

第 13 部

安排、合併及在進行收購和股份回購時強制購入股份 (格式變更——2013 年第 1 號編輯修訂紀錄)

第 1 分部 —— 導言

666. 釋義

在本部中——

子女 (child) 包括繼子女、非婚生子女及以香港法律承認的任何方式而領養的子女；

同居關係 (cohabitation relationship) 指作為情侶在親密關係下共同生活的兩名人士 (不論同性或異性) 之間的關係；

回購公司 (repurchasing company) 就公開要約而言，指作出該要約的上市公司；

要約期 (offer period) 就要約而言，指可接受該要約的限期。

667. 有聯繫者

(1) 在本部中，提述要約人或成員的有聯繫者——

(a) 在該要約人或成員是自然人的情況下，即提述——

(i) 該要約人或成員的配偶；

(ii) 與該要約人或成員處於同居關係的人；

(iii) 該要約人或成員的子女；

(iv) 第 (ii) 節所指的人的符合以下說明的子女——

Part 13

Arrangements, Amalgamation, and Compulsory Share Acquisition in Takeover and Share Buy-back

(Amended E.R. 1 of 2013)

(Format changes—E.R. 1 of 2013)

Division 1—Preliminary

666. Interpretation

In this Part—

child (子女) includes a step-child, an illegitimate child and a child adopted in any manner recognized by the law of Hong Kong;

cohabitation relationship (同居關係) means a relationship between 2 persons (whether of the same sex or of the opposite sex) who live together as a couple in an intimate relationship;

offer period (要約期), in relation to an offer, means the period within which the offer can be accepted;

repurchasing company (回購公司), in relation to a general offer, means the listed company that makes the offer.

667. Associate

(1) In this Part, a reference to an associate of an offeror or member, is—

(a) if the offeror or member is a natural person, a reference to—

(i) the offeror's or member's spouse;

(ii) a person who is in a cohabitation relationship with the offeror or member;

- (A) 並非該要約人或成員的子女；
- (B) 與該要約人或成員共同生活；及
- (C) 未滿 18 歲；
- (v) 該要約人或成員的父母；
- (vi) 該要約人或成員對之有重大權益的法人團體；或
- (vii) 屬與該要約人或成員訂立的收購協議的一方的
人，或屬該協議的一方的代名人的人；或
- (b) 在該要約人或成員是法人團體的情況下，即提
述——
 - (i) 與該要約人或成員屬於同一公司集團的法人團
體；
 - (ii) 該要約人或成員對之有重大權益的法人團體；
或
 - (iii) 屬與該要約人或成員訂立的收購協議的一方的
人，或屬該協議的一方的代名人的人。
- (2) 在本部中，提述回購公司的有聯繫者，即提述——
 - (a) 與該回購公司屬同一公司集團的法人團體；
 - (b) 該回購公司對之有重大權益的法人團體；或
 - (c) 屬與該回購公司訂立的收購協議的一方的
人，或屬該協議的一方的代名人的人。
- (3) 就第 (1) 及 (2) 款而言，如有以下情況，則要約人、成員
或回購公司即屬對某法人團體有重大權益——
 - (a) 該法人團體或其一眾董事或過半數董事慣常按照該
要約人、成員或回購公司的指示或指令行事；或
 - (b) 在該法人團體的成員大會上，該要約人、成員或回
購公司有權行使多於 30% 的表決權，或有權控制多
於 30% 的表決權的行使。

- (iii) a child of the offeror or member;
- (iv) a child of a person falling within subparagraph (ii)
who—
 - (A) is not a child of the offeror or member;
 - (B) lives with the offeror or member; and
 - (C) has not attained the age of 18;
- (v) a parent of the offeror or member;
- (vi) a body corporate in which the offeror or member is
substantially interested; or
- (vii) a person who is a party, or a nominee of a party,
to an acquisition agreement with the offeror or
member; or
- (b) if the offeror or member is a body corporate, a reference
to—
 - (i) a body corporate in the same group of companies
as the offeror or member;
 - (ii) a body corporate in which the offeror or member is
substantially interested; or
 - (iii) a person who is a party, or a nominee of a party,
to an acquisition agreement with the offeror or
member.
- (2) In this Part, a reference to an associate of a repurchasing
company is a reference to—
 - (a) a body corporate in the same group of companies as the
repurchasing company;
 - (b) a body corporate in which the repurchasing company is
substantially interested; or
 - (c) a person who is a party, or a nominee of a party, to an
acquisition agreement with the repurchasing company.

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- (4) 在第 (3) 款中，提述由要約人、成員或回購公司控制行使的表決權，包括在有關情況下，由另一法人團體控制行使的表決權；有關情況是指該要約人、成員或回購公司，在該另一法人團體的任何成員大會上，有權行使多於 50% 的表決權，或有權控制多於 50% 的表決權的行使。
- (5) 就第 (1) 及 (2) 款而言，協議如符合以下說明，即屬收購協議 ——
- (a) 該協議是為收購 ——
- (i) 有關收購要約或公開要約所關乎的任何股份而訂立的；或
- (ii) 該等股份的權益而訂立的；及
- (b) 該協議的條文，包括具以下效力的條文：就使用、保存或處置該協議的任何一方依據該協議而取得的股份的權益，對該方施加義務或限制。

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- (3) For the purposes of subsections (1) and (2), an offeror, member or repurchasing company is substantially interested in a body corporate if—
- (a) the body corporate, or its directors or a majority of its directors, are accustomed to act in accordance with the directions or instructions of the offeror, member or repurchasing company; or
- (b) the offeror, member or repurchasing company is entitled to exercise, or control the exercise of, more than 30% of the voting power at any general meeting of the body corporate.
- (4) In subsection (3), a reference to voting power the exercise of which is controlled by an offeror, member or repurchasing company includes voting power the exercise of which is controlled by another body corporate if the offeror, member or repurchasing company is entitled to exercise, or control the exercise of, more than 50% of the voting power at any general meeting of that other body corporate.
- (5) For the purposes of subsections (1) and (2), an agreement is an acquisition agreement if—
- (a) it is an agreement for the acquisition of—
- (i) any of the shares to which the takeover offer or general offer relates; or
- (ii) an interest in those shares; and
- (b) it includes provisions imposing obligations or restrictions on any of the parties to it with respect to the use, retention or disposal of the party's interests in the shares acquired pursuant to the agreement.

第 2 分部 —— 安排及妥協

Division 2—Arrangements and Compromises

668. 釋義

668. Interpretation

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第 669 條

(1) 在本分部中 ——

公司 (company) 除在第 675 條外，指可根據《公司 (清盤及雜項條文) 條例》(第 32 章) 清盤的公司；

安排 (arrangement) 包括藉着將不同類別的股份合併、藉着將股份拆分為不同類別的股份或同時藉着上述兩種方式，重組公司的股本。

(2) 如公司沒有章程細則，則在本分部中提述公司的章程細則之處，須理解為組織該公司或對該公司的組織作出規定的文書。

669. 本分部的適用範圍

如有關安排或妥協是建議由公司與以下兩者或其中之一訂立的，則本分部適用 ——

- (a) 該公司的債權人或任何類別的債權人；
- (b) 該公司的成員或任何類別的成員。

670. 原訟法庭可命令召開債權人或成員會議

(1) 原訟法庭可應為本款的目的而提出的申請 ——

- (a) 命令按原訟法庭指示的方式，召開第 (2)(a) 款指明的會議或第 (2)(b) 款指明的會議，或召開上述兩者 (視屬何情況而定)；及
- (b) 為第 674(4) 條的目的，宣布某人為根據該條獲指明的人士。

(2) 上述會議 ——

- (a) 在 ——

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(1) In this Division—

arrangement (安排) includes a reorganization of the company's share capital by the consolidation of shares of different classes, or by the division of shares into different classes, or both;

company (公司), except in section 675, means a company liable to be wound up under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32).

(2) In this Division, a reference to a company's articles, in the case of a company not having articles, is to be read as the instrument constituting or defining the constitution of the company.

669. Application of Division

This Division applies if an arrangement or compromise is proposed to be entered into by a company with either or both of the following—

- (a) the creditors, or any class of the creditors, of the company;
- (b) the members, or any class of the members, of the company.

670. Court may order meeting of creditors or members to be summoned

(1) The Court may, on application made for the purposes of this subsection—

- (a) order a meeting specified in subsection (2)(a), or a meeting specified in subsection (2)(b), or both (as the case may be) to be summoned in any manner that the Court directs; and

- (i) 有關安排或妥協是建議與有關公司的債權人訂立的情況下，即該等債權人的會議；或
- (ii) 有關安排或妥協是建議與有關公司的某類別債權人訂立的情況下，即該類別債權人的會議；及
- (b) 在 ——
 - (i) 有關安排或妥協是建議與有關公司的成員訂立的情況下，即該等成員的會議；或
 - (ii) 有關安排或妥協是建議與有關公司的某類別成員訂立的情況下，即該類別成員的會議。
- (3) 除第 (4) 款另有規定外，為第 (1) 款的目的而提出的申請，只可由以下人士提出 ——
 - (a) (如屬債權人的會議) 有關公司或任何該等債權人；
 - (b) (如屬某類別債權人的會議) 有關公司或該類別的任何債權人；
 - (c) (如屬成員的會議) 有關公司或任何該等成員；或
 - (d) (如屬某類別成員的會議) 有關公司或該類別的任何成員。
- (4) 如有關公司正在進行清盤，則為第 (1) 款的目的而提出的申請，只可由清盤人或臨時清盤人提出。
- (5) 為第 (1) 款的目的而提出的申請，須循簡易程序的方式提出。

- (b) for the purposes of section 674(4), declare a person to be a person specified under that section.
- (2) The meeting is—
 - (a) if the arrangement or compromise is proposed to be entered into—
 - (i) with the creditors of the company, a meeting of those creditors; or
 - (ii) with a class of the creditors of the company, a meeting of that class of creditors; and
 - (b) if the arrangement or compromise is proposed to be entered into—
 - (i) with the members of the company, a meeting of those members; or
 - (ii) with a class of the members of the company, a meeting of that class of members.
- (3) Subject to subsection (4), an application for the purposes of subsection (1) may be made only by—
 - (a) in the case of a meeting of creditors, the company or any of the creditors;
 - (b) in the case of a meeting of a class of creditors, the company or any creditor of that class;
 - (c) in the case of a meeting of members, the company or any of the members; or
 - (d) in the case of a meeting of a class of members, the company or any member of that class.
- (4) If the company is being wound up, an application for the purposes of subsection (1) may be made only by the liquidator or provisional liquidator.
- (5) An application for the purposes of subsection (1) must be made in a summary way.

671. 須向債權人或成員發出或提供說明陳述

- (1) 如根據第 670 條召開會議 ——
 - (a) 每份送交債權人或成員的召開該會議的通知，均須隨附一項符合第 (3) 及 (4) 款的說明陳述；及
 - (b) 每份藉廣告形式給予的召開該會議的通知 ——
 - (i) 均須包括一項符合第 (3) 及 (4) 款的說明陳述；或
 - (ii) 均須述明有權出席該會議的債權人或成員可在何處及如何取得該陳述的文本。
- (2) 如藉廣告形式給予的通知述明，有權出席有關會議的債權人或成員可取得說明陳述的文本，則若債權人或成員以該通知指明的方式提出申請，有關公司須向該債權人或成員免費提供該陳述的文本。
- (3) 上述說明陳述 ——
 - (a) 須解釋有關安排或妥協的效力；及
 - (b) 須述明 ——
 - (i) 有關公司的董事（不論是以該公司的董事、成員或債權人的身分或其他身分）根據該安排或妥協具有的具相當分量的利害關係；及
 - (ii) 該安排或妥協對該等利害關係的影響，但只限於該影響是有異於對其他人的類似利害關係的影響的情況。
- (4) 如有關安排或妥協影響公司的債權證持有人的權利，則有關說明陳述須就保證發行債權證的契據的受託人給予解釋，而該解釋須類似該陳述須就上述董事給予的解釋。
- (5) 如第 (1) 或 (2) 款遭違反，所有以下的人均屬犯罪 ——
 - (a) 有關公司；
 - (b) 有關公司的每名責任人；

671. Explanatory statements to be issued or made available to creditors or members

- (1) If a meeting is summoned under section 670—
 - (a) every notice summoning the meeting that is sent to a creditor or member must be accompanied by an explanatory statement complying with subsections (3) and (4); and
 - (b) every notice summoning the meeting that is given by advertisement—
 - (i) must include an explanatory statement complying with subsections (3) and (4); or
 - (ii) must state where and how a creditor or member entitled to attend the meeting may obtain a copy of the explanatory statement.
- (2) If a notice given by advertisement states that a creditor or member entitled to attend the meeting may obtain a copy of an explanatory statement, the company must provide a copy of the statement, free of charge, to a creditor or member applying in the manner specified in the notice.
- (3) An explanatory statement—
 - (a) must explain the effect of the arrangement or compromise; and
 - (b) must state—
 - (i) any material interests of the company's directors, whether as directors or as members or as creditors of the company or otherwise, under the arrangement or compromise; and
 - (ii) the effect of the arrangement or compromise on those interests, in so far as the effect is different

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- (c) 有關公司的授權、准許、參與或沒有採取一切合理步驟防止該違例事項的清盤人或臨時清盤人；
- (d) 授權、准許、參與或沒有採取一切合理步驟防止違反該款的保證發行有關公司的債權證的契據的受託人。
- (6) 任何人犯第 (5) 款所訂罪行，可處第 5 級罰款。
- (7) 凡某人因違反第 (1) 款而被控犯第 (5) 款所訂罪行，如確立違反第 (1) 款是由另一人（該另一人是有關公司的董事或有關公司的債權證持有人的受託人）拒絕提供關於該另一人的利害關係的所需詳情引致的，即屬免責辯護。

672. 董事及受託人須通知公司關於在安排或妥協下的利害關係等

- (1) 如根據第 670 條召開會議，則有關公司的董事或有關公司的債權證持有人的受託人，須向該公司給予關乎該董

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- from the effect on the like interests of other persons.
- (4) If the arrangement or compromise affects the rights of the company's debenture holders, an explanatory statement must give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the directors.
- (5) If subsection (1) or (2) is contravened, all of the following commit an offence—
 - (a) the company;
 - (b) every responsible person of the company;
 - (c) a liquidator or provisional liquidator of the company who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention;
 - (d) a trustee of a deed for securing the issue of the company's debentures who authorizes or permits, participates in, or fails to take all reasonable steps to prevent, the contravention.
- (6) A person who commits an offence under subsection (5) is liable to a fine at level 5.
- (7) If a person is charged with an offence under subsection (5) for a contravention of subsection (1), it is a defence to establish that the contravention was due to the refusal of another person, who was a director of the company or a trustee for debenture holders of the company, to supply the necessary particulars of that other person's interests.

672. Directors and trustees must notify company of interests under arrangement or compromise etc.

- (1) If a meeting is summoned under section 670, a director of the company, or a trustee for its debenture holders, must give

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事或受託人的、為第 671 條的目的而言屬必需的任何事宜的通知。

- (2) 任何人違反第 (1) 款，即屬犯罪，可處第 5 級罰款。

673. 原訟法庭可認許安排或妥協

- (1) 如建議與債權人或某類別債權人訂立安排或妥協，或建議與成員或某類別成員訂立安排或妥協，或建議兼與上述兩者訂立安排或妥協，而該等或該名人士同意該安排或妥協，則本條適用。
- (2) 原訟法庭可應為本款的目的而提出的申請，認許有關安排或妥協。
- (3) 除第 (4) 款另有規定外，為第 (2) 款的目的而提出的申請，只可由以下人士提出——
 - (a) (如屬建議與公司的債權人訂立的安排或妥協) 該公司或任何該等債權人；
 - (b) (如屬建議與公司的某類別債權人訂立的安排或妥協) 該公司或該類別的任何債權人；
 - (c) (如屬建議與公司的成員訂立的安排或妥協) 該公司或任何該等成員；或
 - (d) (如屬建議與公司的某類別成員訂立的安排或妥協) 該公司或該類別的任何成員。
- (4) 如有關公司正在進行清盤，則為第 (2) 款的目的而提出的申請，只可由清盤人或臨時清盤人提出。
- (5) 獲原訟法庭根據第 (2) 款認許的安排或妥協，對以下的人具有約束力——
 - (a) 有關公司或 (如有關公司正在進行清盤) 有關公司的清盤人或臨時清盤人及分擔人；及
 - (b) 屬該安排或妥協的建議訂立方的債權人或某類別債權人，或成員或某類別成員，或上述兩者。

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notice to the company of any matter relating to the director or trustee that may be necessary for the purposes of section 671.

- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 5.

673. Court may sanction arrangement or compromise

- (1) This section applies if the creditors or the class of creditors, or the members or the class of members, or both, with whom the arrangement or compromise is proposed to be entered into, agree or agrees to the arrangement or compromise.
- (2) The Court may, on application made for the purposes of this subsection, sanction the arrangement or compromise.
- (3) Subject to subsection (4), an application for the purposes of subsection (2) may be made only by—
 - (a) in the case of an arrangement or compromise proposed to be entered into with the creditors of a company, the company or any of the creditors;
 - (b) in the case of an arrangement or compromise proposed to be entered into with a class of creditors of a company, the company or any creditor of that class;
 - (c) in the case of an arrangement or compromise proposed to be entered into with the members of a company, the company or any of the members; or
 - (d) in the case of an arrangement or compromise proposed to be entered into with a class of members of a company, the company or any member of that class.
- (4) If the company is being wound up, an application for the purposes of subsection (2) may be made only by the liquidator or provisional liquidator.
- (5) An arrangement or compromise sanctioned by the Court under subsection (2) is binding—

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- (6) 在處長根據第 2 部將原訟法庭根據第 (2) 款作出的命令的正式文本登記前，該命令沒有效力。
- (7) 如原訟法庭的命令修訂有關公司的章程細則，或修訂第 622 條適用的決議或協議，則為第 (6) 款的目的而交付處長登記的該命令的正式文本，須隨附經修訂的該章程細則或經修訂的該決議或協議的文本。
- (8) 如第 (7) 款遭違反，有關公司及其每名責任人均屬犯罪，可各處第 3 級罰款。

674. 補充第 673(1) 條的條文：對安排或妥協表示同意

(1) 就第 673(1) 條而言 ——

- (a) 在以下情況下，有關債權人即屬同意有關安排或妥協：在根據第 670 條召開的債權人會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的債權人中，佔當中價值最少 75% 的過半數債權人同意該安排或妥協；
- (b) 在以下情況下，有關類別債權人即屬同意有關安排或妥協：在根據第 670 條召開的該類別債權人的會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的該類別債權人中，佔

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- (a) on the company or, if the company is being wound up, on the liquidator or provisional liquidator and contributories of the company; and
- (b) on the creditors or the class of creditors, or the members or the class of members, or both, with whom the arrangement or compromise is proposed to be entered into.
- (6) An order made by the Court under subsection (2) has no effect until an office copy of the order is registered by the Registrar under Part 2.
- (7) If the order of the Court amends the company's articles, or any resolution or agreement to which section 622 applies, the office copy of that order delivered to the Registrar for registration for the purposes of subsection (6) must be accompanied by a copy of those articles, or the resolution or agreement, as amended.
- (8) If subsection (7) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.

