



新《公司條例》 The New Companies Ordinance

副首席律師(公司法改革)
何劉家錦女士
Mrs Karen Ho
Deputy Principal Solicitor
(Company Law Reform)
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適用於首個財政年度的新條例條文 (第358條) Application of new CO provisions to first financial year (s 358)

- 新條例關於會計紀錄 (第373、374、376及377條)、簡明報告 (第359條)、財務報表 (第379及436條)、董事報告 (第388條)、將報告文件在周年成員大會上提交公司省覽 (第429條)、財務摘要報告 (第439條) 及修改財務報表 (第449條) 的規定適用於新條例生效當日或之後開始的財政年度。

The requirements in the new CO in relation to accounting records (ss 373, 374, 376 & 377), simplified reporting (s 359), financial statements (ss 379 & 436), directors' report (s 388), laying reporting documents before AGM (s 429), summary financial report (s 439) and revision of financial statements (s 449) apply to a financial year that begins on or after commencement of the new CO.

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適用於首個財政年度的新條例條文（第358條）

Application of new CO provisions to first financial year (s 358)

- 第32章關於在新條例生效前開始的財政年度的帳簿、帳目、董事報告、將帳目在周年成員大會上提交公司省覽、財務摘要報告、修訂帳目的相應規定繼續適用（附表11第76、77、78、83、84及107(2)條）。

Corresponding requirements in Cap 32 continue to apply in relation to books of account, accounts, directors' report, laying of accounts before AGM, summary financial report and revision of accounts for a financial year beginning before commencement of the new CO (Schedule 11 ss 76, 77, 78, 83, 84 and 107(2)).

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會計參照期

Accounting reference period

- 第367條訂明，公司的首個財政年度及其後的財政年度，是根據公司的會計參照期而定的。
S 367 provides for the determination of a company's first financial year and subsequent financial years by reference to its accounting reference period.
- 公司在新條例開始生效後的首個財政年度，於其首個會計參照期的首日開始，而終結日期為該期間的最後一日（第367(1)條）。
A company's first financial year after the commencement of the new CO begins on the first day of its first accounting reference period and ends on the last day of that period (s 367(1)).

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會計參照期 (續)

Accounting reference period (cont'd)

- 財政年度亦即公司財務報表所涵蓋的期間 (第379(1)條)。
The financial year is the period by reference to which the company's financial statements are to be prepared (s 379(1)).
- 原有公司的首個會計參照期，於緊接新條例生效前的財政年度擬備的公司帳目日期最後一日的翌日開始，並於該日的首個周年日終結 (第368(1)、369(1)至(4)條)。
For an existing company, the first accounting reference period begins on the day immediately following the end date of the company's accounts for the financial year immediately before the commencement of the new CO and ends on the first anniversary of that date (ss 368(1), 369(1) to (4)).

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會計參照期 (續)

Accounting reference period (cont'd)

- 例子
Examples

新條例的生效日期：2014年3月3日
Commencement date of new CO : 3 March 2014

A公司
Company A
 - ◆ 現財政年度：2013年4月1日至2014年3月31日
Current financial year : 1 April 2013 to 31 March 2014
 - ◆ 公司根據第32章擬備的帳目日期最後一日：2014年3月31日
End date of company's accounts prepared under Cap 32 : 31 March 2014
 - ◆ 在新條例下，公司的首個會計參照期：2014年4月1日至2015年3月31日
Company's first accounting reference period under the new CO :
1 April 2014 to 31 March 2015

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- 例子
Examples

- B公司
Company B

- ◆ 現財政年度：2014年1月1日至2014年12月31日
Current financial year : 1 January 2014 to 31 December 2014
- ◆ 公司根據第32章擬備的帳目日期最後一日：2014年12月31日
End date of company's accounts prepared under Cap 32 : 31 December 2014
- ◆ 在新條例下，公司的首個會計參照期：
2015年1月1日至2015年12月31日
Company's first accounting reference period under the new CO:
1 January 2015 to 31 December 2015

