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2 January 2019

Clerk to the Panel on Home Affairs
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road,
Central, Hong Kong
(Attn: Ms Joanne MAK)

By Email

Dear Ms MAK,

**Administrative Guidelines on
Best Practices on Building Management**

We briefed the Legislative Council Panel on Home Affairs (HA Panel) on the enhanced legislative proposals and administrative measures regarding the review of the Building Management Ordinance (Cap. 344) (BMO) in November 2017, and received general support from the Members of the HA Panel.

2. In this connection, further to the promulgation of the revised Codes of Practice (CoP) on 17 August 2018, we have also published the Administrative Guidelines on Best Practices on Building Management (Administrative Guidelines) on 1 January 2019. The Administrative Guidelines contain best practices related to different areas of building management for the reference of owners, owners' corporations (OCs), owners' committees, Deed of Mutual Covenant managers and property management companies, etc., with a view to assisting them in better fulfilling the responsibilities in managing their buildings. The Administrative

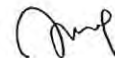
Guidelines have been uploaded to the dedicated homepage on building management of the Home Affairs Department (HAD) (hyperlink: https://www.buildingmgt.gov.hk/en/publications_and_useful_links/9_1_1.htm). The Administrative Guidelines are enclosed this letter for HA Panel Members' reference.

3. The Administrative Guidelines contain the updated best practices in building management issued by the HAD, and have incorporated the proposals in the public consultation on the review of the BMO conducted in 2014-15 and the enhanced proposals presented to the HA Panel in November 2017 by the Home Affairs Bureau and the HAD. The Administrative Guidelines cover the following areas -

- (a) formation of an OC;
- (b) procurement process, including preparation of invitation to tender, consideration and decision on acceptance of tenders and actions after the acceptance of tenders;
- (c) general meeting and use of proxy instruments, including the convening of a general meeting and issuance of notice of meeting, submission of proxy instruments, conduct of a general meeting and actions after the conclusion of a general meeting; and
- (d) financial arrangement.

4. To facilitate relevant parties in following the requirements, the HAD will also issue shortly a Checklist on Procedural Propriety, which is a checklist consolidating the requirements under the BMO and the CoP and the Administrative Guidelines. Meanwhile, the HAD will also provide to OCs in need the "Advisory Services to OCs", with a view to assisting them in complying with the requirements under the BMO and the CoP and following the Administrative Guidelines. We look forward to the continued support of the HA Panel Members on our work on the building management front.

Yours sincerely,



(Joey CHENG)
for Director of Home Affairs

Encl.

Best Practices on Building Management

(2019 Edition)

Important Notes and Disclaimer

This booklet contains **best practices** related to building management recommended to be followed by owners, owners' corporations (OCs), owners' committees (OComms), managers (including the Deed of Mutual Covenant (DMC) managers or the property management companies (PMCs)) and proxies appointed by owners under the Building Management Ordinance (Cap. 344) (BMO) (hereafter referred to as "relevant parties").

2. These best practices were in general compiled based on the proposals in the public consultation exercise on the review of the BMO conducted in 2014-15 and those presented to the Legislative Council Panel on Home Affairs in November 2017¹. Failure to comply with the best practices in this booklet **would not be treated as a non-compliance** with the BMO or the Codes of Practice (CoP) issued under section 44(1) of the BMO. Relevant parties **are required to** comply with the BMO and the CoP and are encouraged to use their best endeavour to follow these best practices.

3. Users of this booklet are advised to seek independent legal advice and assistance from lawyers should there be doubts on the application of the BMO and the CoP in individual circumstances. The Government shall not be responsible for any errors, omissions or misstatements or misrepresentations (whether expressed or implied) in any part of this booklet and shall not be held liable or accept any liability, obligation and responsibility whatsoever (including, without limitation, consequential loss or damage) arising from or in respect of any use, inability to use or misuse or reliance on this booklet.

4. The Government reserves the right to revise, omit, suspend or edit this booklet at any time in its absolute discretion without giving any reason or prior notice.

¹ Relevant parties should note that, as the proposals are intended to be introduced to the Legislative Council as the Government's proposed amendments to the BMO, the proposals may be adopted or modified during the legislative exercise. For the avoidance of doubt, statutory requirements under the BMO, including any amendments to it, shall be met.

Contents

- 1.0 FORMATION OF AN OC
- 2.0 PROCUREMENT PROCESS
- 3.0 GENERAL MEETING AND USE OF PROXY INSTRUMENTS
- 4.0 FINANCIAL ARRANGEMENT

