerce (namely, the Hong Kong General Chamber of Commerce and the Chinese General Chamber of Commerce) and academics. For the membership list and Terms of Reference of AG4, please see http://www.fstb.gov.hk/fsb/co_rewrite/eng/advisorygroup/advisorygroup4.htm.

²¹ Clause 119(3) of the CB: offence by Hong Kong companies for failure to produce its common seal in metallic form and to engrave name on the seal.

common seal²², failure to file annual returns²³ and failure to deliver accounts²⁴.

14. Some other minor regulatory offences which have yet to be created by subsidiary legislation have also been identified for inclusion in Schedule 7 in due course²⁵, including offences for failure to paint or affix the company's name²⁶, failure to disclose the company's name, etc. in its documents²⁷, and offences in relation to issuing business letters and signing contracts wherein the name of the company is not mentioned in a proper manner²⁸. Additionally, similar offences committed by a registered non-Hong Kong company will also be included²⁹.

15. In accordance with the criteria set out above, the compounding regime will be confined to cases where there is no need to prove *mens rea*. This means that the compounding notice will be issued to the company³⁰, and it is only if the company fails to comply that we will consider approaching the directors in respect of the non-filing. If required to approach the directors, we will first issue a notice of compliance and only if the non-compliance continues will we consider prosecution of the directors.

²² Clause 119(4) of the CB: offence by officer of Hong Kong companies for improper use of the common seal.

²³ Clause 653(6) of the CB: failure to file annual returns by Hong Kong companies within the prescribed time; and clause 776(3) of the CB: failure to file annual returns by registered non-Hong Kong companies within the prescribed time.

²⁴ Clause 777(3) of the CB: failure to deliver accounts by registered non-Hong Kong companies.

²⁵ Clause 899 of the CB provides that the FS may by notice published in the Gazette amend Schedule 7.

²⁶ Section 93(3) of the CO: offence by a Hong Kong company for failure to paint or affix or keep painted or affix its name on the outside of its offices/places of businesses. The offence is to be created under the Companies (Trading Disclosures) Regulations.

²⁷ Ibid.

²⁸ Section 93(5) of the CO: offence by an officer of a Hong Kong company for issuing or authorizing the issue of any business letters, etc. or signing or authorizing the signing of any contract, etc. wherein the name of the company is not mentioned in the proper manner as required. The offence is to be created under the Companies (Trading Disclosures) Regulations.

²⁹ Clause 780(7) and (8) of the CB. This will be added to Schedule 7 at the same time as the offences applicable to local companies are added.

³⁰ Except in the case of clause 119(4) which only applies to a breach by an officer or a person on behalf of a company.

16. We are also mindful that under certain circumstances, even if breaches have been rectified, harm could have already been done as a result of late compliance with the statutory obligations (e.g. third parties might have detrimentally relied on inaccurate information on the public register due to the company's late filing of information). The proposed compounding regime therefore seeks to strike a reasonable balance between encouraging compliance and not undermining the criminal sanctions. Nevertheless, we will keep in view the enforcement of the compounding regime after implementation and consider if the list of compoundable offences would warrant expansion.

Key provisions in the Bill

17. **Clause 887** gives the Registrar a new power to compound specified offences under the CB.

18. **Clause 887(1)** provides that the Registrar may, if she has reason to believe that a person has committed an offence specified in Schedule 7, give the person a notice in writing which:-

- (a) states that the Registrar has reason to believe that the person has committed the offence and setting out the particulars of the offence;
- (b) sets out the conditions upon which no proceedings will be instituted against the person in respect of the offence, including the amount of compounding fee to be paid and the period within which the conditions have to be complied with; and
- (c) requests any other information that the Registrar thinks fit.

19. **Clause 887(2)** states that the notice may be given only before the proceedings on the offence commence. **Clause 887(3)** empowers the Registrar, by a further written notice, to extend the period within which the conditions as specified in the notice issued have to be complied

with³¹. **Clause 887(4)** provides that the notice may not be withdrawn during the period specified in the notice or the extended period.

20. **Clause 887(7)** clarifies that the payment of the compounding fee specified in the notice is not to be taken as an admission by the person of any liability for the offence alleged in the notice to have been committed by that person.