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- 根據新條例組成及註冊的公司，其首個會計參照期以成立為法團的日期開始，而其終結日期為：
For a company formed and registered under the new CO, the first accounting reference period begins on the incorporation date and ends on –
 - ◆ 董事所指明的日期，而該日期須是公司成立為法團的日期後的18個月內的日期；或
a date specified by the directors falling within 18 months after the company's incorporation; or
 - ◆ 如沒有指明日期，則為公司成立為法團的首個周年日所屬月份的最後一日（第368(2)、369(5)至(7)條）。
if none specified, the last day of the month of the first anniversary of the company's incorporation (ss 368(2), 369(5) to (7)).

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- 其後每個會計參照期均為12個月，於緊接對上的會計參照期的終結後開始，並於會計參照日終結（第368(3)條）。

Every subsequent accounting reference period is a period of 12 months beginning immediately after the end of the previous accounting reference period and ending on the company's accounting reference date (s 368(3)).



- 第32章第121(2)條訂明，如沒有備存所需帳簿以真實而公平地反映公司的事務狀況及解釋公司所作的交易，則不得當作已備存妥善的帳簿。

S 121(2) of Cap 32 provides that proper books of accounts shall not be deemed to be kept if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.



會計紀錄（第373至378條）（續） Accounting records (ss 373 to 378) (cont'd)

- 在新條例下，有關規定為：
Under the new CO, the requirement is modified –
 - ◆ 規定備存的會計紀錄須足以：
The requirement is to keep accounting records that must be sufficient to –
 - (a) 顯示及解釋公司的交易；
show and explain the company's transactions;
 - (b) 以合理的準確度，披露公司的財務狀況及財務表現；及
disclose with reasonable accuracy the company's financial position and financial performance; and
 - (c) 使董事能夠確保財務報表符合新條例（第373(2)條）。
enable the directors to ensure that the financial statements comply with the new CO (s 373(2)).

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會計紀錄（續） Accounting records (cont'd)

- ◆ 有附屬企業的公司須採取一切合理步驟，以確使該附屬企業備存會計紀錄，該等會計紀錄須足以使該公司的董事能夠確保財務報表符合新條例的規定（第373(4)條）。
A company that has a subsidiary undertaking must take all reasonable steps to secure that the subsidiary undertaking keeps accounting records that are sufficient to enable the company's directors to ensure that the financial statements comply with the new CO requirements (s 373(4)).

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- 其他新規定

- Other new requirements

- ◆ 第375條明確賦予董事有權在查閱會計紀錄時可製作會計紀錄的文本，或要求提供會計紀錄的文本。現時，第32章只訂明董事有權查閱帳簿。

- S 375 gives a director an express right to make a copy of the accounting records during inspection or request for a copy of the accounting records. Currently, Cap 32 only provides a right of inspection of books of accounts by the directors.

- ◆ 第378條訂明，董事可向法庭申請授權某人代表該董事查閱該公司的會計紀錄。獲授權的人可製作有關會計紀錄的文本。

- S 378 provides that a director may apply to Court to authorize a person to inspect the company's accounting records on the director's behalf. A person so authorized may make copies of the accounting records.

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- 董事須就每個財政年度擬備符合法定規定的財務報表（第379至387條、附表4）

- Directors must prepare financial statements for each financial year complying with the statutory requirements (ss 379 to 387, Schedule 4)

- 「報告文件」是指須在周年成員大會上提交公司省覽或送交成員的財務報表、董事報告及就該財務報表作出的核數師報告（第357(2)、429(1)、430(1)及(3)條）。

- “Reporting documents” means the financial statements, directors' report and the auditor's report on the financial statements that are required to be laid at AGM or sent to members (ss 357(2), 429(1), 430(1), (3)).