<u>BEST PRACTICES</u>		<u>Key Action Party(ies)</u>
1.0	FORMATION OF AN OC	
1.1	The number of members of a management committee (MC) of an OC for a building containing more than 500 flats should not be less than 11.	Owners
1.2	In the course of the appointment of the MC members, a candidate running to be a member of the MC should declare at his/her nomination form / the owners' meeting, annual general meeting or general meeting before voting his/her associations (if any) with other candidates and the existing MC members (a sample form for declaration of associates is at <u>Annex A</u>). ² The declaration should be recorded in the minutes of the meeting.	Candidates Running For the MC
2.0	PROCUREMENT PROCESS	
2.1	Preparation of Invitation to Tender	
2.1.1	Procurement of any supplies, goods or services the value of which exceeds or is likely to exceed 20% of the average "audited expenditure" ³ of the past three years (if available) should be conducted by invitation to tender, even if the value does not reach the levels stipulated in section 20A(2) of the BMO.	OCs / OComms / DMC Managers / PMCs
2.2	Consideration and Decision on Acceptance of Tenders	
2.2.1	Relevant parties (if applicable) should categorise a procurement as a "large-scale procurement" if the value of the supplies, goods or services to be procured exceeds or is likely to exceed the corresponding "absolute amount" or "percentage of the average audited expenditure of the building for the past three years",	OCs / OComms / DMC Managers / PMCs

² Associates (相聯者) of a candidate may include –

(a) where the candidate is an individual –

(i) a relative;

(ii) the co-owner of the flat;

(iii) a body corporate of which (A) the composition of the board of directors; (B) more than half of its voting rights; or (C) more than half of its issued share capital, is controlled by the candidate, or which the candidate is a director;

(iv) a corporation of which the candidate is an employee or an agent; or

(v) a partner (whether an individual or a body corporate) in a partnership with the candidate;

(b) where the candidate is a body corporate –

(i) an individual who is an employee/agent of the candidate;

(ii) an associated company as defined under the Companies Ordinance (Cap. 622)

(iii) the co-owner of the flat;

(iv) a director of the body corporate; or

(v) a partner (whether an individual or a body corporate) in a partnership with the candidate.

³ For reference, the "audited expenditure" should refer to the expenditure in the "income and expenditure account" under section 27(1AA)(a) audited by the accountant retained by the OC under section 27(1A) of the BMO. OComms may refer to the "audited expenditure" of similar nature as may be arranged.

<u>BEST PRACTICES</u>			<u>Key Action Party(ies)</u>																					
<p>whichever is the lesser, as set out below –</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">No. of Flats⁴ in a Building</th> <th style="text-align: center;">Absolute Amount</th> <th style="text-align: center;">% of average audited expenditure for the past three years</th> </tr> </thead> <tbody> <tr> <td colspan="3" style="text-align: center;">Whichever is lesser</td> </tr> <tr> <td style="text-align: center;">100 or below</td> <td style="text-align: center;">\$1 million</td> <td style="text-align: center;">200%</td> </tr> <tr> <td style="text-align: center;">101 to 300</td> <td style="text-align: center;">\$3 million</td> <td style="text-align: center;">100%</td> </tr> <tr> <td style="text-align: center;">301 to 500</td> <td style="text-align: center;">\$5 million</td> <td style="text-align: center;">70%</td> </tr> <tr> <td style="text-align: center;">501 to 2 000</td> <td style="text-align: center;">\$15 million</td> <td style="text-align: center;">50%</td> </tr> <tr> <td style="text-align: center;">2 001 or above</td> <td style="text-align: center;">\$30 million</td> <td style="text-align: center;">30%</td> </tr> </tbody> </table> <p>If there is no audited expenditure of the building for the past three years, the relevant parties (if any) concerned may follow the standard as defined by the “absolute amount” only.</p>			No. of Flats⁴ in a Building	Absolute Amount	% of average audited expenditure for the past three years	Whichever is lesser			100 or below	\$1 million	200%	101 to 300	\$3 million	100%	301 to 500	\$5 million	70%	501 to 2 000	\$15 million	50%	2 001 or above	\$30 million	30%	
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<p>2.2.2 For the passage of resolutions concerning “large-scale procurement”, the relevant parties (if applicable) should use their best endeavour and encourage owners to attend the meeting concerned and vote in person.</p> <p>It is desirable for the above meeting to be attended by 20% of the owners (including owners attending the meeting personally or by proxy) or above, with at least 10% of or 400 owners (whichever is lesser) attending the meeting concerned and voting on the resolution in person.</p>	<p>Owners / OCs / OComms / DMC Managers / PMCs</p>																							
<p>2.2.3 For resolutions to be put to vote concerning “large-scale procurement” and with options “for” and “against” only, owners may, having regard to the circumstances of each resolution to be put to vote (e.g. whether the option under each resolution would be dependent on the result of some other resolutions), indicate their voting instructions to the proxies (if appointed). A template for owners to indicate their voting instructions under such scenario is in Part B at <u>Annex B</u>. Please see paragraphs</p>	<p>Owners, Proxies</p>																							

⁴ Not including any garage, carpark or carport.

