

第 9 部

帳目及審計

(格式變更——2013 年第 1 號編輯修訂紀錄)

第 1 分部 —— 導言

357. 釋義

(1) 在本部中 ——

周年財務報表 (annual financial statements) 指根據第 379(1)、(3A)(a)(i) 或 (b) 條須擬備的報表；(由 2018 年第 35 號第 32 條修訂)**周年綜合財務報表** (annual consolidated financial statements) 指根據第 379(2) 或 (3A)(a)(ii) 條須擬備的綜合報表；(由 2018 年第 35 號第 32 條修訂)**非香港法人團體** (non-Hong Kong body corporate) 指在香港以外地方成立為法團的法人團體；(由 2018 年第 35 號第 32 條增補)**核數師報告** (auditor's report) 指根據第 405 條須擬備的報告；**財務報表** (financial statements) 指周年財務報表或周年綜合財務報表；**財務摘要報告** (summary financial report) 指根據第 439 條擬備的財務報告；**《規例》** (Regulation) 指根據第 451 及 452 條訂立的規例；**會計準則** (accounting standards) 指《規例》訂明的團體所發出或指明的、關於標準會計實務的說明；(由 2018 年第 35 號第 32 條增補)**董事報告** (directors' report) 指 ——

(a) 根據第 388(1) 條須擬備的報告；或

Part 9

Accounts and Audit

(Format changes—E.R. 1 of 2013)

Division 1—Preliminary

357. Interpretation

(1) In this Part—

accounting standards (會計準則) means statements of standard accounting practice issued or specified by a body prescribed by the Regulation; (Added 35 of 2018 s. 32)**annual consolidated financial statements** (周年綜合財務報表) means the consolidated statements required to be prepared under section 379(2) or (3A)(a)(ii); (Amended 35 of 2018 s. 32)**annual financial statements** (周年財務報表) means the statements required to be prepared under section 379(1), (3A)(a)(i) or (b); (Amended 35 of 2018 s. 32)**auditor's report** (核數師報告) means the report required to be prepared under section 405;**directors' report** (董事報告) means—

- (a) the report required to be prepared under section 388(1); or
- (b) the consolidated report required to be prepared under section 388(2);

financial statements (財務報表) means annual financial statements or annual consolidated financial statements;

- (b) 根據第 388(2) 條須擬備的綜合報告。
- (2) 在本部中，提述關乎某財政年度的報告文件，即提述以下所有文件——
- (a) 關乎該財政年度的財務報表；
 - (b) 關乎該財政年度的董事報告；
 - (c) 就該財務報表作出的核數師報告。
- (3) 就本部而言，如有以下情況，某法人團體 (**前者**) 即屬另一法人團體的全資附屬公司：前者只有以下成員——
- (a) 該另一法人團體；
 - (b) 該另一法人團體的全資附屬公司；
 - (c) 該另一法人團體或上述全資附屬公司的代名人。
- (4) 在本部中——
- (a) 提述適用於公司的財務報表的會計準則，即提述按照其條款屬攸關該公司的情況及該財務報表的會計準則；
 - (b) 提述控權公司，即包括本身是一間公司的母企業，而對公司集團的提述，亦須據此解釋；及
 - (c) 對母企業或附屬企業的提述，須按照附表 1 解釋。(由 2018 年第 35 號第 32 條增補)

(編輯修訂——2013 年第 1 號編輯修訂紀錄)

non-Hong Kong body corporate (非香港法人團體) means a body corporate incorporated outside Hong Kong; (*Added 35 of 2018 s. 32*)

Regulation (《規例》) means the regulations made under sections 451 and 452;

summary financial report (財務摘要報告) means a financial report prepared under section 439.

- (2) In this Part, a reference to the reporting documents for a financial year is a reference to all of the following—
- (a) the financial statements for the financial year;
 - (b) the directors' report for the financial year;
 - (c) the auditor's report on those financial statements.
- (3) For the purposes of this Part, a body corporate is a wholly owned subsidiary of another body corporate if it has only the following as members—
- (a) that other body corporate;
 - (b) a wholly owned subsidiary of that other body corporate;
 - (c) a nominee of that other body corporate or such a wholly owned subsidiary.
- (4) In this Part—
- (a) a reference to accounting standards applicable to any financial statements of a company is a reference to accounting standards as are, in accordance with their terms, relevant to the company's circumstances and to the financial statements;
 - (b) a reference to a holding company includes a parent undertaking that is a company, and a reference to a group of companies is to be construed accordingly; and

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(c) a reference to a parent undertaking or subsidiary undertaking is to be construed in accordance with Schedule 1. (*Added 35 of 2018 s. 32*)

358. 就於有關條文的生效日期當日或之後開始的財政年度的適用範圍等

- (1) 以下每一條文，均就於該條的生效日期[#]當日或之後開始的財政年度而適用 ——
- (a) 第 359 條；
 - (b) 第 379 條；
 - (c) 第 388 條；
 - (d) 第 389 條；
 - (e) 第 429 條；
 - (f) 第 430 條；
 - (g) 第 439 條。
- (2) 以下每一條文，均就關乎於該條的生效日期[#]當日或之後開始的財政年度的會計紀錄而適用 ——
- (a) 第 373 條；
 - (b) 第 374 條；
 - (c) 第 376 條；
 - (d) 第 377 條。
- (3) 以下每一條文，均就關乎於該條的生效日期[#]當日或之後開始的財政年度的財務報表而適用 ——
- (a) 第 380 條；
 - (b) 第 381 條；
 - (c) 第 382 條；
 - (d) 第 383 條；
 - (e) 第 436 條；

358. Application in relation to financial year beginning on or after commencement date of relevant provision etc.

- (1) Each of the following sections applies in relation to a financial year beginning on or after the commencement date[#] of that section—
- (a) section 359;
 - (b) section 379;
 - (c) section 388;
 - (d) section 389;
 - (e) section 429;
 - (f) section 430;
 - (g) section 439.
- (2) Each of the following sections applies in relation to accounting records for a financial year beginning on or after the commencement date[#] of that section—
- (a) section 373;
 - (b) section 374;
 - (c) section 376;
 - (d) section 377.
- (3) Each of the following sections applies in relation to financial statements for a financial year beginning on or after the commencement date[#] of that section—
- (a) section 380;
 - (b) section 381;
 - (c) section 382;

- (f) 第449條。
- (4) 第387條就以下財務狀況表而適用：關乎於該條的生效日期[#]當日或之後開始的財政年度的財務狀況表。
- (5) 以下每一條文，均就關乎於該條的生效日期[#]當日或之後開始的財政年度的董事報告而適用——
- (a) 第390條；
- (b) 第391條。
- (6) 以下每一條文，均就為於該條的生效日期[#]當日或之後開始的財政年度作出的核數師委任而適用——
- (a) 第394條；
- (b) 第395條；
- (c) 第396條；
- (d) 第398條；
- (e) 第399條。
- (7) 以下每一條文，均就為於該條的生效日期[#]當日或之後開始的財政年度獲委任為核數師的人而適用——
- (a) 第402條；
- (b) 第403條；
- (c) 第404條。
- (8) 第411條就以下成員大會而適用：於該條的生效日期[#]當日或之後就之發出通知的成員大會。
- (9) 以下每一條文就為於該條的生效日期[#]當日或之後開始的財政年度獲委任或當作再度獲如此委任為核數師的人而適用——
- (a) 第412條；
- (b) 第416條；
- (c) 第417條；
- (d) 第418條；

- (d) section 383;
- (e) section 436;
- (f) section 449.
- (4) Section 387 applies in relation to a statement of financial position for a financial year beginning on or after the commencement date[#] of that section.
- (5) Each of the following sections applies in relation to a directors' report for a financial year beginning on or after the commencement date[#] of that section—
- (a) section 390;
- (b) section 391.
- (6) Each of the following sections applies in relation to an appointment of an auditor for a financial year beginning on or after the commencement date[#] of that section—
- (a) section 394;
- (b) section 395;
- (c) section 396;
- (d) section 398;
- (e) section 399.
- (7) Each of the following sections applies in relation to a person appointed as auditor for a financial year beginning on or after the commencement date[#] of that section—
- (a) section 402;
- (b) section 403;
- (c) section 404.
- (8) Section 411 applies in relation to a general meeting of which notice is given on or after the commencement date[#] of that section.

- (e) 第 419 條。
- (10) 第 415 條就以下條文而適用：於該條的生效日期[#]當日或之後訂立的條文。
- (11) 第 435 條就以下項目而適用 ——
- (a) 關乎於該條的生效日期[#]當日或之後開始的財政年度的財務報表及董事報告；及
- (b) 就該財務報表作出的核數師報告。
- (12) 第 440 條就以下財務摘要報告而適用：關乎於該條的生效日期[#]當日或之後開始的財政年度的財務摘要報告。
- (13) 附表 4 就以下財務報表而適用：關乎於該附表的生效日期[#]當日或之後開始的財政年度的財務報表。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

第 2 分部 —— 提交報告方面的豁免

359. 在提交報告方面獲豁免的公司

- (1) 就本部而言，如有以下情況，公司即就某財政年度在提

- (9) Each of the following sections applies in relation to a person who is appointed, or is deemed to be reappointed, as auditor for a financial year beginning on or after the commencement date[#] of that section—
- (a) section 412;
- (b) section 416;
- (c) section 417;
- (d) section 418;
- (e) section 419.
- (10) Section 415 applies to a provision made on or after the commencement date[#] of that section.
- (11) Section 435 applies in relation to—
- (a) any financial statements and directors' report for a financial year beginning on or after the commencement date[#] of that section; and
- (b) any auditor's report on those financial statements.
- (12) Section 440 applies in relation to a summary financial report for a financial year beginning on or after the commencement date[#] of that section.
- (13) Schedule 4 applies in relation to financial statements for a financial year beginning on or after the commencement date[#] of that Schedule.

Editorial Note:

[#] Commencement date: 3 March 2014.

Division 2—Reporting Exemption

359. Company falling within reporting exemption

- (1) For the purposes of this Part, a company falls within the

交報告方面獲豁免 ——

- (a) 該公司 ——
- (i) 就該財政年度而言，符合歸類為小型私人公司或小型擔保公司的資格；及
 - (ii) 在該財政年度的任何時間，均不是第 (4) 款指明的公司；
- (b) 該公司 ——
- (i) 在該財政年度的整段期間，均是私人公司，並且在該財政年度的任何時間，均不是第 (4) 款指明的公司；
 - (ii) 沒有附屬公司，亦不是另一公司的附屬公司；及
 - (iii) 所有成員均以書面同意，該公司僅就該財政年度在提交報告方面獲豁免；或
- (c) 符合以下描述的情況 ——
- (i) 該公司在該財政年度的整段期間，均是私人公司，並且在該財政年度的任何時間，均不是第 (4) 款指明的公司；
 - (ii) 就該財政年度而言，該公司符合歸類為合資格私人公司的資格；而且
 - (iii) 第 360(1) 條指明的條件獲符合。
- (2) 就本部而言，如有以下情況，公司亦就某財政年度在提交報告方面獲豁免 ——
- (a) 該公司在該財政年度的整段期間，均是私人公司，並且在該財政年度的任何時間，均不是第 (4) 款指明的公司；
 - (b) 該公司是某公司集團的控權公司，而在該財政年度的任何時間，該集團並無任何成員 ——
 - (i) 是第 (4) 款指明的公司；或

reporting exemption for a financial year—

- (a) if—
- (i) it is qualified as a small private company or small guarantee company for the financial year; and
 - (ii) it is not a company specified in subsection (4) at any time during the financial year;
- (b) if—
- (i) it is a private company at all times, and is not a company specified in subsection (4) at any time, during the financial year;
 - (ii) it does not have any subsidiary and is not a subsidiary of another company; and
 - (iii) all members of the company agree in writing that the company is to fall within the reporting exemption for the financial year only; or
- (c) if—
- (i) it is a private company at all times, and is not a company specified in subsection (4) at any time, during the financial year;
 - (ii) it is qualified as an eligible private company for the financial year; and
 - (iii) the conditions specified in section 360(1) are satisfied.
- (2) For the purposes of this Part, a company also falls within the reporting exemption for a financial year if—
- (a) it is a private company at all times, and is not a company specified in subsection (4) at any time, during the financial year;

- (ii) 是第 (5) 款指明的非香港法人團體；及 (由 2018 年第 35 號第 33 條代替)
- (c) 該集團 ——
 - (i) 就該財政年度而言，符合歸類為小型私人公司集團的資格；或
 - (ii) 就該財政年度符合歸類為合資格私人公司集團的資格，而且第 360(2) 條指明的條件獲符合。
- (3) 就本部而言，如有以下情況，公司亦就某財政年度在提交報告方面獲豁免 ——
 - (a) 該公司在該財政年度的整段期間，均是擔保有限公司，並且在該財政年度的任何時間，均不是第 (4) 款指明的公司；
 - (b) 該公司是某公司集團的控權公司，而在該財政年度的任何時間，該集團並無任何成員 ——
 - (i) 是第 (4) 款指明的公司；或
 - (ii) 是第 (5) 款指明的非香港法人團體；及 (由 2018 年第 35 號第 33 條代替)
 - (c) 該集團就該財政年度而言，符合歸類為小型擔保公司集團的資格。
- (3A) 就本部而言，如有以下情況，公司亦就某財政年度在提交報告方面獲豁免 ——
 - (a) 該公司在該財政年度的整段期間，均是私人公司或擔保有限公司，並且在該財政年度的任何時間，均不是第 (4) 款指明的公司；
 - (b) 該公司是某公司集團的控權公司，而在該財政年度的任何時間，該集團並無任何成員 ——
 - (i) 是第 (4) 款指明的公司；或
 - (ii) 是第 (5) 款指明的非香港法人團體；

- (b) it is the holding company of a group of companies, of which, at any time during the financial year, no member is—
 - (i) a company specified in subsection (4); or
 - (ii) a non-Hong Kong body corporate specified in subsection (5); and (*Replaced 35 of 2018 s. 33*)
- (c) the group of companies—
 - (i) is qualified as a group of small private companies for the financial year; or
 - (ii) is qualified as a group of eligible private companies for the financial year and the conditions specified in section 360(2) are satisfied.
- (3) For the purposes of this Part, a company also falls within the reporting exemption for a financial year if—
 - (a) it is a company limited by guarantee at all times, and is not a company specified in subsection (4) at any time, during the financial year;
 - (b) it is the holding company of a group of companies, of which, at any time during the financial year, no member is—
 - (i) a company specified in subsection (4); or
 - (ii) a non-Hong Kong body corporate specified in subsection (5); and (*Replaced 35 of 2018 s. 33*)
 - (c) the group of companies is qualified as a group of small guarantee companies for the financial year.
- (3A) For the purposes of this Part, a company also falls within the reporting exemption for a financial year if—
 - (a) it is a private company or a company limited by guarantee at all times, and is not a company specified in subsection (4) at any time, during the financial year;

- (c) 該集團就該財政年度而言，符合歸類為混合集團的資格；及
- (d) (凡該集團的任何成員就該財政年度而言，符合歸類為合資格私人公司的資格，但不符合歸類為小型私人公司的資格) 第 360(2) 條指明的條件獲符合。(由 2018 年第 35 號第 33 條增補)
- (4) 為施行第(1)、(2)、(3)及(3A)款而指明的公司為 —— (由 2018 年第 35 號第 33 條修訂)
 - (a) 經營銀行業務，並持有有效的根據《銀行業條例》(第 155 章)批給的銀行牌照的公司；
 - (b) 屬符合以下說明的法團的公司：根據《證券及期貨條例》(第 571 章)第 V 部獲發牌，以經營該條例所指的任何受規管活動的業務；或
 - (c) 符合以下說明的公司 ——
 - (i) 經營任何並非純粹以代理人身分經營的保險業務；或
 - (ii) 以經營銀行業務以外的行業或業務的方式，接受有息貸款或須連同溢價償還的貸款，但按涉及發行債權證或其他證券的條款而接受的貸款除外。
- (5) 為施行第(2)、(3)及(3A)款而指明的非香港法人團體是符合以下情況者 ——
 - (a) 該非香港法人團體經營的任何業務，假使是在香港經營，便須根據以下牌照經營：根據《銀行業條例》(第 155 章)批給的有效的銀行牌照，或根據《證券及期貨條例》(第 571 章)第 V 部就經營該條例所指的任何受規管活動的業務而批給的牌照；
 - (b) 該非香港法人團體 ——
 - (i) 經營任何保險業務，而且並非純粹以代理人身分經營該業務；或

- (b) it is the holding company of a group of companies, of which, at any time during the financial year, no member is—
 - (i) a company specified in subsection (4); or
 - (ii) a non-Hong Kong body corporate specified in subsection (5);
- (c) the group of companies is qualified as a mixed group for the financial year; and
- (d) (where any member of the group of companies is qualified as an eligible private company, but is not qualified as a small private company, for the financial year) the conditions specified in section 360(2) are satisfied. (Added 35 of 2018 s. 33)
- (4) The company specified for the purposes of subsections (1), (2), (3) and (3A) is— (Amended 35 of 2018 s. 33)
 - (a) one that carries on any banking business and holds a valid banking licence granted under the Banking Ordinance (Cap. 155);
 - (b) one that is a corporation licensed under Part V of the Securities and Futures Ordinance (Cap. 571) to carry on a business in any regulated activity within the meaning of that Ordinance; or
 - (c) one that—
 - (i) carries on any insurance business otherwise than solely as an agent; or
 - (ii) accepts, by way of trade or business (other than banking business), loans of money at interest or repayable at a premium, otherwise than on terms involving the issue of debentures or other securities.

- (ii) 以經營銀行業務以外的行業或業務的方式，接受有息貸款或須連同溢價償還的貸款，但按涉及發行債權證或其他證券的條款而接受的貸款除外；或
- (c) 該非香港法人團體假使已根據本條例成立為法團，便會是第 12 條所指的公眾公司。(由 2018 年第 35 號第 33 條增補)
- (6) 儘管有第 358 條的規定，《2018 年公司 (修訂) (第 2 號) 條例》(2018 年第 35 號) 對第 (2)(b) 及 (3)(b) 款的修訂，以及第 (3A)(b)(ii) 及 (5) 款，只就該條例第 33 條的生效日期 * 當日或之後開始的財政年度而適用。(由 2018 年第 35 號第 33 條增補)

編輯附註：

* 生效日期：2019 年 2 月 1 日。

- (5) The non-Hong Kong body corporate specified for the purposes of subsections (2), (3) and (3A) is—
 - (a) a non-Hong Kong body corporate that carries on any business that, had it been carried on in Hong Kong, would be required to be carried on under a valid banking licence granted under the Banking Ordinance (Cap. 155), or under a licence under Part V of the Securities and Futures Ordinance (Cap. 571) to carry on a business in any regulated activity within the meaning of that Ordinance;
 - (b) a non-Hong Kong body corporate that—
 - (i) carries on any insurance business otherwise than solely as an agent; or
 - (ii) accepts, by way of trade or business (other than banking business), loans of money at interest or repayable at a premium, otherwise than on terms involving the issue of debentures or other securities; or
 - (c) a non-Hong Kong body corporate that would have fallen within the meaning of public company in section 12 had it been incorporated under this Ordinance. (*Added 35 of 2018 s. 33*)
- (6) Despite section 358, the amendments made to subsections (2)(b) and (3)(b) by the Companies (Amendment) (No. 2) Ordinance 2018 (35 of 2018), and subsections (3A)(b)(ii) and (5), apply only in relation to a financial year beginning on or after the commencement date* of section 33 of that Ordinance. (*Added 35 of 2018 s. 33*)

Editorial Note:

* Commencement date: 1 February 2019.