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財務報表（續） Financial statements (cont'd)



- 與財務報告準則及《英國2006年公司法》的用語保持一致
Alignment of terminologies with financial reporting standards and UKCA 2006
 - 「帳目」
"accounts" → 「財務報表」（第357、379條）
"financial statements" (ss 357, 379)
 - 「集團帳目」
"group accounts" → 「綜合財務報表」／「綜合報表」（第379(2)、380(2)條）
"consolidated financial statements" /
"consolidated statements" (ss 379(2), 380(2))
 - 「資產負債表」
"balance sheet" → 「財務狀況表」（第387條）
"statement of financial position" (s 387)
 - 「損益表」
"profit and loss account" → 「全面收益表」（第436(6)條）
"statement of comprehensive income" (s 436(6))
 - 「帳簿」
"books of account" → 「會計紀錄」（第373條）
"accounting records" (s 373)

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財務報表（續） Financial statements (cont'd)



- 為了使會計及審計的條文與《香港財務報告準則》保持一致，已廢除帳目須符合第32章附表10及11的規定。
To align accounting and auditing provisions with the Hong Kong Financial Reporting Standards, the requirement for accounts to comply with the 10th and 11th Schedules to Cap 32 is repealed.
- 財務報表須符合由香港會計師公會發出或指明的報告準則《公司（會計準則（訂明團體）規例）（第622C章）及第380(4)、(8)條》。
Financial statements are to comply with reporting standards issued or specified by the HKICPA (Companies (Accounting Standards (Prescribed Body) Regulation Cap 622C and s 380(4), (8)).

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財務報表（續） Financial statements (cont'd)

- 附表4的會計披露取代第32章附表10及11的詳細規定（第380(3)條）。
Accounting disclosures in Schedule 4 replace the detailed requirements in the 10th and 11th Schedules to Cap 32 (s 380(3)).
- 財務報表的附註須載有董事薪酬等（參閱第32章第161、161B、161BB條）的資料（第383條）。訂明的披露詳情載於《公司（披露董事利益資料）規例》（第622G章）。
Information on directors' emoluments etc (cf ss 161, 161B, 161BB Cap 32) required to be contained in notes to financial statements (s 383). The detailed prescribed disclosures are set out in Companies (Disclosure of Information about Benefits of Directors) Regulation Cap 622G.

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財務報表（續） Financial statements (cont'd)

- 綜合財務報表
Consolidated financial statements
 - ◆ 控權公司（如屬另一法人團體的附屬公司則除外）須擬備綜合財務報表以作代替（第379條）。
A holding company (except one that is a subsidiary of another body corporate) must, instead of preparing financial statements, prepare consolidated financial statements (s 379).
 - ◆ 至於非全資附屬公司，例外情況只適用於董事已告知成員他們無意擬備綜合報表，而沒有成員另行提出要求。
For a partially owned subsidiary, the exception only applies if the directors have notified the members of their intention not to prepare consolidated statements and no member has requested otherwise.
 - ◆ 綜合報表的附註須載有控權公司的財務狀況表（附表4第2條）。
The holding company's statement of financial position must be contained in the notes to the consolidated statements (Schedule 4 s 2).

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擬備更具分析性的業務審視的職責

Duty to prepare a more analytical business review

- 新條例規定在董事報告內加入業務審視，而該審視須涵蓋以下公司資料
The new CO requires a directors' report to include a business review which should cover the following information of a company
 - ◆ 對公司業務的中肯審視
a fair review of its business
 - ◆ 對公司面對的主要風險及不明朗因素的描述
a description of its principal risks and uncertainties
 - ◆ 在財政年度終結後發生並對公司有影響的重大事件的詳情
particulars of any important events affecting it which have occurred since the end of the financial year
 - ◆ 公司業務相當可能有的未來發展的揭示
an indication of likely future development in its business

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擬備更具分析性的業務審視的職責(續)

Duty to prepare a more analytical business review (cont'd)

- ◆ 探討公司的環境政策及表現，包括公司遵守對其有重大影響的有關法例及規例的情況
a discussion on its environmental policies and performance, including compliance with the relevant laws and regulations that have a significant impact on the company
 - ◆ 公司與其僱員、顧客及供應商，以及與其他人士(對公司有重大影響而公司的興盛繫於該等人士)的重要關係的說明
an account of its key relationships with employees, customers, suppliers and others that have a significant impact on the company and on which its success depends
(第388條及附表5)
(s 388 & Sch 5)
- 業務審視的規定是與提倡企業社會責任的國際趨勢一致。
The requirement for business review is in line with international trends to promote corporate social responsibility.