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
3.2.8, 3.2.9 and 3.2.10 below for instructions.	
2.2.4 The notice of meeting concerning procurement that requires approval by a resolution passed at a general meeting of the OC should carry a conspicuous “alert” stating the estimated cost for each project, breakdown of the amount to be borne by each share, and the contribution of funds which may result from approval of the tender by each owner.	MC Secretary
2.3 Actions after the Acceptance of Tenders	
2.3.1 The minutes of the MC and OC meetings at which “large-scale procurement” is discussed should be delivered to the letter boxes of the owners or be sent to the email addresses of these owners (whichever applicable) within 28 days from the date of the meeting concerned.	MC Secretary
3.0 GENERAL MEETING AND USE OF PROXY INSTRUMENTS	
3.1 Convening of a General Meeting and Notice of Meeting	
3.1.1 Apart from giving notice of meeting as required under the BMO, the notice of meeting should be displayed in a prominent place in the building as soon as practicable, say, at least 21 days before the meeting of the OC.	MC Secretary
<p>3.1.2 The notice of meeting should state clearly –</p> <ul style="list-style-type: none"> (a) the specified statutory time within which proxy instruments should be lodged; (b) the method and location for lodging the proxy instruments (e.g. the exact location of proxy instrument collection boxes); and <p>the timing and location for the opening of proxy instrument boxes if such boxes are used, so that the owners may witness the opening and counting process.</p>	MC Secretary

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>3.1.3 In making a request by not less than 5% of the owners for convening a general meeting pursuant to paragraph 1(2) of Schedule 3 to the BMO, the owners concerned should –</p> <ul style="list-style-type: none">(a) provide a list clearly setting out the names of the owners who made such request, the flats they reside in and their signatures;(b) check that the minimum requirement of “5% of the owners” is met before making the request to the MC Chairman; and(c) appoint a person as their representative/contact point in order to facilitate better communication with the MC Chairman.	Owners
<p>3.1.4 For a general meeting of the OC requested by not less than 5% of the owners, the MC Chairman should –</p> <ul style="list-style-type: none">(a) liaise with the owners with a view to working out suitable measures to resolve the issue if a requested item has been repeatedly discussed at previous meetings of the OC but not less than 5% of the owners still request to convene a general meeting to discuss such item;(b) verify whether the request for meeting is made by not less than 5% of the owners; and(c) inform other MC Members as soon as practicable upon receipt of the request for meeting to facilitate better coordination and communication within the MC.	MC Chairman
<p>3.1.5 For a general meeting of the OC requested by not less than 5% of the owners, discussion item(s) requested by the owners should be handled first at the meeting unless the resolution(s) of the requested discussion item(s) hinge on the result of another resolution/item of business which has not been included in the owners’ request. The MC Chairman should seek clarifications with the owners concerned on their requests where necessary.</p>	MC Chairman

<u>BEST PRACTICES</u>		<u>Key Action Party(ies)</u>
3.2	Proxy Instruments⁵	
	<u>Form of Proxy Instruments</u>	
3.2.1	<p>The MC Secretary should –</p> <ul style="list-style-type: none"> (a) print the date of the meeting of the OC and a unique serial number on each of the proxy instruments to help ensure that the owners know at which meeting the appointed proxies will exercise the voting right on their behalf and to facilitate checking; (b) attach to each of the proxy instruments a statement of purposes in respect of the collection of personal data of owners and proxies (a sample of the statement of purposes is at <u>Annex C</u>); (c) attach to each of the proxy instruments “points to note” (see <u>Annex C</u>) to remind owners of the importance of their voting right; (d) attach (i) a blank proxy instrument and (ii) a form (see template at <u>Annex B</u>) allowing owners to set out voting instructions (for resolutions put to vote concerning “large-scale procurement” and with options “for” and “against” only) (see paragraphs 2.2.3 and 3.2.8) and proxies to make declarations (see paragraph 3.2.7 and 3.2.8 below) to the notice of meeting or make (i) and (ii) available at the management office; (e) distribute the proxy instruments with the “name of proxy” left blank for completion by the owners; and (f) prepare a register for owners who do not intend to appoint proxies to register and make it available for inspection by owners. 	MC Secretary

⁵ See Form 2 in Schedule 1A to the BMO for the proxy instrument. The best practices under Part 3.2 should also be applicable to meeting of the owners for the appointment of management committee and Form 1 in Schedule 1A to the BMO, with necessary and suitable adaptations to be made.

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<u>Filling in of Proxy Instruments</u>	
3.2.2 Owners should give careful consideration to the appointment of proxies and only appoint persons whom they trust to be their proxies with a view to ensuring that the proxies would act in their best interests.	Owners
3.2.3 Owners should only appoint persons aged 18 or above as proxies.	Owners
3.2.4 Owners should fill in all the required information, particularly the “name of proxy” in the proxy instruments when appointing proxies.	Owners
3.2.5 Owners should not pass their signed proxy instruments to any person without filling in the “name of proxy”.	Owners
3.2.6 If an owner receives a proxy instrument with the “name of proxy” printed on it but the owner prefers appointing another person to be his/her proxy, he/she can cross out the printed name and put down the name of his/her own proxy, with his/her signature beside the amendment.	Owners
3.2.7 When appointing a proxy, besides filling in the proxy instrument, the owner should show his/her proxy instrument to the proxy and pass the form (see template at <u>Annex B</u>) to the proxy concerned to make declaration at Part A of the form that the proxy instrument is honestly acquired from the owner. The owner and the proxy should also sign the “Statement of Purposes in respect of Collection of Personal Data” (see sample at <u>Annex B</u>).	Owners, Proxies
3.2.8 For resolutions to be put to vote concerning “large-scale procurement” and with options “for” and “against” only, in connection to paragraph 2.2.3 above, if an owner would like to set out his/her voting instructions, he/she should complete Part B of the form (see template at <u>Annex B</u>). The proxy should make declaration at Part C of the form (see template at <u>Annex B</u>) that he/she will follow the voting instructions (if any) of the	Owners, Proxies