21. The specified offences that are compoundable are set out in **Schedule 7** (see paragraph 13 above). **Clause 899(1)** provides that the Financial Secretary may amend the Schedule by notice published in the Gazette.

Overseas experience

22. The UK Companies Act 2006 (UKCA 2006) also relies upon criminal sanctions to ensure compliance with company law obligations. In reviewing the company law of the UK, the Company Law Review Steering Group concluded that criminal sanctions should not, to any material extent, be replaced by a system of civil ones³².

23. Under the UKCA 2006, two administrative penalties are also provided for in addition to the criminal penalties for (a) failure to file accounts and reports³³; and (b) failure to comply with notice issued in case of failure with respect of amended articles³⁴.

³¹ It also specifies that such power of extension may be exercisable during, or after the end of, that period.

³² *Modern Company law: Completing the Structure*, paragraph 13.29; and *Modern Company Law: Final Report*, paragraph 15.4.

³³ Section 441 of the UKCA 2006 requires companies to file annual accounts by the due date with the Registrar of Companies of the UK (the UK Registrar). If this is not complied with, then under section 451 of the UKCA 2006, every person who immediately before the end of the filing period was a director of the company commits an offence and is liable on conviction to a fine and daily default fine. In addition to the criminal sanction, section 453 provides for imposition of a civil penalty on the company payable on demand. The amount to be levied depends on how late the accounts are filed. The civil penalty is in addition to any criminal liability or fine that may be imposed under section 451.

³⁴ Under section 26(3) of the UKCA 2006, a company which fails to file an updated version of its articles after making amendments thereto to the UK Registrar within the prescribed time commits a criminal offence. The UK Registrar may, instead of taking prosecution action, give notice to the company requiring compliance within 28 days (sections 27(1) and (2) of the UKCA 2006). If the company complies with the notice within the specified time, no criminal proceedings may

24. While there is no compounding regime as such under the UKCA 2006, for failure in (b) in the preceding paragraph, criminal proceedings may be avoided by compliance with the notice within the specified time and payment of the civil penalty³⁵. If, however, there is no compliance with the notice within the specified time, the offender will be liable to both the civil penalty and criminal sanction³⁶.

25. In Australia, section 1313 of the Australian Corporation Act 2001 provides for a penalty notice procedure for less serious breaches of the Act. Where the Australian Securities and Investments Commission (ASIC) has reason to believe that a person has committed a “prescribed offence”³⁷, it may issue a notice to that person stating that he has committed an offence (and its particulars) and that if he pays the penalty and (where appropriate) rectifies the breach within 21 days of the issue of the notice, ASIC would not take further action. Failure to comply with the notice in any respect may result in prosecution. This is similar to the compounding regime proposed in the CB.

26. In Singapore, the Registrar of Companies of Singapore may make an “offer” to a person who is reasonably suspected of having committed an offence under the Singapore Companies Act which is punishable only by a fine or a fine and a default penalty, to pay a sum of money in lieu of prosecution in court³⁸.

Public consultation

27. In the second phase consultation of the draft CB, there was no objection to the introduction of the compounding regime. Some suggested that the period for payment and rectification of the alleged

be brought. If the company fails to comply with that notice, it is liable to a “civil penalty” (section 27(2) of the UKCA 2006) as well as criminal liability.

³⁵ Ibid.

³⁶ *Modern Company Law: Completing the Structure*, paragraph 13.62 and *Modern Company Law: Final Report*, paragraph 15.22.

³⁷ A prescribed offence is an offence for which no penalty is prescribed in Schedule 3 or in any other provisions of the ACA. The offences are mostly strict liability regulatory offences.

³⁸ Section 409(4) of the SCA.

breach and the sum to be paid should be fixed and set out in a Schedule. Some others considered that the compounding fees should be on an escalating schedule for repeated offenders. We consider it more flexible for the Registrar to have discretion to determine the said items taking into account the circumstances of individual cases.

28. Some considered that clause 887(4) should be amended to allow a notice issued to be withdrawn where the Registrar is satisfied that the alleged breach has not been committed. As aforementioned, the compoundable offences now proposed are straightforward, minor regulatory offences that can be detected and proven by objective reliable evidence. Notwithstanding, if a company disputes whether the alleged breach has been committed, the company may contact the Companies Registry for clarification or objection.