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擬備更具分析性的業務審視的職責(續)

Duty to prepare a more analytical business review (cont'd)

- 下列公司無須擬備業務審視 -
The following companies are not required to prepare a business review -
 - ◆ 「在提交報告方面獲豁免」的公司
companies falling with the reporting exemption
 - ◆ 不屬「在提交報告方面獲豁免」的私人公司，但獲得75%的成員批准
a private company that does not fall within the reporting exemption with 75% approval from members
 - ◆ 法人團體的全資附屬公司
a wholly owned subsidiary of a body corporate
(第388(3)條)
(s 388(3))
- 除非董事知道或罔顧陳述是否屬不真實或具誤導性，或不誠實地隱瞞重要事實，否則董事無須就報告內不真實或具誤導性的陳述或遺漏承擔法律責任(第448條)。
A director is not liable for untrue or misleading statement or omission unless he knew or was reckless as to whether it was untrue or misleading, or there was dishonest concealment of a material fact (s 448).

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免除舉行周年成員大會

Dispensation with the holding of AGM

- 在下列情況下公司無須舉行周年成員大會
Circumstances in which company not required to hold AGM
 - ◆ 如所有事情藉書面決議作出(第612(1)條)
If everything done by written resolution (s 612(1))
 - ◆ 公司只有一名成員(第612(2)(a)條)
Single member company (s 612(2)(a))
 - ◆ 不活動公司(第611條)
A dormant company (s 611)
 - ◆ 成員一致決議就某財政年度或其後的財政年度免除舉行周年成員大會(第612(2)(b)條)
Members' unanimous resolution to dispense with the holding of AGM in respect of a particular financial year or for subsequent financial years (s 612(2)(b))

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免除舉行周年成員大會(續)

Dispensation with the holding of AGM (cont'd)



- 如沒有舉行周年成員大會：
Where no AGM is held –
 - ◆ 董事（否則成員）可就公司首個財政年度委任公司的首位核數師（第395及396(6)條）。
Directors (failing which members) may appoint the company's first auditor for the company's first financial year (s 395 & 396(6)).
 - ◆ 將財務報表及報告等的文本送交成員（第430(3)條）。
Copy of financial statements and reports to be sent to the members (s 430(3)).
 - ◆ 現任核數師當作再度獲委任，除非被他拒絕（第403條）。
Current auditor deemed to be re-appointed unless he declines (s 403).
 - ◆ 如再度委任被拒，由成員在成員大會上作出委任，取代卸任的核數師（第396(3)條）。
If reappointment declined, members replace retiring auditor at a general meeting (s 396(3)).

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免除舉行周年成員大會(續)

Dispensation with the holding of AGM (cont'd)



- 即使免除舉行周年成員大會，但如出現以下情況，公司亦須舉行周年成員大會：
AGM is required to be held after dispensation if -
 - ◆ 如有成員要求公司召開某周年成員大會，而該要求須在舉行周年成員大會的法定限期結束前的3個月之前，向公司發出通知（第613(5)條）。
a member requests the company to convene an AGM by giving notice to the company not later than 3 months before the end of the statutory period for holding an AGM (s 613(5)).
 - ◆ 成員藉普通決議，把免除舉行周年成員大會的一致決議撤銷（第614條）。
the unanimous resolution for dispensing with holding an AGM is revoked by an ordinary resolution (s 614).

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