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>owner. The owner and the proxy should also sign the “Statement of Purposes in respect of Collection of Personal Data” (see sample at <u>Annex B</u>).</p>	
<p>3.2.9 The original of the completed form (see template at <u>Annex B</u>) containing –</p> <ul style="list-style-type: none"> (a) the proxy’s declaration that the proxy instrument is honestly acquired from the owners (in Part A); (b) the owner’s voting instructions (in Part B, if any); and (c) the proxy’s declaration that he/she will follow the voting instructions of the owner (in Part C, if any) (d) the signed “Statement of Purposes in respect of Collection of Personal Data” <p>((a) to (d) above hereafter collectively referred to as “the completed form” (see template at <u>Annex B</u>) should be lodged with the MC Secretary together with the proxy instrument. For the avoidance of doubt, the completed form (see template at <u>Annex B</u>) does not form any part of the proxy instrument, which should be in the form set out in Form 2 in Schedule 1A to the BMO.</p>	<p>Owners</p>
<p>3.2.10 Upon receipt of the proxy instrument and the completed form (see template at <u>Annex B</u>) (if any), the MC Secretary (or the DMC manager/PMC assisting him/her) should –</p> <ul style="list-style-type: none"> (a) affix the chop(s) of the MC (or that of the DMC manager/PMC) on the proxy instrument and each part (Part A to Part C and the “Statement of Purposes in respect of Collection of Personal Data”) of the form that has been completed and signed. If the form is submitted by an owner in person, the MC Secretary (or the DMC manager/PMC) should affix the chop in the presence of the 	<p>MC Secretary / DMC Manager / PMC</p>

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>owner;</p> <p>(b) make a copy of the proxy instruments and the completed form (see template at <u>Annex B</u>) showing the chop(s) affixed;</p> <p>(c) keep the proxy instrument, the completed form (see template at <u>Annex B</u>) and the copies in (b) above in a safe place.</p>	
<p>3.2.11 To facilitate the following of the owners' voting instructions (see paragraph 2.2.3) by proxies, owners should give careful consideration to the necessity of appointing an alternative proxy, having regard to the circumstances and needs of each case.</p>	Owners
<p>3.2.12 Owners should, as far as possible, sign the proxy instruments using the signature as appeared on their deeds of assignment.</p>	Owners
<p>3.2.13 Owners who are body corporates should follow their constitution in authorising persons to sign on their proxy instruments.</p>	Owners
<p>3.2.14 Owners should set out their contact details (e.g. telephone numbers, e-mail addresses, etc.) on their proxy instruments so as to facilitate checking by the MC Chairman when the validity of the proxy instruments is in doubt.</p>	Owners
<p>3.2.15 The maximum number of proxy instruments a proxy (including one appointed by an owner who is a body corporate) should hold for the purpose of a particular meeting is –</p> <p>(a) for a building with not more than 20 flats⁶ – one;</p> <p>(b) for a building with more than 20 flats – not more than 5% of the owners (rounded to the nearest integer) or 50 (whichever is the lesser), and the minimum number should be one.</p>	Proxies

⁶ Not including any garage, carpark or carport.

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<u>Timing of Lodging and Collection of Proxy Instruments</u>	
3.2.16 The timing and location for collecting the proxy instruments and the opening and counting of the proxy instrument collection boxes (if any) should be convenient to all owners.	MC Secretary
3.2.17 If the DMC manager/PMC (if any) assists the MC Secretary in collecting the proxy instruments, the MC Secretary should give clear instructions to the DMC manager/PMC on the submission deadline and the collection method.	MC Secretary
3.2.18 Owners are advised to lodge their proxy instruments with the MC Secretary as early as practicable, say, at least 144 hours (i.e. at least 6 days) before the meeting, to leave sufficient time for verification by the MC Chairman.	Owners
3.2.19 Owner should personally lodge the duly completed proxy instrument together with the completed form (see template at <u>Annex B</u>) with the MC Secretary direct or deposit them in the ways as instructed by the MC Secretary, and should avoid giving them to third parties. The owner should make a copy of the signed proxy instrument, together with the completed form (see template at <u>Annex B</u>) before lodging them with the MC Secretary or depositing them.	Owners
3.2.20 The proxy instrument lodged by each owner should be the original copy.	Owners
3.2.21 The proxy instrument collection boxes (if any) should be double-locked and placed in a prominent place of the building.	MC Secretary
3.2.22 The acknowledgement of receipt of the proxy instrument should be accompanied by a copy each of – (a) the proxy instrument; and (b) the completed form (see template at <u>Annex B</u>) showing the chop(s) affixed, and should be issued to the owner concerned by leaving it at the flat of the owner who made the	MC Secretary