674. Provision supplementary to section 673(1): agreement to arrangement or compromise

(1) For the purposes of section 673(1)—

- (a) the creditors agree to the arrangement or compromise if, at a meeting of the creditors summoned under section 670, a majority in number representing at least 75% in value of the creditors present and voting, in person or by proxy, agree to the arrangement or compromise;
- (b) a class of creditors agrees to the arrangement or compromise if, at a meeting of the class of creditors summoned under section 670, a majority in number representing at least 75% in value of the class of

當中價值最少 75% 的過半數債權人同意該安排或妥協；

- (c) 除第 (2)(a) 款另有規定外，在以下情況下，有關成員即屬同意有關安排或妥協 ——
 - (i) 在根據第 670 條召開的成員會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的成員中，佔持有當中最少 75% 的表決權的成員同意該安排或妥協；及
 - (ii) 除原訟法庭另有命令外，在該會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的過半數成員同意該安排或妥協；及
- (d) 除第 (2)(b) 款另有規定外，在以下情況下，有關類別成員即屬同意有關安排或妥協 ——
 - (i) 在根據第 670 條就該類別成員召開的會議上，出席且有投票（不論是親身出席及投票或委派代表出席及投票）的該類別成員中，佔持有當中最少 75% 的表決權的成員同意該安排或妥協；及
 - (ii) 除原訟法庭另有命令外，在該會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的該類別過半數成員同意該安排或妥協。
- (2) 然而，凡有關安排涉及屬第 707 條所指的公開要約，或涉及收購要約 ——
 - (a) 在以下情況下，有關成員即屬同意該安排 ——
 - (i) 在根據第 670 條召開的成員會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的成員中，佔持有當中最少 75% 的表決權的成員同意該安排；而

creditors present and voting, in person or by proxy, agree to the arrangement or compromise;

- (c) subject to subsection (2)(a), the members agree to the arrangement or compromise if, at a meeting of the members summoned under section 670—
 - (i) members representing at least 75% of the voting rights of the members present and voting, in person or by proxy, agree to the arrangement or compromise; and
 - (ii) unless the Court orders otherwise, a majority in number of the members present and voting, in person or by proxy, agree to the arrangement or compromise; and
- (d) subject to subsection (2)(b), a class of members agrees to the arrangement or compromise if, at a meeting of the class of members summoned under section 670—
 - (i) members representing at least 75% of the voting rights of the class of members present and voting, in person or by proxy, agree to the arrangement or compromise; and
 - (ii) unless the Court orders otherwise, a majority in number of the class of members present and voting, in person or by proxy, agree to the arrangement or compromise.
- (2) However, where the arrangement involves a general offer within the meaning of section 707 or a takeover offer—
 - (a) the members agree to the arrangement if—
 - (i) at a meeting of the members summoned under section 670, members representing at least 75% of the voting rights of the members present

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- (ii) 在該會議上對該安排投下的反對票，佔有關公司的所有無利害關係股份所附的總表決權不超過 10%；
- (b) 在以下情況下，有關類別成員即屬同意該安排 ——
 - (i) 在根據第 670 條就該類別成員召開的會議上，出席該會議且有投票（不論是親身出席及投票或委派代表出席及投票）的該類別成員中，佔持有當中最少 75% 的表決權的成員同意該安排；而
 - (ii) 在該會議上對該安排投下的反對票，佔有關公司的屬該類別的所有無利害關係股份所附的總表決權不超過 10%。
- (3) 在第 (2) 款中 ——
無利害關係股份 (disinterested shares) 指 ——
 - (a) （如屬收購要約的情況）以下股份以外的有關公司的股份 ——
 - (i) 有關要約人所持有的股份，或由代名人代表該要約人持有的股份；
 - (ii) 該要約人的有聯繫者所持有的股份（但如該人屬第 667(1)(a)(vii) 或 (b)(iii) 條所指者，或屬第 (4) 款指明的人士，則屬例外）；或
 - (iii) 屬與該要約人訂立的、第 667(5) 條所指的收購協議的一方的人（第 (4) 款指明的人士除外）所持有的股份，或由代名人根據該收購協議代表該人持有的股份；
 - (b) （如屬公開要約的情況）以下股份以外的該公司的股份 ——
 - (i) 第 705(1) 條所界定的不售股成員所持有的股份，或由代名人代表該成員持有的股份；

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- and voting, in person or by proxy, agree to the arrangement; and
- (ii) the votes cast against the arrangement at the meeting do not exceed 10% of the total voting rights attached to all disinterested shares in the company;
- (b) a class of members agrees to the arrangement if—
 - (i) at a meeting of the class of members summoned under section 670, members representing at least 75% of the voting rights of the class of members present and voting, in person or by proxy, agree to the arrangement; and
 - (ii) the votes cast against the arrangement at the meeting do not exceed 10% of the total voting rights attached to all disinterested shares of the class in the company.
- (3) In subsection (2)—
disinterested shares (無利害關係股份) means—
 - (a) in the case of a takeover offer, shares in the company other than those held—
 - (i) by the offeror, or by a nominee on behalf of the offeror;
 - (ii) by an associate of the offeror (except a person who falls within section 667(1)(a)(vii) or (b)(iii) or a person specified in subsection (4)); or
 - (iii) by a person who is a party to an acquisition agreement within the meaning of section 667(5) with the offeror (except a person specified in subsection (4)), or by a nominee on behalf of the person under the acquisition agreement;

- (ii) 該等不售股成員的有聯繫者所持有的股份 (但如該人屬第 667(1)(a)(vii) 或 (b)(iii) 條所指者，或屬第 (4) 款指明的人士，則屬例外) ；
 - (iii) 由代名人代表有關回購公司持有的股份 ；
 - (iv) 該等回購公司的有聯繫者所持有的股份 (但如該人屬第 667(2)(c) 條所指者，或屬第 (4) 款指明的人士，則屬例外) ；或
 - (v) 屬與該等不售股成員或回購公司訂立的該等收購協議的一方的人 (第 (4) 款指明的人士除外) 所持有的股份，或由代名人根據該收購協議代表該人持有的股份。
- (4) 為第 (3) 款中**無利害關係股份**的定義中 (a)(ii) 及 (iii) 及 (b)(ii)、(iv) 及 (v) 段的目的而指明的人士是：獲原訟法庭根據第 670(1)(b) 條宣布為屬本條所指的指明人士的人。
- (5) 就第 (2) 及 (3) 款而言 ——
- (a) 如有以下情況，則就收購某公司的股份而作出的要約，即屬收購要約 ——
 - (i) 該要約的內容，是收購該公司的所有股份或任何類別股份中的所有股份 (在該要約的日期由要約人持有的股份除外) ；及
 - (ii) 該要約 ——
 - (A) 不是關乎不同類別股份的，而就該要約關乎的所有股份而言，該要約的條款是相同的；或
 - (B) 是關乎不同類別股份的，而就該要約關乎的每一類別股份中的所有股份而言，該要約的條款是相同的；及
 - (b) 凡有人根據某要約就取消某公司的股份而提供代價，如有以下情況，該要約亦屬收購要約 ——

- (b) in the case of a general offer, shares in the company other than those held—
 - (i) by a non-tendering member as defined by section 705(1), or by a nominee on behalf of the member;
 - (ii) by an associate of such a non-tendering member (except a person who falls within section 667(1)(a)(vii) or (b)(iii) or a person specified in subsection (4));
 - (iii) by a nominee on behalf of the repurchasing company;
 - (iv) by an associate of such a repurchasing company (except a person who falls within section 667(2)(c) or a person specified in subsection (4)); or
 - (v) by a person who is a party to such an acquisition agreement with such a non-tendering member or repurchasing company (except a person specified in subsection (4)), or by a nominee on behalf of the person under the acquisition agreement.
- (4) The person specified for the purposes of paragraph (a)(ii) and (iii) and (b)(ii), (iv) and (v) of the definition of **disinterested shares** in subsection (3) is a person declared under section 670(1)(b) to be a person specified under this section.
- (5) For the purposes of subsections (2) and (3)—
- (a) an offer to acquire shares in a company is a takeover offer if—
 - (i) it is an offer to acquire all the shares, or all the shares of any class, in the company, except those that, at the date of the offer, are held by the offeror; and
 - (ii) the terms of the offer are the same—

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- (i) 根據該要約，代價是就取消該公司以下股份以外的所有股份而提供的，或是就取消該公司任何類別股份中的以下股份以外的所有股份而提供的 ——
- (A) 在該要約的日期由要約人持有的股份；
- (B) 在有關要約文件中指明為不會根據該要約取消的股份；及
- (C) 在該要約的日期由居於某地方的成員持有的股份，而該要約是違反該地方的法律的；及
- (ii) 該要約 ——
- (A) 不是關乎不同類別股份的，而就該要約關乎的所有股份而言，該要約的條款是相同的；或
- (B) 是關乎不同類別股份的，而就該要約關乎的每一類別股份中的所有股份而言，該要約的條款是相同的。
- (6) 在第 (5) 款中 ——
- 股份** (shares) 指在有關要約的日期已配發的股份。
- (7) 在第 (5)(a)(i) 及 (b)(i) 款中，提述由要約人持有的股份 ——
- (a) 包括該要約人已訂立合約承諾無條件收購或承諾在某些條件獲得符合的前提下收購的股份；但
- (b) 不包括屬符合以下說明的合約的標的之股份 ——
- (i) 該合約是由該要約人與有關公司股份的持有人訂立的，而目的是確保在該要約作出時，該持有人會接受該要約；及
- (ii) 該合約的訂立是沒有代價且是藉契據訂立的、訂立該合約所收取的代價屬微不足道或訂立該

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- (A) where the offer does not relate to shares of different classes, in relation to all the shares to which the offer relates; or
- (B) where the offer relates to shares of different classes, in relation to all the shares of each class to which the offer relates; and
- (b) an offer under which consideration is provided for the cancellation of shares in a company is also a takeover offer if—
- (i) it is an offer under which consideration is provided for the cancellation of all the shares, or all the shares of any class, in the company, except—
- (A) those that, at the date of the offer, are held by the offeror;
- (B) those that are specified in the offer document as shares that are not to be cancelled under the offer; and
- (C) those that, at the date of the offer, are held by a member residing in a place where such an offer is contrary to the law of the place; and
- (ii) the terms of the offer are the same—
- (A) where the offer does not relate to shares of different classes, in relation to all the shares to which the offer relates; or
- (B) where the offer relates to shares of different classes, in relation to all the shares of each class to which the offer relates.
- (6) In subsection (5)—
- shares** (股份) means shares that have been allotted on the date of the offer.

合約所收取的代價包含該要約人作出該要約的承諾。

- (8) 就第 (5)(a)(ii) 及 (b)(ii) 款而言，就某要約關乎的所有股份或某類別股份的所有股份而言，即使就較早配發的股份提供的代價的價值，有別於就較後配發的股份提供的代價的價值，只要符合以下條件，該要約的條款仍須視為就所有有關股份而言是相同的——
- (a) 股份附有獲得某項股息的權利，而同類別的其他股份因為於不同時間配發，而不附有該權利；
 - (b) 該代價的價值的差別，純粹反映上述獲得股息的權利的分別；及
 - (c) 若非因為該代價的價值的差別，關乎所有有關股份的要約條款便會是相同的。
- (9) 就第 (5)(a)(ii) 及 (b)(ii) 款而言，就某要約關乎的所有股份或某類別股份的所有股份而言，即使提供的代價的形式有所不同，只要符合以下條件，該要約的條款仍須視為就所有有關股份而言是相同的——
- (a) 香港以外某地方的法律不允許提供該要約的條款指明形式的代價，或該地方的法律規定除非要約人符合某些要約人不能夠符合或要約人視為過分嚴苛的條件，否則不允許提供該形式的代價；
 - (b) 向某人提供指明形式的代價如此不獲准許，但有另一形式的代價向該人提供；
 - (c) 該人能夠收取該另一形式而大致上是相等價值的代價；及
 - (d) 若非有代價形式的分別，關乎所有有關股份的要約條款便會是相同的。
- (10) 儘管有第 (5) 款的規定，收購要約關乎的股份當中，可包括將會在該要約的日期後但在該要約指明的日期前配發的股份。

- (7) In subsection (5)(a)(i) and (b)(i), a reference to shares that are held by an offeror—
- (a) includes shares that the offeror has contracted, unconditionally or subject to conditions being satisfied, to acquire; but
 - (b) excludes shares that are the subject of a contract—
 - (i) entered into by the offeror with a holder of shares in the company in order to secure that the holder will accept the offer when it is made; and
 - (ii) entered into for no consideration and by deed, for consideration of negligible value, or for consideration consisting of a promise by the offeror to make the offer.
- (8) For the purposes of subsection (5)(a)(ii) and (b)(ii), even though, in relation to all the shares, or all the shares of a class of shares, to which an offer relates, there is a difference in the value of consideration offered for the shares allotted earlier as against the value of consideration offered for those allotted later, the terms of the offer are to be regarded as the same in relation to all the shares concerned if—
- (a) shares carry an entitlement to a particular dividend that other shares of the same class, by reason of being allotted at a different time, do not carry;
 - (b) the difference in value of consideration merely reflects that difference in entitlement to dividend; and
 - (c) but for the difference in the value of consideration, the terms of the offer would be the same in relation to all the shares concerned.
- (9) For the purposes of subsection (5)(a)(ii) and (b)(ii), even though, in relation to all the shares, or all the shares of a class of shares, to which an offer relates, there is a difference in the

- (11) 在第 (2)、(3)、(4)、(5)、(6)、(7)、(8)、(9) 及 (10) 款中，提述公司的股份包括 ——
- (a) 可轉換為該公司的股份的債權證；及
 - (b) 可轉換為該公司的股份或給予持有人認購該公司的股份的權利的該公司的證券。

上述各款適用於該等債權證或證券，猶如該等債權證或證券是該公司的一個獨立類別的股份，而其中提述成員或股份持有人之處，須據此理解。

form of consideration offered, the terms of the offer are to be regarded as the same in relation to all the shares concerned if—

- (a) the law of a place outside Hong Kong precludes an offer of consideration in the form specified in the terms of the offer, or precludes it except after compliance by the offeror with conditions with which the offeror is unable to comply or that the offeror regards as unduly onerous;
 - (b) consideration in another form is offered to a person to whom an offer of consideration in the specified form is so precluded;
 - (c) the person is able to receive consideration in that other form that is of substantially equivalent value; and
 - (d) but for the difference in the form of consideration, the terms of the offer would be the same in relation to all the shares concerned.
- (10) Despite subsection (5), a takeover offer may include, among the shares to which it relates, shares that will be allotted after the date of the offer but before a date specified in the offer.
- (11) In subsections (2), (3), (4), (5), (6), (7), (8), (9) and (10), a reference to shares in a company includes—
- (a) debentures that are convertible into shares in the company; and
 - (b) securities of the company that are convertible into, or entitle the holder to subscribe for, shares in the company.

Those subsections apply to those debentures or securities as if they were shares of a separate class of the company, and a reference to a member or a holder of shares in those subsections is to be read accordingly.

675. 原訟法庭促成重組或合併的額外權力

- (1) 如有以下情況，本條適用 ——
- (a) 有人為第 673(2) 條的目的而提出申請，要求認許某安排或妥協；及
 - (b) 已向原訟法庭證明 ——
 - (i) 該安排或妥協，是建議為重組一間或多於一間公司或合併 2 間或多於 2 間公司的計劃而作出的，或在與該計劃有關連的情況下建議作出的；及
 - (ii) 在該計劃下，該計劃所涉的任何公司的財產或業務或該財產或業務的任何部分，會被轉讓至另一公司。
- (2) 如原訟法庭認許有關安排或妥協，它可藉命令或其後作出的命令，就以下任何或所有事宜作出規定 ——
- (a) 將出讓人的財產、業務或法律責任或其任何部分，轉讓予受讓人；
 - (b) 受讓人配發或撥付根據該安排或妥協須由該受讓人配發或撥予任何人的其任何股份、債權證、保險單或其他類似權益，或須由該受讓人為任何人而作出配發或撥付的其任何股份、債權證、保險單或其他類似權益；
 - (c) 由出讓人提起或針對出讓人的待決的法律程序，可由受讓人繼續進行或繼續針對受讓人進行；
 - (d) 出讓人無需清盤而予以解散；
 - (e) 就任何人在原訟法庭指示的時限內以原訟法庭指示的方式對該安排或妥協提出異議，作出規定；
 - (f) 將財產的任何權益，轉讓或配發予關涉該安排或妥協的人；

675. Court's additional powers to facilitate reconstruction or amalgamation

- (1) This section applies if—
- (a) an application is made for the purposes of section 673(2) to sanction the arrangement or compromise; and
 - (b) it is shown to the Court that—
 - (i) the arrangement or compromise is proposed for the purpose of, or in connection with, a scheme for the reconstruction of one or more companies, or for the amalgamation of 2 or more companies; and
 - (ii) under the scheme, the property or undertaking of any company concerned in the scheme, or any part of that property or undertaking, is to be transferred to another company.
- (2) If the Court sanctions the arrangement or compromise, it may, by the order or a subsequent order, make provision for any or all of the following—
- (a) the transfer of the transferor's property, undertaking or liabilities, or any part of it or them, to the transferee;
 - (b) the allotting or appropriation by the transferee of any shares, debentures, policies, or other like interests in the transferee which, under the arrangement or compromise, are to be allotted or appropriated by the transferee to or for any person;
 - (c) the continuation by or against the transferee of any legal proceedings pending by or against the transferor;
 - (d) the dissolution, without winding up, of the transferor;
 - (e) the provision to be made for any person, who within the time, and in the manner, that the Court directs, dissents from the arrangement or compromise;

