

# Forum on the New Companies Ordinance –What Directors Need to Know

從董事角度認識《新公司條例》研討會 17/3/2014

## Panel Discussion by Professionals

### Highlights on Share Capital and Accounts and Audit

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# The New Companies Ordinance

- What Directors Need to Know

Edmond Chan  
17 March 2014

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# *Highlights on Share Capital and Accounts and Audit*

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## ***Highlights on Share Capital and Accounts and Audit***

<b>MAJOR INITIATIVES</b>	<b>EXISTING CO PROVISIONS</b>	<b>NCO PROVISIONS</b>
<b>Share capital</b>		
<b>Abolition of par value of shares</b>	Company having a share capital are required to have a par value ascribed to their shares	A mandatory system of no-par for all companies with a share capital is introduced. There is no longer a requirement for shares to have a par value or for a company to have authorised capital.

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## Highlights on Share Capital and Accounts and Audit(cont'd)

MAJOR INITIATIVES	EXISTING CO PROVISIONS	NCO PROVISIONS
<b>Share capital (cont'd)</b>		
<p><b>A court-free process for capital reduction</b></p>	<p>A reduction of capital is only allowed if:</p> <ol style="list-style-type: none"> <li>i. it is approved by a special resolution of the shareholders; and</li> <li>ii. it is confirmed by the court.</li> </ol>	<p>A company may reduce its share capital without going to court.</p> <p>Require members' approved by a special resolution and supported by a solvency statement based on a uniform solvency Test.</p> <p>The Solvency statement to confirm:</p> <ul style="list-style-type: none"> <li>• Immediately after the transaction there will be no grounds on which the company could be found to be unable to pay its debts and either</li> <li>• The Company will be able to pay its debts as they become due during period of 12 months immediately following the date of transaction or</li> </ul> <p>If it intended to commence the winding up of the company within 12 months after the date of the transaction, the company will be able to pay its debts within 12 months after the commencement of the winding up.</p>

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## ***Highlights on Share Capital and Accounts and Audit(cont'd)***

<b>MAJOR INITIATIVES</b>	<b>EXISTING CO PROVISIONS</b>	<b>NCO PROVISIONS</b>
<b>Share capital (cont'd)</b>		
<b>Court-free amalgamation of companies within a group</b>	Amalgamation can only be achieved by a court-sanctioned scheme of arrangement.	A court-free regime for amalgamations of wholly-owned companies within the same group. There are two kinds of amalgamations namely the vertical amalgamation (a holding company and its wholly-owned subsidiaries) and horizontal amalgamation (involving wholly-owned subsidiaries of a company).

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## Highlights on Share Capital and Accounts and Audit(cont'd)

MAJOR INITIATIVES	EXISTING CO PROVISIONS	NCO PROVISIONS
<b>Strengthening auditor's rights</b>		
<p><b>Strengthening the rights of auditors</b></p>	<p>Only restricted rights are granted to auditors to obtain information.</p>	<p>Auditors are empowered to obtain information and explanations they may reasonably require for the performance of their duties from a wider range of persons, including:</p> <ul style="list-style-type: none"> <li>- a person holding or accountable for any accounting records of the company</li> <li>- any officer or former officer of the company at a time to which the information and explanation relates</li> <li>- those persons in the company's Hong Kong and non-Hong Kong incorporate subsidiaries.</li> </ul> <p>Failure to comply with the requirement will be subject to criminal sanctions.</p>

## ***Highlights on Share Capital and Accounts and Audit(cont'd)***

<b>MAJOR INITIATIVES</b>	<b>EXISTING CO PROVISIONS</b>	<b>NCO PROVISIONS</b>
<b>Financial statements and directors' report</b>		
<b>Preparation of simplified financial and directors' report</b>	All Hong Kong incorporated companies have to prepare their financial statements in accordance with the HKFRS and directors' report.	<p>Allows private companies and groups of private companies (with exception of a bank/deposit-taking company, and insurance company or a stockbroker) meeting the size criteria as small private company or small guarantee company to be automatically qualified for the preparation of simplified financial and directors' reports.</p> <p>Public companies and larger private companies and guarantee companies (that do not qualify for simplified reporting) are required to prepare a more comprehensive directors' report which includes an analytical and forward-looking "business review".</p>



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# *Thank you!*

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