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>proxy instrument, or depositing it in the letter box for the flat, before the time for the holding of the meeting. For the avoidance of doubt, the issue of the acknowledgement receipt does not mean that the proxy instrument has been verified (please refer to paragraph 3.2.31 below).</p>	
<p>3.2.23 After having acknowledged receipt of a proxy instrument by leaving a receipt at the flat of the owner who made the instrument or depositing the receipt in the letter box for that flat, the MC Secretary may also hand an additional acknowledgement receipt (together with a copy each of the proxy instrument and the completed form (see template at <u>Annex B</u>)) showing the chop(s) affixed to the owner in person.</p>	MC Secretary
<p>3.2.24 Owners are advised to check whether they have received the acknowledgment receipts of the proxy instruments before the time scheduled for the holding of the meeting to ensure that the MC Secretary has received the proxy instruments. If in doubt, owners should check with the MC Secretary on the handling of the proxy instruments.</p>	Owners, MC Secretary
<u>Determination of the Validity of Proxy Instruments</u>	
<p>3.2.25 The MC Chairman should handle the proxy instruments in a fair and transparent manner and in accordance with the provisions under the BMO.</p>	MC Chairman
<p>3.2.26 In determining the validity of a proxy instrument –</p> <p>(a) if the proxy instrument is in the form set out in Schedule 1A to the BMO, the MC Chairman should not reject the proxy instrument for the sole reason that it is not the printed proxy instrument provided by the OC;</p> <p>(b) the mere act of providing additional information such as Hong Kong Identity Card number or time of signing the proxy will not render the proxy instrument invalid; and</p>	MC Chairman

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>(c) the MC Chairman should not reject the proxy instrument for the sole reason that the owner has crossed out the printed “name of proxy” and has put down the name of his/her own proxy with his/her signature.</p>	
<p>3.2.27 If the MC Chairman has determined that a proxy instrument is invalid before the meeting, he should contact the owner concerned to explain the invalidity of the proxy instrument as early as practicable so that the owner may consider whether a fresh proxy instrument should be made before the deadline⁷ or to attend the meeting in person.</p>	MC Chairman
<p>3.2.28 If there are two or more proxy instruments from the same owner with different dates for the purpose of a particular meeting of the OC, the proxy instrument with the most recent date is normally intended to supersede those with earlier dates.</p> <p>If in doubt, the MC Chairman should contact the owner concerned to clarify which proxy instrument is intended to be used by the owner. If no date is marked on the proxy instruments or if there is more than one proxy instrument marked with the same most recent date but with different proxies appointed, the MC Chairman should clarify with the owner concerned. All proxy instruments should be considered invalid if the MC Chairman has taken reasonable steps to ascertain their validity but failed.</p>	MC Chairman
<p>3.2.29 The MC Secretary should assist the MC Chairman in contacting the owners concerned for verification of proxy instruments as soon as practicable, in any event no later than the time for the holding of the meeting, if there is any query or uncertainty arising from the proxy instruments. Owners should co-operate with the MC Chairman as far as practicable to ensure that the proxies are properly appointed.</p>	MC Secretary, Owners

⁷ At least 144 hours (i.e. at least 6 days) as a best practice (see paragraph 3.2.18), and at least 48 hours before the time for the holding of the meeting (see paragraph 4(3) of Schedule 3 to the BMO).

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>3.2.30 After verification by the MC Chairman, the MC Secretary/DMC manager/PMC (where applicable) should affix the chop of the MC/DMC manager/PMC to illustrate that the proxy instruments have been verified.</p>	<p>MC Secretary / DMC manager / PMC</p>
<u>Display of Information Concerning Proxy Instruments</u>	
<p>3.2.31 The MC Secretary should give sufficient time for owners to check against the information of those flats with proxy instruments lodged (“proxy information”). The proxy information should be displayed in a prominent place of the building at least 72 hours before the meeting, be updated after the close of the lodging time provided that the proxy instruments concerned are lodged at least 48 hours before the meeting, and remain to be displayed until seven days after the meeting.</p>	<p>MC Secretary</p>
<p>3.2.32 The proxy information should be displayed in a prominent place of the building in a clear and easily readable format with appropriate font size. Where feasible, the MC Secretary should provide additional means of dissemination of the proxy information (e.g. posting on the website of the OC) to facilitate checking by the owners.</p>	<p>MC Secretary</p>
<p>3.2.33 The proxy information should also include –</p> <ul style="list-style-type: none"> (a) the total number of proxy instruments received; (b) a mark against the flat of the owner concerned who has submitted proxy instrument(s) but all have been invalidated by the MC Chairman; and (c) the total number of invalidated proxy instruments. 	<p>MC Secretary</p>
<p>3.2.34 The reason(s) for invalidation should be marked on each invalid proxy instrument and should be announced before the OC meeting, say, by displaying as part of the proxy information. For a proxy instrument which has been determined by the MC Chairman as invalid, the owner concerned, the proxy concerned, the MC Chairman and the MC Secretary (and the DMC</p>	<p>MC Secretary</p>

