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# New Companies Ordinance Prospectus Regime Effective December 3,2004

## Annex B

## Summary of Requirements for Summary Disclosure Materials under the SFC's February 2003 Guidelines on Use of Offer Awareness Materials and Summary Disclosure Materials in Offerings of Shares and Debentures under the Companies Ordinance

### General Requirements

* the materials must not contain any substantive information not contained in the prospectus nor anything that is inconsistent with the information in the prospectus;
* the contents must not be false, biased, misleading or deceptive, and the issuer must have reasonable grounds to believe that this is the case;
* the font size of all warning statements and legal legends must be at least 40% of the font size that predominates in the materials and must not be presented in a style designed to reduce their impact. Such statements and legends must be capable of being read with ease by anyone scanning the material;
* the materials must be issued by the issuer of the prospectus. They must state their date of issue and identify the issuer;
* summary disclosure materials may be made available from the time of issue of a prospectus complying with requirements of the CO provided that they have been authorized by the SFC (in the case of unlisted offers) or the Exchange (in the case of listed offers);
* summary disclosure materials must be issued both in English and Chinese but may be distributed in separate language versions. If separate language versions are used, a statement must be included in the other language in a prominent place on the front page or cover that a version is available in the other language and where copies can be obtained. Sufficient copies of both language versions must be available for the duration of the offer. Alternatively, application may be made to the SFC for an exemption under Section 38A or 342A CO to permit publication in one language only, in which case publication must be in that language only.

### Specific Requirements

Summary disclosure materials must include the following:

1. a statement that the prospectus, which alone contains full details of the issuer and offer, has been published and is available for collection at specified locations;
2. the date of the prospectus;
3. in the case of summary disclosure material that is intended to provide a fair summary of the information in the prospectus (such as a mini-prospectus that summarises the information in the prospectus), a statement that it is an extract from or abridged version of the prospectus and the directors of the issuer of the prospectus are satisfied that it contains a fair summary of the material information in the prospectus and does not omit anything which the directors consider to be material in the context of the offer;
4. in the case of summary disclosure material that is not intended to provide a fair summary of the information in the prospectus (such as a fact sheet containing offer statistics and procedural information relating to applications), a statement that it is an extract from or abridged version of the prospectus and does not contains a fair summary of the material information in the prospectus;
5. a statement that the directors of the issuer of the prospectus have authorized the issue of the summary disclosure material and take responsibility for its contents;
6. a warning statement that potential investors should read the prospectus for detailed information about the issuer and the offer before making an investment decision;
7. a statement that the summary disclosure material does not constitute an offer or an invitation to induce an offer by any person to acquire, purchase or subscribe for the shares or debentures being offered; and
8. where an application form is issued with the prospectus or an application procedure is described in the prospectus, a statement that no application for any shares or debentures mentioned in the summary disclosure material should be made by any person nor would such application be accepted by the issuer of the prospectus without the completion of the formal application form or other application procedure that is issued with or, in respect of, the prospectus.

When approving summary disclosure material the SFC (or Exchange) will wish to be satisfied that the following requirements will be met, that:

1. the summary disclosure material will only be made available or distributed from the time of issue of the prospectus;
2. any application form issued by the issuer of the prospectus will state that any application for or purchase of the shares or debentures referred to in the summary disclosure material can only be made on the basis of the full prospectus identified by its date of publication; and
3. in an offering structure that does not require potential investors to complete an application form prescribed by the issuer of the prospectus, the issuer of the prospectus will require that all locations at which summary disclosure material is distributed and where application or purchase instructions for the shares or debentures from investors are received shall have administrative procedures in place (a) to inform interested persons that the application for, or purchase of the shares or debentures referred to in the summary disclosure material, can only be made on the basis of the prospectus relating to the offer identified by its date of publication and that they should refer to the prospectus, (b) to make the prospectus readily available to potential investors free of charge prior to receipt of application or purchase instructions, or refer them to a location where they may obtain it with ease and free of charge, and (c) to provide that any application or purchase instruction from an investor will not be accepted without obtaining the investor's prior confirmation that he or she has read or had access to the prospectus.

*This note is intended as a summary only of the provisions of the Companies (Amendment) Ordinance 2004 and the Companies (Amendment) Bill 2004. Specific advice should be sought in relation to any particular situation.*

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