360. 為施行第 359(1)(c)(iii)、(2)(c)(ii) 及 (3A)(d) 條而指明的條件
(由 2018 年第 35 號第 34 條修訂)

- (1) 為施行第 359(1)(c)(iii) 條而指明的條件為 ——
 - (a) (在第 (3) 款的規限下) 持有有關公司最少 75% 的表決權的成員，在成員大會上通過決議，議決該公司就有關財政年度在提交報告方面獲豁免；及
 - (b) 持有餘下的表決權的成員並無投票反對該決議。
- (2) 為施行第 359(2)(c)(ii) 及 (3A)(d) 條而指明的條件為 ——
 - (a) (在第 (3) 款的規限下) 持有有關控權公司最少 75% 的表決權的成員，在成員大會上通過決議，議決該控權公司就有關財政年度在提交報告方面獲豁免；及
 - (b) 持有餘下的表決權的成員並無投票反對該決議。(由 2018 年第 35 號第 34 條代替)
- (3) 如 ——
 - (a) 有議決某公司就某財政年度在提交報告方面獲豁免的決議，為第 (1)(a) 或 (2)(a) 款的目的而獲通過；
 - (b) 持有該公司表決權的某成員，藉向該公司發出書面通知，反對該公司就該財政年度在提交報告方面獲豁免；及
 - (c) 該通知是在該項反對所關乎的財政年度終結的最少 6 個月之前發出的，
則該決議即視為沒有就該項反對所關乎的財政年度獲通過。(由 2018 年第 35 號第 34 條修訂)
- (4) 公司須在收到第 (3)(b) 款所指的通知後的 14 日內，將有關反對告知其成員。
- (5) 凡有第 (1)(a) 或 (2)(a) 款所述的決議，則須就該決議發出特別通知。(由 2018 年第 35 號第 34 條修訂)

附註 ——

360. Conditions specified for section 359(1)(c)(iii), (2)(c)(ii) and (3A)(d)

(Amended 35 of 2018 s. 34)

- (1) The conditions specified for the purposes of section 359(1)(c)(iii) are—
 - (a) subject to subsection (3), a resolution is passed at a general meeting by the members holding at least 75% of the voting rights in the company to the effect that the company is to fall within the reporting exemption for the financial year; and
 - (b) the members holding the remaining voting rights do not vote against the resolution.
- (2) The conditions specified for the purposes of section 359(2)(c)(ii) and (3A)(d) are—
 - (a) subject to subsection (3), a resolution is passed at a general meeting by the members holding at least 75% of the voting rights in the holding company to the effect that the holding company is to fall within the reporting exemption for the financial year; and
 - (b) the members holding the remaining voting rights do not vote against the resolution. (Replaced 35 of 2018 s. 34)
- (3) If—
 - (a) a resolution is passed for the purposes of subsection (1)(a) or (2)(a) to the effect that a company is to fall within the reporting exemption for a financial year;
 - (b) by notice in writing to the company, a member holding voting rights in the company objects to the company falling within the reporting exemption for the financial year; and

請亦參閱第 578 條，該條列出關於特別通知的規定。

361. 小型私人公司

- (1) 就本部而言，如公司是根據本條例組成及註冊的私人公司，且在其首個財政年度，附表 3 第 1(1) 條指明的條件中任何 2 項獲符合，則就該首個財政年度及其後每個財政年度而言，該公司符合歸類為小型私人公司的資格，直至該公司根據第 (4) 款喪失該資格為止。
- (2) 就本部而言，如公司是原有的私人公司，且 ——
 - (a) 在其在本條開始實施後的首個財政年度；或
 - (b) 該公司就《前身條例》而言的、在該首個財政年度的對上一個財政年度，
 附表 3 第 1(1) 條指明的條件中任何 2 項獲符合，則就該首個財政年度及其後每個財政年度而言，該公司符合歸類為小型私人公司的資格，直至該公司根據第 (4) 款喪失該資格為止。
- (3) 就本部而言，如 ——
 - (a) 公司是私人公司；且

- (c) the notice is given at least 6 months before the end of the financial year to which the objection relates, the resolution is regarded as not being passed in relation to the financial year to which the objection relates. (*Amended 35 of 2018 s. 34*)
- (4) Within 14 days after receiving a notice under subsection (3)(b), a company must notify its members of the objection.
- (5) Special notice is required for a resolution mentioned in subsection (1)(a) or (2)(a). (*Amended 35 of 2018 s. 34*)

Note—

See also section 578 which sets out the requirements regarding special notice.

361. Small private company

- (1) For the purposes of this Part, if a company is a private company formed and registered under this Ordinance, and any 2 of the conditions specified in section 1(1) of Schedule 3 are satisfied in its first financial year, the company is qualified as a small private company for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4).
- (2) For the purposes of this Part, if a company is an existing private company, and any 2 of the conditions specified in section 1(1) of Schedule 3 are satisfied—
 - (a) in its first financial year after the coming into operation of this section; or
 - (b) in the financial year of the company for the purposes of the predecessor Ordinance that immediately precedes that first financial year,
 the company is qualified as a small private company for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4).

- (b) 在其在本條開始實施後的首個財政年度後，附表 3 第 1(1) 條指明的條件中任何 2 項獲符合，並且連續 2 個財政年度如此符合，

則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該公司亦符合歸類為小型私人公司的資格，直至該公司根據第 (4) 款喪失該資格為止。

- (4) 就本部而言，如在公司根據第 (1)、(2) 或 (3) 款符合歸類為小型私人公司的資格後，附表 3 第 1(2) 條指明的條件中任何 2 項在連續 2 個財政年度不獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該公司喪失歸類為小型私人公司的資格，直至該公司再次根據第 (3) 款符合該資格為止。

362. 合資格私人公司

- (1) 就本部而言，如公司是根據本條例組成及註冊的私人公司，且在其首個財政年度，附表 3 第 1(3) 條指明的條件中任何 2 項獲符合，則就該首個財政年度及其後每個財政年度而言，該公司符合歸類為合資格私人公司的資格，直至該公司根據第 (4) 款喪失該資格為止。
- (2) 就本部而言，如公司是原有的私人公司，且 ——
- (a) 在其在本條開始實施後的首個財政年度；或
- (b) 該公司就《前身條例》而言的、在該首個財政年度的對上一個財政年度，

附表 3 第 1(3) 條指明的條件中任何 2 項獲符合，則就該首個財政年度及其後每個財政年度而言，該公司符合歸

- (3) For the purposes of this Part, if—

- (a) a company is a private company; and
- (b) after its first financial year after the coming into operation of this section, any 2 of the conditions specified in section 1(1) of Schedule 3 are satisfied for 2 consecutive financial years,

the company is also qualified as a small private company for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (4).

- (4) For the purposes of this Part, if, after a company is qualified as a small private company under subsection (1), (2) or (3), any 2 of the conditions specified in section 1(2) of Schedule 3 are not satisfied for 2 consecutive financial years, the company is disqualified as a small private company for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (3).

362. Eligible private company

- (1) For the purposes of this Part, if a company is a private company formed and registered under this Ordinance, and any 2 of the conditions specified in section 1(3) of Schedule 3 are satisfied in its first financial year, the company is qualified as an eligible private company for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4).
- (2) For the purposes of this Part, if a company is an existing private company, and any 2 of the conditions specified in section 1(3) of Schedule 3 are satisfied—
- (a) in its first financial year after the coming into operation of this section; or

類為合資格私人公司的資格，直至該公司根據第 (4) 款喪失該資格為止。

(3) 就本部而言，如 ——

(a) 公司是私人公司；且

(b) 在其在本條開始實施後的首個財政年度後，附表 3 第 1(3) 條指明的條件中任何 2 項獲符合，並且連續 2 個財政年度如此符合，

則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該公司亦符合歸類為合資格私人公司的資格，直至該公司根據第 (4) 款喪失該資格為止。

(4) 就本部而言，如在公司根據第 (1)、(2) 或 (3) 款符合歸類為合資格私人公司的資格後，附表 3 第 1(4) 條指明的條件中任何 2 項在連續 2 個財政年度不獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該公司喪失歸類為合資格私人公司的資格，直至該公司再次根據第 (3) 款符合該資格為止。

363. 小型擔保公司

(1) 就本部而言，如公司是根據本條例組成及註冊的擔保有限公司，且在其首個財政年度，附表 3 第 1(5) 條指明的條件獲符合，則就該首個財政年度及其後每個財政年度而言，該公司符合歸類為小型擔保公司的資格，直至該公司根據第 (4) 款喪失該資格為止。

(2) 就本部而言，如公司是原有的擔保有限公司，且 ——

(b) in the financial year of the company for the purposes of the predecessor Ordinance that immediately precedes that first financial year,

the company is qualified as an eligible private company for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4).

(3) For the purposes of this Part, if—

(a) a company is a private company; and

(b) after its first financial year after the coming into operation of this section, any 2 of the conditions specified in section 1(3) of Schedule 3 are satisfied for 2 consecutive financial years,

the company is also qualified as an eligible private company for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (4).

(4) For the purposes of this Part, if, after a company is qualified as an eligible private company under subsection (1), (2) or (3), any 2 of the conditions specified in section 1(4) of Schedule 3 are not satisfied for 2 consecutive financial years, the company is disqualified as an eligible private company for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (3).

363. Small guarantee company

(1) For the purposes of this Part, if a company is a company limited by guarantee formed and registered under this Ordinance, and the condition specified in section 1(5) of Schedule 3 is satisfied in its first financial year, the company is qualified as a small guarantee company for that first

- (a) 在其在本條開始實施後的首個財政年度；或
- (b) 該公司就《前身條例》而言的、在該首個財政年度的對上一個財政年度，

附表 3 第 1(5) 條指明的條件獲符合，則就該首個財政年度及其後每個財政年度而言，該公司符合歸類為小型擔保公司的資格，直至該公司根據第 (4) 款喪失該資格為止。

- (3) 就本部而言，如 ——

- (a) 公司是擔保有限公司；且
- (b) 在其在本條開始實施後的首個財政年度後，附表 3 第 1(5) 條指明的條件獲符合，並且連續 2 個財政年度如此符合，

則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該公司亦符合歸類為小型擔保公司的資格，直至該公司根據第 (4) 款喪失該資格為止。

- (4) 就本部而言，如在公司根據第 (1)、(2) 或 (3) 款符合歸類為小型擔保公司的資格後，附表 3 第 1(6) 條指明的條件在連續 2 個財政年度不獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該公司喪失歸類為小型擔保公司的資格，直至該公司再次根據第 (3) 款符合該資格為止。

financial year, and every subsequent financial year, until it is disqualified under subsection (4).

- (2) For the purposes of this Part, if a company is an existing company limited by guarantee, and the condition specified in section 1(5) of Schedule 3 is satisfied—

- (a) in its first financial year after the coming into operation of this section; or
- (b) in the financial year of the company for the purposes of the predecessor Ordinance that immediately precedes that first financial year,

the company is qualified as a small guarantee company for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4).

- (3) For the purposes of this Part, if—

- (a) a company is a company limited by guarantee; and
- (b) after its first financial year after the coming into operation of this section, the condition specified in section 1(5) of Schedule 3 is satisfied for 2 consecutive financial years,

the company is also qualified as a small guarantee company for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (4).

- (4) For the purposes of this Part, if, after a company is qualified as a small guarantee company under subsection (1), (2) or (3), the condition specified in section 1(6) of Schedule 3 is not satisfied for 2 consecutive financial years, the company is disqualified as a small guarantee company for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (3).

364. 小型私人公司集團

(1) 就本部而言，如 ——

- (a) 公司集團的控權公司是根據本條例組成及註冊的；且
- (b) 在該控權公司的首個財政年度，附表 3 第 1(7) 條指明的條件及該附表第 1(8) 條指明的條件中任何 2 項獲符合，

則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為小型私人公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。

(2) 就本部而言，如 ——

- (a) 公司集團的控權公司是原有公司；且
- (b) 在以下財政年度，附表 3 第 1(7) 條指明的條件及該附表第 1(8) 條指明的條件中任何 2 項獲符合 ——
 - (i) 該控權公司的在本條開始實施後的首個財政年度；或
 - (ii) 該控權公司就《前身條例》而言的、在該首個財政年度的對上一個財政年度，

則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為小型私人公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。

(3) 就本部而言，如在公司集團的控權公司的在本條開始實施後的首個財政年度後，附表 3 第 1(7) 條指明的條件及該附表第 1(8) 條指明的條件中任何 2 項獲符合，並且連續就該控權公司的 2 個財政年度如此符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦符合歸類為小型私人公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。

364. Group of small private companies

(1) For the purposes of this Part, if—

- (a) the holding company of a group of companies is formed and registered under this Ordinance; and
- (b) the conditions specified in section 1(7) of Schedule 3, and any 2 of the conditions specified in section 1(8) of that Schedule, are satisfied in the holding company's first financial year,

the group is qualified as a group of small private companies for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4) or (5).

(2) For the purposes of this Part, if—

- (a) the holding company of a group of companies is an existing company; and
- (b) the conditions specified in section 1(7) of Schedule 3, and any 2 of the conditions specified in section 1(8) of that Schedule, are satisfied— (*Amended 35 of 2018 s. 35*)
 - (i) in the holding company's first financial year after the coming into operation of this section; or
 - (ii) in the holding company's financial year for the purposes of the predecessor Ordinance that immediately precedes that first financial year,

the group is qualified as a group of small private companies for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4) or (5).

(3) For the purposes of this Part, if, after the first financial year of the holding company of a group of companies after the coming into operation of this section, the conditions specified in section 1(7) of Schedule 3, and any 2 of the conditions

- (4) 就本部而言，如在公司集團根據第 (1)、(2) 或 (3) 款符合歸類為小型私人公司集團的資格後，在控股公司的某財政年度有另一公司或非香港法人團體成為該集團的新成員，以致就該財政年度而言，附表 3 第 1(7) 條指明的任何條件或該附表第 1(9) 條指明的條件中任何 2 項不獲符合，則就該財政年度及其後每個財政年度而言，該集團喪失歸類為小型私人公司集團的資格，直至該集團再次根據第 (3) 款符合該資格為止。(由 2018 年第 35 號第 35 條修訂)
- (5) 就本部而言，如在公司集團根據第 (1)、(2) 或 (3) 款符合歸類為小型私人公司集團的資格後，附表 3 第 1(7) 條指明的任何條件或該附表第 1(9) 條指明的條件中任何 2 項在連續 2 個控股公司的財政年度不獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦喪失歸類為小型私人公司集團的資格，直至該集團再次根據第 (3) 款符合該資格為止。(由 2018 年第 35 號第 35 條修訂)

365. 合資格私人公司集團

- (1) 就本部而言，如 ——
- (a) 公司集團的控股公司是根據本條例組成及註冊的；
且

specified in section 1(8) of that Schedule, are satisfied for 2 consecutive financial years of the holding company, the group is also qualified as a group of small private companies for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (4) or (5).

- (4) For the purposes of this Part, if, after a group of companies is qualified as a group of small private companies under subsection (1), (2) or (3), another company or non-Hong Kong body corporate becomes a new member of the group in a financial year of the holding company such that either a condition specified in section 1(7) of Schedule 3 is not satisfied, or any 2 of the conditions specified in section 1(9) of that Schedule are not satisfied, for the financial year, the group is disqualified as a group of small private companies for the financial year, and every subsequent financial year, until it is qualified again under subsection (3).
- (5) For the purposes of this Part, if, after a group of companies is qualified as a group of small private companies under subsection (1), (2) or (3), either a condition specified in section 1(7) of Schedule 3 is not satisfied, or any 2 of the conditions specified in section 1(9) of that Schedule are not satisfied, for 2 consecutive financial years of the holding company, the group is also disqualified as a group of small private companies for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (3).

(Amended 35 of 2018 s. 35)

365. Group of eligible private companies

- (1) For the purposes of this Part, if—
- (a) the holding company of a group of companies is formed and registered under this Ordinance; and

- (b) 在該控權公司的首個財政年度，附表 3 第 1(10) 條指明的條件及該附表第 1(11) 條指明的條件中任何 2 項獲符合，

則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為合資格私人公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。

- (2) 就本部而言，如 ——

- (a) 公司集團的控權公司是原有公司；且
- (b) 在以下財政年度，附表 3 第 1(10) 條指明的條件及該附表第 1(11) 條指明的條件中任何 2 項獲符合 ——
- (i) 該控權公司的在本條開始實施後的首個財政年度；或
- (ii) 該控權公司就《前身條例》而言的、在該首個財政年度的對上一個財政年度，

則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為合資格私人公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。

- (3) 就本部而言，如在公司集團的控權公司的在本條開始實施後的首個財政年度後，附表 3 第 1(10) 條指明的條件及該附表第 1(11) 條指明的條件中任何 2 項獲符合，並且連續就該控權公司的 2 個財政年度如此符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦符合歸類為合資格私人公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。
- (4) 就本部而言，如在公司集團根據第 (1)、(2) 或 (3) 款符合歸類為合資格私人公司集團的資格後，在控權公司的某財政年度有另一公司或非香港法人團體成為該集團的新成員，以致就該財政年度而言，附表 3 第 1(10) 條指明的任何條件或該附表第 1(12) 條指明的條件中任何 2 項不獲符合，則就該財政年度及其後每個財政年度而言，該集團喪失歸類為合資格私人公司集團的資格，直至該集團

- (b) the conditions specified in section 1(10) of Schedule 3, and any 2 of the conditions specified in section 1(11) of that Schedule, are satisfied in the holding company's first financial year,

the group is qualified as a group of eligible private companies for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4) or (5).

- (2) For the purposes of this Part, if—

- (a) the holding company of a group of companies is an existing company; and
- (b) the conditions specified in section 1(10) of Schedule 3, and any 2 of the conditions specified in section 1(11) of that Schedule, are satisfied— (*Amended 35 of 2018 s. 36*)
- (i) in the holding company's first financial year after the coming into operation of this section; or
- (ii) in the holding company's financial year for the purposes of the predecessor Ordinance that immediately precedes that first financial year,

the group is qualified as a group of eligible private companies for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4) or (5).

- (3) For the purposes of this Part, if, after the first financial year of the holding company of a group of companies after the coming into operation of this section, the conditions specified in section 1(10) of Schedule 3, and any 2 of the conditions specified in section 1(11) of that Schedule, are satisfied for 2 consecutive financial years of the holding company, the group is also qualified as a group of eligible private companies for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (4) or (5).

再次根據第 (3) 款符合該資格為止。(由 2018 年第 35 號第 36 條修訂)

- (5) 就本部而言，如在公司集團根據第 (1)、(2) 或 (3) 款符合歸類為合資格私人公司集團的資格後，附表 3 第 1(10) 條指明的任何條件或該附表第 1(12) 條指明的條件中任何 2 項在連續 2 個控權公司的財政年度不獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦喪失歸類為合資格私人公司集團的資格，直至該集團再次根據第 (3) 款符合該資格為止。(由 2018 年第 35 號第 36 條修訂)

366. 小型擔保公司集團

- (1) 就本部而言，如 ——
- (a) 公司集團的控權公司是根據本條例組成及註冊的；且
 - (b) 在該控權公司的首個財政年度，附表 3 第 1(12A) 及 (13) 條指明的條件獲符合，
- 則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為小型擔保公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。

- (4) For the purposes of this Part, if, after a group of companies is qualified as a group of eligible private companies under subsection (1), (2) or (3), another company or non-Hong Kong body corporate becomes a new member of the group in a financial year of the holding company such that either a condition specified in section 1(10) of Schedule 3 is not satisfied, or any 2 of the conditions specified in section 1(12) of that Schedule are not satisfied, for the financial year, the group is disqualified as a group of eligible private companies for the financial year, and every subsequent financial year, until it is qualified again under subsection (3).
- (5) For the purposes of this Part, if, after a group of companies is qualified as a group of eligible private companies under subsection (1), (2) or (3), either a condition specified in section 1(10) of Schedule 3 is not satisfied, or any 2 of the conditions specified in section 1(12) of that Schedule are not satisfied, for 2 consecutive financial years of the holding company, the group is also disqualified as a group of eligible private companies for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (3).

(Amended 35 of 2018 s. 36)

366. Group of small guarantee companies

- (1) For the purposes of this Part, if—
- (a) the holding company of a group of companies is formed and registered under this Ordinance; and
 - (b) the conditions specified in section 1(12A) and (13) of Schedule 3 are satisfied in the holding company's first financial year,
- the group is qualified as a group of small guarantee companies for that first financial year, and every subsequent

- (2) 就本部而言，如 ——
- (a) 公司集團的控權公司是原有公司；且
 - (b) 在以下財政年度，附表 3 第 1(12A) 及 (13) 條指明的條件獲符合 —— (由 2018 年第 35 號第 37 條修訂)
 - (i) 該控權公司的在本條開始實施後的首個財政年度；或
 - (ii) 該控權公司就《前身條例》而言的、在該首個財政年度的對上一個財政年度，
- 則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為小型擔保公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。
- (3) 就本部而言，如在公司集團的控權公司的在本條開始實施後的首個財政年度後，附表 3 第 1(12A) 及 (13) 條指明的條件獲符合，並且連續就該控權公司的 2 個財政年度如此符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦符合歸類為小型擔保公司集團的資格，直至該集團根據第 (4) 或 (5) 款喪失該資格為止。
- (4) 就本部而言，如在公司集團根據第 (1)、(2) 或 (3) 款符合歸類為小型擔保公司集團的資格後，在控權公司的某財政年度有另一公司或非香港法人團體成為該集團的新成員，以致就該財政年度而言，附表 3 第 1(12A) 條指明的任何條件或該附表第 1(14) 條指明的條件不獲符合，則就該財政年度及其後每個財政年度而言，該集團喪失歸類為小型擔保公司集團的資格，直至該集團再次根據第 (3) 款符合該資格為止。
- (5) 就本部而言，如在公司集團根據第 (1)、(2) 或 (3) 款符合歸類為小型擔保公司集團的資格後，附表 3 第 1(12A) 條指明的任何條件或該附表第 1(14) 條指明的條件，在連續 2 個控權公司的財政年度不獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦

financial year, until it is disqualified under subsection (4) or (5).