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>manager/PMC providing assistance), and the Authority (i.e. the Secretary for Home Affairs) and an authorized officer under the BMO should be allowed to inspect the proxy instrument.</p>	
<p>3.2.35 The MC Secretary should remind the owners to check the proxy information with a view to finding out if there are any unauthorised appointments of proxies.</p>	MC Secretary
<p>3.2.36 The MC Chairman should confirm the undivided shares under each of the verified proxy instruments for the purpose of vote counting unless the DMC specifies other mechanism for determining the owners' shares.</p>	MC Chairman
<p>3.3 Conduct of a General Meeting</p>	
<p>3.3.1 The MC Chairman should –</p> <ul style="list-style-type: none"> (a) conduct the general meeting in an orderly manner; (b) explain clearly to the owners the background and facts of the issues to be discussed; (c) allow owners to have equal opportunity to speak at the general meeting; and (d) encourage owners to express their views so as to ensure that the items are thoroughly discussed before the items are put to vote. 	MC Chairman
<p>3.3.2 The MC Secretary should –</p> <ul style="list-style-type: none"> (a) ensure the quorum of the meeting is formed before the commencement of the general meeting; (b) keep track of the number of owners coming in or leaving the venue of the general meeting to ensure that the quorum is formed before putting a resolution to vote; (c) advise the MC Chairman to adjourn the general meeting if 	MC Secretary, Proxies

<u>BEST PRACTICES</u>	<u>Key Action Party(ies)</u>
<p>the quorum is not formed;</p> <p>(d) detach and pass the voting instructions (i.e. Part B of the form at <u>Annex B</u>, please see paragraph 2.2.3 for details) (if any) made by an owner to the proxy he/she appointed. The proxy should use the part with voting instructions (i.e. Part B of the form at <u>Annex B</u>) as a ballot paper and vote in respect of the relevant resolution;</p> <p>(e) in connection to (d) above, if the proxy asks for an extra ballot paper despite the owner has given voting instructions (if any) to the proxy in advance (for details, see paragraph 2.2.3 and 3.2.8) –</p> <p style="padding-left: 40px;">(i) enquire about the reason behind; and</p> <p style="padding-left: 40px;">(ii) contact and notify the owner at once as far as practicable, or if in vain or not practicable, after the meeting.</p>	
<p>3.3.3 The MC Secretary should avoid giving a new ballot paper to a proxy in the case where voting instructions were given by the owner in respect of a “large-scale procurement”.</p>	MC Secretary
<p>3.4 Actions after the Conclusion of a General Meeting</p>	
<p>3.4.1 The MC should keep all the documents related to the appointment of proxies, i.e. –</p> <p style="padding-left: 40px;">(a) the proxy instruments; and</p> <p style="padding-left: 40px;">(b) the copies of the completed form (see template at <u>Annex B</u>) showing the chop(s) affixed;</p> <p style="padding-left: 40px;">(c) the voting instructions that were used as ballot papers (see paragraph 3.3.2(d) and <u>Annex B</u>) (if any); and</p> <p style="padding-left: 40px;">(d) the proxy information displayed</p> <p>for at least three years.</p>	MC

<u>BEST PRACTICES</u>		<u>Key Action Party(ies)</u>
<p>3.4.2 The documents related to the appointment of proxies should be made available to the following parties for inspection -</p>		<p>MC, owners, proxies</p>
Documents	Parties	
<p>Proxy instrument of a particular owner</p>	<p>The owner, the proxy concerned, the Authority, an authorized officer under the BMO, the MC Chairman and the MC Secretary (and the DMC manager/PMC providing assistance)</p> <p>Other owners (if consent from both the owner and the proxy concerned has been given)</p>	
<p>The proxy's declaration (in Part A of <u>Annex B</u>)</p>	<p>The owner and the proxy concerned, the Authority, an authorized officer under the BMO, the MC Chairman and the MC Secretary (and the DMC manager/PMC providing assistance) (the owner and the proxy concerned should sign the Statement of Purposes in respect of Collection of Personal Data in <u>Annex B</u>)</p> <p>Other owners (if consent from both the owner and the proxy concerned has been given)</p>	
<p>Proxy information displayed</p>	<p>All owners of the building, the proxies concerned and the Authority, an authorized officer under the BMO, the MC Secretary (if he is not an</p>	

<u>BEST PRACTICES</u>		<u>Key Action Party(ies)</u>
	owner), and the DMC manager/PMC (if any)	
	<p>Owner’s voting instructions (in Part B of <u>Annex B</u>; including those used as ballot papers) and the proxy’s declaration (in Part C of <u>Annex B</u>)</p> <p>The owner concerned, the proxy concerned, the Authority, an authorized officer under the BMO, the MC Chairman and the MC Secretary (and the DMC manager/PMC providing assistance) (the owner and the proxy concerned should sign the Statement of Purposes in respect of Collection of Personal Data in <u>Annex B</u>)</p> <p>Other owners (if consent from both the owner and the proxy concerned has been given)</p>	
4.0	FINANCIAL ARRANGEMENT	
4.1	For a building containing not more than 50 flats ⁸ , its OC with an annual income or expenditure of over \$100,000 is encouraged to have the financial statements (including the income and expenditure account and the balance sheet) audited by an accountant retained by the OC as may be approved by the OC by a resolution passed at a general meeting.	MC, OC

⁸ Not including any garage, carpark or carport.

