

New Companies Ordinance

Briefing Notes on

Companies (Summary Financial Reports) Regulation

BACKGROUND

Under the Companies Ordinance, (Cap. 32) (“Cap. 32”), sections 141CA to 141CG provide that a listed company may prepare a summary financial report for sending to its members in place of the relevant financial documents from which the report is derived. The company has to send a notification to ascertain the intent of individual members, who may then indicate agreement to receive summary financial reports by giving a notice of intent to the company. The detailed requirements as regards the form and contents of a summary financial report and the notification for ascertaining the intent of members in respect of the receipt of summary financial reports are prescribed in the Companies (Summary Financial Reports of Listed Companies) Regulation (Cap. 32M) (“Cap. 32M”).

2. Sections 437 to 446 of the new Companies Ordinance (“new CO”) expands and modifies an arrangement for eligible companies to prepare a financial report in summary form (“summary financial report”) for sending to its members in place of the reporting documents¹ from which the report is derived. The Companies (Summary Financial Reports) Regulation (“the Regulation”) was made by the Financial Secretary under section 452(4) and (5) of the new CO to set out the requirements on the form and contents of a summary financial report as well as the relevant notifications and notices.

¹ “Reporting documents” in respect of a financial year is defined in section 357(2) of the new CO to mean the financial statements, directors’ report and auditor’s report for the financial year. The coverage is roughly equivalent to “relevant financial documents” in the Cap. 32 except that “financial statements” are included in place of “accounts”.

THE SUBSIDIARY LEGISLATION

Companies (Summary Financial Reports) Regulation

Major Changes

3. The new CO expands the arrangement to all companies other than companies falling within the reporting exemption under Division 2 of Part 9 of the new CO. The Regulation basically follows Cap. 32M with necessary modifications made to tie in with the changes to the arrangements concerning summary financial reports brought by the new CO as well as to align with other requirements concerning the reporting documents under Part 9 of the new CO. A member can choose to receive from the company a copy of the summary financial report in hard copy form, in electronic form, through the company's website or not to receive any copies of the company's reporting documents at all.

4. There are also changes in the terms and expressions to align with those in Part 9 of the new CO, namely replacing "accounts" by "financial statements", "balance sheet" by "statement of financial position", and "profit and loss account" by "statement of comprehensive income".

The Regulation

5. The Regulation comprises three parts, namely –
- (a) *Part 1* provides for the commencement of the Regulation and the interpretation of the terms used;
 - (b) *Part 2* provides for the information and statements that a summary financial report must contain. The information must be derived from the reporting documents of the company to which the summary financial report relates; and
 - (c) *Part 3* provides for the form and contents of a notification to any member or potential member for ascertaining the person's intention to receive summary financial reports. It specifies the particulars to be included in, and the effect of, a notice of intent, a notice of

revocation² and a notice of cessation of statutory election³. **Section 10** requires that a card or document must be attached to a notification for sending a notice of intent to the company and **section 11** imposes requirements to provide prepaid postage on the card or document except under specified circumstances.

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² A member or potential member may revoke the notice of intent given previously and indicate a new preference by giving a notice of revocation to the company.

³ Statutory election refers to the case when a member or potential member is deemed to have elected to receive summary financial reports in hard copy form by default. A member or potential member may give the company a notice of cessation of statutory election to indicate a new preference.