- (g) 為確保有關重組或合併可充分及有效地實行所需的附帶、相應及補充事宜。
- (3) 如根據第(2)款作出的命令就財產的轉讓作出規定，則——
- (a) 該財產憑藉該命令轉讓予並歸屬受讓人；及
- (b) (如該命令有此指示)該財產的歸屬不再受憑藉有關安排或妥協而停止有效的押記所規限。
- (4) 如根據第(2)款作出的命令就法律責任的轉讓作出規定，則該法律責任憑藉該命令轉讓予受讓人，並成為受讓人的法律責任。
- (5) 如原訟法庭藉命令就第(2)款所指的事宜作出規定，則在處長根據第2部將該命令的正式文本登記前，該命令在它本意是作出該規定的範圍內，沒有效力。
- (6) 如原訟法庭的命令修訂有關公司的章程細則，或修訂第622條適用的決議或協議，則為第(5)款的目的而交付處長登記的該命令的正式文本，須隨附經修訂的該章程細則或經修訂的該決議或協議的文本。
- (7) 如第(6)款遭違反，有關公司及其每名責任人均屬犯罪，可各處第3級罰款。
- (8) 在本條中——

出讓人 (transferor) 就為重組或合併計劃的目的而建議作出的安排或妥協而言，指根據該計劃將本身財產、業務或法律責任或其任何部分轉讓予另一公司的公司；

受讓人 (transferee) 就為重組或合併計劃的目的而建議作出的安排或妥協而言，指將會根據該計劃接受由另一公司轉讓的財產、業務或法律責任或其任何部分的公司；

法律責任 (liabilities) 包括——

- (a) 屬個人性質的、不能根據法律轉讓或由其他人代為執行的責任；及
- (b) 任何其他種類的責任；

- (f) the transfer or allotting of any interest in property to any person concerned in the arrangement or compromise;
- (g) any incidental, consequential and supplemental matters that are necessary to ensure that the reconstruction or amalgamation is fully and effectively carried out.
- (3) If an order provides for the transfer of property under subsection (2)—
- (a) the property is, by virtue of the order, transferred to, and vests in, the transferee; and
- (b) where the order so directs, the property vests freed from any charge that is to cease to have effect by virtue of the arrangement or compromise.
- (4) If an order provides for the transfer of liabilities under subsection (2), the liabilities are, by virtue of the order, transferred to, and become liabilities of, the transferee.
- (5) If the Court, by an order, makes provision for any matter under subsection (2), the order has no effect to the extent to which it purports to make the provision until an office copy of the order is registered by the Registrar under Part 2.
- (6) If the order of the Court amends the company's articles, or any resolution or agreement to which section 622 applies, the office copy of that order delivered to the Registrar for registration for the purposes of subsection (5) must be accompanied by a copy of those articles, or the resolution or agreement, as amended.
- (7) If subsection (6) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.
- (8) In this section—

liabilities (法律責任) includes—

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財產 (property) 包括 ——

- (a) 屬個人性質的、不能根據法律轉讓或由其他人代為執行的權利及權力；及
- (b) 任何其他種類的權利及權力。

(編輯修訂 —— 2013 年第 1 號編輯修訂紀錄)

676. 原訟法庭可命令支付訟費

- (1) 凡有人為第 673(2) 條的目的提出申請，要求原訟法庭作出命令，認許屬第 674(2) 條所指的安排，本條適用於該申請。
- (2) 如有成員對有關安排提出異議，並為反對有關申請而招致訟費，或將會為反對有關申請而招致訟費，原訟法庭可就該等訟費作出其認為合適的命令。
- (3) 上述命令可規定有關公司或有關申請的任何其他各方，須就有關成員招致或將會招致的訟費，向該成員作出彌償。

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- (a) duties of a personal character and incapable of being assigned or performed vicariously under the law; and
- (b) duties of any other description;

property (財產) includes—

- (a) rights and powers of a personal character and incapable of being assigned or performed vicariously under the law; and
- (b) rights and powers of any other description;

transferee (受讓人), in relation to an arrangement or compromise proposed for the purpose of a scheme of reconstruction or amalgamation, means the company to which another company's property, undertaking or liabilities, or any part of it or them, is to be transferred under the scheme;

transferor (出讓人), in relation to an arrangement or compromise proposed for the purpose of a scheme of reconstruction or amalgamation, means the company whose property, undertaking or liabilities, or any part of it or them, is to be transferred to another company under the scheme.

676. Court may order costs

- (1) This section applies in relation to an application made for the purposes of section 673(2) for an order of the Court sanctioning an arrangement that falls within section 674(2).
- (2) The Court may make any order that it thinks fit about the costs incurred or to be incurred by a member who dissents from the arrangement in opposing the application.
- (3) An order may require the company or any other party to the application to indemnify the member against the costs incurred or to be incurred by the member.
- (4) The Court may only make an order about costs (including the requirement as to indemnification) under this section in favour

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第 678 條

- (4) 原訟法庭須信納有關成員反對有關申請是真誠行事，並有合理理由反對，方可根據本條，就訟費（包括關於彌償的規定）作出有利於該成員的命令。
- (5) 只有在有關成員對有關申請提出的反對屬瑣屑無聊或無理纏擾的情況下，原訟法庭方可根據本條作出飭令該成員支付訟費的命令。

677. 公司章程細則須隨附原訟法庭命令

- (1) 在原訟法庭為第 673 或 675 條的目的作出命令後，由公司發出的每份公司章程細則的文本，均須隨附該命令的文本，但如該命令的效力及該命令關乎的安排或妥協的效力，已藉更改該章程細則而納入該章程細則之內，則不須隨附該命令的文本。
- (2) 如第 (1) 款遭違反，有關公司及其每名責任人均屬犯罪，可各處第 3 級罰款。

第 3 分部 —— 同一集團內的公司的合併

678. 釋義

- (1) 在本分部中，如某公司的成員除了 ——
 - (a) 另一法人團體；
 - (b) 另一法人團體的代名人；
 - (c) 另一法人團體的全資附屬公司；或
 - (d) 該附屬公司的代名人，
 之外，並無其他成員，則該公司即屬該另一法人團體的全資附屬公司。（由 2018 年第 35 號第 69 條修訂）
- (2) 本分部所指的註銷股份，就第 5 部而言不屬減低股本。
- (3) 就本分部而言，批准第 680(1) 或 681(1) 條所述的合併的決議，即屬已獲批准的合併建議。

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of the member if it is satisfied that the member was acting in good faith in, and had reasonable grounds for, opposing the application.

- (5) The Court may only make an order about costs under this section against the member if the member's opposition to the application is frivolous or vexatious.

677. Company's articles to be accompanied by order of Court

- (1) Every copy of the company's articles issued by the company after an order is made for the purposes of section 673 or 675 must be accompanied by a copy of the order, unless the effect of the order, and the effect of the arrangement or compromise to which the order relates, has been incorporated into the articles by alteration to those articles.
- (2) If subsection (1) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.

Division 3—Amalgamation of Companies within Group

678. Interpretation

- (1) In this Division, a company is a wholly owned subsidiary of another body corporate if it has no members except—*(Amended 35 of 2018 s. 69)*
 - (a) that other body corporate;
 - (b) a nominee of that other body corporate;
 - (c) a wholly owned subsidiary of that other body corporate; or
 - (d) a nominee of that subsidiary. *(Amended 35 of 2018 s. 69)*

679. 償付能力陳述

- (1) 在本分部中，提述合併的公司的董事作出的償付能力陳述，即提述在第 (2) 款指明的時間之前作出的、述明以下事宜的陳述 ——
 - (a) 該等董事認為 ——
 - (i) 在作出該陳述的日期，沒有認定該合併的公司不能償付其債項的理由；及
 - (ii) 合併後的公司，將會有能力償付在緊接合併生效的日期後 12 個月期間內到期的其債項；及
 - (b) 在作出該陳述的日期 ——
 - (i) 沒有以下任何一項 ——
 - (A) 由該合併的公司設立的浮動押記；
 - (B) 由該合併的公司就某類別資產設立的任何其他抵押，而該抵押的權益並未扣押於任何該等資產；或
 - (ii) 有上述的浮動押記或其他抵押，而每名對該押記或抵押享有權利的人，均已書面同意有關合併建議。
- (2) 如 ——
 - (a) 有關合併是擬藉在成員大會上投票通過的決議批准的，則為施行第 (1) 款而指明的時間，即該大會的日期；或
 - (b) 有關合併是擬藉書面決議批准的，則為施行第 (1) 款而指明的時間，即該決議的傳閱日期。

- (2) A cancellation of shares under this Division is not a reduction of share capital for the purposes of Part 5.
- (3) For the purposes of this Division, a resolution approving an amalgamation mentioned in section 680(1) or 681(1) is an amalgamation proposal that has been approved.

679. Solvency statement

- (1) In this Division, a reference to a solvency statement made by the directors of an amalgamating company is a reference to a statement made before the time specified in subsection (2) that—
 - (a) in the directors' opinion—
 - (i) as at the date of the statement, there is no ground on which the amalgamating company could be found to be unable to pay its debts; and
 - (ii) the amalgamated company will be able to pay its debts as they fall due during the period of 12 months immediately after the date on which the amalgamation is to become effective; and
 - (b) as at the date of the statement—
 - (i) none of the following exists—
 - (A) any floating charge created by the amalgamating company;
 - (B) any other security created by the amalgamating company over a class of assets, to any of which the security interest has not attached; or
 - (ii) there exists such a floating charge or other security, and each person entitled to the charge or security has consented in writing to the amalgamation proposal.

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- (3) 有關董事在為第 (1)(a)(ii) 款的目的而得出意見前，須考慮有關合併的公司的所有債務（包括或有負債及預期債項）。
- (4) 在第 (2)(b) 款中 ——
傳閱日期 (circulation date) 具有第 547(1) 條給予該詞的涵義。

680. 縱向合併

- (1) 公司 (**合併的控權公司**) 及其一間或多於一間的全資附屬公司可合併，並作為一間公司繼續存在，但前提是 ——
- (a) 合併的控權公司的成員，批准按第 (2) 款指明的條款進行該合併；及
 - (b) 每間合併的附屬公司的成員，均批准按第 (2) 款指明的條款進行該合併。
- (2) 上述條款是 ——
- (a) 每間合併的附屬公司的股份，將會在沒有支付任何款項或其他代價下被註銷；
 - (b) 合併後的公司的章程細則，將會與合併的控權公司的章程細則相同；
 - (c) 每間合併的公司的董事 ——
 - (i) 均信納在他們作出償付能力陳述的日期，沒有認定該合併的公司不能償付其債項的理由；及

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- (2) The time specified for the purposes of subsection (1) is—
- (a) if the amalgamation is to be approved by a resolution passed on a poll at a general meeting, the date of the meeting; or
 - (b) if the amalgamation is to be approved by a written resolution, the circulation date of the resolution.
- (3) In forming an opinion for the purposes of subsection (1)(a)(ii), the directors must take into account all the liabilities of the amalgamated company (including contingent and prospective liabilities).
- (4) In subsection (2)(b)—
circulation date (傳閱日期) has the meaning given by section 547(1).

680. Vertical amalgamation

- (1) A company (**amalgamating holding company**), and one or more of its wholly owned subsidiaries, may amalgamate, and continue, as one company if—
- (a) the members of the amalgamating holding company approve the amalgamation on the terms specified in subsection (2); and
 - (b) the members of each of the amalgamating subsidiaries approve the amalgamation on the terms specified in subsection (2).
- (2) The terms are—
- (a) that the shares of each of the amalgamating subsidiaries will be cancelled without payment or other consideration;
 - (b) that the articles of the amalgamated company will be the same as the articles of the amalgamating holding company;

- (ii) 均在考慮合併後的公司的所有債務 (包括或有負債及預期債項) 後, 信納合併後的公司將會有能力償付在緊接合併生效的日期後 12 個月期間內到期的該公司的債項;
- (d) 每間合併的公司的董事均確認在他們作出償付能力陳述的日期 ——
 - (i) 沒有以下任何一項 ——
 - (A) 由該合併的公司設立的浮動押記;
 - (B) 由該合併的公司就某類別資產設立的任何其他抵押, 而該抵押的權益並未扣押於任何該等資產; 或
 - (ii) 有上述的浮動押記或其他抵押, 而每名對該押記或抵押享有權利的人, 均已書面同意有關合併建議;
- (e) 有關決議指名的人將會是合併後的公司的董事。
- (3) 第 (1)(a) 款所指的批准, 須藉在有關公司的成員大會上投票通過的特別決議取得, 但不得藉書面決議取得。
- (4) 第 (1)(b) 款所指的批准, 須藉在有關公司的成員大會上投票通過的特別決議取得, 或藉書面決議取得。
- (5) 除非每間合併的公司均是股份有限公司, 否則本條不適用。

- (c) that the directors of each amalgamating company—
 - (i) are satisfied that, as at the date of the solvency statement made by them, there is no ground on which the amalgamating company could be found to be unable to pay its debts; and
 - (ii) after taking into account all the liabilities of the amalgamated company (including contingent and prospective liabilities), are satisfied that the amalgamated company will be able to pay its debts as they fall due during the period of 12 months immediately after the date on which the amalgamation is to become effective;
- (d) that the directors of each amalgamating company have confirmed that as at the date of the solvency statement made by them—
 - (i) none of the following exists—
 - (A) any floating charge created by the amalgamating company;
 - (B) any other security created by the amalgamating company over a class of assets, to any of which the security interest has not attached; or
 - (ii) there exists such a floating charge or other security, and each person entitled to the charge or security has consented in writing to the amalgamation proposal;
- (e) that the person or persons named in the resolution will be the director or directors of the amalgamated company.

681. 橫向合併

- (1) 某法人團體的 2 間或多於 2 間的全資附屬公司可合併，並作為一間公司繼續存在，但前提是每間合併的公司的成員，均批准按第 (2) 款指明的條款進行該合併。(由 2018 年第 35 號第 70 條修訂)
- (2) 上述條款為 ——
 - (a) 除其中一間合併的公司的股份外，其他所有合併的公司的股份，將會在沒有支付任何款項或其他代價下被註銷；
 - (b) 合併後的公司的章程細則，將會與股份沒有被註銷的合併的公司的章程細則相同；
 - (c) 每間合併的公司的董事 ——
 - (i) 均信納在他們作出償付能力陳述的日期，沒有認定該合併的公司不能償付其債項的理由；及
 - (ii) 均在考慮合併後的所有債務（包括或有負債及預期債項）後，信納合併後的公司將會有能力償付在緊接合併生效的日期後 12 個月期間內到期的該公司的債項；
 - (d) 每間合併的公司的董事均確認在他們作出償付能力陳述的日期 ——
 - (i) 沒有以下任何一項 ——

- (3) An approval for the purposes of subsection (1)(a) must be obtained by a special resolution of the company passed on a poll at a general meeting but not by a written resolution.
- (4) An approval for the purposes of subsection (1)(b) must be obtained by a special resolution of the company passed on a poll at a general meeting or by a written resolution.
- (5) This section does not apply unless each amalgamating company is a company limited by shares.

681. Horizontal amalgamation

- (1) Two or more of the wholly owned subsidiaries of a body corporate may amalgamate, and continue, as one company if the members of each amalgamating company approve the amalgamation on the terms specified in subsection (2). (*Amended 35 of 2018 s. 70*)
- (2) The terms are—
 - (a) that the shares of all but one of the amalgamating companies will be cancelled without payment or other consideration;
 - (b) that the articles of the amalgamated company will be the same as the articles of the amalgamating company whose shares are not cancelled;
 - (c) that the directors of each amalgamating company—
 - (i) are satisfied that, as at the date of the solvency statement made by them, there is no ground on which the amalgamating company could be found to be unable to pay its debts; and
 - (ii) after taking into account all the liabilities of the amalgamated company (including contingent and prospective liabilities), are satisfied that the amalgamated company will be able to pay its

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- (A) 由該合併的公司設立的浮動押記；
- (B) 由該合併的公司就某類別資產設立的任何其他抵押，而該抵押的權益並未扣押於任何該等資產；或
- (ii) 有上述的浮動押記或其他抵押，而每名對該押記或抵押享有權利的人，均已書面同意有關合併建議；
- (e) 有關決議指名的人將會是合併後的公司的董事。
- (3) 第(1)款所指的批准，須藉在合併的公司的成員大會上投票通過的特別決議取得，或藉書面決議取得。
- (4) 除非每間合併的公司均是股份有限公司，否則本條不適用。

682. 合併的公司的董事須將建議合併一事通知有抵押債權人

(1) 就第 680 或 681 條所指的每間合併的公司而言 ——

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- debts as they fall due during the period of 12 months immediately after the date on which the amalgamation is to become effective;
- (d) that the directors of each amalgamating company have confirmed that as at the date of the solvency statement made by them—
 - (i) none of the following exists—
 - (A) any floating charge created by the amalgamating company;
 - (B) any other security created by the amalgamating company over a class of assets, to any of which the security interest has not attached; or
 - (ii) there exists such a floating charge or other security, and each person entitled to the charge or security has consented in writing to the amalgamation proposal;
- (e) that the person or persons named in the resolution will be the director or directors of the amalgamated company.
- (3) An approval for the purposes of subsection (1) must be obtained by a special resolution of the amalgamating company passed on a poll at a general meeting or by a written resolution.
- (4) This section does not apply unless each amalgamating company is a company limited by shares.

682. Directors of amalgamating company must notify secured creditors of proposed amalgamation

- (1) The directors of each amalgamating company under section 680 or 681 must comply with subsection (2)—

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- (a) 如有關合併是擬藉在成員大會上投票通過的決議批准的，則該公司的董事須在該大會的日期前最少 21 日遵守第 (2) 款；或
- (b) 如有關合併是擬藉書面決議批准的，則該公司的董事須在該決議的傳閱日期或之前，遵守第 (2) 款。
- (2) 上述董事 ——
 - (a) 須就建議合併一事，向有關合併的公司的每名有抵押債權人發出書面通知；及
 - (b) 須將關於建議合併一事的公告，於在香港廣泛流通的一份英文報章及一份中文報章刊登。
- (3) 如合併的公司的董事違反第 (1) 款，則每名董事均屬犯罪，可處第 3 級罰款。
- (4) 在第 (1)(b) 款中 ——
傳閱日期 (circulation date) 具有第 547(1) 條給予該詞的涵義。

683. 合併的公司的董事須就償付能力陳述發出證明書

- (1) 表決贊成作出償付能力陳述的合併的公司的每名董事，均須發出證明書 ——
 - (a) 述明 ——
 - (i) 該董事認為第 679(1)(a)(i) 及 (ii) 條指明的條件已獲符合；及
 - (ii) 持該意見的理由；及
 - (b) 述明第 679(1)(b) 條指明的條件已獲符合。
- (2) 任何人違反第 (1) 款，即屬犯罪，可處第 4 級罰款。

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- (a) if the amalgamation is to be approved by a resolution passed on a poll at a general meeting, at least 21 days before the date of the meeting; or
- (b) if the amalgamation is to be approved by a written resolution, on or before the circulation date of the resolution.
- (2) Those directors—
 - (a) must give written notice of the proposed amalgamation to every secured creditor of the amalgamating company; and
 - (b) must publish notice of the proposed amalgamation in an English language newspaper, and a Chinese language newspaper, circulating generally in Hong Kong.
- (3) If the directors of an amalgamating company contravene subsection (1), each of them commits an offence and is liable to a fine at level 3.
- (4) In subsection (1)(b)—
circulation date (傳閱日期) has the meaning given by section 547(1).