**Sample Form for Declaration of Associates
by Candidates Running for the Management Committee Membership**

Note

To increase the transparency regarding the appointment of Management Committee (MC) members and to ensure that owners would be informed of any associations among candidates running for MC membership (candidates) and existing MC members, candidates should declare their associations with other candidates and the existing MC members by using this Form. Associates (相聯者) of a candidate may include –

- (a) where the candidate is an individual –
 - (i) a relative⁹;
 - (ii) the co-owner of the flat;
 - (iii) a body corporate of which (A) the composition of the board of directors; (B) more than half of its voting rights; or (C) more than half of its issued share capital, is controlled by the candidate, or which the candidate is a director;
 - (iv) a corporation of which the candidate is an employee or an agent; or
 - (v) a partner (whether an individual or a body corporate) in a partnership with the candidate;

- (b) where the candidate is a body corporate –
 - (i) an individual who is an employee/agent of the candidate;
 - (ii) an associated company as defined under the Companies Ordinance (Cap. 622)
 - (iii) the co-owner of the flat;
 - (iv) a director of the body corporate; or
 - (v) a partner (whether an individual or a body corporate) in a partnership with the candidate.

⁹ Includes the person who is related to the individual by blood (including aunt, uncle, cousin, niece, nephew), marriage (including in-laws), adoption, step-parent or step-child.

Declaration of Associates

To: the Chairman / Secretary * of the MC

I / We would like to declare the following association with other candidates / existing members of the MC –

(a) Persons / body corporates whom / which is / are my / our associates –

(b) Brief description of the association between me / us and the persons / body corporates mentioned in item (a) above –

Signature of the candidate
(the authorised person if the
candidate is a body corporate):

Name:

Date:

*[*Delete as appropriate]*

Annex B

Declaration(s) by Proxy and Owner's Voting Instructions (Sample)

(for reference only)

[Instructions: The following procedures should be followed when using this form –

- (a) when appointing a proxy, besides filling in the proxy instrument (i.e. Form 2 of Schedule 1A to the Building Management Ordinance (Cap. 344) (BMO)), the owner concerned should pass this form to the proxy for completion of and signature at **Part A**. The owner and the proxy should also sign the “Statement of Purposes in respect of Collection of Personal Data” (statement) in this document. The owner should lodge this form (with **Part A** completed and the statement signed) to the management committee (MC) Secretary together with the proxy instrument¹⁰;*
- (b) in addition to (a), if the meeting for which the proxy is appointed has resolutions to be put to vote concerning “large-scale procurement” and with options “for” and “against” only, an owner may set out his/her voting instructions by completing **Part B** of this form, and the proxy concerned should complete **Part C** of this form;*
- (c) upon receipt of this form, the MC Secretary (or the Deed of Mutual Covenant (DMC) manager/property management company (PMC) assisting the MC Secretary) should affix the chop(s) of the MC/DMC manager/PMC on each part (Part A to Part C and the statement) of the form that has been completed and signed, make a copy of this form showing the chop(s) affixed, and keep this form in a safe place;*
- (d) the acknowledgement of receipt of the proxy instrument should be accompanied by a copy each of –*
 - (i) the proxy instrument;*
 - (ii) the proxy's declaration that the proxy instrument is honestly acquired from the owner (in **Part A**);*
 - (iii) the owner's voting instructions (in **Part B**, if any);*
 - (iv) the proxy's declaration that he/she will follow the voting instructions of the owner (in **Part C**, if any); and*
 - (v) the statement*

showing the chop(s) affixed, and issued to the owner concerned by leaving it at the flat of the

¹⁰ This form does not form any part of the proxy instrument.

owner who made the instrument, or depositing it in the letter box for the flat before the time for the holding of the meeting; and

(e) when the meeting is held, **Part B** (i.e. the owner’s voting instructions) (if applicable and completed) should be detached and passed to the proxy who should use it as a ballot paper and vote on the relevant resolution.]

Part A: Proxy’s Declaration on Acquiring the Proxy Instrument (to be completed by the proxy appointed)

I, (name of proxy), holder of HKID Card No., hereby declare that the proxy instrument (serial number:) (if any) is honestly acquired from (name of owner).

Dated this day of

Signature of proxy:

Part B: Owner’s Voting Instructions (to be completed by the owner)

[Note: For practicability, this part should **only be applicable** to resolutions (a) concerning “**large-scale procurement**”; and (b) with options “**for**” and “**against**” only.]

[Note: Owners should give careful consideration to the appointment of proxies and only appoint persons whom they trust to be their proxies, with a view to ensuring that their voting instructions would be respected and be carried out.]

Name of owner:.....

Unit of building:.....

Date of Meeting:.....

