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12 November 2012

“Public Consultation on Subsidiary Legislation for  
Implementation of the new Companies Ordinance”  
15/F, Queensway Government Offices  
66 Queensway  
Hong Kong

Dear Sirs

**Re: Subsidiary Legislation for Implementation of the New Companies  
Ordinance Phase One Consultation Document**

The Hong Kong Institute of Directors (“HKIoD”) is pleased to forward our response to the captioned paper.

HKIoD is Hong Kong’s premier body representing directors to foster the long-term success of companies through advocacy and standards-setting in corporate governance and professional development for directors. We are committed to contributing towards the formulation of public policies that are conducive to the advancement of Hong Kong’s international status.

In developing the response, we have consulted our members and organised focused discussions.

Should you require further information regarding our response, please do not hesitate to contact me on tel no. 2889 9986.

With best regards

Yours sincerely

The Hong Kong Institute of Directors



Dr Carlye Tsui  
Chief Executive Officer

cc: Dr Kelvin Wong, Chairman of Council, HKIoD  
Mr Henry Lai, Deputy Chairman, HKIoD & Chairman,  
Corporate Governance Policies Committee

Issued on: 12 November 2012

**CO Rewrite**  
**Subsidiary Legislation for Implementation of the New Companies Ordinance**  
**Phase One Consultation Document**

In connection with the captioned Consultation Document, The Hong Kong Institute of Directors (“HKIoD”) is pleased to give its preliminary views and comments.

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With the passage of the Companies Bill, the making of subsidiary legislations under the new CO becomes an important part of the CO Rewrite process. We look forward to working closely with the Administration and other stakeholders throughout the process.

In this submission, we limit ourselves to an observation relating to Chapter 6 concerning the Companies (Model Articles) Notice. We may have further comments on Chapter 6 and other Chapters of the Consultation Document at a later stage.

**Concerning standard articles**

Many existing companies have adopted standard articles of associations. Once the new CO comes into effect, the standard articles of association would remain those companies’ articles of association.

We acknowledge that under the new CO, the memorandum of association is abolished. For existing companies, the provisions of their memorandum of association will be deemed articles. This we do not think will create too many issues.

Our concern is, owners of many companies adopting standard articles of association may not have fully understood the meaning and effect of that adoption. When the new CO comes into effect, they may inadvertently confuse themselves to believe the new model articles to be prescribed under the new CO to be their company charter. This confusion could also arise when a new company is set up or a shelf company is bought close to the date of the implementation of the new CO. Our concern here might seem far-fetched, but we would rather err on the side of caution.

HKIoD believes all company owners (and their directors) must have a good handle on their charter documents, be able to access them and should know what provisions are currently in force. FSTB and the Companies Registry, on the other hand, can consider some appropriate ways to educate and remind company owners and their directors of existing companies about the meaning and effect of adopting standard articles under the old and new CO.

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