683. Director of amalgamating company must issue certificate on solvency statement

- (1) Every director of the amalgamating company who votes in favour of making a solvency statement must issue a certificate—
 - (a) stating—
 - (i) that, in the director's opinion, the conditions specified in section 679(1)(a)(i) and (ii) are satisfied; and
 - (ii) the grounds for that opinion; and

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- (3) 合併的公司的董事如在沒有合理理由支持在償付能力陳述中表明的意見及事實的情況下，表決贊成作出該陳述，或以其他方式導致作出該陳述，即屬犯罪。
- (4) 任何人違反第 (3) 款，即屬犯罪 ——
 - (a) 一經循公訴程序定罪，可處罰款 \$150,000 及監禁 2 年；或
 - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。

684. 合併的登記

- (1) 為使合併有效，須在合併建議獲批准後的 15 日內，將以下文件交付處長登記 ——
 - (a) 獲批准的合併建議；
 - (b) 第 683(1) 條規定的每項證明書；
 - (c) 每間合併的公司的董事發出的證明書，述明該合併已 ——
 - (i) 按照本分部獲批准；及
 - (ii) 按照該合併的公司的章程細則獲批准；
 - (d) 關於委任合併後的公司的董事的通知；
 - (e) 合併後的公司的董事或擬委任為該公司的董事的人發出的證明書，述明假若合併後的公司的債權人的申索相對該公司資產價值的比例，高於某合併的公

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- (b) stating that the condition specified in section 679(1)(b) is satisfied.
- (2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 4.
- (3) A director of the amalgamating company commits an offence if the director votes in favour of making a solvency statement, or otherwise causes a solvency statement to be made, without having reasonable grounds for the opinion and fact expressed in the statement.
- (4) A person who commits an offence under subsection (3) is liable—
 - (a) on conviction on indictment to a fine of \$150,000 and to imprisonment for 2 years; or
 - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

684. Registration of amalgamation

- (1) For the purpose of effecting an amalgamation, the following documents must be delivered to the Registrar for registration within 15 days after the approval of the amalgamation proposal—
 - (a) the amalgamation proposal that has been approved;
 - (b) every certificate required by section 683(1);
 - (c) a certificate issued by the directors of each amalgamating company stating that the amalgamation has been approved in accordance with—
 - (i) this Division; and
 - (ii) the articles of the amalgamating company;
 - (d) a notice of appointment of the directors of the amalgamated company;

司的債權人的申索相對該公司資產價值的比例，沒有債權人會因此事實而受到損害。

- (2) 第 (1)(a)、(b)、(c)、(d) 或 (e) 款所述的文件，須符合指明格式。
- (3) 在第 (1) 款所述的文件登記後，處長須在切實可行範圍內，盡快發出合併證明書。
- (4) 合併證明書可用處長認為合適的格式發出。

685. 合併的生效日期

- (1) 根據第 684(3) 條發出的合併證明書，須指明一個日期為有關合併的生效日期。
- (2) 如合併建議指明有關合併的擬生效日期，而該日期與處長登記第 684(1) 條所述的文件的日期相同或是在其後，則須在合併證明書指明該日期是該合併的生效日期。
- (3) 在合併的生效日期 ——
 - (a) 該合併生效；
 - (b) 每間合併的公司不再是獨立於合併後的公司之外的實體；及
 - (c) 每間合併的公司的所有財產、權利及特權以及所有法律責任及義務，均由合併後的公司繼承。
- (4) 自合併的生效日期起 ——
 - (a) 由合併的公司提起或針對該公司的待決的法律程序，可由合併後的公司繼續進行或繼續針對該公司進行；

- (e) a certificate issued by the directors, or the proposed directors, of the amalgamated company stating that where the proportion of the claims of the amalgamated company's creditors in relation to the value of that company's assets is greater than the proportion of the claims of an amalgamating company's creditors in relation to the value of that company's assets, no creditor will be prejudiced by that fact.

- (2) A document mentioned in subsection (1)(a), (b), (c), (d) or (e) must be in the specified form.
- (3) As soon as practicable after the documents mentioned in subsection (1) are registered, the Registrar must issue a certificate of amalgamation.
- (4) A certificate of amalgamation may be issued in any form that the Registrar thinks fit.

685. Effective date of amalgamation

- (1) A certificate of amalgamation issued under section 684(3) must specify a date as the effective date of the amalgamation.
- (2) If an amalgamation proposal specifies a date on which the amalgamation is intended to become effective, and that date is the same as or later than the date on which the Registrar registers the documents mentioned in section 684(1), that date must be specified in the certificate of amalgamation as the effective date of the amalgamation.
- (3) On the effective date of an amalgamation—
 - (a) the amalgamation takes effect;
 - (b) each amalgamating company ceases to exist as an entity separate from the amalgamated company; and

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第 686 條

- (b) 判處合併的公司勝訴的定罪、判定、命令或判決，或判處該公司敗訴的定罪判決、判定、命令或判決，均可由合併後的公司強制執行或針對該公司強制執行；及
- (c) 由合併的公司訂立的協議，除該協議另有規定外，均可由合併後的公司強制執行或針對該公司強制執行。
- (5) 處長須在合併的生效日期後，在切實可行範圍內，盡快在公司登記冊就每間合併的公司註明該合併一事。

686. 在某些情況下原訟法庭可介入合併建議

- (1) 原訟法庭如信納某合併建議的生效，會不公平地損害合併的公司的成員或債權人或合併的公司對之負有義務的人，則可應有關成員、該債權人或該人在合併的生效日期前提出的申請，就該合併建議作出它認為合適的命令。
- (2) 在不局限第 (1) 款的原則下，原訟法庭可作出命令——
 - (a) 指示有關合併建議不得生效；
 - (b) 以該命令指明的方式，修改該合併建議；或
 - (c) 指示合併的公司或其董事重新考慮該合併建議或其任何部分。
- (3) 在不局限第 (1) 款的原則下，原訟法庭亦可作出命令，指示合併後的公司或有關法律程序的任何其他一方購買會

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- (c) the amalgamated company succeeds to all the property, rights and privileges, and all the liabilities and obligations, of each amalgamating company.
- (4) On and after the effective date of an amalgamation—
 - (a) any proceedings pending by or against an amalgamating company may be continued by or against the amalgamated company;
 - (b) any conviction, ruling, order or judgment in favour of or against an amalgamating company may be enforced by or against the amalgamated company; and
 - (c) any agreement entered into by an amalgamating company may be enforced by or against the amalgamated company unless otherwise provided in the agreement.
- (5) As soon as practicable after the effective date of an amalgamation, the Registrar must make a note of the amalgamation in the Companies Register in relation to each amalgamating company.

686. Court may intervene in amalgamation proposal in certain cases

- (1) If the Court is satisfied that giving effect to an amalgamation proposal would unfairly prejudice a member or creditor of an amalgamating company or a person to whom an amalgamating company is under an obligation, it may, on application by the member, creditor or person made before the date on which the amalgamation becomes effective, make any order it thinks fit in relation to the amalgamation proposal.
- (2) Without limiting subsection (1), the Court may make an order—
 - (a) directing that effect must not be given to the amalgamation proposal;

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因有關合併建議而蒙受不公平損害的合併的公司的成員的股份。

- (4) 申請人在為第 (1) 款的目的提出申請時，須將關於該申請的通知交付處長登記，該通知須符合指明格式。
- (5) 處長如收到第 (4) 款所指的通知，須拒絕登記第 684(1) 條所述的文件，但如原訟法庭另有指示或有關申請被原訟法庭駁回或被撤回，則不在此限。
- (6) 如有根據本條作出的命令，該命令關乎的每間公司均須在該命令作出後的 7 日內，將該命令的正式文本交付處長登記。
- (7) 如公司違反第 (6) 款，該公司及其每名責任人均屬犯罪，可各處第 3 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另各處罰款 \$300。

第 4 分部 —— 在作出收購要約後進行強制收購

第 1 次分部 —— 導言

687. 釋義

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- (b) modifying the amalgamation proposal in the manner specified in the order; or
- (c) directing the amalgamating company or its directors to reconsider the amalgamation proposal or any part of that proposal.
- (3) Without limiting subsection (1), the Court may also make an order directing the amalgamated company, or any other party to the proceedings, to purchase shares of a member of an amalgamating company who would be unfairly prejudiced by the amalgamation proposal.
- (4) On making an application for the purposes of subsection (1), the applicant must deliver to the Registrar for registration a notice of the application in the specified form.
- (5) If the Registrar receives a notice under subsection (4), he or she must withhold registration of the documents mentioned in section 684(1) unless the Court otherwise directs or the application is dismissed by the Court or is withdrawn.
- (6) If an order is made under this section, every company in relation to which the order is made must deliver an office copy of the order to the Registrar for registration within 7 days after the order is made.
- (7) If a company contravenes subsection (6), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3 and, in the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.

Division 4—Compulsory Acquisition after Takeover Offer

Subdivision 1—Preliminary

687. Interpretation

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第 688 條

在本分部中 ——

代名人 (nominee) 就屬某公司集團的成員的公司而言，包括代表屬該集團的成員的另一公司的代名人。

688. 本分部對可轉換證券及債權證的適用

- (1) 本分部就公司的債權證中可轉換為該公司的股份的債權證而適用，或就公司的證券中可轉換為該公司的股份或給予持有人認購該公司的股份的權利的證券適用，猶如該等債權證或證券是該公司的一個獨立類別的股份。對股份持有人的提述，及對已配發股份的提述，均須據此理解。
- (2) 在本分部中，提述任何類別股份中 90% ——
 - (a) (如屬第(1)款所述的證券)即提述該等證券的 90%；及
 - (b) (如屬第(1)款所述的債權證)即提述須就該等債權證支付的總款額的 90%。

689. 收購要約

- (1) 就本分部而言，如有以下情況，則就收購某公司的股份而作出的要約，即屬收購要約 ——
 - (a) 該要約的內容，是收購該公司的所有股份或任何類別股份中的所有股份 (在該要約的日期由要約人持有的股份除外)；及
 - (b) 該要約 ——
 - (i) 不是關乎不同類別股份的，而就該要約關乎的所有股份而言，該要約的條款是相同的；或

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In this Division—

nominee (代名人), in relation to a company that is a member of a group of companies, includes a nominee on behalf of another company that is a member of the group.

688. Application of Division to convertible securities and debentures

- (1) This Division applies in relation to debentures of a company that are convertible into shares in the company, or to securities of a company that are convertible into, or entitle the holder to subscribe for, shares in the company, as if those debentures or securities were shares of a separate class of the company. A reference to a holder of shares, and to shares being allotted, is to be read accordingly.
- (2) In this Division, a reference to 90% in number of the shares of any class is—
 - (a) in the case of securities mentioned in subsection (1), a reference to 90% of the number of those securities; and
 - (b) in the case of debentures mentioned in subsection (1), a reference to 90% of the total amount payable on those debentures.

689. Takeover offer

- (1) For the purposes of this Division, an offer to acquire shares in a company is a takeover offer if—
 - (a) it is an offer to acquire all the shares, or all the shares of any class, in the company, except those that, at the date of the offer, are held by the offeror; and
 - (b) the terms of the offer are the same—
 - (i) where the offer does not relate to shares of different classes, in relation to all the shares to which the offer relates; or

- (ii) 是關乎不同類別股份的，而就該要約關乎的每一類別股份中的所有股份而言，該要約的條款是相同的。

(2) 在第 (1) 款中 ——

股份 (shares) 指在有關要約的日期已配發的股份。

(3) 在第 (1)(a) 款中，提述由要約人持有的股份 ——

- (a) 包括該要約人已訂立合約承諾無條件收購或承諾在某些條件獲得符合的前提下收購的股份；但
- (b) 不包括屬符合以下說明的合約的標的之股份 ——
- (i) 該合約是由該要約人與有關公司股份的持有人訂立的，而目的是確保在該要約作出時，該持有人會接受該要約；及
- (ii) 該合約的訂立是沒有代價且是藉契據訂立的、訂立該合約所收取的代價屬微不足道或訂立該合約所收取的代價包含該要約人作出該要約的承諾。

(4) 就第 (1)(b) 款而言，就某要約關乎的所有股份或某類別股份的所有股份而言，即使就較早配發的股份提供的代價的價值，有別於就較後配發的股份提供的代價的價值，只要符合以下條件，該要約的條款仍須視為就所有有關股份而言是相同的 ——

- (a) 股份附有獲得某項股息的權利，而同類別的其他股份因為於不同時間配發，而不附有該權利；
- (b) 該代價的價值的差別，純粹反映上述獲得股息的權利的分別；及
- (c) 若非因為該代價的價值的差別，關乎所有有關股份的要約條款便會是相同的。

(5) 就第 (1)(b) 款而言，就某要約關乎的所有股份或某類別股份的所有股份而言，即使提供的代價的形式有所不同，

- (ii) where the offer relates to shares of different classes, in relation to all the shares of each class to which the offer relates.

(2) In subsection (1)—

shares (股份) means shares that have been allotted on the date of the offer.

(3) In subsection (1)(a), a reference to shares that are held by an offeror—

- (a) includes shares that the offeror has contracted, unconditionally or subject to conditions being satisfied, to acquire; but
- (b) excludes shares that are the subject of a contract—
- (i) entered into by the offeror with a holder of shares in the company in order to secure that the holder will accept the offer when it is made; and
- (ii) entered into for no consideration and by deed, for consideration of negligible value, or for consideration consisting of a promise by the offeror to make the offer.

(4) For the purposes of subsection (1)(b), even though, in relation to all the shares, or all the shares of a class of shares, to which an offer relates, there is a difference in the value of consideration offered for the shares allotted earlier as against the value of consideration offered for those allotted later, the terms of the offer are to be regarded as the same in relation to all the shares concerned if—

- (a) shares carry an entitlement to a particular dividend that other shares of the same class, by reason of being allotted at a different time, do not carry;
- (b) the difference in value of consideration merely reflects that difference in entitlement to dividend; and

只要符合以下條件，該要約的條款仍須視為就所有有關股份而言是相同的 ——

- (a) 香港以外某地方的法律不准許提供該要約的條款指明形式的代價，或該地方的法律規定除非要約人符合某些要約人不能夠符合或要約人視為過分嚴苛的條件，否則不准許提供該形式的代價；
 - (b) 向某人提供指明形式的代價如此不獲准許，但有另一形式的代價向該人提供；
 - (c) 該人能夠收取該另一形式而大致上是相等價值的代價；及
 - (d) 若非有代價形式的分別，關乎所有有關股份的要約條款便會是相同的。
- (6) 儘管有第 (1) 款的規定，收購要約關乎的股份當中，可包括將會在該要約的日期後但在該要約指明的日期前配發的股份。

690. 沒有傳達等不阻止要約成為收購要約

- (1) 即使收購股份的要約沒有傳達至某股份持有人，但如符合以下條件，則為施行本分部，此事不阻止該要約成為收購要約 ——
 - (a) 在有關公司的成員登記冊內，沒有登記該持有人的香港地址；

- (c) but for the difference in the value of consideration, the terms of the offer would be the same in relation to all the shares concerned.
- (5) For the purposes of subsection (1)(b), even though, in relation to all the shares, or all the shares of a class of shares, to which an offer relates, there is a difference in the form of consideration offered, the terms of the offer are to be regarded as the same in relation to all the shares concerned if—
- (a) the law of a place outside Hong Kong precludes an offer of consideration in the form specified in the terms of the offer, or precludes it except after compliance by the offeror with conditions with which the offeror is unable to comply or that the offeror regards as unduly onerous;
 - (b) consideration in another form is offered to a person to whom an offer of consideration in the specified form is so precluded;
 - (c) the person is able to receive consideration in that other form that is of substantially equivalent value; and
 - (d) but for the difference in the form of consideration, the terms of the offer would be the same in relation to all the shares concerned.
- (6) Despite subsection (1), a takeover offer may include, among the shares to which it relates, shares that will be allotted after the date of the offer but before a date specified in the offer.

690. Non-communication etc. does not prevent offer from being takeover offer

- (1) Even though an offer to acquire shares is not communicated to a holder of shares, that does not prevent the offer from being a takeover offer for the purposes of this Division if—
 - (a) no Hong Kong address for the holder is registered in the company's register of members;

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- (b) 該要約沒有傳達至該持有人，是為免違反香港以外某地方的法律；及
- (c) 以下其中之一 ——
 - (i) 已於憲報刊登該要約；或
 - (ii) 可在香港某地方或在網站上查閱該要約或取得該要約的文本，並已藉於憲報刊登的公告指明該地點的地址或該網站的網址。
- (2) 不得根據第 (1) 款推斷除非該款 (a)、(b) 及 (c) 段指明的條件獲得符合，否則沒有傳達至股份持有人的要約不能為本分部的目的而成為收購要約。
- (3) 即使某人因為香港以外某地方的法律，而不可能接受收購股份的要約，或因為香港以外某地方的法律，而使接受收購股份的要約對某人而言是較為困難，此事並不阻止該要約為本分部的目的而成為收購要約。
- (4) 不得根據第 (3) 款推斷除非某些人不可能接受要約或對某些人而言接受要約是較為困難是基於該款所述的原因，否則不可能被某些人接受的要約或對某些人而言是較為難以去接受的要約不能為本分部的目的而成為收購要約。

691. 收購要約關乎的股份

- (1) 就本分部而言，如在收購要約作出後但在要約期終結前，要約人收購或訂立合約承諾無條件收購該要約所關乎的任何股份，但要約人並不是憑藉該要約獲接受而收購該等股份的，則該等股份不得視為該要約所關乎的股份。本款在第 (2) 款的規限下具有效力。

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- (b) the offer was not communicated to the holder in order not to contravene the law of a place outside Hong Kong; and
- (c) either—
 - (i) the offer is published in the Gazette; or
 - (ii) the offer can be inspected, or a copy of it obtained, at a place in Hong Kong or on a website, and a notice is published in the Gazette specifying the address of that place or website.
- (2) It is not to be inferred from subsection (1) that an offer that is not communicated to a holder of shares cannot be a takeover offer for the purposes of this Division unless the conditions specified in paragraphs (a), (b) and (c) of that subsection are satisfied.
- (3) Even though it is impossible or more difficult for a person, by reason of the law of a place outside Hong Kong, to accept an offer to acquire shares, that does not prevent the offer from being a takeover offer for the purposes of this Division.
- (4) It is not to be inferred from subsection (3) that an offer that is impossible, or more difficult, for certain persons to accept cannot be a takeover offer for the purposes of this Division unless the reason for the impossibility or difficulty is the one mentioned in that subsection.