Please put a ✓ in the appropriate box(es) to indicate the voting instruction(s). The owner may specify the voting instructions or in the absence of any indication, the proxy may vote on each resolution as he or she thinks fit.

Item for resolution: Item 1	For	Against
.....	<input type="checkbox"/>	<input type="checkbox"/>
Serial no.:..... Number of shares:.....	Signature of owner(s):	
Item for resolution: Item 2	For	Against
.....	<input type="checkbox"/>	<input type="checkbox"/>
Serial no.:..... Number of shares:.....	Signature of owner(s):	

Part C: Proxy’s Declaration on Following Owner’s Voting Instructions (to be completed by the proxy)

I, (name of proxy), holder of HKID Card No., hereby declare that I will follow the voting instructions (if any) of the said owner.

Dated this day of
Signature of proxy:

Statement of Purposes in respect of Collection of Personal Data (Sample)
(for reference only)

Purpose of Collection

1. This form is to be used by (a) you (the owner) to set out your voting instructions (if applicable) to your proxy (if appointed) in respect of resolutions concerning “large-scale procurement” and with options “for” and “against” only; and (b) the proxy to make declaration that the proxy instrument is honestly acquired from an owner and he/she will follow the voting instructions (if any) made by the owner for the general meeting of the owners’ corporation (OC) /the annual general meeting of the OC and any adjourned meeting (if applicable). Your proxy will form the quorum and vote on your behalf at the meeting.

2. The chairman and/or secretary of the management committee (MC) of the OC (and the DMC manager/PMC providing assistance) may follow up on the personal data you provided in this form and, if necessary, will contact you for the purpose of verifying the validity of the appointment of your proxy.
3. You, the proxy appointed, the chairman and/or the secretary of the MC (and the DMC manager/PMC providing assistance), the Authority and an authorized officer under the BMO may inspect Part A of this form.
4. Part B of this form may serve as a ballot paper for the relevant resolution(s). You, the proxy appointed, the chairman and/or the secretary of the MC (and the DMC manager/PMC providing assistance), the Authority and an authorized officer under the BMO may inspect Parts B and C of this form (and any copies of them).

Consent of your Proxy

5. You should obtain the consent of your proxy in using his/her personal data provided in this form, and provide your proxy with this statement, informing him/her of the purpose for collecting his/her personal data.

Classes of Transferees

6. The OC and its MC may disclose the personal data you and the proxy appointed provided in this form to other owners of this building for the purposes mentioned in paragraphs 2 and 3 above.

Access to Personal Data

7. You have the rights of access and correction to the personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486). Your right of access includes the right to obtain your personal data contained in this form.

Enquiries

Enquiries concerning the personal data collected by means of this form, including requests for access to and correction of data, should be directed to the MC secretary (Telephone Number: _____)

I (the owner) have read and agree with the above.

Name of owner:

Signature of owner:

I (the proxy) have read and agree with the above.

Name of proxy:

Signature of proxy:

Annex C¹¹

Points to Note to Owners when Appointing Proxies (Sample)

1. Please note the importance of your voting right and exercise such right in person as far as possible.
2. You should give careful consideration to the appointment of proxy and should only appoint a person whom you trust with a view to ensuring that the proxy would act in your best interests.

Statement of Purposes in respect of Collection of Personal Data (Sample)

(to be attached to each proxy instrument, for reference only)

Purpose of Collection

1. This instrument is to be used by you (the owner) to appoint a proxy to attend the general meeting of the owners' corporation (OC)/the annual general meeting of the OC and any adjourned meeting (if applicable). Your proxy will form the quorum and vote on your behalf at the meeting.
2. The chairman and/or secretary of the management committee (MC) of the OC (and the Deed of Mutual Covenant (DMC) manager/property management company (PMC) providing assistance) may follow up on the personal data you provided in this instrument and, if necessary, will contact you for the purpose of verifying the validity of the appointment of your proxy.
3. You, the proxy appointed, the chairman and/or secretary of the MC (and the DMC manager/PMC providing assistance), the Authority and an authorized officer under the Building Management Ordinance (Cap. 344) may also inspect the instrument (and any copy of it) for the purpose of dealing with any matters relating to the validity of the proxy instrument.

Consent of your Proxy

4. You should obtain the consent of your proxy in using his/her personal data provided in this instrument, and provide your proxy with this statement, informing him/her of the purpose for collecting his/her personal data.

Classes of Transferees

¹¹ The best practices under Annex C should also be applicable to meeting of the owners for appointing management committee and Form 1 in Schedule 1A to the BMO, with necessary and suitable adaptations to be made.

5. The OC and its MC may disclose the personal data you provided in this instrument to other owners of this building for the purpose mentioned in paragraph 3 above.

Access to Personal Data

6. You have the rights of access and correction to the personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486). Your right of access includes the right to obtain a copy of your personal data provided in this instrument.

Enquiries

Enquiries concerning the personal data collected by means of this instrument, including requests for access to and correction of data, should be directed to the MC secretary (Telephone Number:)

I (the owner) have read and agree with the above.

Name of owner:

Signature of owner:

I (the proxy) have read and agree with the above.

Name of proxy:

Signature of proxy: