

# CHAPTER 1

## INTRODUCTION

### Background

- 1.1 This is the third public consultation for the ongoing CO Rewrite exercise. The rewrite exercise aims to modernise our CO to meet more fully the needs of Hong Kong as a major international financial and business centre.

### Previous Consultations

- 1.2 We had consulted the public on accounting and auditing provisions of the CO in 2007. The consultation conclusions for that round of consultation can be found at [http://www.fstb.gov.hk/fsb/co\\_rewrite](http://www.fstb.gov.hk/fsb/co_rewrite) under “Publications & Press Release”.
- 1.3 The second public consultation on company names, directors’ duties, corporate directorship and registration of charges was conducted in the second quarter of 2008<sup>1</sup>. We are in the process of collating feedback on that consultation and aim to publish the consultation conclusions later this year.

### Current Public Consultation

- 1.4 In formulating proposals for this round of public consultation on share capital and the capital maintenance rules, we were assisted by an external legal consultant<sup>2</sup>. We have also benefited from the advice of the SCCLR<sup>3</sup> which plays a key role in advising on all major proposals to reform the CO, as well as that of AG1<sup>4</sup>. The current membership of the SCCLR and AG1 respectively are at **Appendix I**.

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<sup>1</sup> The consultation paper can be downloaded from <http://www.fstb.gov.hk/fsb>

<sup>2</sup> Dr Maisie Ooi from the National University of Singapore was appointed the consultant for the consultancy study on the parts of the CO covering share capital, capital maintenance rules, registration of charges, debentures and remaining provisions in Part II of the CO. She is assisted by several experts from the UK and New Zealand.

<sup>3</sup> Members of the SCCLR include representatives of the SFC, Hong Kong Exchanges and Clearing Limited and relevant government departments, as well as individuals from relevant sectors and professions such as accountancy, legal and company secretarial. Please see <http://www.cr.gov.hk> for further information.

<sup>4</sup> Members of AG1 comprise representatives from relevant professional and business organisations, academics and members of the SCCLR.

## Future Work

- 1.5 We aim to publish the conclusions for this round of public consultation by early 2009.
- 1.6 The final proposals will be incorporated into the draft Bill to be issued around mid-2009 for further public consultation. The draft Bill will enable the public to comment on the proposals in a more holistic manner before the Companies Bill is introduced into the Legislative Council, tentatively, in the third quarter of 2010.

## Seeking Comments

- 1.7 We would like to invite public views by **30 September 2008** on the following topics:
  - (a) Share capital;
  - (b) The capital maintenance regime; and
  - (c) Statutory amalgamation procedure.

The key proposals are described in Chapters 2 to 4 below.

- 1.8 Each chapter starts with a brief background of the relevant issues and our considerations before presenting the details of the proposed changes or amendments. The questions for consultation are set out under different sections in each chapter and a list of all questions for consultation is extracted at the back of this document after Chapter 4.
- 1.9 As the proposed changes or amendments may have significant implications for companies and different stakeholders including directors, shareholders, investors, creditors and relevant professionals, we would like to invite public comments before drafting the Bill. The comments received will help us ensure that the relevant legislative proposals will suit Hong Kong's unique circumstances.