691. Shares to which takeover offer relates

- (1) For the purposes of this Division, if, after a takeover offer is made but before the end of the offer period, the offeror acquires, or contracts unconditionally to acquire, any of the shares to which the offer relates but does not do so by virtue of acceptances of the offer, those shares are not to be regarded as shares to which the offer relates. This subsection has effect subject to subsection (2).

- (2) 就本分部而言，如有以下情況，則有關股份須視為有關收購要約所關乎的股份，而要約人須視為已憑藉該要約獲接受而收購或訂立合約承諾收購該等股份 ——
- (a) 在收購或訂立合約承諾收購該等股份時，收購及承諾收購的代價的價值，不超過該要約的條款指明的代價的價值；或
- (b) 上述條款其後被修改，以致在公布該修改時，收購或訂立合約承諾收購該等股份的代價的價值，在收購或訂立合約時，不再超過該條款指明的代價的價值。
- (3) 就本分部而言，就要約人的有聯繫者或代表要約人的代名人持有或已訂立合約承諾無條件收購或承諾在某些條件獲得符合的前提下收購（不論是在收購要約的日期或之後）的股份而言，即使該要約延伸至該等股份，該等股份亦不得視為該要約所關乎的股份。本款在第 (4) 款的規限下具有效力。
- (4) 就本分部而言，凡在收購要約作出後但在要約期終結前，要約人的有聯繫者或代表要約人的代名人收購或訂立合約承諾無條件收購該要約所關乎的任何股份，則如有以下情況，該等股份須視為是該要約所關乎的股份 ——
- (a) 在收購或訂立合約承諾收購該等股份時，收購及承諾收購的代價的價值，不超過該要約的條款指明的代價的價值；或
- (b) 上述條款其後被修改，以致在公布該修改時，收購或訂立合約承諾收購該等股份的代價的價值，在收購或訂立合約時，不再超過該等條款指明的代價的價值。

- (2) For the purposes of this Division, those shares are to be regarded as shares to which the takeover offer relates, and the offeror is to be regarded as having acquired or contracted to acquire them by virtue of acceptances of that offer, if—
- (a) the value of the consideration for which the shares are acquired, or contracted to be acquired, at the time of the acquisition or contract, does not exceed the value of the consideration specified in the terms of that offer; or
- (b) those terms are subsequently revised so that when the revision is announced, the value of the consideration for which the shares are acquired, or contracted to be acquired, at the time of the acquisition or contract, no longer exceeds the value of the consideration specified in those terms.
- (3) For the purposes of this Division, shares that an associate of the offeror, or a nominee on the offeror's behalf, holds, or has contracted, unconditionally or subject to conditions being satisfied, to acquire, whether at the date of the takeover offer or subsequently, are not to be regarded as shares to which that offer relates, even if that offer extends to those shares. This subsection has effect subject to subsection (4).
- (4) For the purposes of this Division, where, after a takeover offer is made but before the end of the offer period, an associate of the offeror, or a nominee on the offeror's behalf, acquires, or contracts unconditionally to acquire, any of the shares to which the offer relates, the shares are to be regarded as shares to which the offer relates if—
- (a) the value of the consideration for which the shares are acquired, or contracted to be acquired, at the time of the acquisition or contract, does not exceed the value of the consideration specified in the terms of the offer; or

692. 經修改的要約不得視為新要約

就本分部而言，在以下情況下，修改收購股份的要約的條款，不得視為作出新要約 ——

- (a) 該要約的條款就以下事宜作出規定 ——
 - (i) 該等條款的修改；及
 - (ii) 接受先前的條款須視為接受經修改的條款；及
- (b) 該修改是按照該等規定作出的。

第 2 次分部 —— “強迫出售”**693. 要約人可發出通知表示全面收購少數股東的股份**

- (1) 在收購要約不是關乎不同類別股份的情況下，如要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購該要約關乎的股份中的最少 90%，則該要約人可向該要約所關乎的任何其他股份的持有人發出通知，表明該要約人有意收購該等股份。
- (2) 在收購要約是關乎不同類別股份的情況下，如要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購該要約所關乎的任何類別股份中的最少 90%，則該要約人可向該要約所關乎的該類別股份的任何其他股份的持有人發出通知，表明該要約人有意收購該等股份。
- (3) 在收購要約不是關乎不同類別股份的情況下，如要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收

- (b) those terms are subsequently revised so that when the revision is announced, the value of the consideration for which the shares are acquired, or contracted to be acquired, at the time of the acquisition or contract, no longer exceeds the value of the consideration specified in those terms.

692. Revised offer not to be regarded as fresh offer

For the purposes of this Division, a revision of the terms of an offer to acquire shares is not to be regarded as the making of a fresh offer if—

- (a) the terms of the offer make provision for—
 - (i) their revision; and
 - (ii) acceptances on the previous terms to be treated as acceptances on the revised terms; and
- (b) the revision is made in accordance with that provision.

Subdivision 2—“Squeeze-out”**693. Offeror may give notice to buy out minority shareholders**

- (1) If, in the case of a takeover offer that does not relate to shares of different classes, the offeror has, by virtue of acceptances of the offer, acquired, or contracted unconditionally to acquire, at least 90% in number of the shares to which the offer relates, the offeror may give notice to the holder of any other shares to which the offer relates that the offeror desires to acquire those shares.
- (2) If, in the case of a takeover offer that relates to shares of different classes, the offeror has, by virtue of acceptances of the offer, acquired, or contracted unconditionally to acquire, at least 90% in number of the shares of any class to which the offer relates, the offeror may give notice to the holder of

購該要約所關乎的股份中的少於 90%，則該要約人可向原訟法庭提出申請，要求原訟法庭作出命令，授權該要約人向該要約所關乎的任何其他股份的持有人發出通知，表明該要約人有意收購該等股份。

- (4) 在收購要約是關乎不同類別股份的情況下，如要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購該要約所關乎的任何類別股份中的少於 90%，則該要約人可向原訟法庭提出申請，要求原訟法庭作出命令，授權該要約人向該要約所關乎的該類別股份的任何其他股份的持有人發出通知，表明該要約人有意收購該等股份。
- (5) 原訟法庭如信納以下事宜，可應根據第 (3) 或 (4) 款所指的申請作出命令 ——
 - (a) 要約人在作出合理查探後，仍不能追尋到一名或多於一名持有有關收購要約所關乎的股份的人的下落；
 - (b) 假若該人或所有該等人士接受該收購要約，該要約人便會憑藉該要約獲接受，而收購或訂立合約承諾無條件收購該要約所關乎的股份或任何類別股份中的最少 90%；及
 - (c) 提供的代價是公平及合理的。
- (6) 原訟法庭除非信納在顧及所有情況（尤其須顧及已找到但沒有接受有關收購要約的股份持有人的數目）下，作出上述命令是公正及公平的，否則不得作出該命令。
- (7) 如原訟法庭作出命令，授權要約人向任何股份的持有人發出通知，則該要約人可向該持有人發出通知。

any other shares of that class to which the offer relates that the offeror desires to acquire those shares.

- (3) If, in the case of a takeover offer that does not relate to shares of different classes, the offeror has, by virtue of acceptances of the offer, acquired, or contracted unconditionally to acquire, less than 90% in number of the shares to which the offer relates, the offeror may apply to the Court for an order authorizing the offeror to give notice to the holder of any other shares to which the offer relates that the offeror desires to acquire those shares.
- (4) If, in the case of a takeover offer that relates to shares of different classes, the offeror has, by virtue of acceptances of the offer, acquired, or contracted unconditionally to acquire, less than 90% in number of the shares of any class to which the offer relates, the offeror may apply to the Court for an order authorizing the offeror to give notice to the holder of any other shares of that class to which the offer relates that the offeror desires to acquire those shares.
- (5) The Court may, on application under subsection (3) or (4), make the order if it is satisfied that—
 - (a) after reasonable enquiry, the offeror has been unable to trace one or more of the persons holding shares to which the takeover offer relates;
 - (b) had the person, or all those persons, accepted the takeover offer, the offeror would have, by virtue of acceptances of that offer, acquired, or contracted unconditionally to acquire, at least 90% in number of the shares, or the shares of any class, to which that offer relates; and
 - (c) the consideration offered is fair and reasonable.
- (6) The Court must not make the order unless it is satisfied that it is just and equitable to do so having regard to all the

694. 向少數股東發出的通知

- (1) 第 693 條所指的向股份持有人發出的通知 ——
 - (a) 須符合指明格式；及
 - (b) 須在以下兩個時間中的較早者之前，向該持有人發出 ——
 - (i) 自收購要約的要約期終結後之日起計的 3 個月終結時；
 - (ii) 自收購要約的日期起計的 6 個月終結時。
- (2) 上述通知須藉以下方式向股份持有人發出 ——
 - (a) 以專人在香港交付該持有人；
 - (b) 以寄交以下地址的掛號郵遞寄給該持有人 ——
 - (i) 於有關公司的簿冊內登記的該持有人的香港地址；或
 - (ii) (如沒有上述地址) 該持有人向有關公司提供的用作接收向其發出的通知的香港地址；或
 - (c) 處長應根據第 (3) 款提出的申請而指示的方式。
- (3) 如有以下情況，要約人可向處長提出申請，要求處長就向股份持有人發出有關通知的方式，作出指示 ——
 - (a) 在有關公司的簿冊內並無登記該持有人的香港地址；及
 - (b) 該持有人沒有向該公司提供用作接收向其發出的通知的香港地址。

circumstances and, in particular, to the number of holders of shares who have been traced but who have not accepted the takeover offer.

- (7) If the Court makes an order authorizing the offeror to give notice to the holder of any shares, the offeror may give notice to that holder.

694. Notice to minority shareholders

- (1) A notice to a holder of shares under section 693—
 - (a) must be given in the specified form; and
 - (b) must be given to the holder before whichever is the earlier of the following—
 - (i) the end of the period of 3 months beginning on the day after the end of the offer period of the takeover offer;
 - (ii) the end of the period of 6 months beginning on the date of the takeover offer.
- (2) The notice must be given to the holder of shares—
 - (a) by delivering it personally to that holder in Hong Kong;
 - (b) by sending it by registered post to that holder to—
 - (i) an address of that holder in Hong Kong registered in the books of the company; or
 - (ii) if there is no such address, an address in Hong Kong supplied by that holder to the company for the giving of notice to that holder; or
 - (c) in the manner directed by the Registrar on an application made under subsection (3).
- (3) An offeror may apply to the Registrar for directions regarding the manner in which the notice is to be given to a holder of shares if—

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- (4) 如有關收購要約讓股份持有人選擇代價，則上述通知——
- (a) 須提供有關選項的詳情；
 - (b) 須述明該持有人可在該通知的日期後的 2 個月內，藉着按該通知指明的地址送交要約人的信件，示明該持有人的選擇；及
 - (c) 須述明如該持有人沒有示明一個選擇，則該要約指明的哪一代價會適用。
- (5) 如收購要約訂定股份持有人會收取要約人的股份或債權證，但亦可選擇收取由第三者提供的其他代價以作代替，則該要約人可在有關通知內，示明收購要約的條款包括該選擇權。
- (6) 如要約人沒有在有關通知內示明收購要約的條款包括上述選擇權，則該要約人可在該通知內，提供收取該要約人提供的其他代價的相應選擇權。
- (7) 就第 (5) 款而言，如有代價向要約人提供，而提供該代價的條款，是該要約人須將之用作收購要約的代價，則該代價須視為由第三者提供。

695. 要約人全面收購少數股東的股份的權利

- (1) 如有通知根據第 693 條向任何股份的持有人發出，則本條適用。

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- (a) there is no address of the holder in Hong Kong registered in the books of the company; and
 - (b) the holder has not supplied to the company an address in Hong Kong for the giving of notice to the holder.
- (4) If the takeover offer gives the holder of shares a choice of consideration, the notice—
- (a) must give particulars of the choices;
 - (b) must state that the holder may, within 2 months after the date of the notice, indicate the holder's choice by a letter sent to the offeror at an address specified in the notice; and
 - (c) must state which consideration specified in the offer will apply if the holder does not indicate a choice.
- (5) If the takeover offer provides that the holder of shares is to receive shares in or debentures of the offeror, with an option to receive some other consideration to be provided by a third party instead, the offeror may indicate in the notice that the terms of the takeover offer include the option.
- (6) If the offeror does not indicate in the notice that the terms of the takeover offer include the option, the offeror may offer in the notice a corresponding option to receive some other consideration to be provided by the offeror.
- (7) For the purposes of subsection (5), consideration is to be regarded as being provided by a third party if it is made available to the offeror on terms that it is to be used by the offeror as consideration for the takeover offer.

695. Offeror's right to buy out minority shareholders

- (1) This section applies if a notice is given under section 693 to the holder of any shares.

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- (2) 除非原訟法庭根據第 (3) 款作出命令，否則要約人有權並須按收購要約的條款，收購有關股份。
- (3) 原訟法庭可應有關持有人在上述通知的發出日期後的 2 個月內提出的申請，命令——
 - (a) 要約人無權並無須收購有關股份；或
 - (b) 要約人有權並須按該命令指明的條款，收購有關股份。
- (4) 就第 (2) 款而言——
 - (a) 如有關收購要約屬第 694(4) 條所指者，該收購要約的條款，須視為包括為該條的目的而載於有關通知內的詳情及陳述；
 - (b) 如有關收購要約屬第 694(5) 條所指者，該收購要約的條款，須視為不包括有關選擇權，但如要約人在該通知內另有示明則除外；及
 - (c) 如在有關通知的日期後的 2 個月內，有關股份的持有人藉按該通知指明的地址送交要約人的信件，行使根據第 694(6) 條提供的相應選擇權，則收購要約的條款須視為包括該相應選擇權。

696. 有權全面收購少數股東的股份的要約人的責任

- (1) 如要約人憑藉第 695(2) 條，有權並須收購某公司的任何股份，則該要約人須在有關通知的日期後的 2 個月內，遵守第 (3) 款。

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- (2) Unless the Court makes an order under subsection (3), the offeror is entitled and bound to acquire the shares on the terms of the takeover offer.
- (3) The Court may, on application by the holder made within 2 months after the date on which the notice was given, order that—
 - (a) the offeror is not entitled and bound to acquire the shares; or
 - (b) the offeror is entitled and bound to acquire the shares on the terms specified in the order.
- (4) For the purposes of subsection (2)—
 - (a) if the takeover offer falls within section 694(4), the terms of the takeover offer are to be regarded as including the particulars and statements included in the notice for the purposes of that section;
 - (b) if the takeover offer falls within section 694(5), the terms of the takeover offer are to be regarded as not including the option unless the offeror indicates otherwise in the notice; and
 - (c) if, within 2 months after the date of the notice, the holder of the shares, by a letter sent to the offeror at an address specified in the notice, exercises the corresponding option offered under section 694(6), the terms of the takeover offer are to be regarded as including the corresponding option.

696. Obligations of offeror with right to buy out minority shareholders

- (1) If, by virtue of section 695(2), an offeror is entitled and bound to acquire any shares in a company, the offeror must comply with subsection (3) within 2 months after the date of the notice.

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- (2) 如在上述 2 個月終結時，為第 695(3) 條的目的而提出的申請仍然待決，則除非原訟法庭命令要約人無權並無須收購有關股份，否則要約人須在該申請獲得處置後，在切實可行範圍內，盡快遵守第 (3) 款。
- (3) 要約人須 ——
 - (a) 向公司送交 ——
 - (i) 第 693 條所指的通知的文本；及
 - (ii) 該通知所關乎的股份的轉讓文書，而該文書是由該要約人委任的人代該等股份的持有人簽立的；及
 - (b) 向公司支付或轉讓為該通知所關乎的股份而支付的代價。
- (4) 第 (3)(a)(ii) 款不規定要約人向公司送交當其時未行使認購權的股份權證所關乎的股份的轉讓文書。

697. 公司須將要約人註冊為股東

公司如收到第 696(3)(a)(ii) 條所指的轉讓文書，須將有關要約人註冊為有關股份的持有人。

698. 公司須以信託方式持有要約人支付的代價

- (1) 公司如收到第 696(3)(b) 條所指的關乎任何股份的代價，須以信託方式，為在要約人收購該股份前有權得到該等股份的人持有該代價。
- (2) 如有關代價包含任何款項，則公司須將該筆款項，存入一個獨立的有息銀行帳戶內。
- (3) 除非屬以下情況，否則公司不得將上述代價付予或交付聲稱有權得到該代價的人 ——

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- (2) If an application for the purposes of section 695(3) is pending at the end of those 2 months, the offeror must comply with subsection (3) as soon as practicable after the application has been disposed of, unless the Court orders that the offeror is not entitled and bound to acquire the shares.
- (3) The offeror—
 - (a) must send to the company—
 - (i) a copy of the notice under section 693; and
 - (ii) an instrument of transfer of the shares to which the notice relates, executed on behalf of the holder of the shares by a person appointed by the offeror; and
 - (b) must pay or transfer to the company the consideration for the shares to which the notice relates.
- (4) Subsection (3)(a)(ii) does not require the offeror to send to the company an instrument of transfer of any shares for which a share warrant is for the time being outstanding.

697. Company must register offeror as shareholder

On receiving an instrument of transfer under section 696(3)(a)(ii), the company must register the offeror as the holder of the shares.

698. Company must hold consideration paid by offeror on trust

- (1) On receiving any consideration under section 696(3)(b) in respect of any shares, the company must hold the consideration on trust for the person who, before the offeror acquired the shares, was entitled to them.
- (2) If the consideration consists of any money, the company must deposit the money into a separate interest-bearing bank account.