Widening the categories of companies in respect of which the court may require security for costs in civil actions (Clause 893)

Current position

29. Section 357 (“*Costs in actions by certain limited companies*”)³⁹ of the CO only applies to a limited company which is formed and registered under the CO or an existing limited company, i.e. one formed and registered under an earlier CO. Therefore, a plaintiff which is an unlimited company or a company incorporated outside Hong Kong would not be caught by the section.

30. In a number of Hong Kong cases involving applications for security for costs against companies incorporated outside Hong Kong⁴⁰, the court recommended the amendment of section 357 of the CO to remove the anomaly that a company incorporated outside Hong Kong but

³⁹ Section 357 of the CO provides that where a limited company is a plaintiff, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if the defendant is successful in its defence, the court may require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

⁴⁰ *Insurance Co of the State of Pennsylvania v Grand Union Insurance Co Ltd* [1988] 2 HKLR 541; *Charter View Holdings (BVI) Ltd v Corona Investments Ltd & Another* [1988] 1 HKLRD 469; *Akai Holdings Ltd v Ernst & Young* [2008] 5 HKLRD 133.

having its central management and control in Hong Kong is immune from any security for costs as it is neither ordinarily resident out of the jurisdiction under Order 23 rule 1(1)(a) of the Rules of the High Court (Cap 4A) nor a company caught by section 357 of the CO.

Proposal

31. We agree that it is appropriate to widen the categories of companies in respect of which the court may require security for costs in actions. We consider that it is reasonable and just to order a foreign plaintiff to give security for costs in view of the difficulties that a defendant may encounter in enforcing a judgment against a foreign party. This also covers the loophole under Order 23 Rule 1(1)(a) of the Rules of the High Court in the situation where the plaintiff is a company incorporated outside Hong Kong but having its central management and control in Hong Kong.

32. However, we have reservations on the extension of section 357 of the CO to unlimited companies incorporated in Hong Kong. It is an established common law principle that the insolvency or poverty of a plaintiff is no ground for requiring him to give security for costs. The only exception is in the case of a limited company under section 357 of the CO. It may be argued that the policy behind section 357 of the CO is to impose a price for the privilege of limited liability and therefore the provisions are not extended to unlimited companies. As the liability of the shareholders of an unlimited company is without limitation, a costs order against an unlimited company may ultimately require payment from the shareholders.

Key provisions in the Bill

33. **Clause 893** re-enacts the matters currently in section 357 of the CO and extends the provisions to all types of companies incorporated outside Hong Kong, irrespective of whether the company is a limited or an unlimited company.

Public consultation

34. In the second phase consultation of the draft CB, some considered that unlimited companies incorporated in Hong Kong should not be excluded under clause 893. Given the reasons stated in paragraph 32 above, we consider that there is a good policy reason not to extend the provisions to unlimited companies incorporated in Hong Kong. Some considered that overseas incorporated companies should only be ordered security for costs after the court has carefully examined the company's assets, presence and records in Hong Kong. We consider that clause 893 is able to address this as it provides for discretion for the court to consider all the relevant factors in deciding whether to so order.

PUBLIC COMMENTS

35. We have consulted the public on the draft CB in two phases in December 2009 to March 2010 and May to August 2010 respectively. Part 20 was covered by the second phase consultation. The public comments on our major proposals are discussed above. For other comments on Part 20 and our response, they are set out in Appendix III to the consultation conclusions issued on 25 October 2010⁴¹.

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

⁴¹ See footnote 18.

Bills Committee on Companies Bill

**Part 21 – Consequential Amendments, and
Transitional and Saving Provisions**

INTRODUCTION

Part 21 (Consequential Amendments, and Transitional and Saving Provisions) of the Companies Bill (CB) contains technical provisions that deal with transitional and saving arrangements required for the commencement of the Bill, as well as some consequential amendments to the Companies Ordinance (Cap 32) (CO) that are necessary for the operation of the CB.

POLICY OBJECTIVES AND MAJOR PROPOSALS

2. Part 21 contains technical provisions of the following categories:–

- (a) provisions for some consequential and related amendments to the CO, etc. that are necessary for the operation of the CB (paragraph 3 below);
- (b) transitional and saving provisions for smooth transition from the existing CO to the new CO regime (paragraphs 5 and 6); and
- (c) provisions supplemental to the consequential and related amendments, and transitional and saving provisions mentioned above (paragraphs 7 to 9).

Provisions for some consequential and related amendments to the CO, etc. that are necessary for the operation of the CB (Clause 900 and Schedule 9)

3. Certain repealed CO provisions and subsidiary legislation are referred to in the CB. **Clause 900** therefore provides for the inclusion in **Schedule 9** of the necessary amendments consequent to the relevant repeals. Schedule 9¹ also includes necessary consequential amendments to the Administrative Appeals Board Ordinance (Cap 442) to allow appeals arising from the power of the Registrar of Companies (the Registrar) to direct change of company names in the CB².

4. For the bulk of the consequential amendments to the CO and other Ordinances, the Bills Committee agreed at the meeting on 14 March 2011 that they would be dealt with through Committee Stage Amendments (CSAs). We are working on the draft CSAs and aim to submit them to the Bills Committee as early as possible.

Transitional and saving provisions for smooth transition from the existing CO to the new CO regime (Clauses 901 to 907 and Schedule 10)

5. **Clause 901(1)** relates to the enactment of the transitional and saving provisions as required in respect of each Part of the Bill to enable a smooth transition from the existing CO to the new CO regime. The clause provides for the inclusion in **Schedule 10** of such transitional and saving provisions. The Chief Executive in Council is given a power under **clause 901(2)** to amend Schedule 10 by notice published in the Gazette.

6. Other transitional and saving provisions of general application are contained in **clauses 902 to 907**. For example, **clause 902(5) to (8)** allows the Registrar to specify appropriate forms for use for compliance

¹ Section 92 of Schedule 9 of the CB.

² Under clause 104(1) of the CB (Clause 104: “Registrar may direct company to change misleading and offensive name etc.”) for Hong Kong companies and clause 768(1) (Clause 768: “Registrar may serve notice to regulate use of corporate names or approved names”) for registered non-Hong Kong companies.

with filing obligations under the existing CO which have a continuing effect after the Bill commences. The purpose is to simplify the process involved in the presentation and registration of documents after the new CO is in implementation.

Provisions supplemental to the consequential and related amendments, and transitional and saving provisions mentioned above (Clauses 908 and 909)

7. **Clauses 908 and 909** contain supplemental provisions to the consequential and related amendments, and transitional and saving provisions mentioned in the preceding paragraphs.

8. **Clause 908** (“*This Part etc. not to derogate from section 23 of Cap. 1*”) clarifies that the provisions containing the consequential and related amendments, and the transitional and saving provisions are in addition to and not in derogation of section 23 of the Interpretation and General Clauses Ordinance (Cap 1) (IGCO)³, except as otherwise provided in the provisions.

9. **Clause 909** (“*Continuity of law*”) contains a general fallback transitional and saving provision. It provides that things done under the provisions of another Ordinance (including the existing CO) that are repealed and re-enacted by the CB will continue to be legally effective. It also states that references to the repealed provisions in enactments, instruments or documents are to be construed as including references to the corresponding new provisions under the Bill, and vice versa. This general fallback provision has effect subject to any specific transitional or saving provisions set out in the CB.

³ Section 23 of the IGCO provides for the effect of repeal generally, as follows:—

- “Where an Ordinance repeals in whole or in part any other Ordinance, the repeal shall not-
- (a) revive anything not in force or existing at the time at which the repeal takes effect;
 - (b) affect the previous operation of any Ordinance so repealed or anything duly done or suffered under any Ordinance so repealed;
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any Ordinance so repealed;
 - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any Ordinance so repealed; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Ordinance had not been passed.”

PUBLIC CONSULTATION

10. We have consulted the public on the draft Bill in two phases in December 2009 to March 2010⁴ and May to August 2010 respectively⁵. Given the purely technical nature of Part 21 to enable the operation of the CB provisions and transition from the existing CO to the new CO regime and the need for the Part to take account of substantive changes to the draft CB arising from the public consultations, Part 21 was not covered in the consultations.

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⁴ Financial Services and the Treasury Bureau (FSTB), *Consultation Conclusions on First Phase Consultation on the Draft Companies Bill* (August 2010) (Available at http://www.fstb.gov.hk/fsb/co_rewrite/eng/pub-press/doc/ccfp_conclusion_e.pdf).

⁵ 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).