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- (a) 該人交出有關股份的股份證明書，或交出證明對該等股份的所有權的其他證據；或
- (b) 該人交出令公司滿意的彌償。

699. 補充第 698 條的條文

- (1) 如有以下情況，則本條適用 ——
 - (a) 有權得到根據第 698(1) 條以信託形式持有的代價的人下落不明；
 - (b) 公司已每隔一段合理期間作出合理查探，以尋找該人；及
 - (c) 在收到該代價後已過了 12 年，或該公司已清盤。
- (2) 公司或 (如公司已清盤) 清盤人須出售 ——
 - (a) 不屬現金的代價；及
 - (b) 該代價所累算的不屬現金的利益。
- (3) 公司或 (如公司已清盤) 清盤人須向法院支付一筆代表以下項目的款項 ——
 - (a) 有關代價中屬現金的部分；
 - (b) 第 (2) 款所指的出售的收益；及
 - (c) 該代價所累算的權益、股息或其他利益。
- (4) 在第 (3) 款所指的付款作出時，有關信託即告終止。
- (5) 以下項目的開支，可由以信託形式持有的代價支付 ——
 - (a) 第 (1)(b) 款所述的查探；
 - (b) 第 (2) 款所述的出售；
 - (c) 關乎第 (3) 款所述的向法院作出付款的法律程序。

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- (3) The company must not pay out or deliver the consideration to any person claiming to be entitled to it unless the person produces to the company—
 - (a) the share certificate or other evidence of title to the shares; or
 - (b) an indemnity to the company's satisfaction.

699. Provisions supplementary to section 698

- (1) This section applies if—
 - (a) the person entitled to the consideration held on trust under section 698(1) cannot be found;
 - (b) the company has made reasonable enquiries at reasonable intervals to find that person; and
 - (c) 12 years have elapsed since the consideration was received, or the company is wound up.
- (2) The company, or if the company is wound up, the liquidator, must sell—
 - (a) any consideration other than cash; and
 - (b) any benefit other than cash that has accrued from the consideration.
- (3) The company, or if the company is wound up, the liquidator, must pay into court a sum representing—
 - (a) the consideration so far as it is cash;
 - (b) the proceeds of any sale under subsection (2); and
 - (c) any interest, dividend or other benefit that has accrued from the consideration.
- (4) The trust terminates on the payment being made under subsection (3).

第 3 次分部 —— “強迫購買”**700. 要約人可被要求全面收購少數股東的股份**

- (1) 在收購要約不是關乎不同類別股份的情況下，如 ——
- (a) 要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購該要約所關乎的股份的一部分（但非全部）；及
 - (b) 在要約期內的任何時間，由該要約人控制的公司股份，佔該公司的股份中的最少 90%，
- 持有該要約所關乎的任何股份而在要約期終結前沒有接受該要約的持有人，可藉致予該要約人的信件，要求該要約人收購該等股份。
- (2) 在收購要約是關乎不同類別股份的情況下，如 ——
- (a) 要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購該要約所關乎的任何類別股份的一部分（但非全部）；及
 - (b) 在要約期內的任何時間，由該要約人控制的該類別股份，佔該類別股份中的最少 90%，（由 2018 年第 35 號第 71 條修訂）

持有該要約所關乎的該類別的任何股份而在要約期終結前沒有接受該要約的持有人，可藉致予該要約人的信件，要求該要約人收購該等股份。

- (5) The expenses of the following may be paid out of the consideration held on trust—
- (a) the enquiries mentioned in subsection (1)(b);
 - (b) the sale mentioned in subsection (2);
 - (c) the proceedings relating to the payment into court mentioned in subsection (3).

Subdivision 3—“Sell-out”**700. Offeror may be required to buy out minority shareholders**

- (1) If, in the case of a takeover offer that does not relate to shares of different classes—
- (a) the offeror has, by virtue of acceptances of the offer, acquired, or contracted unconditionally to acquire, some but not all of the shares to which the offer relates; and
 - (b) at any time before the end of the offer period, the shares in the company controlled by the offeror represent at least 90% in number of the shares in the company,
- the holder of any shares to which the offer relates who has not accepted the offer before the end of that period may, by a letter addressed to the offeror, require the offeror to acquire those shares.
- (2) If, in the case of a takeover offer that relates to shares of different classes—
- (a) the offeror has, by virtue of acceptances of the offer, acquired, or contracted unconditionally to acquire, some but not all of the shares of any class to which the offer relates; and
 - (b) at any time before the end of the offer period, the shares of that class controlled by the offeror represent at least

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- (3) 本條給予任何股份的持有人要求要約人收購該等股份的權利，只可在以下兩個時間中的較後者之後的 3 個月內行使 ——
- 要約期終結時；
 - 根據第 701 條向該持有人發出通知的日期。
- (4) 如有關收購要約讓股份持有人選擇代價，則該持有人可在要求要約人收購該等股份的信件中，示明該持有人的選擇。
- (5) 在本條中，提述由要約人控制的股份，即提述 ——
- 由該要約人或該要約人的有聯繫者持有的股份，或由代名人代表該要約人持有的股份；
 - 該要約人已憑藉收購要約獲接受，而收購或訂立合約承諾無條件收購的股份；或
 - 該要約人、該要約人的有聯繫者或代表該要約人的代名人已收購或已訂立合約承諾無條件收購或承諾在某些條件獲得符合的前提下收購的其他股份。

701. 要約人須告知少數股東要求全面收購股份的權利

- (1) 如任何股份的持有人根據第 700 條有權要求要約人收購該等股份，則該要約人須向該持有人發出通知，告知該

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90% in number of the shares of that class, (*Amended 35 of 2018 s. 71*)

the holder of any shares of that class to which the offer relates who has not accepted the offer before the end of that period may, by a letter addressed to the offeror, require the offeror to acquire those shares.

- (3) Rights given to the holder of any shares by this section to require an offeror to acquire the shares are only exercisable within 3 months after whichever is the later of the following—
- the end of the offer period;
 - the date of the notice given to the holder under section 701.
- (4) If the takeover offer gives the holder of shares a choice of consideration, that holder may indicate the holder's choice in the letter requiring the offeror to acquire the shares.
- (5) In this section, a reference to shares controlled by an offeror is a reference to—
- shares that are held by the offeror, by an associate of the offeror or by a nominee on the offeror's behalf;
 - shares that the offeror has, by virtue of acceptances of the takeover offer, acquired or contracted unconditionally to acquire; or
 - other shares that the offeror, an associate of the offeror, or a nominee on the offeror's behalf, has acquired, or has contracted, unconditionally or subject to conditions being satisfied, to acquire.

701. Offeror must notify minority shareholders of right to be bought out

- (1) If the holder of any shares is entitled under section 700 to

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持有人 ——

- (a) 該持有人根據該條具有的權利；及
 - (b) 行使該權利的限期。
- (2) 如要約人已根據第 693 條，向有關持有人發出該要約人有意收購有關股份的通知，則第 (1) 款不適用。
- (3) 任何要約人違反第 (1) 款，即屬犯罪，可處第 5 級罰款。

702. 向少數股東發出的通知

- (1) 第 701 條所指的向股份持有人發出的通知 ——
- (a) 須符合指明格式；及
 - (b) 須在有關股份的持有人根據第 700 條有權要求要約人收購該等股份的首日起計的一個月內，給予該持有人。
- (2) 如上述通知是在收購要約的要約期終結前發出的，它須述明該要約仍然可予接受。
- (3) 上述通知須藉以下方式，向股份持有人發出 ——
- (a) 以專人在香港交付該持有人；
 - (b) 以寄交以下地址的掛號郵遞寄給該持有人 ——
 - (i) 於有關公司的簿冊內登記的該持有人的香港地址；或
 - (ii) (如沒有上述地址) 該持有人向有關公司提供的用作接收向其發出的通知的香港地址；或
 - (c) 處長應根據第 (4) 款提出的申請而指示的方式。
- (4) 如有以下情況，要約人可向處長提出申請，要求處長就向股份持有人發出有關通知的方式，作出指示 ——

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require an offeror to acquire the shares, the offeror must give notice to the holder of—

- (a) the holder's rights under that section; and
 - (b) the period within which those rights are exercisable.
- (2) Subsection (1) does not apply if the offeror has given the holder a notice under section 693 that the offeror desires to acquire the shares.
- (3) An offeror who contravenes subsection (1) commits an offence and is liable to a fine at level 5.

702. Notice to minority shareholders

- (1) A notice to a holder of shares under section 701—
- (a) must be given in the specified form; and
 - (b) must be given to the holder within one month after the first day on which the holder of the shares is entitled under section 700 to require the offeror to acquire those shares.
- (2) If the notice is given before the end of the offer period of the takeover offer, it must state that the offer is still open for acceptance.
- (3) The notice must be given to the holder of shares—
- (a) by delivering it personally to that holder in Hong Kong;
 - (b) by sending it by registered post to that holder to—
 - (i) an address of that holder in Hong Kong registered in the books of the company; or
 - (ii) if there is no such address, an address in Hong Kong supplied by that holder to the company for the giving of notice to that holder; or
 - (c) in the manner directed by the Registrar on an application made under subsection (4).

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- (a) 在有關公司的簿冊內並無登記該持有人的香港地址；及
- (b) 該持有人沒有向該公司提供用作接收向其發出的通知的香港地址。
- (5) 如有關收購要約讓股份持有人選擇代價，則上述通知——
 - (a) 須提供有關選項的詳情；
 - (b) 須述明該持有人可在第 700 條所指的、要求要約人收購任何股份的信件中，示明該持有人的選擇；及
 - (c) 須述明如該持有人沒有示明一個選擇，則該要約指明的哪一項代價會適用。
- (6) 如第 (1)、(2)、(3) 或 (5) 款遭違反，要約人即屬犯罪，可處第 4 級罰款。
- (7) 如收購要約訂定股份持有人會收取要約人的股份或債權證，但亦可選擇收取由第三者提供的其他代價以作代替，則該要約人可在有關通知內，示明收購要約的條款包括該選擇權。
- (8) 如要約人沒有在有關通知內示明收購要約的條款包括上述選擇權，則該要約人可在該通知內，提供收取該要約人提供的其他代價的相應選擇權。
- (9) 就第 (7) 款而言，如有代價向要約人提供，而提供該代價的條款，是該要約人須將之用作收購要約的代價，則該代價須視為由第三者提供。

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- (4) An offeror may apply to the Registrar for directions regarding the manner in which the notice is to be given to a holder of shares if—
 - (a) there is no address of the holder in Hong Kong registered in the books of the company; and
 - (b) the holder has not supplied to the company an address in Hong Kong for the giving of notice to the holder.
- (5) If the takeover offer gives the holder of shares a choice of consideration, the notice—
 - (a) must give particulars of the choices;
 - (b) must state that the holder may indicate the holder's choice in the letter requiring the offeror to acquire any shares under section 700; and
 - (c) must state which consideration specified in the offer will apply if the holder does not indicate a choice.
- (6) If subsection (1), (2), (3) or (5) is contravened, the offeror commits an offence and is liable to a fine at level 4.
- (7) If the takeover offer provides that the holder of shares is to receive shares in or debentures of the offeror, with an option to receive some other considerations to be provided by a third party instead, the offeror may indicate in the notice that the terms of the takeover offer include the option.
- (8) If the offeror does not indicate in the notice that the terms of the takeover offer include the option, the offeror may offer in the notice a corresponding option to receive some other consideration to be provided by the offeror.
- (9) For the purposes of subsection (7), consideration is to be regarded as being provided by a third party if it is made available to the offeror on terms that it is to be used by the offeror as consideration for the takeover offer.

703. 少數股東要求要約人全面收購股份的權利

- (1) 如任何股份的持有人根據第 700 條要求要約人收購該等股份，則本條適用。
- (2) 除非原訟法庭根據第 (3) 款作出命令，否則要約人有權並須按有關收購要約的條款收購有關股份，或以有關持有人與該要約人議定的其他條款收購有關股份。
- (3) 原訟法庭可應有關持有人或要約人的申請，命令該要約人有權並須按該命令指明的條款收購有關股份。
- (4) 就第 (2) 款而言 ——
 - (a) 如有關收購要約屬第 702(5) 條所指者，該收購要約的條款，須視為包括為該條的目的而載於有關通知內的詳情及陳述；
 - (b) 如有關收購要約屬第 702(7) 條所指者，該收購要約的條款，須視為不包括有關選擇權，但如要約人在第 701 條所指的通知內另有示明則除外；及
 - (c) 如在要求要約人收購股份時，該等股份的持有人行使根據第 702(8) 條提供的相應選擇權，則收購要約的條款須視為包括該相應選擇權。

704. 在某些情況下股東須視為沒有行使要求全面收購股份的權利

- (1) 如有以下情況，本條適用 ——
 - (a) 股份的持有人行使第 700 條給予的權利，要求要約人收購該等股份；

703. Minority shareholders' right to be bought out by offeror

- (1) This section applies if the holder of any shares requires the offeror to acquire the shares under section 700.
- (2) Unless the Court makes an order under subsection (3), the offeror is entitled and bound to acquire the shares on the terms of the takeover offer or on other terms as agreed between that holder and the offeror.
- (3) The Court may, on application by the holder or offeror, order that the offeror is entitled and bound to acquire the shares on the terms specified in the order.
- (4) For the purposes of subsection (2)—
 - (a) if the takeover offer falls within section 702(5), the terms of the takeover offer are to be regarded as including the particulars and statements included in the notice for the purposes of that section;
 - (b) if the takeover offer falls within section 702(7), the terms of the takeover offer are to be regarded as not including the option unless the offeror indicates otherwise in the notice under section 701; and
 - (c) if, when requiring the offeror to acquire the shares, the holder of the shares exercises the corresponding option offered under section 702(8), the terms of the takeover offer are to be regarded as including the corresponding option.

704. Shareholder to be regarded as not having exercised right to be bought out in certain circumstances

- (1) This section applies if—
 - (a) the holder of any shares exercises rights given by section 700 to require an offeror to acquire the shares;

- (b) 在行使該權利時，有關公司有符合以下說明的股份——
- (i) 要約人已訂立合約承諾會在某些條件獲得符合的前提下收購的；及
 - (ii) 就該等股份而言，該合約沒有成為無條件合約；及
- (c) 如該等股份不被計算在內，則第 700(1)(b) 或 (2)(b) 條（視屬何情況而定）施加的規定不會獲得符合。
- (2) 就第 703 條而言，除非屬以下情況，否則股份持有人須視為沒有行使要求要約人收購股份的權利——
- (a) 在收購要約不是關乎不同類別股份的情況下，於行使該權利的限期終結前的任何時間，該要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購的股份，佔公司的股份中的最少 90%（不論是否包括該要約人已收購或已訂立合約承諾無條件收購的該公司的任何其他股份）；或
 - (b) 在收購要約是關乎不同類別股份的情況下，於行使該權利的限期終結前的任何時間，該要約人已憑藉該要約獲接受，而收購或訂立合約承諾無條件收購的任何類別的股份，佔該類別股份中的最少 90%（不論是否包括要約人已收購或已訂立合約承諾無條件收購的該類別的其他股份）。

- (b) at the time when those rights are exercised, there are shares in the company—
- (i) that the offeror has contracted to acquire subject to conditions being satisfied; and
 - (ii) in relation to which the contract has not become unconditional; and
- (c) the requirement imposed by section 700(1)(b) or (2)(b) (as the case may be) would not be satisfied if those shares were not taken into account.
- (2) For the purposes of section 703, the holder of shares is to be regarded as not having exercised the rights to require the offeror to acquire the shares unless, at any time before the end of the period during which those rights are exercisable—
- (a) in the case of a takeover offer that does not relate to shares of different classes, the shares that the offeror has, by virtue of acceptances of the offer, acquired or contracted unconditionally to acquire, with or without any other shares in the company that the offeror has acquired, or has contracted unconditionally to acquire, represent at least 90% in number of the shares in the company; or
 - (b) in the case of a takeover offer that relates to shares of different classes, the shares of any class that the offeror has, by virtue of acceptances of the offer, acquired or contracted unconditionally to acquire, with or without any other shares of that class that the offeror has acquired, or has contracted unconditionally to acquire, represent at least 90% in number of the shares of that class.

第 5 分部 —— 在作出回購股份的公開要約後強制購入股份

Division 5—Compulsory Acquisition after General Offer for Share Buy-back

第 1 次分部 —— 導言

705. 釋義

(1) 在本分部中 ——

不售股成員 (non-tendering member) 就公開要約而言，指根據第 711(1) 條發出通知表明不會提供任何股份讓回購公司根據該要約回購的成員；

代名人 (nominee) 就屬某公司集團的成員的公司而言，包括代表屬該集團的成員的另一公司的代名人。

(2) 在本分部中，提述不售股成員持有的股份，包括 ——

- (a) 由該成員的有聯繫者持有的股份，或由代名人代表該成員持有的股份；及
- (b) 該成員、該成員的有聯繫者或代表該成員的代名人已訂立合約承諾無條件收購或承諾在某些條件獲得符合的前提下收購的股份。

706. 本分部對可轉換證券及債權證的適用

(1) 本分部就回購公司的債權證中可轉換為該公司股份的債權證而適用，亦就回購公司的證券中可轉換為該公司股份或給予持有人認購該公司股份的權利的證券而適用，猶如該等債權證或證券是該公司一個獨立類別的股份。對股份持有人的提述，以及對配發股份的提述，均須據此理解。

(2) 在本分部中，提述任何類別股份中的 90% ——

Subdivision 1—Preliminary

705. Interpretation

(1) In this Division—

nominee (代名人), in relation to a company that is a member of a group of companies, includes a nominee on behalf of another company that is a member of the group;

non-tendering member (不售股成員), in relation to a general offer, means a member who gives notice under section 711(1) that the member will not tender any shares to be bought back by the repurchasing company under the offer.

(2) In this Division, a reference to shares that are held by a non-tendering member includes—

- (a) shares that are held by an associate of the non-tendering member or by a nominee on the non-tendering member's behalf; and
- (b) shares that the non-tendering member, an associate of the non-tendering member, or a nominee on the non-tendering member's behalf, has contracted, unconditionally or subject to conditions being satisfied, to acquire.

706. Application of Division to convertible securities and debentures

(1) This Division applies in relation to debentures of a repurchasing company that are convertible into shares in the company, or to securities of a repurchasing company that are convertible into, or entitle the holder to subscribe for, shares in the company, as if those debentures or securities were shares of a separate class of the company. A reference to a holder of shares, and to shares being allotted, is to be read accordingly.

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- (a) (如屬第(1)款所述的證券)即提述該等證券中的 90%; 及
- (b) (如屬第(1)款所述的債權證)即提述須就該等債權證支付的總款額中的 90%。

707. 公開要約

- (1) 就本分部而言，如有以下情況，上市公司就回購該公司本身的股份而作出的要約，即屬公開要約 ——
 - (a) 該要約的內容，是回購除以下股份外該公司的所有股份或該公司任何類別股份中的所有股份的 ——
 - (i) 在要約的日期由居於某地方的成員持有的股份，而該要約是違反該地方的法律的；及
 - (ii) 在要約的日期由回購公司持有的股份；及
 - (b) 該要約 ——
 - (i) 不是關乎不同類別股份的，而就該要約關乎的所有股份而言，該要約的條款是相同的；或
 - (ii) 是關乎不同類別股份的，而就該要約關乎的每一類別股份中的所有股份而言，該要約的條款是相同的。
- (2) 在第(1)款中 ——
股份 (shares) 指在有關要約的日期已配發的股份。
- (3) 在第(1)(a)(ii)款中，提述由回購公司持有的股份 ——
 - (a) 即提述該公司已訂立合約承諾無條件收購或承諾在某些條件獲得符合的前提下收購的股份；但
 - (b) 不包括屬符合以下說明的合約的標的之股份 ——

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- (2) In this Division, a reference to 90% in number of the shares of any class is—
 - (a) in the case of securities mentioned in subsection (1), a reference to 90% of the number of those securities; and
 - (b) in the case of debentures mentioned in subsection (1), a reference to 90% of the total amount payable on those debentures.

707. General offer

- (1) For the purposes of this Division, a listed company's offer to buy back shares in the company is a general offer if—
 - (a) it is an offer to buy back all the shares, or all the shares of any class, in the company, except—
 - (i) those that, at the date of the offer, are held by a member residing in a place where such an offer is contrary to the law of the place; and
 - (ii) those that, at the date of the offer, are held by the repurchasing company; and
 - (b) the terms of the offer are the same—
 - (i) where the offer does not relate to shares of different classes, in relation to all the shares to which the offer relates; or
 - (ii) where the offer relates to shares of different classes, in relation to all the shares of each class to which the offer relates.
- (2) In subsection (1)—
shares (股份) means shares that have been allotted on the date of the offer.
- (3) In subsection (1)(a)(ii), a reference to shares that are held by the repurchasing company—

- (i) 該合約是由該公司與該公司股份的持有人訂立的，而目的是確保在該要約作出時，該持有人會接受該要約；及
 - (ii) 該合約的訂立是沒有代價且是藉契據訂立的、訂立該合約所收取的代價屬微不足道或訂立該合約所收取的代價包含該公司作出該要約的承諾。
- (4) 就第 (1)(b) 款而言，就某要約關乎的所有股份或某類別股份中的所有股份而言，即使就較早配發的股份提供的代價的價值，有別於就較後配發的股份提供的代價的價值，只要符合以下條件，該要約的條款仍須視為就所有有關股份而言是相同的 ——
- (a) 股份附有獲得某些股息的權利，而同類別的其他股份因為於不同時間配發，而不附有該權利；
 - (b) 該代價的價值的差別，純粹反映上述獲得股息的權利的分別；及
 - (c) 若非因為該代價的價值的差別，關乎所有有關股份的要約條款便會是相同的。
- (5) 就第 (1)(b) 款而言，就某要約關乎的所有股份或某類別股份中的所有股份而言，即使提供的代價的形式有所不同，只要符合以下條件，該要約的條款仍須視為就所有有關股份而言是相同的 ——
- (a) 香港以外某地方的法律不准許提供該要約的條款指明形式的代價，或該地方的法律規定除非回購公司符合某些該公司不能夠符合或該公司視為過分嚴苛的條件，否則不准許提供該代價；
 - (b) 向某人提供指明形式的代價如此不獲准許，但有另一形式的代價向該人提供；
 - (c) 該人能夠收取該另一形式而大致上是相等價值的代價；及

- (a) is a reference to shares that the repurchasing company has contracted, unconditionally or subject to conditions being satisfied, to acquire; but
 - (b) excludes shares that are the subject of a contract—
 - (i) entered into by the repurchasing company with a holder of shares in that company in order to secure that the holder will accept the offer when it is made; and
 - (ii) entered into for no consideration and by deed, for consideration of negligible value, or for consideration consisting of a promise by the repurchasing company to make the offer.
- (4) For the purposes of subsection (1)(b), even though, in relation to all the shares, or all the shares of a class of shares, to which an offer relates, there is a difference in the value of consideration offered for the shares allotted earlier as against the value of consideration offered for those allotted later, the terms of the offer are to be regarded as the same in relation to all the shares concerned if—
- (a) shares carry an entitlement to a particular dividend that other shares of the same class, by reason of being allotted at a different time, do not carry;
 - (b) the difference in value of consideration merely reflects that difference in entitlement to dividend; and
 - (c) but for the difference in the value of consideration, the terms of the offer would be the same in relation to all the shares concerned.
- (5) For the purposes of subsection (1)(b), even though, in relation to all the shares, or all the shares of a class of shares, to which an offer relates, there is a difference in the form of consideration offered, the terms of the offer are to be regarded as the same in relation to all the shares concerned if—

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- (d) 若非有代價形式的分別，關乎所有有關股份的要約條款便會是相同的。
- (6) 儘管有第 (1) 款的規定，公開要約關乎的股份當中，可包括將會在該要約的日期後但在該要約指明的日期前配發的股份。

708. 沒有傳達等不阻止要約成為公開要約

- (1) 即使回購股份的要約沒有傳達至某股份持有人，但如符合以下條件，則為施行本分部，此事不阻止該要約成為公開要約 ——
- (a) 在回購公司的成員登記冊內，沒有登記該持有人的香港地址；
- (b) 該要約沒有傳達至該持有人，是為免違反香港以外某地方的法律；及
- (c) 以下其中之一 ——
- (i) 已於憲報刊登該要約；或
- (ii) 可在香港某地點或在網站上查閱該要約或取得該要約的文本，並已藉於憲報刊登的公告指明該地點的地址或該網站的網址。

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- (a) the law of a place outside Hong Kong precludes an offer of consideration in the form specified in the terms of the offer, or precludes it except after compliance by the repurchasing company with conditions with which the repurchasing company is unable to comply or that the repurchasing company regards as unduly onerous;
- (b) consideration in another form is offered to a person to whom an offer of consideration in the specified form is so precluded;
- (c) the person is able to receive consideration in that other form that is of substantially equivalent value; and
- (d) but for the difference in the form of consideration, the terms of the offer would be the same in relation to all the shares concerned.
- (6) Despite subsection (1), a general offer may include, among the shares to which it relates, shares that will be allotted after the date of the offer but before a date specified in the offer.

708. Non-communication etc. does not prevent offer from being general offer

- (1) Even though an offer to buy back shares is not communicated to a holder of shares, that does not prevent the offer from being a general offer for the purposes of this Division if—
- (a) no Hong Kong address for the holder is registered in the repurchasing company's register of members;
- (b) the offer was not communicated to the holder in order not to contravene the law of a place outside Hong Kong; and
- (c) either—
- (i) the offer is published in the Gazette; or

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- (2) 不得根據第 (1) 款推斷除非該款 (a)、(b) 及 (c) 段指明的條件獲得符合，否則沒有傳達至股份持有人的要約不能為本分部的目的而成為公開要約。
- (3) 即使因為香港以外某地方的法律，接受回購股份的要約對某人而言是不可能的，或是較為困難的，此事並不阻止該要約為本分部的目的而成為公開要約。
- (4) 不得根據第 (3) 款推斷除非某些人不可能接受要約或對某些人而言接受要約是較為困難是基於該款所述的原因，否則不可能被某些人接受的要約或對某些人而言是較為難以接受的要約不能為本分部的目的而成為收購要約。

709. 公開要約所關乎的股份

- (1) 就本分部而言，如在公開要約作出後但在要約期終結前，回購公司回購或訂立合約承諾無條件回購該要約所關乎的任何股份，但它並不是憑藉該要約獲接受而回購該等股份的，則該等股份不得視為該要約所關乎的股份。本款在第 (2) 款的規限下具有效力。
- (2) 就本分部而言，如有以下情況，則有關股份須視為有關公開要約所關乎的股份，而回購公司須視為憑藉該要約獲接受而回購或訂立合約承諾回購該等股份——
 - (a) 在回購或訂立合約承諾回購該等股份時，回購或承諾回購的代價的價值，不超過該要約的條款指明的代價的價值；或

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- (ii) the offer can be inspected, or a copy of it obtained, at a place in Hong Kong or on a website, and a notice is published in the Gazette specifying the address of that place or website.
- (2) It is not to be inferred from subsection (1) that an offer that is not communicated to a holder of shares cannot be a general offer for the purposes of this Division unless the conditions specified in paragraphs (a), (b) and (c) of that subsection are satisfied.
- (3) Even though it is impossible or more difficult for a person, by reason of the law of a place outside Hong Kong, to accept an offer to buy back shares, that does not prevent the offer from being a general offer for the purposes of this Division.
- (4) It is not to be inferred from subsection (3) that an offer that is impossible, or more difficult, for certain persons to accept cannot be a general offer for the purposes of this Division unless the reason for the impossibility or difficulty is the one mentioned in that subsection.

709. Shares to which general offer relates

- (1) For the purposes of this Division, if, after a general offer is made but before the end of the offer period, the repurchasing company buys back, or contracts unconditionally to buy back, any of the shares to which the offer relates but does not do so by virtue of acceptances of the offer, those shares are not to be regarded as shares to which the offer relates. This subsection has effect subject to subsection (2).
- (2) For the purposes of this Division, those shares are to be regarded as shares to which the general offer relates, and the repurchasing company is to be regarded as having bought them back or contracted to buy them back by virtue of acceptances of that offer, if—

- (b) 上述條款其後被修改，以致在公布該修改時，回購或訂立合約承諾回購該等股份的代價的價值，在回購或訂立合約時，不再超過該條款指明的代價的價值。
- (3) 就本分部而言，就回購公司的有聯繫者或代表回購公司行事的代名人持有或已訂立合約承諾無條件回購或承諾在某些條件獲得符合的前提下回購（不論是在公開要約的日期或之後）的股份而言，即使該要約延伸至該等股份，該等股份亦不得視為該要約所關乎的股份。本款在第(4)款的規限下具有效力。
- (4) 就本分部而言，凡在公開要約作出後但在要約期終結前，回購公司的有聯繫者或代表回購公司行事的代名人回購或訂立合約承諾無條件回購該要約所關乎的任何股份，則如有以下情況，該等股份須視為是該要約所關乎的股份——
- (a) 在回購或訂立合約承諾回購該等股份時，回購或承諾回購的代價的價值，不超過該要約的條款指明的代價的價值；或
- (b) 上述條款其後被修改，以致在公布該修改時，回購或訂立合約承諾回購該等股份的代價的價值，在回購或訂立合約時不再超過該條款指明的代價的價值。
- (5) 就本分部而言，即使有關公開要約延伸至不售股成員持有的股份，該等股份亦不得視為該要約所關乎的股份。

- (a) the value of the consideration for which the shares are bought back, or contracted to be bought back, at the time of the buy-back or contract, does not exceed the value of the consideration specified in the terms of that offer; or
- (b) those terms are subsequently revised so that when the revision is announced, the value of the consideration for which the shares are bought back, or contracted to be bought back, at the time of the buy-back or contract, no longer exceeds the value of the consideration specified in those terms.
- (3) For the purposes of this Division, shares that an associate of the repurchasing company, or a nominee on the repurchasing company's behalf, holds, or has contracted, unconditionally or subject to conditions being satisfied, to buy back, whether at the date of the general offer or subsequently, are not to be regarded as shares to which that offer relates, even if that offer extends to those shares. This subsection has effect subject to subsection (4).
- (4) For the purposes of this Division, where, after a general offer is made but before the end of the offer period, an associate of the repurchasing company, or a nominee on the repurchasing company's behalf, buys back, or contracts unconditionally to buy back, any of the shares to which the offer relates, the shares are to be regarded as shares to which the offer relates if—
- (a) the value of the consideration for which the shares are bought back, or contracted to be bought back, at the time of the buy-back or contract, does not exceed the value of the consideration specified in the terms of the offer; or
- (b) those terms are subsequently revised so that when the revision is announced, the value of the consideration for

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710. 經修改的要約不得視為新要約

就本分部而言，在以下情況下，修改回購股份的要約的條款，不得視為作出新要約 ——

- (a) 該要約的條款就以下事宜作出規定 ——
 - (i) 該等條款的修改；及
 - (ii) 接受先前的條款須視為接受經修改的條款；及
- (b) 該修改是按照該等規定作出的。

711. 成員可發出通知表明不會提供股份供根據公開要約回購

- (1) 回購公司的成員可在關於該公司的授權會議的通知的發出日期當日或之前，向該公司的每名其他成員發出通知，表明該成員不會提供其所持有的任何股份供該公司根據有關公開要約回購。
- (2) 即使有關要約延伸至不售股成員持有的任何股份，該成員亦無權提供該等股份供回購公司根據有關公開要約回購。
- (3) 在本條中 ——

授權會議 (authorizing meeting) 就回購公司而言，指為對該公司擬作出的公開要約給予授權而召開的該公司的會議。

which the shares are bought back, or contracted to be bought back, at the time of the buy-back or contract, no longer exceeds the value of the consideration specified in those terms.

- (5) For the purposes of this Division, the shares held by a non-tendering member are not to be regarded as shares to which the general offer relates, even if that offer extends to those shares.

710. Revised offer not to be regarded as fresh offer

For the purposes of this Division, a revision of the terms of an offer to buy back shares is not to be regarded as the making of a fresh offer if—

- (a) the terms of the offer make provision for—
 - (i) their revision; and
 - (ii) acceptances on the previous terms to be treated as acceptances on the revised terms; and
- (b) the revision is made in accordance with that provision.

711. Member may give notice that member will not tender shares for buy-back under general offer

- (1) A member of a repurchasing company may, on or before the date on which notice of an authorizing meeting of the company is given, give notice to every other member of the company that the member will not tender any shares held by the member to be bought back by the company under the general offer.
- (2) A non-tendering member is not entitled to tender any shares held by the member to be bought back by the repurchasing company under the general offer even if that offer extends to those shares.

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712. 回購公司可發出通知表示全面回購少數股東的股份

- (1) 如有回購公司的成員根據第 711 條發出通知，表明該成員不會提供任何股份供該公司根據公開要約回購，則本條適用。
- (2) 在公開要約不是關乎不同類別股份的情況下，如回購公司已憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的股份中的最少 90%，則該公司可向該要約所關乎的任何其他股份的持有人發出通知，表明該公司有意回購該等股份。
- (3) 在公開要約是關乎不同類別股份的情況下，如回購公司已憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的任何類別股份中的最少 90%，則該公司可藉向該要約所關乎的該類別股份的任何其他股份的持有人發出通知，表明該公司有意回購該等股份。
- (4) 在公開要約不是關乎不同類別股份的情況下，如回購公司已憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的股份中的少於 90%，則該公司可向原訟法庭提出申請，要求原訟法庭作出命令，授權該公司向該要約所關乎的任何其他股份的持有人發出通知，表明該公司有意回購該等股份。
- (5) 在公開要約是關乎不同類別股份的情況下，如回購公司已憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的任何類別股份中的少於 90%，則該公司可向原訟法庭提出申請，要求原訟法庭作出命令，授

(3) In this section—

authorizing meeting (授權會議), in relation to a repurchasing company, means a meeting of the company called for the purpose of authorizing a general offer that the company intends to make.

Subdivision 2—“Squeeze-out”

712. Repurchasing company may give notice to buy out minority shareholders

- (1) This section applies if a member or members of the repurchasing company has or have given notice under section 711 that the member or members will not tender any shares to be bought back by that company under a general offer.
- (2) If, in the case of a general offer that does not relate to shares of different classes, the repurchasing company has, by virtue of acceptances of the offer, bought back, or contracted unconditionally to buy back, at least 90% in number of the shares to which the offer relates, the repurchasing company may give notice to the holder of any other shares to which the offer relates that it desires to buy back those shares.
- (3) If, in the case of a general offer that relates to shares of different classes, the repurchasing company has, by virtue of acceptances of the offer, bought back, or contracted unconditionally to buy back, at least 90% in number of the shares of any class to which the offer relates, the repurchasing company may give notice to the holder of any other shares of that class to which the offer relates that it desires to buy back those shares.
- (4) If, in the case of a general offer that does not relate to shares of different classes, the repurchasing company has, by virtue of acceptances of the offer, bought back, or contracted unconditionally to buy back, less than 90% in number of the

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權該公司向該要約所關乎的該類別股份的任何其他股份的持有人發出通知，表明該公司有意回購該等股份。

- (6) 原訟法庭如信納以下事宜，可應根據第 (4) 或 (5) 款提出的申請作出命令 ——
- (a) 回購公司在作出合理查探後，仍不能追尋到一名或多於一名持有有關公開要約所關乎的股份的人的下落；
 - (b) 假使該人或所有該等人士接受該公開要約，該公司便會憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的股份或任何類別股份中的最少 90%；及
 - (c) 提供的代價是公平及合理的。
- (7) 原訟法庭除非信納在顧及所有情況（尤其須顧及已找到但沒有接受有關公開要約的股份持有人的數目）下，作出上述命令是公正及公平的，否則不得作出該命令。
- (8) 如原訟法庭作出命令，授權回購公司向任何股份的持有人發出通知，則該公司可向該持有人發出通知。

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shares to which the offer relates, the repurchasing company may apply to the Court for an order authorizing it to give notice to the holder of any other shares to which the offer relates that it desires to buy back those shares.

- (5) If, in the case of a general offer that relates to shares of different classes, the repurchasing company has, by virtue of acceptances of the offer, bought back, or contracted unconditionally to buy back, less than 90% in number of the shares of any class to which the offer relates, the repurchasing company may apply to the Court for an order authorizing it to give notice to the holder of any other shares of that class to which the offer relates that it desires to buy back those shares.
- (6) The Court may, on application under subsection (4) or (5), make the order if it is satisfied that—
- (a) after reasonable enquiry, the repurchasing company has been unable to trace one or more of the persons holding shares to which the general offer relates;
 - (b) had the person, or all those persons, accepted the general offer, the repurchasing company would have, by virtue of acceptances of that offer, bought back, or contracted unconditionally to buy back, at least 90% in number of the shares, or the shares of any class, to which that offer relates; and
 - (c) the consideration offered is fair and reasonable.
- (7) The Court must not make the order unless it is satisfied that it is just and equitable to do so having regard to all the circumstances and, in particular, to the number of holders of shares who have been traced but who have not accepted the general offer.

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713. 向少數股東發出的通知

- (1) 第 712 條所指的向股份持有人發出的通知 ——
 - (a) 須符合指明格式；及
 - (b) 須在以下兩個時間中的較早者之前，向該持有人發出 ——
 - (i) 自公開要約的要約期終結後之日起計的 3 個月終結時；
 - (ii) 自公開要約的日期起計的 6 個月終結時。
- (2) 上述通知須藉以下方式向股份持有人發出 ——
 - (a) 以專人在香港交付該持有人；
 - (b) 以寄交以下地址的掛號郵遞寄給該持有人 ——
 - (i) 於有關公司的簿冊內登記的該持有人的香港地址；或
 - (ii) (如沒有上述地址) 該持有人向有關公司提供的用作接收向其發出的通知的香港地址；或
 - (c) 處長應根據第 (3) 款提出的申請而指示的方式。
- (3) 如有以下情況，有關回購公司可向處長提出申請，要求處長就向股份持有人發出有關通知的方式，作出指示 ——
 - (a) 在該公司的簿冊內並無登記該持有人的香港地址；及
 - (b) 該持有人沒有向該公司提供用作接收向其發出的通知的香港地址。
- (4) 如有關公開要約讓股份持有人選擇代價，則上述通知 ——

- (8) If the Court makes an order authorizing the repurchasing company to give notice to the holder of any shares, the repurchasing company may give notice to that holder.

713. Notice to minority shareholders

- (1) A notice to a holder of shares under section 712—
 - (a) must be given in the specified form; and
 - (b) must be given to the holder before whichever is the earlier of the following—
 - (i) the end of the period of 3 months beginning on the day after the end of the offer period of the general offer;
 - (ii) the end of the period of 6 months beginning on the date of the general offer.
- (2) The notice must be given to the holder of shares—
 - (a) by delivering it personally to that holder in Hong Kong;
 - (b) by sending it by registered post to that holder to—
 - (i) an address of that holder in Hong Kong registered in the books of the company; or
 - (ii) if there is no such address, an address in Hong Kong supplied by that holder to the company for the giving of notice to that holder; or
 - (c) in the manner directed by the Registrar on an application made under subsection (3).
- (3) The repurchasing company may apply to the Registrar for directions regarding the manner in which the notice is to be given to a holder of shares if—
 - (a) there is no address of the holder in Hong Kong registered in the books of the company; and

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- (a) 須提供有關選項的詳情；
- (b) 須述明該持有人可在該通知的日期後的 2 個月內，藉着按該通知指明的地址送交回購公司的信件，示明該持有人的選擇；及
- (c) 須述明如該持有人沒有示明一個選擇，則該要約指明的哪一代價會適用。

714. 回購公司全面回購少數股東的股份的權利

- (1) 如有通知根據第 712 條向任何股份的持有人發出，則本條適用。
- (2) 除非原訟法庭根據第 (3) 款作出命令，否則回購公司有權並須按公開要約的條款，回購有關股份。
- (3) 原訟法庭可應有關持有人在上述通知的發出日期後的 2 個月內提出的申請，命令——
 - (a) 回購公司無權並無須回購有關股份；或
 - (b) 回購公司有權並須按該命令指明的條款，回購有關股份。
- (4) 就第 (2) 款而言，如有關公開要約屬第 713(4) 條所指者，該公開要約的條款，須視為包括為該條的目的而載於有關通知內的詳情及陳述。

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- (b) the holder has not supplied to the company an address in Hong Kong for the giving of notice to the holder.
- (4) If the general offer gives the holder of shares a choice of consideration, the notice—
 - (a) must give particulars of the choices;
 - (b) must state that the holder may, within 2 months after the date of the notice, indicate the holder's choice by a letter sent to the repurchasing company at an address specified in the notice; and
 - (c) must state which consideration specified in the offer will apply if the holder does not indicate a choice.

714. Repurchasing company's right to buy out minority shareholders

- (1) This section applies if a notice is given under section 712 to the holder of any shares.
- (2) Unless the Court makes an order under subsection (3), the repurchasing company is entitled and bound to buy back the shares on the terms of the general offer.
- (3) The Court may, on application by the holder made within 2 months after the date on which the notice was given, order that—
 - (a) the repurchasing company is not entitled and bound to buy back the shares; or
 - (b) the repurchasing company is entitled and bound to buy back the shares on the terms specified in the order.
- (4) For the purposes of subsection (2), if the general offer falls within section 713(4), the terms of the general offer are to be regarded as including the particulars and statements included in the notice for the purposes of that section.

715. 有權全面回購少數股東的股份的回購公司的責任

- (1) 如回購公司憑藉第 714(2) 條，有權並須回購該公司的任何股份，則該公司須在有關通知的日期後的 2 個月內，遵守第 716 條。
- (2) 如在上述的 2 個月終結時，為第 714(3) 條的目的而提出的申請仍然待決，則回購公司須在該申請獲得處置後，在切實可行範圍內，盡快遵守第 716 條。

716. 回購公司須為通知所關乎的股份付款

- (1) 在以下情況下，回購公司須就第 712 條所指的通知所關乎的股份，向該等股份的持有人支付代價 ——
 - (a) 該持有人向該公司交出該等股份的股份證明書，或交出證明對該等股份的所有權的其他證據；或
 - (b) 該持有人向該公司交出該公司滿意的彌償。
- (2) 回購公司須註銷第 712 條所指的通知所關乎的任何其他股份，並將關於該等股份的代價，存入一個獨立的有息銀行帳戶內。
- (3) 如回購公司根據第 (2) 款將代價存入銀行戶口，該公司須以信託方式，為在該公司回購有關股份前有權得到該等股份的人持有該代價。
- (4) 除非屬以下情況，否則回購公司不得將上述代價付予或交付聲稱有權得到該筆款項或代價的人 ——
 - (a) 該人交出有關股份的股份證明書，或交出證明對該等股份的所有權的其他證據；或
 - (b) 該人交出令該公司滿意的彌償。

715. Obligations of repurchasing company with right to buy out minority shareholders

- (1) If, by virtue of section 714(2), a repurchasing company is entitled and bound to buy back any shares in the company, the company must comply with section 716 within 2 months after the date of the notice.
- (2) If an application for the purposes of section 714(3) is pending at the end of those 2 months, the repurchasing company must comply with section 716 as soon as practicable after the application has been disposed of.

716. Repurchasing company must pay for shares to which notice relates

- (1) The repurchasing company must pay the consideration for any shares to which the notice under section 712 relates to the holder of the shares if that holder produces to the repurchasing company—
 - (a) the share certificate or other evidence of title to the shares; or
 - (b) an indemnity to the repurchasing company's satisfaction.
- (2) The repurchasing company must cancel any other shares to which the notice under section 712 relates and deposit the consideration for those shares into a separate interest-bearing bank account.
- (3) The repurchasing company must hold any consideration deposited into a bank account under subsection (2) on trust for the person who, before the company bought back the shares, was entitled to them.
- (4) The repurchasing company must not pay out or deliver the consideration to any person claiming to be entitled to it unless the person produces to the repurchasing company—

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717. 補充第 716 條的條文

- (1) 如有以下情況，本條適用 ——
 - (a) 有權得到根據第 716(3) 條以信託形式持有的代價的人下落不明；
 - (b) 回購公司已每隔一段合理期間作出合理查探，以尋找該人；及
 - (c) 在收到該代價後已過了 12 年，或該公司已清盤。
- (2) 回購公司或 (如該公司已清盤) 清盤人或臨時清盤人須出售 ——
 - (a) 不屬現金的代價；及
 - (b) 該代價所累算的不屬現金的利益。
- (3) 回購公司或 (如該公司已清盤) 清盤人或臨時清盤人須向法院支付一筆代表以下項目的款項 ——
 - (a) 有關代價中屬現金的部分；
 - (b) 第 (2) 款所指的出售的收益；及
 - (c) 該代價所累算的權益、股息或其他利益。
- (4) 在第 (3) 款所指的付款作出時，有關信託即告終止。
- (5) 以下項目的開支，可由以信託形式持有的代價支付 ——
 - (a) 第 (1)(b) 款所述的查探；
 - (b) 第 (2) 款所述的出售；
 - (c) 關乎第 (3) 款所述的向法院作出付款的法律程序。

- (a) the share certificate or other evidence of title to the shares; or
- (b) an indemnity to the repurchasing company's satisfaction.

717. Provisions supplementary to section 716

- (1) This section applies if—
 - (a) the person entitled to the consideration held on trust under section 716(3) cannot be found;
 - (b) the repurchasing company has made reasonable enquiries at reasonable intervals to find that person; and
 - (c) 12 years have elapsed since the consideration was received, or the repurchasing company is wound up.
- (2) The repurchasing company, or if the repurchasing company is wound up, the liquidator or provisional liquidator, must sell—
 - (a) any consideration other than cash; and
 - (b) any benefit other than cash that has accrued from the consideration.
- (3) The repurchasing company, or if the repurchasing company is wound up, the liquidator or provisional liquidator, must pay into court a sum representing—
 - (a) the consideration so far as it is cash;
 - (b) the proceeds of any sale under subsection (2); and
 - (c) any interest, dividend or other benefit that has accrued from the consideration.
- (4) The trust terminates on the payment being made under subsection (3).
- (5) The expenses of the following may be paid out of the consideration held on trust—
 - (a) the enquiries mentioned in subsection (1)(b);

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- (1) 如有回購公司的成員根據第 711 條發出通知，表明該成員不會提供任何股份供該公司根據公開要約回購，則本條適用。
- (2) 在公開要約不是關乎不同類別股份的情況下，如 ——
 - (a) 回購公司已憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的股份的一部分（但非全部）；及
 - (b) 在要約期內的任何時間，由回購公司控制的該公司的股份（不論是否包括不售股成員持有的該公司的股份），佔該公司的股份中的最少 90%，

持有該要約所關乎的任何股份而在該期間終結前沒有接受該要約的持有人，可藉致予回購公司的信件，要求該公司回購該等股份。
- (3) 在公開要約是關乎不同類別股份的情況下，如 ——
 - (a) 回購公司已憑藉該要約獲接受，而回購或訂立合約承諾無條件回購該要約所關乎的任何類別股份的一部分（但非全部）；及
 - (b) 在要約期內的任何時間，由回購公司控制的該等股份（不論是否包括不售股成員持有的該類別的股份），佔該類別股份中的最少 90%，

持有該要約所關乎的該類別的任何股份而在該期間終結前沒有接受該要約的持有人，可藉致予回購公司的信件，要求該公司回購該等股份。

- (b) the sale mentioned in subsection (2);
- (c) the proceedings relating to the payment into court mentioned in subsection (3).

Subdivision 3—“Sell-out”**718. Repurchasing company may be required to buy out minority**

- (1) This section applies if a member or members of the repurchasing company has or have given notice under section 711 that the member or members will not tender any shares to be bought back by that company under a general offer.
- (2) If, in the case of a general offer that does not relate to shares of different classes—
 - (a) the repurchasing company has, by virtue of acceptances of the offer, bought back, or contracted unconditionally to buy back, some but not all of the shares to which the offer relates; and
 - (b) at any time before the end of the offer period, the shares in the repurchasing company controlled by that company, with or without the shares in the repurchasing company held by the non-tendering member, represent at least 90% in number of the shares in the repurchasing company,

the holder of any shares to which the offer relates who has not accepted the offer before the end of that period may, by a letter addressed to the repurchasing company, require that company to buy back those shares.
- (3) If, in the case of a general offer that relates to shares of different classes—
 - (a) the repurchasing company has, by virtue of acceptances of the offer, bought back, or contracted unconditionally

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- (4) 本條給予任何股份的持有人要求回購公司回購該等股份的權利，只可在以下兩個時間中的較後者之後的 3 個月內行使 ——
- (a) 要約期終結時；
 - (b) 根據第 719 條向該持有人發出通知的日期。
- (5) 如有關公開要約讓股份持有人選擇代價，則該持有人可在要求回購公司回購該等股份的信件中，示明該持有人的選擇。
- (6) 在本條中，提述由回購公司控制的股份，即提述 ——
- (a) 由回購公司的有聯繫者持有的股份，或由代名人代表該公司持有的股份；
 - (b) 回購公司已憑藉公開要約獲接受，而回購或訂立合約承諾無條件回購的股份；或
 - (c) 回購公司、該公司的有聯繫者或代表該公司的代名人已回購或已訂立合約承諾無條件回購或承諾在某些條件獲得符合的前提下回購的其他股份。

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- to buy back, some but not all of the shares of any class to which the offer relates; and
- (b) at any time before the end of the offer period, the shares of that class controlled by the repurchasing company, with or without the shares of that class held by the non-tendering member, represent at least 90% in number of the shares of that class,
- the holder of any shares of that class to which the offer relates who has not accepted the offer before the end of that period may, by a letter addressed to the repurchasing company, require that company to buy back those shares.
- (4) Rights given to the holder of any shares by this section to require a repurchasing company to buy back the shares are only exercisable within 3 months after whichever is the later of the following—
- (a) the end of the offer period;
 - (b) the date of the notice given to the holder under section 719.
- (5) If the general offer gives the holder of shares a choice of consideration, that holder may indicate the holder's choice in the letter requiring the repurchasing company to buy back the shares.
- (6) In this section, a reference to shares controlled by a repurchasing company is a reference to—
- (a) shares that are held by an associate of the repurchasing company or by a nominee on the repurchasing company's behalf;
 - (b) shares that the repurchasing company has, by virtue of acceptances of the general offer, acquired or contracted unconditionally to acquire; or

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719. 回購公司須告知少數股東要求全面回購股份的權利

- (1) 如任何股份的持有人根據第 718 條有權要求回購公司回購該等股份，則該公司須向該持有人發出通知，告知該持有人 ——
 - (a) 該持有人根據該條具有的權利；及
 - (b) 行使該權利的限期。
- (2) 如回購公司已根據第 712 條，向有關持有人發出它有意回購有關股份的通知，則第 (1) 款不適用。
- (3) 任何回購公司違反第 (1) 款，即屬犯罪，可處第 5 級罰款。

720. 向少數股東發出的通知

- (1) 第 719 條所指的向股份持有人發出的通知 ——
 - (a) 須符合指明格式；及
 - (b) 須在有關股份的持有人根據第 718 條有權要求回購公司回購該等股份的首日起計的一個月內，給予該持有人。
- (2) 如上述通知是在公開要約的要約期終結前發出的，它須述明該要約仍然可予接受。
- (3) 上述通知須藉以下方式，向股份持有人發出 ——
 - (a) 以專人在香港交付該持有人；
 - (b) 以寄交以下地址的掛號郵遞寄給該持有人 ——

- (c) other shares that the repurchasing company, an associate of the repurchasing company, or a nominee on the repurchasing company's behalf, has acquired, or has contracted, unconditionally or subject to conditions being satisfied, to acquire.

719. Repurchasing company must notify minority shareholders of right to be bought out

- (1) If the holder of any shares is entitled under section 718 to require a repurchasing company to buy back the shares, the repurchasing company must give notice to the holder of—
 - (a) the holder's rights under that section; and
 - (b) the period within which those rights are exercisable.
- (2) Subsection (1) does not apply if the repurchasing company has given the holder a notice under section 712 that it desires to buy back the shares.
- (3) A repurchasing company that contravenes subsection (1) commits an offence and is liable to a fine at level 5.

720. Notice to minority shareholders

- (1) A notice to a holder of shares under section 719—
 - (a) must be given in the specified form; and
 - (b) must be given to the holder within one month after the first day on which the holder of the shares is entitled under section 718 to require the repurchasing company to buy back those shares.
- (2) If the notice is given before the end of the offer period of the general offer, it must state that the offer is still open for acceptance.
- (3) The notice must be given to the holder of shares—
 - (a) by delivering it personally to that holder in Hong Kong;

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- (i) 於有關公司的簿冊內登記的該持有人的香港地址；或
- (ii) (如沒有上述地址) 該持有人向有關公司提供的用作接收向其發出的通知的香港地址；或
- (c) 處長應根據第 (4) 款提出的申請而指示的方式。
- (4) 如有以下情況，回購公司可向處長提出申請，要求處長就向股份持有人發出有關通知的方式，作出指示——
 - (a) 在該公司的簿冊內並無登記該持有人的香港地址；及
 - (b) 該持有人沒有向該公司提供用作接收向其發出的通知的香港地址。
- (5) 如有關公開要約讓股份持有人選擇代價，則上述通知——
 - (a) 須提供有關選項的詳情；
 - (b) 須述明該持有人可在第 718 條所指的、要求回購公司回購任何股份的信件中，示明該持有人的選擇；及
 - (c) 須述明如該持有人沒有示明一個選擇，則該要約指明的哪一項代價會適用。
- (6) 如第 (1)、(2)、(3) 或 (5) 款遭違反，回購公司即屬犯罪，可處第 4 級罰款。

721. 少數股東要求回購公司全面回購股份的權利

- (1) 如任何股份的持有人根據第 718 條要求回購公司回購該等股份，則本條適用。

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- (b) by sending it by registered post to that holder to—
 - (i) an address of that holder in Hong Kong registered in the books of the company; or
 - (ii) if there is no such address, an address in Hong Kong supplied by that holder to the company for the giving of notice to that holder; or
- (c) in the manner directed by the Registrar on an application made under subsection (4).
- (4) A repurchasing company may apply to the Registrar for directions regarding the manner in which the notice is to be given to a holder of shares if—
 - (a) there is no address of the holder in Hong Kong registered in the books of the company; and
 - (b) the holder has not supplied to the company an address in Hong Kong for the giving of notice to the holder.
- (5) If the general offer gives the holder of shares a choice of consideration, the notice—
 - (a) must give particulars of the choices;
 - (b) must state that the holder may indicate the holder's choice in the letter requiring the repurchasing company to buy back any shares under section 718; and
 - (c) must state which consideration specified in the offer will apply if the holder does not indicate a choice.
- (6) If subsection (1), (2), (3) or (5) is contravened, the repurchasing company commits an offence and is liable to a fine at level 4.

721. Minority shareholders' right to be bought out by repurchasing company

- (1) This section applies if the holder of any shares requires the

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- (2) 除非原訟法庭根據第 (3) 款作出命令，否則回購公司有權並須按有關公開要約的條款回購有關股份，或以有關持有人與該公司議定的其他條款回購有關股份。
 - (3) 原訟法庭可應有關持有人或回購公司的申請，命令該公司有權並須按該命令指明的條款回購有關股份。
 - (4) 就第 (2) 款而言，如有關公開要約屬第 720(5) 條所指者，該公開要約的條款，須視為包括為該條的目的而載於有關通知內的詳情及陳述。
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- repurchasing company to buy back the shares under section 718.
- (2) Unless the Court makes an order under subsection (3), the repurchasing company is entitled and bound to buy back the shares on the terms of the general offer or on other terms as agreed between that holder and the repurchasing company.
 - (3) The Court may, on application by the holder or repurchasing company, order that the repurchasing company is entitled and bound to buy back the shares on the terms specified in the order.
 - (4) For the purposes of subsection (2), if the general offer falls within section 720(5), the terms of the general offer are to be regarded as including the particulars and statements included in the notice for the purposes of that section.
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