- (2) For the purposes of this Part, if—
- (a) the holding company of a group of companies is an existing company; and
 - (b) the conditions specified in section 1(12A) and (13) of Schedule 3 are satisfied— (*Amended 35 of 2018 s. 37*)
 - (i) in the holding company's first financial year after the coming into operation of this section; or
 - (ii) in the holding company's financial year for the purposes of the predecessor Ordinance that immediately precedes that first financial year,
- the group is qualified as a group of small guarantee companies for that first financial year, and every subsequent financial year, until it is disqualified under subsection (4) or (5).
- (3) For the purposes of this Part, if, after the first financial year of the holding company of a group of companies after the coming into operation of this section, the conditions specified in section 1(12A) and (13) of Schedule 3 are satisfied for 2 consecutive financial years of the holding company, the group is also qualified as a group of small guarantee companies for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (4) or (5).
- (4) For the purposes of this Part, if, after a group of companies is qualified as a group of small guarantee companies under subsection (1), (2) or (3), another company or non-Hong Kong body corporate becomes a new member of the group in a financial year of the holding company such that a condition specified in section 1(12A) of Schedule 3 is not satisfied, or the condition specified in section 1(14) of that Schedule is not

喪失歸類為小型擔保公司集團的資格，直至該集團再次根據第 (3) 款符合該資格為止。

(由 2018 年第 35 號第 37 條修訂)

366A. 混合集團

- (1) 就本部而言，如 ——
 - (a) 某公司集團的控權公司是公司；
 - (b) 該集團只包含 ——
 - (i) 一個或多於一個第 (2) 款指明的法人團體；及
 - (ii) 一個或多於一個第 (3) 款指明的法人團體；及
 - (c) 指明條件在以下財政年度獲符合 ——
 - (i) 該控權公司在本條開始實施後的首個財政年度；或
 - (ii) 該控權公司在該首個財政年度的對上一個財政年度，

則就該首個財政年度及其後每個財政年度而言，該集團符合歸類為混合集團的資格，直至該集團根據第 (6) 或 (7) 款喪失該資格為止。

satisfied, for the financial year, the group is disqualified as a group of small guarantee companies for the financial year, and every subsequent financial year, until it is qualified again under subsection (3).

- (5) For the purposes of this Part, if, after a group of companies is qualified as a group of small guarantee companies under subsection (1), (2) or (3), a condition specified in section 1(12A) of Schedule 3 is not satisfied, or the condition specified in section 1(14) of that Schedule is not satisfied, for 2 consecutive financial years of the holding company, the group is also disqualified as a group of small guarantee companies for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (3).

(Amended 35 of 2018 s. 37)

366A. Mixed group

- (1) For the purposes of this Part, if—
 - (a) the holding company of a group of companies is a company;
 - (b) the group only consists of—
 - (i) one or more bodies corporate specified in subsection (2); and
 - (ii) one or more bodies corporate specified in subsection (3); and
 - (c) the specified conditions are satisfied—
 - (i) in the first financial year of the holding company after the coming into operation of this section; or
 - (ii) in the financial year of the holding company that immediately precedes that first financial year,

- (2) 就第 (1)(b)(i) 款而指明的法人團體為 ——
- (a) 小型私人公司；
 - (b) 假使已根據本條例成立為法團，便會符合歸類為小型私人公司的資格的非香港法人團體；
 - (c) 合資格私人公司；或
 - (d) 假使已根據本條例成立為法團，便會符合歸類為合資格私人公司的資格的非香港法人團體。
- (3) 就第 (1)(b)(ii) 款而指明的法人團體為 ——
- (a) 小型擔保公司；或
 - (b) 假使已根據本條例成立為法團，便會符合歸類為小型擔保公司的資格的非香港法人團體。
- (4) 就第 (1)(c) 款而言，提述指明條件，即提述 ——
- (a) 如有關控權公司屬小型私人公司 —— 附表 3 第 1(8) 條指明的任何 2 個條件；
 - (b) 如該控權公司屬合資格私人公司 —— 該附表第 1(11) 條指明的任何 2 個條件；
 - (c) 如該控權公司屬小型擔保公司 —— 該附表第 1(13) 條指明的條件。
- (5) 就本部而言，如公司集團的控權公司在本條開始實施後的首個財政年度後，第 (1)(b) 款所指的條件及第 (4)(a)、(b) 或 (c) 款指明的條件，在該控權公司的連續 2 個財政年度獲符合，則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦符合歸類為混合集團的資格，直至該集團根據第 (6) 或 (7) 款喪失該資格為止。
- (6) 就本部而言，如在公司集團根據第 (1) 或 (5) 款符合歸類為混合集團的資格後，在有關控權公司的某財政年度，有另一公司或非香港法人團體成為該集團的新成員，而在該財政年度 ——
- (a) 有以下其中一種情況 ——

- the group is qualified as a mixed group for that first financial year, and every subsequent financial year, until it is disqualified under subsection (6) or (7).
- (2) A body corporate specified for the purposes of subsection (1)(b)(i) is—
- (a) a small private company;
 - (b) a non-Hong Kong body corporate that would have been qualified as a small private company had it been incorporated under this Ordinance;
 - (c) an eligible private company; or
 - (d) a non-Hong Kong body corporate that would have been qualified as an eligible private company had it been incorporated under this Ordinance.
- (3) A body corporate specified for the purposes of subsection (1)(b)(ii) is—
- (a) a small guarantee company; or
 - (b) a non-Hong Kong body corporate that would have been qualified as a small guarantee company had it been incorporated under this Ordinance.
- (4) For the purposes of subsection (1)(c), a reference to specified conditions is a reference to—
- (a) if the holding company is a small private company—any 2 of the conditions specified in section 1(8) of Schedule 3;
 - (b) if the holding company is an eligible private company—any 2 of the conditions specified in section 1(11) of that Schedule;
 - (c) if the holding company is a small guarantee company—the condition specified in section 1(13) of that Schedule.

- (i) 該另一公司不屬小型私人公司、合資格私人公司或小型擔保公司；或
- (ii) 該另一法人團體假使已根據本條例成立為法團，便不會符合歸類為小型私人公司、合資格私人公司或小型擔保公司的資格；或
- (b) 指明條件不獲符合，
則就該財政年度及其後每個財政年度而言，該集團喪失歸類為混合集團的資格，直至該集團再次根據第 (5) 款符合該資格為止。
- (7) 就本部而言，如在公司集團根據第 (1) 或 (5) 款符合歸類為混合集團的資格後，在控權公司的連續 2 個財政年度 ——
 - (a) 第 (1)(b) 款所指的條件不獲符合；或
 - (b) 指明條件不獲符合，
則就緊接該 2 個財政年度後的財政年度及其後每個財政年度而言，該集團亦喪失歸類為混合集團的資格，直至該集團再次根據第 (5) 款符合該資格為止。
- (8) 就第 (6)(b) 及 (7)(b) 款而言，提述指明條件，即提述 ——
 - (a) 如有關控權公司屬小型私人公司 —— 附表 3 第 1(9) 條指明的任何 2 個條件；
 - (b) 如該控權公司屬合資格私人公司 —— 該附表第 1(12) 條指明的任何 2 個條件；
 - (c) 如該控權公司屬小型擔保公司 —— 該附表第 1(14) 條指明的條件。

(由 2018 年第 35 號第 38 條增補)

- (5) For the purposes of this Part, if, after the first financial year of the holding company of a group of companies after the coming into operation of this section, the condition under subsection (1)(b), and the conditions specified in subsection (4)(a), (b) or (c), are satisfied for 2 consecutive financial years of the holding company, the group is also qualified as a mixed group for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is disqualified under subsection (6) or (7).
- (6) For the purposes of this Part, if, after a group of companies is qualified as a mixed group under subsection (1) or (5), another company or non-Hong Kong body corporate becomes a new member of the group in a financial year of the holding company and, for the financial year—
 - (a) either—
 - (i) that other company is not a small private company, an eligible private company or a small guarantee company; or
 - (ii) that other body corporate would not have been qualified as a small private company, an eligible private company or a small guarantee company had it been incorporated under this Ordinance; or
 - (b) the specified conditions are not satisfied,
the group is disqualified as a mixed group for the financial year, and every subsequent financial year, until it is qualified again under subsection (5).
- (7) For the purposes of this Part, if, after a group of companies is qualified as a mixed group under subsection (1) or (5), for 2 consecutive financial years of the holding company, either—
 - (a) the condition under subsection (1)(b) is not satisfied; or
 - (b) the specified conditions are not satisfied,

the group is also disqualified as a mixed group for the financial year immediately following those 2 financial years, and every subsequent financial year, until it is qualified again under subsection (5).

- (8) For the purposes of subsections (6)(b) and (7)(b), a reference to specified conditions is a reference to—
- (a) if the holding company is a small private company—any 2 of the conditions specified in section 1(9) of Schedule 3;
 - (b) if the holding company is an eligible private company—any 2 of the conditions specified in section 1(12) of that Schedule;
 - (c) if the holding company is a small guarantee company—the condition specified in section 1(14) of that Schedule.

(Added 35 of 2018 s. 38)

第 3 分部 —— 公司的財政年度

367. 財政年度

- (1) 公司在本條開始實施後的首個財政年度，於其首個會計參照期的首日開始，而終結日期為 —— *(由 2018 年第 35 號第 39 條修訂)*
 - (a) (除 (b) 段另有規定外) 該期間的最後一日；或
 - (b) 董事指明的另一日期，而該另一日期須為該期間終結時之前或之後 7 日內的日期。 *(由 2018 年第 35 號第 39 條修訂)*
- (2) 公司的其後每個財政年度，於緊接對上的財政年度終結後的日期開始，而終結日期為 —— *(由 2018 年第 35 號第 39 條修訂)*

Division 3—A Company's Financial Year

367. Financial year

- (1) A company's first financial year after the coming into operation of this section begins on the first day of its first accounting reference period and ends on— *(Amended 35 of 2018 s. 39)*
 - (a) subject to paragraph (b), the last day of that period; or
 - (b) another date, within 7 days before, or after, the end of that period, as specified by the directors. *(Amended 35 of 2018 s. 39)*
- (2) Every subsequent financial year of a company begins on the date immediately following the end of the previous financial year and ends on— *(Amended 35 of 2018 s. 39)*

- (a) (除 (b) 段另有規定外) 緊接用以定出對上的財政年度的會計參照期之後的一個會計參照期的最後一日；或
- (b) 董事指明的另一日期，而該另一日期須為該期間終結時之前或之後 7 日內的日期。(由 2018 年第 35 號第 39 條修訂)
- (3) 如企業不是公司，而該企業的章程或設立該企業所根據的法律規定該企業須就某期間(不論該期間是否一年)擬備損益表，則在本條例中提述其財政年度，即提述該期間。
- (4) 公司的董事須確使該公司的每一間附屬企業的財政年度，均與該公司的財政年度同步，但如董事認為有良好理由不使該等財政年度同步，則不在此限。
- (5) 在本條中 ——
企業 (undertaking) 指 ——
 - (a) 法人團體；
 - (b) 合夥；或
 - (c) 經營(不論是否為牟利)某行業或業務的不屬法團的組織。

368. 會計參照期

- (1) 除第 (1A) 款另有規定外，就於第 3 部第 1 分部的生效日期[#]前組成及註冊的原有公司而言，其首個會計參照期，於其初始會計參照日的翌日開始，並於該初始會計參照日的首個周年日終結。(由 2018 年第 35 號第 40 條修訂)

- (a) subject to paragraph (b), the last day of the accounting reference period immediately following the one by reference to which the previous financial year is determined; or
- (b) another date, within 7 days before, or after, the end of that period, as specified by the directors. (*Amended 35 of 2018 s. 39*)
- (3) If an undertaking is not a company, a reference in this Ordinance to its financial year is a reference to a period in respect of which a profit and loss account of the undertaking is required, by its constitution or by the law under which it is established, to be made up, whether or not the period is a year.
- (4) A company's directors must secure that the financial year of each of its subsidiary undertakings coincides with the company's financial year unless, in the directors' opinion, there are good reasons against those financial years coinciding with each other.
- (5) In this section—
undertaking (企業) means—
 - (a) a body corporate;
 - (b) a partnership; or
 - (c) an unincorporated association carrying on a trade or business, whether for profit or not.

368. Accounting reference period

- (1) Subject to subsection (1A), for an existing company formed and registered before the commencement date[#] of Division 1 of Part 3, the first accounting reference period begins on the date immediately following its primary accounting

- (1A) 就任何在第 3 部第 1 分部的生效日期[#]開始時是不活動公司、但已不再是不活動公司的原有公司而言 ——
- (a) 第 (1) 款不適用；及
- (b) 首個會計參照期，於該公司已不再是不活動公司的日期當日開始，並於初始會計參照日終結。(由 2018 年第 35 號第 40 條增補)
- (2) 就 ——
- (a) 根據本條例組成及註冊的公司而言；及
- (b) 按根據附表 11 或憑藉《釋義及通則條例》(第 1 章) 第 23 條具有持續效力的《前身條例》的條文組成及註冊的公司而言，
- 其首個會計參照期，於其成立為法團的日期開始，並於其初始會計參照日終結。
- (3) 公司的其後每個會計參照期均為 12 個月的期間，於緊接對上的會計參照期的終結後開始，並於其會計參照日終結，但如該會計參照期被縮短或延長(如第 371(3) 條所指的董事決議所述者)則除外。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

369. 初始會計參照日

- reference date and ends on the first anniversary of its primary accounting reference date. (*Amended 35 of 2018 s. 40*)
- (1A) For an existing company that was a dormant company at the beginning of the commencement date[#] of Division 1 of Part 3 but has ceased to be a dormant company—
- (a) subsection (1) does not apply; and
- (b) the first accounting reference period begins on the date the company ceased to be a dormant company and ends on its primary accounting reference date. (*Added 35 of 2018 s. 40*)
- (2) For—
- (a) a company formed and registered under this Ordinance; and
- (b) a company formed and registered under a provision of the predecessor Ordinance having a continuing effect under Schedule 11 or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1),
- the first accounting reference period begins on the date of its incorporation and ends on its primary accounting reference date.
- (3) Every subsequent accounting reference period of a company is the period of 12 months beginning immediately after the end of the previous accounting reference period and ending on its accounting reference date, unless the accounting reference period is shortened or extended, as stated in a directors' resolution under section 371(3).

Editorial Note:

[#] Commencement date: 3 March 2014.

369. Primary accounting reference date

- (1) 就於第 3 部第 1 分部的生效日期[#]前組成及註冊的原有公司而言 ——
- (a) 如在本條的生效日期[#]當日或之後 ——
- (i) 已按根據附表 11 具有持續效力的《前身條例》第 122 條，將該公司的帳目在成員大會上提交該公司省覽；或
- (ii) 已按根據附表 11 具有持續效力的《前身條例》第 111(6) 條將該公司的帳目提供予成員，
則初始會計參照日是該帳目所涵蓋的期間的最後一日；或
- (b) 如在本條的生效日期[#]當日或之後，沒有如 (a)(i) 或 (ii) 段所述般提交或提供該公司的帳目 ——
- (i) 凡在根據附表 11 持續有效的《前身條例》第 111(1) 條規定該公司舉行成員大會的限期的最後一日或之前，該帳目已經擬備，則初始會計參照日是該帳目所涵蓋的期間的最後一日；
- (ii) 凡第 (i) 節不適用，但在該第 111(1) 條規定該公司舉行成員大會的限期的最後一日或之前，已有帳目擬備，而該帳目所涵蓋的期間的最後一日，是早於本條的生效日期[#]前的一日，則初始會計參照日是該帳目所涵蓋的期間的最後一日的首個周年日；(由 2018 年第 35 號第 41 條修訂)
- (iii) 凡第 (i) 及 (ii) 節不適用，而該第 111(1) 條規定該公司須舉行成員大會，則初始會計參照日是該公司須舉行該成員大會的限期的最後一日；或 (由 2018 年第 35 號第 41 條代替)
- (iv) 凡第 (i) 及 (ii) 節不適用，而該公司在第 3 部第 1 分部的生效日期[#]開始時是不活動公司、但已不再是不活動公司，則初始會計參照日是 ——

- (1) For an existing company formed and registered before the commencement date[#] of Division 1 of Part 3, the primary accounting reference date is—
- (a) the date up to which the company's accounts are made if, on or after the commencement date[#] of this section, the company's accounts—
- (i) have been laid before the company in general meeting under section 122 of the predecessor Ordinance having a continuing effect under Schedule 11; or
- (ii) have been provided to the members under section 111(6) of the predecessor Ordinance having a continuing effect under Schedule 11; or
- (b) if, on or after the commencement date[#] of this section, such company's accounts have not been laid or provided as mentioned in paragraph (a)(i) or (ii)—
- (i) in the case where such accounts have been prepared on or before the date by which the company is required by section 111(1) of the predecessor Ordinance having a continuing effect under Schedule 11 to hold a general meeting, the date up to which those accounts are made;
- (ii) in the case where subparagraph (i) does not apply, but accounts made up to a date falling more than one day before the commencement date[#] of this section have been prepared on or before the date by which the company is required by that section 111(1) to hold a general meeting, the first anniversary of the date up to which those accounts are made; (Amended 35 of 2018 s. 41)
- (iii) in the case where subparagraphs (i) and (ii) do not apply and the company is required by that section

- (A) 董事指明的日期，而該日期須是該公司不再是不活動公司的日期當日之後的 18 個月內的日期；或
- (B) 如在該公司不再是不活動公司的日期當日之後，首個出現的該公司成立為法團的周年日所屬月份的最後一日之前，仍未指明日期——該月份的最後一日。(由 2018 年第 35 號第 41 條增補)
- (2) 如有關帳目所涵蓋的期間的最後一日，是早於本條的生效日期[#]前的一日，則第 (1)(a) 及 (b)(i) 款均不適用。
- (3) 除非屬以下情況，否則第 (1)(a)(i) 條不適用——
 - (a) 如屬公司的首次成員大會，該成員大會是在該公司成立為法團的 18 個月內舉行的；或
 - (b) 如屬其他情況，公司的成員大會是在該公司的對上的周年成員大會舉行後的 15 個月內，並在該對上的周年成員大會舉行的年份後的一年內舉行。
- (4) 如有關帳目所涵蓋的期間的最後一日，是早於本條的生效日期[#]前的 12 個月期間開始前的一日，則第 (1)(b)(ii) 款不適用。
- (5) 就根據本條例組成及註冊的公司，或按根據附表 11 或憑藉《釋義及通則條例》(第 1 章)第 23 條具有持續效力的《前身條例》的條文組成及註冊的公司而言，初始會計參照日是——
 - (a) 董事為本段的目的，在有關日期前指明的日期；或 (由 2018 年第 35 號第 41 條修訂)
 - (b) (如沒有該指明日期) 有關日期。
- (6) 為第 (5)(a) 款的目的指明的日期，須是公司成立為法團的日期後的 18 個月內的日期。
- (7) 在本條中——

111(1) to hold a general meeting, the date by which the meeting is required to be held; or (*Replaced 35 of 2018 s. 41*)

- (iv) in the case where subparagraphs (i) and (ii) do not apply, and the company was a dormant company at the beginning of the commencement date[#] of Division 1 of Part 3 but has ceased to be a dormant company—
 - (A) a date specified by the directors, which must fall within 18 months after the date the company ceased to be a dormant company; or
 - (B) if no date is specified before the last day of the month in which the anniversary of the company's incorporation first occurs after the company ceased to be a dormant company, the last day of the month. (*Added 35 of 2018 s. 41*)
- (2) Subsection (1)(a) and (b)(i) does not apply if those accounts are made up to a date falling more than one day before the commencement date[#] of this section.
- (3) Subsection (1)(a)(i) does not apply unless the general meeting is held—
 - (a) in the case of the company's first general meeting, within 18 months of the company's incorporation; or
 - (b) in any other case, within 15 months, and in the year, after the company's last annual general meeting.
- (4) Subsection (1)(b)(ii) does not apply if those accounts are made up to a date falling more than one day before the beginning of the period of 12 months before the commencement date[#] of this section.

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有關日期 (relevant date) 指有關公司成立為法團的有關周年日所屬的月份的最後一日；

有關周年日 (relevant anniversary) 就公司成立為法團一事而言，指本條開始實施後首個出現的、該公司成立為法團的周年日。

編輯附註：

* 生效日期：2014 年 3 月 3 日。

370. 會計參照日

除第 371 條另有規定外，公司的會計參照日，是其初始會計參照日的周年日。

371. 會計參照日的更改

- (1) 公司的董事可就以下的會計參照期，指明新的會計參照日 ——
 - (a) 公司現行的會計參照期，以及其後每個會計參照期；或

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- (5) For a company formed and registered under this Ordinance or under a provision of the predecessor Ordinance having a continuing effect under Schedule 11 or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), the primary accounting reference date is—
 - (a) a date specified by the directors before the relevant date for the purposes of this paragraph; or
 - (b) in the absence of such a specified date, the relevant date.
- (6) A date specified for the purposes of subsection (5)(a) must fall within 18 months after the date of the company's incorporation.
- (7) In this section—

relevant anniversary (有關周年日), in relation to a company's incorporation, means the anniversary of the company's incorporation that first occurs after this section comes into operation;

relevant date (有關日期) means the last day of the month in which the relevant anniversary of the company's incorporation falls.

Editorial Note:

* Commencement date: 3 March 2014.

370. Accounting reference date

Subject to section 371, a company's accounting reference date is the anniversary of its primary accounting reference date.

371. Alteration of accounting reference date

- (1) The directors of a company may specify a new accounting reference date in relation to—
 - (a) the company's current accounting reference period and every subsequent accounting reference period; or

- (b) 公司對上的會計參照期，以及其後每個會計參照期。
- (2) 如公眾公司或擔保有限公司的董事根據第 (1) 款，指明新的會計參照日，該公司須在指明該新的會計參照日的董事決議的日期後的 15 日內，將關於該新的日期的通知交付處長登記，該通知須符合指明格式。
- (3) 指明新的會計參照日的董事決議及向處長交付的關於該新的日期的通知，須述明 ——
- (a) 有關的現行或對上的會計參照期會否被縮短，以致該期間終結的日期，變成該期間開始後新的會計參照日首次出現的日期；或
- (b) 有關的現行或對上的會計參照期會否被延長，以致該期間終結的日期，變成該期間開始後新的會計參照日第二次出現的日期。
- (4) 如有以下情況，公司的董事不得就對上的會計參照期指明新的會計參照日 ——
- (a) 根據第 429 條，須就參照該會計參照期而定出的財政年度，在成員大會上提交關乎該財政年度的報告文件的文本供該公司省覽，而提交該套文件的限期已屆滿；或
- (b) 根據第 430(3) 條，須將關乎該財政年度的報告文件的文本送交成員，而送交該套文件的限期已屆滿。
- (5) 公司的董事不得就某會計參照期指明一個新的會計參照日，從而將該期間延長至超過 18 個月。
- (6) 如有以下情況，公司的董事不得就現行或對上的會計參照期指明一個新的會計參照日，從而延長該期間 ——
- (a) 該等董事已就較早前的會計參照期指明一個新的會計參照日，從而延長該期間；及
- (b) 該較早前的會計參照期，是在指明新的會計參照日前的 5 年內終結的。
- (7) 如有以下情況，第 (6) 款不適用 ——

- (b) the company's previous accounting reference period and every subsequent accounting reference period.
- (2) If the directors of a public company or a company limited by guarantee specify a new accounting reference date under subsection (1), the company must, within 15 days after the date of the directors' resolution specifying the new accounting reference date, deliver a notice, in the specified form, of that new date to the Registrar for registration.
- (3) A directors' resolution by which a new accounting reference date is specified, and a notice of that new date delivered to the Registrar, must state—
- (a) whether the current or previous accounting reference period concerned is to be shortened, so as to end on the first occasion on which the new accounting reference date falls or fell after the beginning of that period; or
- (b) whether the current or previous accounting reference period concerned is to be extended, so as to end on the second occasion on which the new accounting reference date falls or fell after the beginning of that period.
- (4) The directors of a company must not specify a new accounting reference date in relation to the previous accounting reference period if—
- (a) the period for laying before the company in general meeting under section 429 a copy of the reporting documents for the financial year determined by reference to that accounting reference period has expired; or
- (b) the period for sending a copy of the reporting documents for the financial year to the members under section 430(3) has expired.
- (5) The directors of a company must not specify a new accounting reference date in relation to an accounting

- (a) 董事將會指明的新的會計參照日，是與有關公司的控權公司的會計參照日同步的；或
- (b) 該項指明獲成員的決議所批准。
- (8) 如公司違反第 (2) 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。
- (9) 在本條中 ——
對上的會計參照期 (previous accounting reference period) 就公司而言，指在緊接該公司現行的會計參照期之前的該公司的會計參照期。

reference period so as to extend the period to longer than 18 months.

- (6) The directors of a company must not specify a new accounting reference date in relation to the current or previous accounting reference period so as to extend that period if—
 - (a) those directors have specified a new accounting reference date in relation to an earlier accounting reference period so as to extend that earlier period; and
 - (b) the earlier accounting reference period ended within 5 years before the new accounting reference date is specified.
- (7) Subsection (6) does not apply if—
 - (a) the new accounting reference date to be specified by the directors coincides with the accounting reference date of a holding company of the company; or
 - (b) the specification is approved by a members' resolution.
- (8) If a company contravenes subsection (2), 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.
- (9) In this section—
previous accounting reference period (對上的會計參照期), in relation to a company, means the accounting reference period of the company immediately preceding the company's current accounting reference period.

第 4 分部 —— 財務報表及董事報告的擬備

Division 4—Preparation of Financial Statements and Directors' Reports

第 1 次分部 —— 導言

Subdivision 1—Preliminary

372. 釋義

在本分部中 ——

印本形式 (in hard copy form) 指紙張形式，或能夠供閱讀的相類形式；

電子形式 (in electronic form) 指電子紀錄的形式。

第 2 次分部 —— 會計紀錄**373. 公司須備存會計紀錄**

- (1) 公司須備存符合第 (2) 及 (3) 款的會計紀錄。
- (2) 會計紀錄須足以 ——
 - (a) 顯示及解釋公司的交易；
 - (b) 以合理的準確度，在任何時間披露公司的財務狀況及財務表現；及
 - (c) 使董事能夠確保財務報表符合本條例。
- (3) 會計紀錄尤其須載有 ——
 - (a) 公司所有收支款項的每日記項，及該等收支所關乎的事宜；及
 - (b) 公司的資產及債務的紀錄。
- (4) 如第 (1) 款不就公司的附屬企業而適用，該公司須採取一切合理步驟，以確使該附屬企業備存會計紀錄，該等會計紀錄須足以使該公司的董事能夠確保根據第 4 分部第 3 次分部須擬備的財務報表符合本條例。
- (5) 公司的董事沒有採取一切合理步驟，以確保第 (1) 或 (4) 款獲遵守，即屬犯罪，可處罰款 \$300,000。
- (6) 公司的董事故意沒有採取一切合理步驟，以確保第 (1) 或 (4) 款獲遵守，即屬犯罪，可處罰款 \$300,000 及監禁 12 個月。

372. Interpretation

In this Division—

in electronic form (電子形式) means in the form of an electronic record;

in hard copy form (印本形式) means in a paper form or similar form capable of being read.

Subdivision 2—Accounting Records**373. Company must keep accounting records**

- (1) A company must keep accounting records that comply with subsections (2) and (3).
- (2) The accounting records must be sufficient—
 - (a) to show and explain the company's transactions;
 - (b) to disclose with reasonable accuracy, at any time, the company's financial position and financial performance; and
 - (c) to enable the directors to ensure that the financial statements comply with this Ordinance.
- (3) In particular, the accounting records must contain—
 - (a) daily entries of all sums of money received and expended by the company, and the matters in respect of which the receipt and expenditure takes place; and
 - (b) a record of the company's assets and liabilities.
- (4) If subsection (1) does not apply in relation to a subsidiary undertaking of a company, the company must take all reasonable steps to secure that the subsidiary undertaking keeps accounting records that are sufficient to enable the company's directors to ensure that any financial statements

- (7) 凡某人被控犯第 (5) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
- (a) 已獲委以確保第 (1) 或 (4) 款 (視屬何情況而定) 獲遵守的責任；及
- (b) 能夠執行該責任，
即屬免責辯護。

374. 備存會計紀錄的地方

- (1) 公司的會計紀錄 ——
- (a) 須備存於其註冊辦事處，或董事認為合適的任何其他地方；及
- (b) 須時刻開放予董事免費查閱。
- (2) 如公司的會計紀錄是備存於香港以外的地方，則關於該紀錄所處理的業務的帳目及申報表 ——
- (a) 須送交及備存於香港某地方；及
- (b) 須時刻開放予董事免費查閱。
- (3) 上述帳目及申報表 ——
- (a) 須以合理的準確度，披露有關業務相隔不超過 6 個月的財務狀況；及

required to be prepared under Subdivision 3 of Division 4 comply with this Ordinance.

- (5) A director of a company who fails to take all reasonable steps to secure compliance with subsection (1) or (4) commits an offence and is liable to a fine of \$300,000.
- (6) A director of a company who wilfully fails to take all reasonable steps to secure compliance with subsection (1) or (4) commits an offence and is liable to a fine of \$300,000 and to imprisonment for 12 months.
- (7) If a person is charged with an offence under subsection (5), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
- (a) was charged with the duty of ensuring that subsection (1) or (4) (as the case may be) was complied with; and
- (b) was in a position to discharge that duty.

374. Where accounting records to be kept

- (1) A company's accounting records—
- (a) must be kept at its registered office or any other place that the directors think fit; and
- (b) must be open to inspection by the directors at all times without charge.
- (2) If a company's accounting records are kept at a place outside Hong Kong, the accounts and returns with respect to the business dealt with in those records—
- (a) must be sent to, and kept at, a place in Hong Kong; and
- (b) must be open to inspection by the directors at all times without charge.
- (3) Those accounts and returns—

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- (b) 須足以使董事能夠確保根據第 4 分部第 3 次分部須擬備的財務報表符合本條例。
- (4) 公司的董事沒有採取一切合理步驟，以確保第 (1)、(2) 或 (3) 款獲遵守，即屬犯罪，可處罰款 \$300,000。
- (5) 公司的董事故意沒有採取一切合理步驟，以確保第 (1)、(2) 或 (3) 款獲遵守，即屬犯罪，可處罰款 \$300,000 及監禁 12 個月。
- (6) 凡某人被控犯第 (4) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
 - (a) 已獲委以確保第 (1)、(2) 或 (3) 款 (視屬何情況而定) 獲遵守的責任；及
 - (b) 能夠執行該責任，
即屬免責辯護。

375. 董事可在查閱時取得會計紀錄的文本

- (1) 公司須容許該公司的董事在查閱該公司會計紀錄的過程中，製作該紀錄的文本。
- (2) 如公司的董事有此要求，該公司須免費向該董事提供該公司會計紀錄的文本。
- (3) 為施行第 (2) 款 ——
 - (a) 如董事要求提供採用印本形式的公司會計紀錄的文本，該公司須提供採用印本形式的該文本；及

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- (a) must disclose with reasonable accuracy the financial position of the business in question at intervals of not more than 6 months; and
- (b) must be sufficient to enable the directors to ensure that any financial statements required to be prepared under Subdivision 3 of Division 4 comply with this Ordinance.
- (4) A director of a company who fails to take all reasonable steps to secure compliance with subsection (1), (2) or (3) commits an offence and is liable to a fine of \$300,000.
- (5) A director of a company who wilfully fails to take all reasonable steps to secure compliance with subsection (1), (2) or (3) commits an offence and is liable to a fine of \$300,000 and to imprisonment for 12 months.
- (6) If a person is charged with an offence under subsection (4), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
 - (a) was charged with the duty of ensuring that subsection (1), (2) or (3) (as the case may be) was complied with; and
 - (b) was in a position to discharge that duty.

375. Director may obtain copies of accounting records during inspection

- (1) A company must allow a director of the company to make a copy of its accounting records in the course of inspection.
- (2) A company must provide a director of the company with a copy of its accounting records without charge if so requested by the director.
- (3) For the purposes of subsection (2)—

- (b) 如董事要求提供採用電子形式的公司會計紀錄的文本，該公司須提供採用該公司認為合適的電子形式的該文本。
- (4) 如公司只以採用印本形式記錄相關資料的方式，備存其會計紀錄，則第 (2) 及 (3) 款不規定該公司向其董事提供採用電子形式的該公司會計紀錄的文本。
- (5) 如公司以採用電子形式記錄相關資料的方式，備存其會計紀錄，則根據本次分部施加的、規定開放會計紀錄以供查閱的規定，即視為規定——
- (a) 開放該紀錄的印本形式的複製本，以供查閱；及
- (b) 應有權查閱該會計紀錄的人的要求，開放該紀錄，供人以電子方式查閱。
- (6) 公司的董事沒有採取一切合理步驟，以確保第 (1) 或 (2) 款獲遵守，即屬犯罪，可處第 5 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，另處罰款 \$1,000。
- (7) 凡某人被控犯第 (6) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人——
- (a) 已獲委以確保第 (1) 或 (2) 款 (視屬何情況而定) 獲遵守的責任；及
- (b) 能夠執行該責任，即屬免責辯護。

- (a) if the director requests a copy of the company's accounting records in hard copy form, the company must provide the copy in hard copy form; and
- (b) if the director requests a copy of the company's accounting records in electronic form, the company must provide the copy in any electronic form that the company thinks fit.
- (4) Subsections (2) and (3) do not require a company to provide a director of the company with a copy of its accounting records in electronic form if it keeps its accounting records by recording the information in hard copy form only.
- (5) If any accounting records are kept by a company by recording the information in electronic form, a requirement under this Subdivision for the accounting records to be open to inspection is to be regarded as a requirement—
- (a) for a reproduction of the recording in hard copy form to be open to inspection; and
- (b) for the recording to be open to inspection by electronic means at the request of a person entitled to inspect the accounting records.
- (6) A director of a company who fails to take all reasonable steps to secure compliance with subsection (1) or (2) commits an offence and is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (7) If a person is charged with an offence under subsection (6), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
- (a) was charged with the duty of ensuring that subsection (1) or (2) (as the case may be) was complied with; and

376. 會計紀錄的形式

- (1) 載於公司會計紀錄的資料，須予充分記錄，以令它們可供日後參閱。
- (2) 在不抵觸第 (1) 款的條文下，公司會計紀錄可 ——
 - (a) 採用印本形式或電子形式備存；及
 - (b) 以董事認為合適的方式編排。
- (3) 如公司的會計紀錄是採用電子形式備存的，則該公司須確保該等紀錄能夠以印本形式複製。
- (4) 如會計紀錄的備存方式，並非藉着在經釘裝的簿冊內作出記項，則公司須 ——
 - (a) 採取足夠預防措施，以防止捏改；及
 - (b) 採取足夠步驟，以利便發現任何捏改。
- (5) 如第 (1) 款遭違反，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。
- (6) 如第 (3) 或 (4) 款遭違反，公司及其每名責任人均屬犯罪，可各處第 3 級罰款。

377. 保存會計紀錄的時期

- (1) 本條適用於第 373(1) 或 374(2) 條規定須備存的會計紀錄或帳目及申報表。

(b) was in a position to discharge that duty.

376. Form of accounting records

- (1) The information contained in a company's accounting records must be adequately recorded such that they are available for future reference.
- (2) Subject to subsection (1), a company's accounting records may be—
 - (a) kept in hard copy form or electronic form; and
 - (b) arranged in the manner that the directors think fit.
- (3) If a company's accounting records are kept in electronic form, the company must ensure that those records are capable of being reproduced in hard copy form.
- (4) If any accounting records are kept by a company otherwise than by making entries in a bound book, the company—
 - (a) must take adequate precautions to guard against falsification; and
 - (b) must take adequate steps to facilitate the discovery of a falsification.
- (5) 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 and, in the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.
- (6) If subsection (3) or (4) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 3.

377. How long accounting records to be preserved

- (1) This section applies to any accounting records, or any accounts and returns, that are required by section 373(1) or

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- (2) 公司須保存上述紀錄或帳目及申報表 7 年，而該 7 年期間是由該紀錄或帳目及申報表中的最後作出的記項或最後記錄的事宜所關乎的財政年度終結時起計。
- (3) 公司的董事沒有採取一切合理步驟，以確保第 (2) 款獲遵守，即屬犯罪，可處罰款 \$300,000。
- (4) 公司的董事故意沒有採取一切合理步驟，以確保第 (2) 款獲遵守，即屬犯罪，可處罰款 \$300,000 及監禁 12 個月。
- (5) 凡某人被控犯第 (3) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
 - (a) 已獲委以確保第 (2) 款獲遵守的責任；及
 - (b) 能夠執行該責任，
 即屬免責辯護。

378. 原訟法庭可命令代表董事查閱會計紀錄

- (1) 原訟法庭可應公司的董事的申請，藉命令授權某人代表該董事查閱該公司的會計紀錄。
- (2) 除非原訟法庭另有指示，否則上述獲授權的人可製作有關會計紀錄的文本。
- (3) 原訟法庭可作出以下任何或所有命令 ——
 - (a) 對上述獲授權的人使用在查閱的過程中取得的資料作出限制的命令；
 - (b) 對上述獲授權的人按照第 (2) 款製作文本的權利作出限制的命令；

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374(2) to be kept.

- (2) The company must preserve the records, or the accounts and returns, for 7 years after the end of the financial year to which the last entry made or matter recorded in the records, or the accounts and returns, relates.
- (3) A director of a company who fails to take all reasonable steps to secure compliance with subsection (2) commits an offence and is liable to a fine of \$300,000.
- (4) A director of a company who wilfully fails to take all reasonable steps to secure compliance with subsection (2) commits an offence and is liable to a fine of \$300,000 and to imprisonment for 12 months.
- (5) If a person is charged with an offence under subsection (3), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
 - (a) was charged with the duty of ensuring that subsection (2) was complied with; and
 - (b) was in a position to discharge that duty.

378. Court may order accounting records to be inspected on director's behalf

- (1) On application by a director of a company, the Court may by order authorize a person to inspect the company's accounting records on the director's behalf.
- (2) Unless the Court otherwise directs, a person so authorized may make copies of the accounting records.
- (3) The Court may make any or all of the following orders—
 - (a) an order limiting the use that a person so authorized may make of the information obtained during the inspection;

(c) 原訟法庭認為合適的任何其他命令。

- (b) an order limiting the right of a person so authorized to make copies in accordance with subsection (2);
- (c) any other order that it thinks fit.

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Subdivision 3—Financial Statements

379. 董事須擬備財務報表

379. Directors must prepare financial statements

- (1) 除第 (2) 款另有規定外，公司的董事須就每個財政年度擬備符合第 380 及 383 條的報表。
- (2) 除第 (3A) 款另有規定外，如在有關的財政年度終結時，公司是控權公司，則董事須以就該財政年度擬備符合第 380、381 及 383 條的綜合報表代替。
- (3) 如有以下情況，第 (3A) 款適用 —— (由 2018 年第 35 號第 42 條修訂)
 - (a) 在有關財政年度終結時，公司是另一法人團體的全資附屬公司；(由 2018 年第 35 號第 42 條代替)
 - (b) 以下情況 ——
 - (i) 在有關財政年度終結時，公司是另一法人團體的非全資附屬公司；
 - (ii) 在該財政年度終結前最少 6 個月，董事以書面方式告知成員他們擬不就該財政年度擬備綜合報表，而該通知不關乎任何其他財政年度；及
 - (iii) 直至該財政年度終結前 3 個月的日期，沒有成員藉以下方式回應該通知：向董事提出書面要求，要求就該財政年度擬備綜合報表；或
 - (c) 以下情況 ——
 - (i) 在有關財政年度終結時，公司是另一法人團體的非全資附屬公司；及
 - (ii) 在該財政年度終結前，所有成員均以書面同意不就該財政年度擬備綜合報表，而該同意不關

- (1) Subject to subsection (2), a company's directors must prepare for each financial year statements that comply with sections 380 and 383.
- (2) Subject to subsection (3A), if the company is a holding company at the end of the financial year, the directors must instead prepare for the financial year consolidated statements that comply with sections 380, 381 and 383.
- (3) Subsection (3A) applies— (*Amended 35 of 2018 s. 42*)
 - (a) if the company is a wholly owned subsidiary of another body corporate at the end of the financial year;
 - (b) if—
 - (i) the company is a partially owned subsidiary of another body corporate at the end of the financial year;
 - (ii) at least 6 months before the end of the financial year, the directors notify the members in writing of the directors' intention not to prepare consolidated statements for the financial year, and the notification does not relate to any other financial year; and
 - (iii) as at a date falling 3 months before the end of the financial year, no member has responded to the notification by giving the directors a written request

乎任何其他財政年度。(由 2018 年第 35 號第 42 條增補)

- (3A) 如 ——
- (a) 本款因第 (3)(a) 款而適用 —— 董事須就有關財政年度擬備 ——
 - (i) 符合第 380 及 383 條的報表；或
 - (ii) 符合第 380、381 及 383 條的綜合報表；或
 - (b) 本款因第 (3)(b) 或 (c) 款而適用 —— 董事須就有關財政年度擬備符合第 380 及 383 條的報表。(由 2018 年第 35 號第 42 條增補)
- (4) 如就根據第 429 條在成員大會上提交公司省覽、根據第 430 條送交成員或由該公司以其他方式傳閱、發布或發出的財務報表的文本而言，該公司的董事沒有採取一切合理步驟，以確使第 (1)、(2) 或 (3A) 款獲遵守，有關董事即屬犯罪，可處罰款 \$300,000。
- (5) 如就根據第 429 條在成員大會上提交公司省覽、根據第 430 條送交成員或由該公司以其他方式傳閱、發布或發出的財務報表的文本而言，該公司的董事故意沒有採取一切合理步驟，以確使第 (1)、(2) 或 (3A) 款獲遵守，有關董事即屬犯罪，可處罰款 \$300,000 及監禁 12 個月。
- (6) 凡某人被控犯第 (4) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
- (a) 已獲委以確保第 (1)、(2) 或 (3A) 款 (視屬何情況而定) 獲遵守的責任；及
 - (b) 能夠執行該責任，
- 即屬免責辯護。

(由 2018 年第 35 號第 42 條修訂)

for the preparation of consolidated statements for the financial year; or

- (c) if—
- (i) the company is a partially owned subsidiary of another body corporate at the end of the financial year; and
 - (ii) all members agree in writing before the end of the financial year that consolidated statements will not be prepared for the financial year, and the agreement does not relate to any other financial year. (Added 35 of 2018 s. 42)
- (3A) If this subsection applies because of—
- (a) subsection (3)(a)—the directors must prepare for the financial year—
 - (i) statements that comply with sections 380 and 383; or
 - (ii) consolidated statements that comply with sections 380, 381 and 383; or
 - (b) subsection (3)(b) or (c)—the directors must prepare for the financial year statements that comply with sections 380 and 383. (Added 35 of 2018 s. 42)
- (4) If, as respects any financial statements a copy of which is laid before a company in general meeting under section 429, or sent to a member under section 430 or otherwise circulated, published or issued by the company, a director of the company fails to take all reasonable steps to secure compliance with subsection (1), (2) or (3A), the director commits an offence and is liable to a fine of \$300,000.
- (5) If, as respects any financial statements a copy of which is laid before a company in general meeting under section 429, or sent to a member under section 430 or otherwise circulated,

published or issued by the company, a director of the company wilfully fails to take all reasonable steps to secure compliance with subsection (1), (2) or (3A), the director commits an offence and is liable to a fine of \$300,000 and to imprisonment for 12 months.

- (6) If a person is charged with an offence under subsection (4), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
- (a) was charged with the duty of ensuring that subsection (1), (2) or (3A) (as the case may be) was complied with; and
- (b) was in a position to discharge that duty.

(Amended 35 of 2018 s. 42)

380. 關於財務報表的一般規定

- (1) 關於某財政年度的周年財務報表須 ——
- (a) 真實而中肯地反映公司於該財政年度終結時的財務狀況；及
- (b) 真實而中肯地反映公司於該財政年度的財務表現。
- (2) 關於某財政年度的周年綜合財務報表須 ——
- (a) 真實而中肯地反映公司及所有附屬企業於該財政年度終結時的整體財務狀況；及
- (b) 真實而中肯地反映公司及所有附屬企業於該財政年度的整體財務表現。
- (3) 如 ——
- (a) 公司就有關財政年度在提交報告方面獲豁免，則關於該財政年度的財務報表須符合附表 4 第 1 部；或
- (b) 公司不就有關財政年度在提交報告方面獲豁免，則關於該財政年度的財務報表須符合附表 4 第 1 及 2 部。

380. General requirements for financial statements

- (1) The annual financial statements for a financial year—
- (a) must give a true and fair view of the financial position of the company as at the end of the financial year; and
- (b) must give a true and fair view of the financial performance of the company for the financial year.
- (2) The annual consolidated financial statements for a financial year—
- (a) must give a true and fair view of the financial position of the company, and all the subsidiary undertakings, as a whole as at the end of the financial year; and
- (b) must give a true and fair view of the financial performance of the company, and all the subsidiary undertakings, as a whole for the financial year.
- (3) The financial statements for a financial year must comply with—

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- (4) 關乎某財政年度的財務報表亦須符合 ——
- (a) 本條例中關於該財務報表的任何其他規定；及
 - (b) 適用於該財務報表的會計準則。
- (5) 如就財務報表而言，符合第(3)及(4)款並不足以根據第(1)或(2)款作真實而中肯的反映，則該財務報表須載有所有對該目的屬必需的額外資料。
- (6) 如就財務報表而言，符合第(3)或(4)款與根據第(1)或(2)款作真實而中肯的反映的規定互相抵觸，則該財務報表須 ——
- (a) 在對作真實而中肯的反映屬必需的範圍內，放棄符合第(3)或(4)款(視屬何情況而定)；及
 - (b) 載有放棄符合的原因、詳情及影響。
- (7) 如公司就有關財政年度在提交報告方面獲豁免，則第(1)、(2)、(5)及(6)款不適用。
- (8) (由 2018 年第 35 號第 43 條廢除)
- (9) 本條的效力，受第 382 條所規限。

381. 周年綜合財務報表須涵蓋的附屬企業

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- (a) if the company falls within the reporting exemption for the financial year, Part 1 of Schedule 4; or
 - (b) if the company does not fall within the reporting exemption for the financial year, Parts 1 and 2 of Schedule 4.
- (4) The financial statements for a financial year must also comply with—
- (a) any other requirements of this Ordinance in relation to the financial statements; and
 - (b) the accounting standards applicable to the financial statements.
- (5) If, in relation to any financial statements, compliance with subsections (3) and (4) would be insufficient to give a true and fair view under subsection (1) or (2), the financial statements must contain all additional information necessary for that purpose.
- (6) If, in relation to any financial statements, compliance with subsection (3) or (4) would be inconsistent with a requirement to give a true and fair view under subsection (1) or (2), the financial statements—
- (a) must depart from subsection (3) or (4) (as the case may be) to the extent necessary for it to give a true and fair view; and
 - (b) must contain the reasons for, and the particulars and effect of, the departure.
- (7) Subsections (1), (2), (5) and (6) do not apply if the company falls within the reporting exemption for the financial year.
- (8) (Repealed 35 of 2018 s. 43)
- (9) This section has effect subject to section 382.

381. Subsidiary undertakings to be included in annual consolidated

- (1) 除第 (2) 及 (3) 款另有規定外，關乎某財政年度的周年綜合財務報表須涵蓋公司的所有附屬企業。
- (2) 如公司就有關財政年度在提交報告方面獲豁免，則可遵照適用於該報表的會計準則，將一間或多於一間附屬企業豁除於周年綜合報表外。
- (3) 如公司不就有關財政年度在提交報告方面獲豁免——
 - (a) 如周年綜合財務報表是否涵蓋一間附屬企業，對第 380(2)(a) 及 (b) 條所述的真實而中肯地反映財務狀況及財務表現的目的而言屬無關重要，則可將該附屬企業豁除於該報表外；及
 - (b) 如周年綜合財務報表是否涵蓋作為一整體的多於一間附屬企業，對第 380(2)(a) 及 (b) 條所述的真實而中肯地反映財務狀況及財務表現的目的而言屬無關重要，則可將該等附屬企業豁除於該報表外。
- (4) 本條的效力，受第 382 條所規限。

382. 補充第 380 及 381 條的條文

- (1) 如在私人公司的某財政年度中的任何時間，出現以下情況，本條即適用——
 - (a) 該公司在違反其章程細則所施加的限制的情況下，登記該公司股份的任何轉讓；

financial statements

- (1) Subject to subsections (2) and (3), the annual consolidated financial statements for a financial year must include all the subsidiary undertakings of the company.
- (2) Where the company falls within the reporting exemption for the financial year, one or more subsidiary undertakings may be excluded from the annual consolidated financial statements in compliance with the accounting standards applicable to the statements.
- (3) Where the company does not fall within the reporting exemption for the financial year—
 - (a) one subsidiary undertaking may be excluded from the annual consolidated financial statements if the inclusion of the subsidiary undertaking is not material for the purpose of giving a true and fair view of the financial position, and of the financial performance, mentioned in section 380(2)(a) and (b); and
 - (b) more than one subsidiary undertaking may be excluded from the annual consolidated financial statements if the inclusion of those subsidiary undertakings taken together is not material for the purpose of giving a true and fair view of the financial position, and of the financial performance, mentioned in section 380(2)(a) and (b).
- (4) This section has effect subject to section 382.

382. Provisions supplementary to sections 380 and 381

- (1) This section applies if at any time during a financial year of a private company—
 - (a) the company registers any transfer of shares in the company in contravention of the restrictions imposed by the company's articles;

- (b) 該公司的成員人數，超出第 11(1)(a)(ii) 條指明的人數；或
 - (c) 該公司邀請公眾人士認購該公司的任何股份或債權證。
- (2) 有關公司關乎有關財政年度的財務報表須在猶如該公司是公眾公司的情況下，符合第 380 及 381 條的規定。
- (3) 原訟法庭可應有關公司或在有關事宜上有利害關係的人的申請，命令第 (1) 及 (2) 款不適用。
- (4) 原訟法庭可按其認為公正合宜的條款及條件，作出上述命令。
- (5) 原訟法庭除非信納以下事宜，否則不得作出上述命令——
- (a) 第 (1)(a)、(b) 或 (c) 款所述的情況之出現屬意外；
 - (b) 該情況之出現屬無心之失，或因其他充分因由所致；或
 - (c) 基於其他理由，給予寬免是公正公平的。

383. 財務報表的附註須載有董事薪酬等的資料

- (1) 某財政年度的財務報表須在其附註內，載有《規例》為本款的施行而訂明的關於以下事宜的資料——
- (a) 董事薪酬；
 - (b) 董事的退休利益；
 - (c) 就董事終止服務而作出的付款或提供的利益（不論該董事是以董事的身分提供該服務，或是在出任董事期間以其他身分提供該服務）；

- (b) the membership of the company exceeds the number specified in section 11(1)(a)(ii); or
 - (c) the company makes an invitation to the public to subscribe for any shares or debentures of the company.
- (2) The financial statements of the company for the financial year must comply with sections 380 and 381 as if the company were a public company.
- (3) The Court may, on the application of the company or a person interested in the matter, order that subsections (1) and (2) do not apply.
- (4) The Court may make the order on any terms and conditions that the Court thinks just and expedient.
- (5) The Court must not make the order unless the Court is satisfied that—
- (a) the occurrence of the event mentioned in subsection (1)(a), (b) or (c) was accidental;
 - (b) it was due to inadvertence or to some other sufficient cause that the event occurred; or
 - (c) it is just and equitable to grant the relief on other grounds.

383. Notes to financial statements to contain information on directors' emoluments etc.

- (1) The financial statements for a financial year must contain, in the notes to the statements, the information prescribed by the Regulation for the purposes of this subsection about the following—
- (a) the directors' emoluments;
 - (b) the directors' retirement benefits;

- (d) 向以下人士作出的貸款及類似貸款，和惠及以下人士的其他交易 ——
- (i) 有關公司的董事，以及該公司的控權公司的董事；
 - (ii) 受該等董事控制的法人團體；及
 - (iii) 與該等董事有關連的實體；
- (e) 董事在該公司所訂立的交易、安排或合約中具有具相當分量的利害關係；(由 2018 年第 35 號第 44 條修訂)
- (f) 就獲提供以下服務而給予第三者的代價，或第三者可就提供以下服務而收取的代價：委派某人出任董事，或委派某人在出任董事期間以其他身分提供服務。
- (2) 在第 (1) 款中 ——
- (a) 提述董事 ——
 - (i) 就第 (1)(b) 款而言，包括前董事；
 - (ii) 就第 (1)(c) 款而言，包括前董事及幕後董事；及
 - (iii) 就第 (1)(d) 及 (e) 款而言，包括幕後董事；
 - (b) 提述受董事控制的法人團體，具有第 492 條給予的涵義；及
 - (c) 提述與董事有關連的實體，具有第 486 條給予的涵義。
- (3) 儘管有第 (1)(d) 款的規定，如公司遵守《規例》為本款的施行而訂明的規定，則有關財務報表無須載有《規例》為第 (1)(d) 款的施行而訂明的資料。
- (4) 財務報表的附註亦須符合《規例》訂明的其他規定。

- (c) payments made or benefit provided in respect of the termination of the service of directors, whether in the capacity of directors or in any other capacity while directors;
- (d) loans, quasi-loans and other dealings in favour of—
- (i) directors of the company and of a holding company of the company;
 - (ii) bodies corporate controlled by such directors; and
 - (iii) entities connected with such directors;
- (e) material interests of directors in transactions, arrangements or contracts entered into by the company; (*Amended 35 of 2018 s. 44*)
- (f) consideration provided to or receivable by third parties for making available the services of a person as director or in any other capacity while director.
- (2) In subsection (1)—
- (a) a reference to a director—
 - (i) in the case of subsection (1)(b), includes a former director;
 - (ii) in the case of subsection (1)(c) includes a former director and shadow director; and
 - (iii) in the case of subsection (1)(d) and (e), includes a shadow director;
 - (b) a reference to a body corporate controlled by a director has the meaning given by section 492; and
 - (c) a reference to an entity connected with a director has the meaning given by section 486.
- (3) Despite subsection (1)(d), the financial statements for a financial year are not required to contain the information prescribed by the Regulation for the purposes of that

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- (5) 公司的董事或幕後董事，或在過去 5 年內曾是公司的董事或幕後董事的人，須向公司發出關於符合以下說明的事宜的通知 ——
- (a) 《規例》訂明的；
 - (b) 關乎該人的；及
 - (c) 為第 (1) 款的目的而屬必需的。
- (6) 任何人違反第 (5) 款，即屬犯罪，可處第 5 級罰款。

384. 無須載於財務報表附註的詳情的登記冊

- (1) 凡若非有第 383(3) 條，某些詳情便須按第 383(1)(d) 條的規定，載於關乎某財政年度的財務報表的附註內，公司須在登記冊內記入該等詳情。
- (2) 公司須在上述登記冊內備存有關詳情最少 10 年，該期間自記入該等詳情的日期起計。
- (3) 如公司違反第 (1) 或 (2) 款，該公司及其每名責任人均屬犯罪，可各處第 4 級罰款。

385. 須於何處備存第 384 條所述的登記冊

- (1) 公司須將第 384 條所述的登記冊備存於 ——
 - (a) 該公司的註冊辦事處；或

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- subsection if the company complies with the requirements prescribed by the Regulation for the purposes of this subsection.
- (4) The notes to any financial statements must also comply with other requirements prescribed by the Regulation.
 - (5) A person who is, or has been during the preceding 5 years, a director or shadow director of a company must give notice to the company of any matter that—
 - (a) is prescribed by the Regulation;
 - (b) relates to the person; and
 - (c) is necessary for the purposes of subsection (1).
 - (6) A person who contravenes subsection (5) commits an offence and is liable to a fine at level 5.

384. Register of particulars not required to be contained in notes to financial statements

- (1) A company must enter into a register the particulars that would, but for section 383(3), be required by section 383(1)(d) to be contained in the notes to the financial statements for a financial year.
- (2) A company must keep the particulars in the register for at least 10 years after the date on which the particulars are entered.
- (3) If a company contravenes subsection (1) or (2), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

385. Place where register mentioned in section 384 must be kept

- (1) A company must keep the register mentioned in section 384 at—
 - (a) the company's registered office; or

- (b) 根據第 657 條訂立的規例所訂明的地方。
- (2) 公司須將備存第 384 條所述的登記冊所在的地方，通知處長。該通知須符合指明格式，並須在該登記冊首次在該地方備存後的 15 日內，交付處長登記。
- (3) 凡備存第 384 條所述的登記冊所在的地方有任何更改（公司的註冊辦事處地址的更改除外），公司須將更改通知處長。該通知須符合指明格式，並須在該更改後的 15 日內，交付處長登記。
- (4) 第 (2) 款並不規定公司在以下情況下，將備存第 384 條所述的登記冊所在的地方通知處長——
- (a) 就於本條的生效日期[#]當日或之後開始存在的登記冊而言，該登記冊時刻備存於該公司的註冊辦事處；或
- (b) 在——
- (i) 緊接該生效日期[#]前，該公司為《前身條例》第 161BB 條的施行而備存某登記冊；而
- (ii) 該生效日期[#]當日及之後，該登記冊於在緊接該生效日期[#]前備存該登記冊所在的地方，作為為第 384 條的目的之登記冊而備存。
- (5) 如公司違反第 (1)、(2) 或 (3) 款，該公司及其每名責任人均屬犯罪，可各處第 4 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 \$700。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

- (b) a place prescribed by regulations made under section 657.
- (2) A company must notify the Registrar of the place at which the register mentioned in section 384 is kept. The notice must be in the specified form and be delivered to the Registrar for registration within 15 days after the register is first kept at that place.
- (3) A company must notify the Registrar of any change (other than a change of the address of the company's registered office) in the place at which the register mentioned in section 384 is kept. The notice must be in the specified form and be delivered to the Registrar for registration within 15 days after the change.
- (4) Subsection (2) does not require a company to notify the Registrar of the place at which the register mentioned in section 384 is kept—
- (a) if, in the case of a register that came into existence on or after the commencement date[#] of this section, it has at all times been kept at the company's registered office; or
- (b) if—
- (i) immediately before that commencement date[#], the company kept a register for the purposes of section 161BB of the predecessor Ordinance; and
- (ii) on and after that commencement date[#], that register is kept as a register for the purposes of section 384 at the place at which that register was kept immediately before that commencement date[#].
(Amended 35 of 2018 s. 45)
- (5) If a company contravenes subsection (1), (2) or (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and,

in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

Editorial Note:

Commencement date: 3 March 2014.

386. 查閱及要求文本的權利

- (1) 公司的成員一經以訂明方式提出要求，即有權按照根據第 657 條訂立的規例，免費查閱該公司根據第 384 條備存的登記冊。
- (2) 公司的成員一經提出要求及繳付訂明費用，即有權按照根據第 657 條訂立的規例，獲提供該公司根據第 384 條備存的登記冊（或其任何部分）的文本。
- (3) 在本條中 ——
訂明 (prescribed) 指根據第 657 條訂立的規例所訂明。

387. 財務狀況表須經批准及簽署

- (1) 屬財務報表一部分的財務狀況表 ——
 - (a) 須經董事批准；及
 - (b) 須 ——
 - (i) 由 2 名董事代表該等董事簽署；或
 - (ii) （如公司只有一名董事）由該名董事簽署。
- (2) 每份屬財務報表一部分的財務狀況表凡根據第 429 條在成員大會上提交公司省覽，或根據第 430 條送交成員，或由該公司以其他方式傳閱、發布或發出，均須述明代表董事簽署該財務狀況表的人的姓名或名稱。

386. Right to inspect and request copy

- (1) A member of a company is entitled, on request made in the prescribed manner and without charge, to inspect the register kept by the company under section 384 in accordance with regulations made under section 657.
- (2) A member of a company is entitled, on request and on payment of a prescribed fee, to be provided with a copy of the register kept by the company under section 384, or any part of it, in accordance with regulations made under section 657.
- (3) In this section—
prescribed (訂明) means prescribed by regulations made under section 657.

387. Statement of financial position to be approved and signed

- (1) A statement of financial position that forms part of any financial statements—
 - (a) must be approved by the directors; and
 - (b) must be signed—
 - (i) by 2 directors on the directors' behalf; or
 - (ii) in the case of a company having only one director, by the director.
- (2) Every copy of a statement of financial position that forms part of any financial statements laid before a company in general meeting under section 429, or sent to a member under

- (3) 如就由公司傳閱、發布或發出的財務報表的文本而言，第(1)款遭違反，該公司及其每名責任人均屬犯罪，可各處第4級罰款。
- (4) 如第(2)款遭違反，公司及其每名責任人均屬犯罪，可各處第4級罰款。

第 4 次分部 —— 董事報告

388. 董事須擬備董事報告

- (1) 公司的董事須就每個財政年度擬備符合以下說明的報告——
 - (a) 符合第 390 及 543(2) 條及附表 5；
 - (b) 載有《規例》訂明的資料；及
 - (c) 符合《規例》訂明的其他規定。
- (2) 儘管有第(1)款的規定，如公司在某財政年度是控權公司，而董事就該財政年度擬備周年綜合財務報表，則董事須以就該財政年度擬備符合以下說明的綜合報告代替——
 - (a) 符合第 390 及 543(2) 條及附表 5；
 - (b) 載有《規例》訂明的資料；及
 - (c) 符合《規例》訂明的其他規定。
- (3) 如有以下情況，第(1)或(2)款不規定關乎某財政年度的董事報告須符合附表 5——
 - (a) 有關公司就該財政年度在提交報告方面獲豁免；

section 430 or otherwise circulated, published or issued by the company, must state the name of the person who signed the statement on the directors' behalf.

- (3) If, as respects any financial statements a copy of which is circulated, published or issued by the company, 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 4.
- (4) If subsection (2) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

Subdivision 4—Directors' Report

388. Directors must prepare directors' report

- (1) A company's directors must prepare for each financial year a report that—
 - (a) complies with sections 390 and 543(2) and Schedule 5;
 - (b) contains the information prescribed by the Regulation; and
 - (c) complies with other requirements prescribed by the Regulation.
- (2) Despite subsection (1), if the company is a holding company in a financial year, and the directors prepare annual consolidated financial statements for the financial year, the directors must instead prepare for the financial year a consolidated report that—
 - (a) complies with sections 390 and 543(2) and Schedule 5;
 - (b) contains the information prescribed by the Regulation; and

- (b) 在該財政年度終結時，有關公司是另一法人團體的全資附屬公司；或 (由 2018 年第 35 號第 46 條修訂)
- (c) 有關公司是私人公司，且不就該財政年度在提交報告方面獲豁免，而成員通過一項使該公司不就該財政年度擬備該附表規定的業務審視的特別決議。
- (4) 為 (3)(c) 款的目的而通過的決議 ——
 - (a) 可 ——
 - (i) 就某財政年度通過；或
 - (ii) 就某財政年度及其後每個財政年度通過；
 - (b) 須在有關董事報告所關乎的財政年度終結前最少 6 個月通過；及
 - (c) 只可藉特別決議撤銷。
- (5) 第 (1)、(2) 及 (3) 款的效力，受第 389 條所規限。
- (6) 公司的董事沒有採取一切合理步驟以確使第 (1) 或 (2) 款獲遵守，即屬犯罪，可處罰款 \$150,000。
- (7) 公司的董事故意沒有採取一切合理步驟以確使第 (1) 或 (2) 款獲遵守，即屬犯罪，可處罰款 \$150,000 及監禁 6 個月。
- (8) 凡某人被控犯第 (6) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
 - (a) 已獲委以確保第 (1) 或 (2) 款 (視屬何情況而定) 獲遵守的責任；及
 - (b) 能夠執行該責任，即屬免責辯護。

- (c) complies with other requirements prescribed by the Regulation.
- (3) Subsection (1) or (2) does not require the directors' report for a financial year to comply with Schedule 5 if—
 - (a) the company falls within the reporting exemption for the financial year;
 - (b) the company is a wholly owned subsidiary of another body corporate at the end of the financial year; or (*Amended 35 of 2018 s. 46*)
 - (c) the company is a private company that does not fall within the reporting exemption for the financial year, and a special resolution is passed by the members to the effect that the company is not to prepare a business review required by that Schedule for the financial year.
- (4) A resolution for the purposes of subsection (3)(c)—
 - (a) may be passed in relation to—
 - (i) a financial year; or
 - (ii) a financial year and every subsequent financial year;
 - (b) must be passed at least 6 months before the end of the financial year to which the directors' report relates; and
 - (c) may only be revoked by a special resolution.
- (5) Subsections (1), (2) and (3) have effect subject to section 389.
- (6) A director of a company who fails to take all reasonable steps to secure compliance with subsection (1) or (2) commits an offence and is liable to a fine of \$150,000.
- (7) A director of a company who wilfully fails to take all reasonable steps to secure compliance with subsection (1) or (2) commits an offence and is liable to a fine of \$150,000 and to imprisonment for 6 months.

389. 第 388 條的補充條文

- (1) 如在私人公司的某財政年度中的任何時間，出現以下情況，本條即適用 ——
 - (a) 該公司在違反其章程細則所施加的制限的情況下，登記該公司股份的任何轉讓；
 - (b) 該公司的成員人數，超出第 11(1)(a)(ii) 條指明的人數；或
 - (c) 該公司邀請公眾人士認購該公司的任何股份或債權證。
- (2) 關乎有關財政年度的董事報告須在猶如有關公司是公眾公司的情況下，符合第 388 條的規定。
- (3) 原訟法庭可應有關公司或在有關事宜上有利害關係的人的申請，命令第 (1) 及 (2) 款不適用。
- (4) 原訟法庭可按其認為公正合宜的條款及條件，作出上述命令。
- (5) 原訟法庭除非信納以下事宜，否則不得作出上述命令 ——
 - (a) 第 (1)(a)、(b) 或 (c) 款所述的情況之出現屬意外；
 - (b) 該情況之出現屬無心之失，或因其他充分因由所致；或
 - (c) 基於其他理由，給予寬免是公正公平的。

- (8) If a person is charged with an offence under subsection (6), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
 - (a) was charged with the duty of ensuring that subsection (1) or (2) (as the case may be) was complied with; and
 - (b) was in a position to discharge that duty.

389. Provisions supplementary to section 388

- (1) This section applies if at any time during a financial year of a private company—
 - (a) the company registers any transfer of shares in the company in contravention of the restrictions imposed by the company's articles;
 - (b) the membership of the company exceeds the number specified in section 11(1)(a)(ii); or
 - (c) the company makes an invitation to the public to subscribe for any shares or debentures of the company.
- (2) The directors' report for the financial year is required to comply with section 388 as if the company were a public company.
- (3) The Court may, on the application of the company or a person interested in the matter, order that subsections (1) and (2) do not apply.
- (4) The Court may make the order on any terms and conditions that the Court thinks just and expedient.
- (5) The Court must not make the order unless the Court is satisfied that—
 - (a) the occurrence of the event mentioned in subsection (1)(a), (b) or (c) was accidental;

390. 董事報告的內容：一般規定

- (1) 關乎某財政年度的董事報告須載有 ——
 - (a) 在以下期間屬公司的董事的每一人的姓名或名稱 ——
 - (i) 該財政年度；或
 - (ii) 由該財政年度終結之時起至報告的日期止的期間；及
 - (b) 該公司在該財政年度期間的主要活動。
- (2) 董事報告須載有符合以下說明的事宜的詳情 ——
 - (a) 對成員了解公司的事務狀況而言是事關重要的任何其他事宜；及
 - (b) 董事認為，披露該事宜的詳情並不會損及公司的業務。
- (3) 除第 (4) 款另有規定外，本條就根據第 388(2) 條須擬備的董事報告具有效力，猶如在第 (1) 或 (2) 款中提述有關公司，是提述 —— (由 2018 年第 35 號第 47 條修訂)
 - (a) 該公司；及
 - (b) 關乎有關財政年度的周年綜合財務報表所涵蓋的附屬企業。
- (4) 如第 (5) 款指明的條件均獲符合，本條就根據第 388(2) 條須擬備的董事報告具有效力，猶如在第 (1)(b) 及 (2) 款中提述的公司，是提述 ——
 - (a) 有關公司；及

- (b) it was due to inadvertence or to some other sufficient cause that the event occurred; or
- (c) it is just and equitable to grant the relief on other grounds.

390. Contents of directors' report: general

- (1) A directors' report for a financial year must contain—
 - (a) the name of every person who was a director of the company—
 - (i) during the financial year; or
 - (ii) during the period beginning with the end of the financial year and ending on the date of the report; and
 - (b) the principal activities of the company in the course of the financial year.
- (2) A directors' report must contain particulars of any other matter—
 - (a) that is material for the members' appreciation of the state of the company's affairs; and
 - (b) the disclosure of which will not, in the directors' opinion, be harmful to the business of the company.
- (3) Subject to subsection (4), this section has effect in relation to a directors' report required to be prepared under section 388(2) as if a reference to the company in subsection (1) or (2) were a reference to— (*Amended 35 of 2018 s. 47*)
 - (a) the company; and
 - (b) the subsidiary undertakings included in the annual consolidated financial statements for the financial year.
- (4) If both of the conditions specified in subsection (5) are satisfied, this section has effect in relation to a directors'

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- (b) 關乎有關財政年度的周年綜合財務報表所涵蓋的附屬企業。(由 2018 年第 35 號第 47 條增補)
- (5) 有關條件是——
- (a) 有關公司在有關財政年度終結時，屬附屬企業的控股公司；及
- (b) 就該附屬企業的董事名單而言，第 (6) 款獲符合，上述董事名單指該附屬企業在以下期間的每名董事的姓名或名稱的名單——
- (i) 該財政年度；或
- (ii) 由該財政年度終結之時起至報告的日期為止的期間。(由 2018 年第 35 號第 47 條增補)
- (6) 有關姓名或名稱的名單——
- (a) 須在第 (7) 款指明的整段期間內——
- (i) 備存於有關公司的註冊辦事處；及
- (ii) 在辦公時間內，免費提供予成員查閱；或
- (b) 須在該整段期間內，在該公司的網站上提供。(由 2018 年第 35 號第 47 條增補)
- (7) 有關期間——
- (a) 於以下時間開始：公司按照第 430 或 612(1)(b) 條，將董事報告的文本，送交或提供予成員的日期當日屆滿時；及
- (b) 於以下時間終結：按照第 430 或 612(1)(b) 條，將關乎其後財政年度的董事報告的文本，送交或提供予成員的日期當日。(由 2018 年第 35 號第 47 條增補)

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- report required to be prepared under section 388(2) as if a reference to the company in subsections (1)(b) and (2) were a reference to—
- (a) the company; and
- (b) the subsidiary undertakings included in the annual consolidated financial statements for the financial year. (Added 35 of 2018 s. 47)
- (5) The conditions are—
- (a) the company is a holding company of a subsidiary undertaking at the end of the financial year; and
- (b) subsection (6) is complied with in respect of a list of the name of every person who was a director of the subsidiary undertaking—
- (i) during the financial year; or
- (ii) during the period beginning with the end of the financial year and ending on the date of the report. (Added 35 of 2018 s. 47)
- (6) The list of the names—
- (a) must, throughout the period specified in subsection (7), be—
- (i) kept at the company's registered office; and
- (ii) made available for inspection by the members free of charge during business hours; or
- (b) must be made available on the company's website throughout that period. (Added 35 of 2018 s. 47)
- (7) The period is one that—
- (a) begins on the expiry of the day on which the company sends or provides a copy of the directors' report to the members in accordance with section 430 or 612(1)(b); and

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- (b) ends on the day on which a copy of the directors' report for the subsequent financial year is sent or provided to the members in accordance with section 430 or 612(1)(b). (*Added 35 of 2018 s. 47*)

391. 董事報告須經批准及簽署

- (1) 董事報告 ——
- (a) 須經董事批准；及
- (b) 須由一名董事或公司秘書代表該等董事簽署。
- (2) 每份根據第 429 條在成員大會上提交公司省覽、根據第 430 條送交成員或由該公司以其他方式傳閱、發布或發出的董事報告，均須述明代表董事簽署該報告的人的姓名或名稱。
- (3) 如就由公司傳閱、發布或發出的董事報告的文本而言，第 (1) 款遭違反，該公司及其每名責任人均屬犯罪，可各處第 4 級罰款。
- (4) 如第 (2) 款遭違反，公司及其每名責任人均屬犯罪，可各處第 4 級罰款。

第 5 分部 —— 核數師及核數師報告

第 1 次分部 —— 導言

392. 釋義

在本分部中 ——

委任期 (appointment period) 就某財政年度而言，指自以下兩個日期中的較早者起計的 28 日期間 ——

391. Directors' report to be approved and signed

- (1) A directors' report—
- (a) must be approved by the directors; and
- (b) must be signed on the directors' behalf by a director or by the company secretary.
- (2) Every copy of a directors' report laid before a company in general meeting under section 429, or sent to a member under section 430 or otherwise circulated, published or issued by the company, must state the name of the person who signed the report on the directors' behalf.
- (3) If, as respects any directors' report a copy of which is circulated, published or issued by the company, 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 4.
- (4) If subsection (2) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

Division 5—Auditor and Auditor's Report

Subdivision 1—Preliminary

392. Interpretation

In this Division—

- (a) 根據第 430(3) 或 612(1)(b) 條向公司的每名成員送交或提供 (視屬何情況而定) 關乎對上的財政年度的報告文件的文本的日期;
- (b) 根據第 430(3) 或 612(1)(b) 條須向公司的每名成員送交或提供 (視屬何情況而定) 關乎對上的財政年度的報告文件的文本的限期的最後一日;

停任陳述 (cessation statement) 指根據第 422(1)、(2) 或 (3) 或 423(2)(a) 條給予的陳述;

執業單位 (practice unit) 具有《專業會計師條例》(第 50 章) 第 2(1) 條給予該詞的涵義;

情況陳述 (statement of circumstances) 指根據第 424(a) 或 425(1)(a) 條給予的陳述。

(編輯修訂——2013 年第 1 號編輯修訂紀錄)

第 2 次分部 —— 核數師的委任

393. 獲委任的資格

- (1) 只有執業單位方有資格根據本次分部獲委任為公司的核數師。
- (2) 以下人士喪失根據本次分部獲委任為公司的核數師的資格——
 - (a) 該公司的高級人員或僱員;
 - (b) (a) 段所述的人的合夥人或僱員;
 - (c) 符合以下說明的人士——
 - (i) 憑藉 (a) 或 (b) 段而喪失獲委任為下述的企業的核數師的資格：該公司的附屬企業或母企業，或該母企業的附屬企業；或

appointment period (委任期), in relation to a financial year, means the period of 28 days beginning on whichever is the earlier of the following—

- (a) the date on which a copy of the reporting documents for the previous financial year is sent or provided to every member of the company under section 430(3) or 612(1)(b) (as the case may be);
- (b) the last date on which a copy of the reporting documents for the previous financial year must be sent or provided to every member of the company under section 430(3) or 612(1)(b) (as the case may be);

cessation statement (停任陳述) means a statement given under section 422(1), (2) or (3) or 423(2)(a);

practice unit (執業單位) has the meaning given by section 2(1) of the Professional Accountants Ordinance (Cap. 50);

statement of circumstance (情況陳述) means a statement given under section 424(a) or 425(1)(a).

Subdivision 2—Appointment of Auditor

393. Eligibility for appointment

- (1) Only a practice unit is eligible for appointment as auditor of a company under this Subdivision.
- (2) The following are disqualified for appointment as auditor of a company under this Subdivision—
 - (a) a person who is an officer or employee of the company;
 - (b) a person who is a partner or employee of a person mentioned in paragraph (a);
 - (c) a person who—
 - (i) is, by virtue of paragraph (a) or (b), disqualified for appointment as auditor of any other undertaking

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(ii) 假若該企業是一間公司，便喪失獲如此委任的資格。

(3) 在本條中，提述公司的高級人員或僱員，不包括該公司的核數師。

394. 須就每個財政年度委任核數師

- (1) 須就公司的每個財政年度委任核數師。
- (2) 核數師只可根據本次分部委任。

395. 由董事委任首任核數師

- (1) 本條適用於以下公司 ——
 - (a) 根據本條例組成及註冊的公司；及
 - (b) 按根據附表 11 或憑藉《釋義及通則條例》(第 1 章) 第 23 條具有持續效力的《前身條例》的條文組成及註冊的公司。
- (2) 如公司須按照第 610 條，就其首個財政年度舉行周年成員大會，則董事可在該大會之前的任何時間，就該首個財政年度委任該公司的核數師。
- (3) 如公司憑藉第 612(1) 或 (2) 條，而無須按照第 610 條就其首個財政年度舉行周年成員大會，則董事可在下一個財政年度的委任期之前的任何時間，就該首個財政年度委任該公司的核數師。

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that is a subsidiary undertaking, or a parent undertaking, of the company or is a subsidiary undertaking of that parent undertaking; or

(ii) would be so disqualified if the undertaking were a company.

(3) In this section, a reference to an officer or employee of a company excludes an auditor of the company.

394. Auditor must be appointed for each financial year

- (1) An auditor must be appointed for each financial year of a company.
- (2) An auditor may be appointed only under this Subdivision.

395. Appointment of first auditor by directors

- (1) This section applies to—
 - (a) a company formed and registered under this Ordinance; and
 - (b) a company formed and registered under a provision of the predecessor Ordinance having a continuing effect under Schedule 11 or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1).
- (2) If the company is required to hold an annual general meeting in accordance with section 610 in respect of its first financial year, the directors may appoint the auditor of the company for that first financial year at any time before the annual general meeting.
- (3) If, by virtue of section 612(1) or (2), the company is not required to hold an annual general meeting in accordance with section 610 in respect of its first financial year, the directors may appoint the auditor of the company for that first financial

year at any time before the appointment period in relation to the next financial year.

396. 由公司成員委任核數師

- (1) 公司須藉在就對上的財政年度舉行的周年成員大會上通過的決議，就某個財政年度委任該公司的核數師。
- (2) 如公司憑藉第 612(2) 條，而無須按照第 610 條就對上的財政年度舉行周年成員大會，第 (1) 款不適用於該公司。
- (3) 如公司就某財政年度委任該公司的核數師，而 ——
 - (a) 該公司憑藉第 612(2) 條，而無須按照第 610 條就對上的財政年度舉行周年成員大會；及
 - (b) 沒有人根據第 403 條被當作就該財政年度再度獲委任為該公司的核數師，
 則該公司須藉在成員大會上通過的決議，作出該項委任。
- (4) 第 (3) 款所指的委任，須在有關財政年度的委任期終結之前作出。
- (5) 如公司沒有在就對上的財政年度舉行的周年成員大會上，就某財政年度委任該公司的核數師，則該公司須藉在另一成員大會上通過的決議，作出該項委任。
- (6) 就第 395 條適用的公司而言，如董事沒有根據該條，就該公司的首個財政年度委任該公司的核數師，則該公司可藉在成員大會上通過的決議，作出該項委任。

397. 為填補期中空缺而作出委任

396. Appointment of auditor by company members

- (1) A company must appoint the auditor of the company for a financial year by a resolution passed at the annual general meeting held in respect of the previous financial year.
- (2) Subsection (1) does not apply to a company that, by virtue of section 612(2), is not required to hold an annual general meeting in accordance with section 610 in respect of the previous financial year.
- (3) A company must appoint the auditor of the company for a financial year by a resolution passed at a general meeting if—
 - (a) by virtue of section 612(2), it is not required to hold an annual general meeting in accordance with section 610 in respect of the previous financial year; and
 - (b) no person is deemed to be reappointed as auditor of the company for the financial year under section 403.
- (4) An appointment under subsection (3) must be made before the end of the appointment period in relation to the financial year.
- (5) If, at the annual general meeting held in respect of the previous financial year, a company has not appointed the auditor of the company for a financial year, the company must make the appointment by a resolution passed at another general meeting.
- (6) A company to which section 395 applies may, by a resolution passed at a general meeting, appoint the auditor of the company for its first financial year if the directors have not done so under that section.

397. Appointment to fill casual vacancy

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- (1) 如公司的核數師職位出現期中空缺，則董事可委任一人填補該空缺。
- (2) 如董事沒有在上述期中空缺出現後一個月內委任一人填補該空缺，則成員可藉在成員大會上通過的決議，委任一人填補該空缺。

398. 由原訟法庭委任核數師

- (1) 如有以下情況，原訟法庭可應公司的成員的申請，就某個財政年度委任該公司的核數師 ——
 - (a) 該公司須按照第 610 條，就對上的財政年度舉行周年成員大會，而 ——
 - (i) 在該大會上，沒有人就該財政年度獲委任為該公司的核數師；或
 - (ii) 沒有按照該條舉行周年成員大會；或
 - (b) 該公司憑藉第 612(2) 條，而無須按照第 610 條就對上的財政年度舉行周年成員大會，而 ——
 - (i) 在該財政年度的委任期終結時，沒有人就該財政年度獲委任為該公司的核數師；及
 - (ii) 沒有人根據第 403 條被當作就該財政年度再度獲委任為該公司的核數師。
- (2) 如沒有根據第 395(2) 或 (3) 條作出的委任，亦沒有根據第 396(6) 條作出的委任，原訟法庭可應第 395 條適用的公司的成員的申請，就該公司的首個財政年度委任該公司的核數師。
- (3) 如沒有根據第 397 條作出的委任，原訟法庭可應公司的成員的申請，委任一人填補該公司的核數師職位的期中空缺。

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- (1) The directors may appoint a person to fill a casual vacancy in the office of auditor of the company.
- (2) If the directors have not done so within one month after the casual vacancy occurs, the members may, by a resolution passed at a general meeting, appoint a person to fill the casual vacancy.

398. Appointment of auditor by Court

- (1) The Court may, on application by a member of a company, appoint the auditor of the company for a financial year if—
 - (a) in the case of a company required to hold an annual general meeting in accordance with section 610 in respect of the previous financial year—
 - (i) at the annual general meeting, no person has been appointed as auditor of the company for the financial year; or
 - (ii) an annual general meeting has not been held in accordance with that section; or
 - (b) in the case of a company not required to hold an annual general meeting in accordance with section 610 in respect of the previous financial year by virtue of section 612(2)—
 - (i) at the end of the appointment period in relation to the financial year, no person has been appointed as auditor of the company for the financial year; and
 - (ii) no person is deemed to be reappointed as auditor of the company for the financial year under section 403.
- (2) The Court may, on application by a member of a company to which section 395 applies, appoint the auditor of the company

399. 委任商號為核數師的效果

如某商號是以商號的名義獲委任為公司的核數師，該項委任須視為對符合以下說明的人士的委任 ——

- (a) 在該項委任的有效期內不時擔任該商號的合夥人；及
- (b) 有資格根據本次分部獲委任為該公司的核數師，且沒有喪失該資格。

400. 在某些情況下委任核數師須發出特別通知

- (1) 如有以下決議，則須就該決議發出特別通知 ——
 - (a) 建議為第 396(1)、(3) 或 (5) 條的目的而通過的一項旨在委任某人擔任核數師以替代指明在任人的決議；及
 - (b) 建議為第 397(2) 條的目的而通過的決議。
- 附註 ——**
請亦參閱第 578 條，該條列出關於特別通知的規定。
- (2) 如指明在任人是憑藉董事根據第 397(1) 條委任該人為核數師以填補核數師職位的期中空缺，而擔任核數師，則亦須就建議為第 396(1)、(3) 或 (5) 條的目的而通過的一項旨在委任該人為核數師的決議，發出特別通知。
 - (3) 公司如收到特別通知，須將該通知的文本 ——
 - (a) 送交建議委任為核數師的人；及

for its first financial year if an appointment has not been made under sections 395(2) or (3) and 396(6).

- (3) The Court may, on application by a member of a company, appoint a person to fill a casual vacancy in the office of auditor of the company if an appointment has not been made under section 397.

399. Effect of appointing a firm as auditor

If a firm is appointed, by the firm name, as auditor of a company, the appointment is to be regarded as an appointment of those persons who—

- (a) are the partners in the firm from time to time during the currency of the appointment; and
- (b) are eligible, and not disqualified, for appointment as auditor of the company under this Subdivision.

400. Special notice required for resolution for appointing auditor in some cases

- (1) Special notice is required for—
 - (a) a resolution proposed for the purposes of section 396(1), (3) or (5) for appointing a person as auditor in place of a specified incumbent; and
 - (b) a resolution proposed for the purposes of section 397(2).
- Note—**
See also section 578 which sets out the requirements regarding special notice.
- (2) Special notice is also required for a resolution proposed for the purposes of section 396(1), (3) or (5) for appointing a specified incumbent as auditor if that incumbent holds office by virtue of an appointment by the directors to fill a casual vacancy under section 397(1).

- (b) 送交 ——
- (i) (如屬建議根據第 396(1)、(3) 或 (5) 條委任某人替代指明在任人的情況) 該在任人；或
 - (ii) (如屬建議根據第 396(1)、(3) 或 (5) 條委任某名憑藉根據第 397(1) 或 (2) 條作出的委任以填補因有人辭職而出現的期中空缺而擔任核數師的指明在任人的情況) 該名辭職的人。
- (4) 在本條中 ——
- 指明在任人** (specified incumbent) 指 ——
- (a) 最新近擔任公司的核數師的人，而該人的核數師任期已屆滿；或
 - (b) 其核數師任期會在以下時間屆滿的人 ——
 - (i) 成員大會結束時；或
 - (ii) 有關財政年度的委任期終結時。

401. 議決委任的書面決議的文本須送交新舊核數師

- (1) 如第 (2) 款指明的核數師委任是擬藉公司的成員的書面決議作出的，則本條適用。
- (2) 上述委任是 ——
 - (a) 根據第 396(1)、(3) 或 (5) 條委任某人替代指明在任人；或
 - (b) 根據第 396(1)、(3) 或 (5) 條委任某名憑藉根據第 397(1) 或 (2) 條作出的委任以填補因有人辭職而出現的期中空缺而擔任核數師的指明在任人。

- (3) On receipt of a special notice, the company must send a copy of it—
 - (a) to the person proposed to be appointed as auditor; and
 - (b) in the case of—
 - (i) a proposed appointment under section 396(1), (3) or (5) of a person in place of a specified incumbent, to that incumbent; or
 - (ii) a proposed appointment under section 396(1), (3) or (5) of a specified incumbent who holds office by virtue of an appointment under section 397(1) or (2) to fill a casual vacancy caused by a resignation, to the person who resigned.
- (4) In this section—
specified incumbent (指明在任人) means—
 - (a) the person who is the last auditor of the company and whose term of office as auditor has expired; or
 - (b) the person whose term of office as auditor will expire—
 - (i) at the end of the general meeting; or
 - (ii) at the end of the appointment period in relation to the financial year concerned.

401. Copies of written resolution for appointment must be sent to new and old auditors

- (1) This section applies if an appointment of an auditor specified in subsection (2) is proposed to be effected by a written resolution of the members of a company.
- (2) The appointment is—
 - (a) an appointment under section 396(1), (3) or (5) of a person in place of a specified incumbent; or

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- (3) 公司如收到建議的決議的文本，須將該文本 ——
- (a) 送交建議委任為核數師的人；及
 - (b) 送交 ——
 - (i) (如屬第 (2)(a) 款的情況) 指明在任人；或
 - (ii) (如屬第 (2)(b) 款的情況) 辭職的人。
- (4) 如公司違反第 (3) 款，有關書面決議即屬無效。
- (5) 在本條中 ——
- 指明在任人** (specified incumbent) 指 ——
- (a) 最新近擔任公司的核數師的人，而該人的核數師任期已屆滿；或
 - (b) 其核數師任期會在有關財政年度的委任期終結時屆滿的人。

402. 核數師的任期

- (1) 獲委任為公司的核數師的人按照委任的條款擔任該職位。
- (2) 儘管有第 (1) 款的規定 ——
 - (a) 獲委任為公司的核數師的人，在前任核數師的委任終止前，不擔任該職位；及
 - (b) 根據第 395、396、397 或 398 條就某財政年度獲委任為公司的核數師的人，一直擔任該職位，直至 ——

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- (b) an appointment under section 396(1), (3) or (5) of a specified incumbent who holds office by virtue of an appointment under section 397(1) or (2) to fill a casual vacancy caused by a resignation.
- (3) On receipt of a copy of the proposed resolution, the company must send a copy of it—
- (a) to the person proposed to be appointed as auditor; and
 - (b) in the case of—
 - (i) subsection (2)(a), to the specified incumbent; or
 - (ii) subsection (2)(b), to the person who resigned.
- (4) If a company contravenes subsection (3), the written resolution is ineffective.
- (5) In this section—
- specified incumbent** (指明在任人) means—
- (a) the person who is the last auditor of the company and whose term of office as auditor has expired; or
 - (b) the person whose term of office as auditor will expire at the end of the appointment period in relation to the financial year concerned.

402. Terms of office of auditor

- (1) A person appointed as auditor of a company holds office in accordance with the terms of the appointment.
- (2) Despite subsection (1)—
 - (a) a person appointed as auditor of a company does not take office until the previous auditor's appointment is terminated; and
 - (b) a person appointed as auditor of a company for a financial year under section 395, 396, 397 or 398 holds office until—

- (i) (如該公司按照第 610 條，就該財政年度舉行周年成員大會) 該周年成員大會結束時；
- (ii) (如該公司憑藉第 612(1) 條，而沒有按照第 610 條就該財政年度舉行周年成員大會) 為第 612(1) 條的目的通過的書面決議的日期；或
- (iii) (如該公司憑藉第 612(2) 條，而沒有按照第 610 條就該財政年度舉行周年成員大會) 下一個財政年度的委任期終結時。

403. 須當作再度獲委任為核數師的人

- (1) 如 ——
 - (a) 公司憑藉第 612(2) 條，而無須按照第 610 條就有關財政年度舉行周年成員大會；及
 - (b) 在下一個財政年度的委任期終結時，沒有人就該下一個財政年度獲委任為該公司的核數師，

則在該委任期終結時擔任該公司的核數師的人，須當作在該時刻，按相同的委任條款，就該下一個財政年度再度獲委任為該公司的核數師。
- (2) 儘管有第 (1) 款的規定，如有以下情況，則有關的人不當作就下一個財政年度再度獲委任為公司的核數師 ——
 - (a) 該人根據第 395 或 397(1) 條獲委任為核數師；
 - (b) 該公司的章程細則規定須作出實際委任；
 - (c) 在該人根據該款當作再度獲委任前，成員已在成員大會上通過決議，議決該人不應就該下一個財政年度再度獲委任為核數師；

- (i) if the company holds an annual general meeting in accordance with section 610 in respect of the financial year, the end of the annual general meeting;
- (ii) if, by virtue of section 612(1), the company does not hold an annual general meeting in accordance with section 610 in respect of the financial year, the date of the written resolution passed for the purposes of section 612(1); or
- (iii) if, by virtue of section 612(2), the company does not hold an annual general meeting in accordance with section 610 in respect of the financial year, the end of the appointment period in relation to the next financial year.

403. Person deemed to be reappointed as auditor

- (1) If—
 - (a) by virtue of section 612(2), a company is not required to hold an annual general meeting in accordance with section 610 in respect of a financial year; and
 - (b) at the end of the appointment period in relation to the next financial year, no person has been appointed as auditor of the company for that next financial year,

the person who is the auditor of the company as at the end of that appointment period is deemed to be reappointed, at that time, as auditor of the company for that next financial year on the same terms of appointment.
- (2) Despite subsection (1), the person is not deemed to be reappointed as auditor of the company for the next financial year if—
 - (a) the person was appointed as auditor under section 395 or 397(1);

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- (d) 該人已在該下一個財政年度的委任期終結之前最少 14 日，藉送交該公司的書面通知，拒絕再度獲委任；或
 - (e) 對該人不應再度獲委任的決議有表決權的所有成員中，佔最少達所需百分比的表決權的成員向該公司發出符合第 (5) 款的通知。
- (3) 凡有建議為第 (2)(c) 款的目的而通過的決議，則須就該決議發出特別通知。
- 附註——**
請亦參閱第 578 條，該條列出關於特別通知的規定。
- (4) 公司如收到特別通知，須將該通知的文本送交建議不再度獲委任的人。
 - (5) 第 (2)(e) 款所指的通知——
 - (a) 須述明有關的人不應再度獲委任；
 - (b) 須經發出該通知的成員認證；
 - (c) 須以印本形式或電子形式交付公司；及
 - (d) 須在緊接再度委任本應會生效的時間之前的會計參照期終結前送抵公司。
 - (6) 本條不影響第 6 次分部的實施。
 - (7) 如某人基於任何理由停任核數師，則在釐定須付予該人的補償或損害賠償時，失去根據本條當作再度獲委任為核數師的機會須不予考慮。
 - (8) 在本條中——

所需百分比 (requisite percentage) 指 5% 或公司的章程細則內為本條的目的而指明的一個較低百分比。

- (b) the company's articles require an actual appointment;
 - (c) before the person is deemed to be reappointed under that subsection, the members have by a resolution passed at a general meeting resolved that the person should not be reappointed as auditor for that next financial year;
 - (d) the person declines the reappointment in a written notice sent to the company at least 14 days before the end of the appointment period in relation to that next financial year; or
 - (e) members representing at least the requisite percentage of the voting rights of all the members who would be entitled to vote on a resolution that the person should not be reappointed give the company a notice complying with subsection (5).
- (3) Special notice is required for a resolution proposed for the purposes of subsection (2)(c).
- Note—**
See also section 578 which sets out the requirements regarding special notice.
- (4) On receipt of a special notice, the company must send a copy of it to the person proposed not to be reappointed.
 - (5) A notice for the purposes of subsection (2)(e)—
 - (a) must state that the person should not be reappointed;
 - (b) must be authenticated by the member or members giving it;
 - (c) must be delivered to the company in hard copy form or electronic form; and
 - (d) must be received by the company before the end of the accounting reference period immediately preceding the time when the reappointment would have effect.

404. 核數師酬金

- (1) 由成員委任的公司核數師的酬金，可 ——
 - (a) 藉在成員大會上通過的決議釐定；或
 - (b) 藉該決議指明的方式釐定。
- (2) 由董事委任的公司核數師的酬金 ——
 - (a) 可由董事在作出委任時釐定；或
 - (b) (如董事沒有釐定該酬金) 可 ——
 - (i) 藉在成員大會上通過的決議釐定；或
 - (ii) 藉該決議指明的方式釐定。
- (3) 由原訟法庭委任的公司核數師的酬金 ——
 - (a) 可由原訟法庭在作出委任時釐定；或
 - (b) (如原訟法庭沒有釐定該酬金) 可 ——
 - (i) 藉在成員大會上通過的決議釐定；或
 - (ii) 藉該決議指明的方式釐定。
- (4) 在本條中 ——

酬金 (remuneration) 就公司的核數師而言，包括該公司就該核數師的開支而支付的款項。

- (6) This section does not affect the operation of Subdivision 6.
- (7) In ascertaining the amount of any compensation or damages payable to a person on ceasing to hold office of auditor for any reason, no account is to be taken of any loss of the opportunity of being deemed to be reappointed as auditor under this section.
- (8) In this section—
requisite percentage (所需百分比) means 5%, or a lower percentage specified for the purposes of this section in the company's articles.

404. Auditor's remuneration

- (1) The remuneration of an auditor of a company appointed by the members may be fixed—
 - (a) by a resolution passed at a general meeting; or
 - (b) in the manner specified in such a resolution.
- (2) The remuneration of an auditor of a company appointed by the directors—
 - (a) may be fixed by the directors when making the appointment; or
 - (b) if it has not been fixed by the directors, may be fixed—
 - (i) by a resolution passed at a general meeting; or
 - (ii) in the manner specified in such a resolution.
- (3) The remuneration of an auditor of a company appointed by the Court—
 - (a) may be fixed by the Court when making the appointment; or
 - (b) if it has not been fixed by the Court, may be fixed—
 - (i) by a resolution passed at a general meeting; or

第 3 次分部 —— 核數師報告**405. 核數師擬備報告的職責**

公司的核數師須就符合以下說明的、由董事擬備的財務報表，擬備一份向成員提交的報告：在該核數師任內，該報表的文本根據第 429 條在成員大會上提交公司省覽、根據第 430 條送交成員，或由該公司以其他方式傳閱、發布或發出。

406. 核數師對財務報表、董事報告等的意見

- (1) 核數師報告須述明按該核數師的意見 ——
 - (a) 有關財務報表是否遵照本條例妥為擬備的；及
 - (b) 尤其是有關財務報表 ——
 - (i) (如屬不就有關財政年度在提交報告方面獲豁免的公司的周年財務報表) 是否按第 380 條的規定，真實而中肯地反映公司的財務狀況及財務表現；或
 - (ii) (如屬不就有關財政年度在提交報告方面獲豁免的公司的周年綜合財務報表) 是否按第 380 條的規定，真實而中肯地反映公司及所有附屬企業的財務狀況及財務表現。
- (2) 如按公司的核數師的意見，關乎某財政年度的董事報告內的資料與關乎該財政年度的財務報表互相抵觸，則該核數師 ——

(ii) in the manner specified in such a resolution.

(4) In this section—

remuneration (酬金), in relation to an auditor of a company, includes any sum paid by the company in respect of the expenses of the auditor.

Subdivision 3—Auditor's Report**405. Auditor's duty to report**

A company's auditor must prepare a report for the members on any financial statements prepared by the directors, a copy of which is laid before the company in general meeting under section 429, or is sent to a member under section 430 or otherwise circulated, published or issued by the company, during the auditor's term of office.

406. Auditor's opinion on financial statements, directors' report, etc.

- (1) An auditor's report must state, in the auditor's opinion—
 - (a) whether the financial statements have been properly prepared in compliance with this Ordinance; and
 - (b) in particular, whether the financial statements—
 - (i) in the case of annual financial statements of a company that does not fall within the reporting exemption for the financial year, give a true and fair view of the financial position and financial performance of the company as required by section 380; or
 - (ii) in the case of annual consolidated financial statements of a company that does not fall within the reporting exemption for the financial year, give a true and fair view of the financial position and

- (a) 須在核數師報告內述明該意見；及
- (b) 可在成員大會上促請成員注意該意見。

407. 核數師就其他事宜給予的意見

- (1) 核數師在擬備核數師報告時，須進行使自己能夠就以下事宜得出結論的調查 ——
 - (a) 公司是否已備存充分的會計紀錄；及 (由 2018 年第 35 號第 48 條修訂)
 - (b) 財務報表是否與該等會計紀錄吻合。
- (2) 如按公司的核數師的意見 ——
 - (a) 公司沒有備存充分的會計紀錄；或 (由 2018 年第 35 號第 48 條修訂)
 - (b) 財務報表與該等會計紀錄在事關重要的方面並不吻合，
 則該核數師須在核數師報告內述明該意見。
- (3) 公司的核數師如沒有取得所有盡其所知所信對審計工作而言屬必需及事關重要的資料或解釋，則須在核數師報告內述明這一事實。
- (4) 如財務報表不符合第 383(1) 條，則核數師須在其能力合理所及的範圍內，在核數師報告內加入一項陳述，述明該財務報表按規定須載有但卻沒有載有的詳情。

financial performance of the company and all the subsidiary undertakings as required by section 380.

- (2) If a company's auditor is of the opinion that the information in a directors' report for a financial year is not consistent with the financial statements for the financial year, the auditor—
 - (a) must state that opinion in the auditor's report; and
 - (b) may bring that opinion to the members' attention at a general meeting.

407. Auditor's opinion on other matters

- (1) In preparing an auditor's report, the auditor must carry out an investigation that will enable the auditor to form an opinion as to—
 - (a) whether adequate accounting records have been kept by the company; and
 - (b) whether the financial statements are in agreement with the accounting records.
- (2) A company's auditor must state the auditor's opinion in the auditor's report if the auditor is of the opinion that—
 - (a) adequate accounting records have not been kept by the company; or
 - (b) the financial statements are not in agreement with the accounting records in any material respect.
- (3) If a company's auditor fails to obtain all the information or explanations that, to the best of the auditor's knowledge and belief, are necessary and material for the purpose of the audit, the auditor must state that fact in the auditor's report.
- (4) If the financial statements do not comply with section 383(1), the auditor must include in the auditor's report, so far as the auditor is reasonably able to do so, a statement giving

408. 關於核數師報告的內容的罪行

- (1) 第(2)款指明的每一人如明知或罔顧後果地導致第407(2)(b)或(3)條規定須載於核數師報告的陳述沒有載於該報告內，即屬犯罪。
- (2) 如 ——
 - (a) 擬備有關核數師報告的核數師是自然人，則有關的人是 ——
 - (i) 該核數師；及
 - (ii) 該核數師的僱員及代理人中每名有資格獲委任為有關公司的核數師者；
 - (b) 擬備有關核數師報告的核數師是商號，則有關的人是該核數師的每名有資格獲委任為有關公司的核數師的合夥人，以及該核數師的僱員及代理人中每名有資格獲委任為有關公司的核數師者；或(由2018年第17號第140條修訂)
 - (c) 擬備有關核數師報告的核數師是法人團體，則有關的人是該核數師的高級人員、成員、僱員及代理人中每名有資格獲委任為有關公司的核數師者。
- (3) 任何人犯第(1)款所訂罪行，可處罰款 \$150,000。

409. 核數師報告須經簽署

- (1) 核數師報告 ——
 - (a) (如有關核數師是自然人)須由該核數師簽署；或
 - (b) (如有關核數師是商號或法人團體)須由獲授權代表該核數師簽署其名稱的自然人簽署。
- (2) 核數師報告須述明該核數師的姓名或名稱。

the particulars that are required to be, but have not been, contained in the financial statements.

408. Offences relating to contents of auditor's report

- (1) Every person specified in subsection (2) commits an offence if the person knowingly or recklessly causes a statement required to be contained in an auditor's report under section 407(2)(b) or (3) to be omitted from the report.
- (2) The persons are—
 - (a) if the auditor who prepares the auditor's report is a natural person—
 - (i) the auditor; and
 - (ii) every employee and agent of the auditor who is eligible for appointment as auditor of the company;
 - (b) if the auditor who prepares the auditor's report is a firm, every partner, employee and agent of the auditor who is eligible for appointment as auditor of the company; or
 - (c) if the auditor who prepares the auditor's report is a body corporate, every officer, member, employee and agent of the auditor who is eligible for appointment as auditor of the company.
- (3) A person who commits an offence under subsection (1) is liable to a fine of \$150,000.

409. Auditor's reports to be signed

- (1) An auditor's report must be signed—
 - (a) if the auditor is a natural person, by the auditor; or
 - (b) if the auditor is a firm or body corporate, by a natural person authorized to sign the auditor's name on the auditor's behalf.

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- (3) 每份根據第 429 條在成員大會上提交公司省覽、根據第 430 條送交成員或由該公司以其他方式傳閱、發布或發出的核數師報告的文本，均須述明有關核數師的姓名或名稱。
- (4) 如第 (3) 款遭違反，公司及其每名責任人均屬犯罪，可各處第 4 級罰款。

第 4 次分部 —— 核數師的權利及特權等

410. 受約制特權

- (1) 如有人就公司的核數師在履行該公司的核數師職責時作出的陳述提起誹謗訴訟，則只要作出該陳述並非出於惡意，該核數師便無需就該陳述為誹謗負上法律責任。
- (2) 如有人就 ——
 - (a) 公司的核數師在履行該公司的核數師職責時擬備；及
 - (b) 本條例規定須 ——
 - (i) 交付處長；或
 - (ii) 送交公司任何成員或任何其他人士，
 的文件的發表提起誹謗訴訟，則只要發表該文件並非出於惡意，任何人均無需就該文件為誹謗負上法律責任。
- (3) 本條不局限或影響公司的核數師或任何其他人在誹謗訴訟中作為被告人而享有的其他權利、特權或豁免權。
- (4) 在本條中，提述履行公司的核數師職責，包括 ——
 - (a) 作出停任陳述、向該公司發出該項陳述及要求該公司就該項陳述遵守第 422(5) 條指明的規定；及
 - (b) 作出情況陳述，以及向該公司發出該項陳述。

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- (2) An auditor's report must state the auditor's name.
- (3) Every copy of an auditor's report laid before a company in general meeting under section 429, or sent to a member under section 430 or otherwise circulated, published or issued by the company, must state the auditor's name.
- (4) If subsection (3) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

Subdivision 4—Auditor's Rights and Privileges, etc.

410. Qualified privileges

- (1) In the absence of malice, an auditor of a company is not liable to any action for defamation at the suit of any person in respect of any statement made by the auditor in the course of performing duties as auditor of the company.
- (2) In the absence of malice, a person is not liable to any action for defamation at the suit of any person in respect of the publication of any document—
 - (a) prepared by an auditor of a company in the course of performing duties as auditor of the company; and
 - (b) required by this Ordinance—
 - (i) to be delivered to the Registrar; or
 - (ii) to be sent to any member of the company or any other person.
- (3) This section does not limit or affect any other right, privilege or immunity that an auditor of a company, or any other person, has as defendant in an action for defamation.
- (4) In this section, a reference to performing duties as auditor of a company includes—

411. 就成員大會享有的權利

- (1) 獲委任為公司的核數師的人有權 ——
 - (a) 出席該公司的任何成員大會；及
 - (b) 在該公司的任何成員大會上，就該大會所討論的事務中與該人作為該公司的核數師有關的部分發言。
- (2) 如享有第 (1)(a) 或 (b) 款所指的權利的人屬商號或法人團體，則該權利可由獲該人授權在有關成員大會上擔任其代表的自然人行使。

412. 就資料享有的權利

- (1) 公司的核數師有權取用該公司的會計紀錄。
- (2) 公司的核數師可要求該公司的有關連實體或在有關資料或解釋所關乎的時間是該公司的有關連實體的人，向該核數師提供該核數師為履行該公司核數師的職責而合理地需要的資料或解釋。
- (3) 如核數師根據第 (2) 款要求某人提供任何資料或解釋，該人須在接獲要求後，在切實可行的範圍內盡快提供該資料或解釋。
- (4) 如公司的附屬企業不是在香港成立為法團的公司，則該公司的核數師可要求該公司從第 (5) 款指明的任何人處，取得該核數師為履行該公司核數師的職責而合理地需要的資料或解釋。

- (a) making a cessation statement, giving the statement to the company, and requesting the company to comply with the requirement specified in section 422(5) in relation to the statement; and
- (b) making a statement of circumstances, and giving the statement to the company.

411. Rights in relation to general meeting

- (1) A person appointed as auditor of a company is entitled—
 - (a) to attend any of the company's general meetings; and
 - (b) to be heard, at any of the company's general meetings, on any part of the business of the meeting that concerns the person as auditor of the company.
- (2) A person's entitlement under subsection (1)(a) or (b) is, if the person is a firm or body corporate, exercisable by a natural person authorized by the person to act as the person's representative at the meeting.

412. Rights in relation to information

- (1) An auditor of a company has a right of access to the company's accounting records.
- (2) An auditor of a company may require a person that is a related entity of the company, or was a related entity of the company at the time to which the information or explanation relates, to provide the auditor with any information or explanation that the auditor reasonably requires for the performance of the duties as auditor of the company.
- (3) If an auditor has required a person to provide any information or explanation under subsection (2), the person must provide the information or explanation as soon as practicable after being required.

- (5) 有關的人為 ——
- (a) 有關附屬企業；
 - (b) 符合以下說明的人 ——
 - (i) 屬上述附屬企業的高級人員或核數師；或
 - (ii) 在有關資料或解釋所關乎的時間，屬該附屬企業的高級人員或核數師；及
 - (c) 符合以下說明的人 ——
 - (i) 持有任何上述附屬企業的會計紀錄，或須就該等紀錄負責；或
 - (ii) 在有關資料或解釋所關乎的時間，持有該附屬企業的會計紀錄，或須就該等紀錄負責。
- (6) 如核數師根據第 (4) 款要求公司自某人處取得任何資料或解釋，該公司須在接獲要求後，在切實可行的範圍內盡快採取一切合理步驟以取得該資料或解釋。
- (7) 任何人在回應第 (2) 或 (4) 款所指的要求時作出的陳述，不得在任何刑事法律程序（就第 413 條所訂罪行提起的法律程序除外）中用作針對該人的證據。
- (8) 如在法律程序中，就某資料而提出的享有法律專業保密權的聲稱是能夠成立的，則本條不強迫任何人披露該資料。
- (9) 在本條中 ——
- 有關連實體** (related entity) 就公司而言，指 ——
- (a) 該公司的高級人員；
 - (b) 該公司的附屬企業，而該附屬企業是在香港成立為法團的公司；
 - (c) 該附屬企業的高級人員或核數師；或
 - (d) 持有該公司或附屬企業的任何會計紀錄的人，或須就該等紀錄負責的人；(由 2018 年第 35 號第 49 條修訂)

- (4) If a subsidiary undertaking of a company is not a company incorporated in Hong Kong, an auditor of the company may require the company to obtain from any of the persons specified in subsection (5) any information or explanation that the auditor reasonably requires for the performance of the duties as auditor of the company.
- (5) The persons are—
- (a) the subsidiary undertaking;
 - (b) a person who—
 - (i) is an officer or auditor of the subsidiary undertaking; or
 - (ii) was an officer or auditor of the subsidiary undertaking at the time to which the information or explanation relates; and
 - (c) a person who—
 - (i) holds or is accountable for any of the subsidiary undertaking's accounting records; or
 - (ii) held or was accountable for the subsidiary undertaking's accounting records at the time to which the information or explanation relates.
- (6) If an auditor has required a company to obtain any information or explanation from a person under subsection (4), the company must take all reasonable steps to obtain the information or explanation as soon as practicable after being required.
- (7) A statement made by a person in response to a requirement under subsection (2) or (4) may not be used in evidence against the person in any criminal proceedings except proceedings for an offence under section 413.

高級人員 (officer) 就不屬法人團體的附屬企業而言，指 ——

- (a) 該企業的管治團體的成員；或
- (b) 參與該企業的管理的任何其他人。(由 2018 年第 35 號第 49 條增補)

413. 關乎第 412 條的罪行

- (1) 任何人違反第 412(3) 條，即屬犯罪，可處第 4 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，另處罰款 \$700。
- (2) 凡某人被控犯第 (1) 款所訂罪行，如確立由該人提供有關資料或解釋並非合理地切實可行，即屬免責辯護。
- (3) 如 ——
 - (a) 任何人向公司的核數師作出一項陳述，而該陳述是傳達或其意是傳達該核數師根據第 412(2) 或 (4) 條要求或有權根據該條要求提供的資料或解釋的；
 - (b) 該陳述在要項上具誤導性、屬虛假或具欺騙性；及

- (8) This section does not compel a person to disclose information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

- (9) In this section—

officer (高級人員), in relation to a subsidiary undertaking that is not a body corporate, means—

- (a) a member of the governing body of the undertaking; or
- (b) any other person involved in the management of the undertaking; (*Added 35 of 2018 s. 49*)

related entity (有關連實體), in relation to a company, means—

- (a) an officer of the company;
- (b) a subsidiary undertaking of the company that is a company incorporated in Hong Kong;
- (c) an officer or auditor of such a subsidiary undertaking; or
- (d) a person holding or accountable for any of the accounting records of the company or such a subsidiary undertaking.

413. Offences relating to section 412

- (1) A person who contravenes section 412(3) commits an offence and is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.
- (2) If a person is charged with an offence under subsection (1), it is a defence to establish that it was not reasonably practicable for the person to provide the information or explanation.
- (3) A person commits an offence if—
 - (a) the person makes a statement to an auditor of a company that conveys or purports to convey any information or

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- (c) 該人知道該陳述在要項上具誤導性、屬虛假或具欺騙性，或罔顧該陳述是否在要項上具誤導性、屬虛假或具欺騙性，
該人即屬犯罪。
- (4) 任何人犯第 (3) 款所訂罪行 ——
- (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 5 級罰款及監禁 6 個月。
- (5) 如公司違反第 412(6) 條，該公司及其每名責任人均屬犯罪，可各處第 4 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 \$700。
- (6) 凡某人就沒有自附屬企業或其他人處取得任何資料或解釋，而被控犯第 (5) 款所訂罪行，如確立 ——
- (a) 根據香港以外某地方的法律，該附屬企業或該其他人向被告人提供該資料或解釋屬犯罪；而
- (b) 該附屬企業或該其他人以此為理由，沒有向被告人提供該資料或解釋，
即屬免責辯護。
- (7) 本條不影響核數師提出以下申請的權利：申請強制令，以強制執行核數師根據第 412 條享有的任何權利。

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- explanation that the auditor requires, or is entitled to require, under section 412(2) or (4);
- (b) the statement is misleading, false or deceptive in a material particular; and
- (c) the person knows that, or is reckless as to whether or not, the statement is misleading, false or deceptive in a material particular.
- (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 5 and to imprisonment for 6 months.
- (5) If a company contravenes section 412(6), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.
- (6) If a person is charged with an offence under subsection (5) for failing to obtain any information or explanation from a subsidiary undertaking or another person, it is a defence to establish that—
- (a) it would be an offence under the law of a place outside Hong Kong for the subsidiary undertaking or that other person to provide the information or explanation to the defendant; and
- (b) the subsidiary undertaking or that other person did not provide the information or explanation to the defendant on that ground.

414. 核數師可向繼任核數師提供資料而不違反職責

- (1) 任何屬或曾屬公司的核數師的人，不會僅因向另一人提供工作資料而違反該人在法律上須承擔的核數師職責，但前提是——
 - (a) 該另一人是該公司的核數師；
 - (b) 該另一人已獲委任為該公司的核數師，但其任期尚未開始；或
 - (c) 該公司已向該另一人作出擔任核數師的要約，但該另一人尚未獲委任。
- (2) 除非有關的人在向另一人提供工作資料時——
 - (a) 是以真誠行事；及
 - (b) 合理地相信該資料攸關該另一人履行該公司核數師的職責的，
 否則第 (1) 款不適用。
- (3) 在本條中——
工作資料 (work-related information) 就屬或曾屬公司的核數師的人而言，指該人以核數師的身分得悉的資料。

第 5 次分部 —— 核數師的法律責任**415. 廢止免除核數師的法律責任的條文**

- (1) 本條適用於載於公司的章程細則、與公司訂立的合約或其他文件的條文。

- (7) This section does not affect an auditor's right to apply for an injunction to enforce any of the auditor's rights under section 412.

414. Auditor may provide information to incoming auditor without contravening duties

- (1) A person who is or has been an auditor of a company does not contravene any duty owed by the person as such auditor in law by reason only that the person gives work-related information to another person—
 - (a) who is an auditor of the company;
 - (b) who has been appointed as auditor of the company but whose term of office has not yet begun; or
 - (c) to whom the company has offered the position as auditor but who has not yet been appointed.
- (2) Subsection (1) does not apply unless the person who gives work-related information to another person—
 - (a) does so in good faith; and
 - (b) reasonably believes that the information is relevant to the performance of that other person's duties as auditor of the company.
- (3) In this section—
work-related information (工作資料), in relation to a person who is or has been an auditor of a company, means information of which the person became aware in the capacity of auditor.

Subdivision 5—Auditor's Liability**415. Avoidance of provisions protecting auditor from liability**

- (1) This section applies to a provision contained in a company's articles, or in a contract entered into by a company, or

- (2) 如某條文的本意是豁免公司的核數師，使其無需承擔在履行核數師職責的過程中，因在與關乎該公司的疏忽、失責、失職或違反信託行為有關連的情況下而本應須承擔的法律責任，則該條文即屬無效。
- (3) 如公司藉着某條文而直接或間接向該公司的核數師或該公司的有聯繫公司的核數師提供彌償，以彌償該核數師在履行核數師職責的過程中，因在與關乎該公司或有聯繫公司（視屬何情況而定）的疏忽、失責、失職或違反信託行為有關連的情況下而須承擔的法律責任，則該條文即屬無效。
- (4) 第 (3) 款不阻止公司就以下的法律責任，為該公司的核數師或該公司的有聯繫公司的核數師投購保險並保持該保險有效 ——
- (a) 該核數師因在履行核數師職責的過程中，在與關乎該公司或有聯繫公司（視屬何情況而定）的疏忽、失責、失職或違反信託行為（欺詐行為除外）有關連的情況下而對任何人承擔的法律責任；或
- (b) 該核數師就針對該核數師提出的民事或刑事法律程序中進行辯護而招致的法律責任，而該法律程序是針對該核數師在履行核數師職責的過程中所犯的、關乎該公司或有聯繫公司（視屬何情況而定）的疏忽、失責、失職或違反信託行為（包括欺詐行為）而提出的。
- (5) 第 (3) 款不阻止公司就該公司的核數師在以下情況下招致的法律責任彌償該核數師 ——
- (a) 該核數師在任何民事或刑事法律程序中進行辯護，而該核數師獲判勝訴或無罪；或
- (b) 與第 903 或 904 條所指的申請有關連的情況下，而原訟法庭向該核數師給予寬免。
- (6) 在本條中，提述履行核數師職責，包括 ——

otherwise.

- (2) If a provision purports to exempt an auditor of the company from any liability that would otherwise attach to the auditor in connection with any negligence, default, breach of duty or breach of trust occurring in the course of performance of the duties as auditor in relation to the company, the provision is void.
- (3) If, by a provision, the company directly or indirectly provides an indemnity for an auditor of the company, or an auditor of an associated company of the company, against any liability attaching to the auditor in connection with any negligence, default, breach of duty or breach of trust occurring in the course of performance of the duties as auditor in relation to the company or associated company (as the case may be), the provision is void.
- (4) Subsection (3) does not prevent a company from taking out and keeping in force insurance for an auditor of the company, or an auditor of an associated company of the company, against—
- (a) any liability to any person attaching to the auditor in connection with any negligence, default, breach of duty or breach of trust (except for fraud) occurring in the course of performance of the duties of auditor in relation to the company or associated company (as the case may be); or
- (b) any liability incurred by the auditor in defending any proceedings (whether civil or criminal) taken against the auditor for any negligence, default, breach of duty or breach of trust (including fraud) occurring in the course of performance of the duties of auditor in relation to the company or associated company (as the case may be).

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- (a) 作出停任陳述、向該公司給予該項陳述及要求該公司就該項陳述遵守第 422(5) 條指明的規定；(由 2018 年第 35 號第 50 條修訂)
- (ab) 要求該公司根據第 423(2)(b) 條，向每名成員送交停任陳述的文本；及 (由 2018 年第 35 號第 50 條增補)
- (b) 作出情況陳述，以及向該公司給予該項陳述。

第 6 次分部 —— 核數師的委任的終止

416. 委任於何時終止

- (1) 如有以下情況，某人作為公司的核數師的委任即告終止 ——
 - (a) 任期屆滿；
 - (b) 該人根據第 417(1) 條辭去該職位；
 - (c) 該人根據第 418 條停任核數師；
 - (d) 該人根據第 419(1) 條被免去該職位；或

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- (5) Subsection (3) does not prevent a company from indemnifying an auditor of the company against any liability incurred by the auditor—
 - (a) in defending any proceedings (whether civil or criminal) in which judgment is given in the auditor's favour or the auditor is acquitted; or
 - (b) in connection with an application under section 903 or 904 in which relief is granted to the auditor by the Court.
- (6) In this section, a reference to performance of the duties of auditor includes—
 - (a) making a cessation statement, giving the statement to the company, and requesting the company to comply with the requirement specified in section 422(5) in relation to the statement; (*Amended 35 of 2018 s. 50*)
 - (ab) requiring the company to send a copy of a cessation statement to every member under section 423(2)(b); and (*Added 35 of 2018 s. 50*)
 - (b) making a statement of circumstances, and giving the statement to the company.

Subdivision 6—Termination of Auditor's Appointment

416. When appointment is terminated

- (1) A person's appointment as auditor of a company is terminated if—
 - (a) the term of office expires;
 - (b) the person resigns from office under section 417(1);
 - (c) the person ceases to be auditor under section 418;
 - (d) the person is removed from office under section 419(1); or

- (e) 有清盤令就該公司作出。
- (2) 凡某商號是以商號名義獲委任為公司的核數師，如憑藉第 399 條被視為獲委任為該核數師的每一人 ——
- (a) 在有關任期屆滿前，不再是該商號的合夥人；或
- (b) 在有關任期屆滿前，不再具有根據第 2 次分部獲委任為該公司的核數師的資格，或根據第 2 次分部喪失該資格，
- 則該委任亦告終止。
- (3) 凡獲委任為公司核數師的是法人團體，則在該法人團體解散時，該委任亦告終止。
- (4) 如有 2 名或多於 2 名的人獲委任為公司的核數師，而當中有任何人的委任終止，該項終止不影響其他人的委任。

417. 核數師辭職

- (1) 任何人可藉向公司發出書面通知，辭去核數師職位，該通知須隨附第 424 條規定須給予的陳述。
- (2) 上述的人的任期 ——
- (a) 在根據第 (1) 款向公司發出通知的日期終結時屆滿；或
- (b) 在該通知為此目的指明一個在較後日期的時間的情況下，在該時間屆滿。
- (3) 公司須在自收到辭職通知的日期起計的 15 日內，將述明該事實並符合指明格式的通知交付處長登記。
- (4) 如公司違反第 (3) 款，該公司及其每名責任人均屬犯罪，可各處第 5 級罰款及監禁 6 個月，如有關罪行是持續的

- (e) a winding up order is made in respect of the company.
- (2) Where a firm is appointed, by the firm name, as auditor of a company, the appointment is also terminated if every person who is regarded as being appointed as auditor by virtue of section 399—
- (a) ceases to be a partner in the firm before the term of office expires; or
- (b) ceases to be eligible, or becomes disqualified, for appointment as auditor of the company under Subdivision 2 before the term of office expires.
- (3) Where a body corporate is appointed as auditor of a company, the appointment is also terminated if the body corporate is dissolved.
- (4) If 2 or more persons are appointed as auditor of a company, and the appointment of any of the persons is terminated, the termination does not affect the appointment of the other person.

417. Resignation of auditor

- (1) A person may resign from the office of auditor by giving the company a notice in writing that is accompanied by a statement required to be given under section 424.
- (2) Such a person's term of office expires—
- (a) at the end of the day on which notice is given to the company under subsection (1); or
- (b) if the notice specifies a time on a later day for the purpose, at that time.
- (3) Within 15 days beginning on the date on which a company receives a notice of resignation, the company must deliver a notification in the specified form of that fact to the Registrar for registration.

罪行，則可就該罪行持續期間的每一日，另各處罰款 \$1,000。

418. 停任職位

- (1) 如任何人在擔任公司的核數師期間，不再具有根據第 2 次分部獲委任為公司核數師的資格，或喪失該資格，則該人 ——
 - (a) 即告停任該公司的核數師；及
 - (b) 須在自停任日期起 14 日內，將停任一事書面告知該公司。
- (2) 任何人違反第 (1)(b) 款，即屬犯罪，可處第 4 級罰款。
- (3) 凡某人被控犯第 (2) 款所訂罪行，如確立該人既不知道亦沒有理由相信，該人不再具有根據第 2 次分部獲委任為公司核數師的資格，或已喪失該資格，即屬免責辯護。

419. 公司可將核數師免任

- (1) 儘管 ——
 - (a) 某人與公司之間有任何協議；或
 - (b) 公司的章程細則有任何規定，
 該公司仍可藉在成員大會上通過普通決議，免除該人的核數師職位。
- (2) 凡有建議為第 (1) 款的目的而通過的普通決議，則須就該決議發出特別通知。

附註 ——

- (4) If a company contravenes subsection (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5 and to imprisonment for 6 months and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

418. Cessation of office

- (1) If, while holding office as auditor of a company, a person ceases to be eligible, or becomes disqualified, for appointment as auditor of the company under Subdivision 2, the person—
 - (a) immediately ceases to be auditor of the company; and
 - (b) must notify the company of the cessation in writing within 14 days from the date of the cessation.
- (2) A person who contravenes subsection (1)(b) commits an offence and is liable to a fine at level 4.
- (3) If a person is charged with an offence under subsection (2), it is a defence to establish that the person did not know, and had no reason to believe, that the person had ceased to be eligible, or had become disqualified, for appointment as auditor of the company under Subdivision 2.

419. Company may remove auditor

- (1) A company may by an ordinary resolution passed at a general meeting remove a person from the office of auditor despite—
 - (a) any agreement between the person and the company; or
 - (b) anything in the company's articles.
- (2) Special notice is required for an ordinary resolution proposed for the purposes of subsection (1).

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請亦參閱第 578 條，該條列出關於特別通知的規定。

- (3) 公司如收到特別通知，須將該通知的文本送交建議免任的人。
- (4) 如免任的普通決議獲通過，公司須在自通過該決議的日期起計的 15 日內，將述明該事實的通知交付處長登記，該通知須符合指明格式。
- (5) 如公司違反第 (4) 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。

420. 免任核數師不剝奪其補償或損害賠償等

第 419 條並不剝奪任何人就下述事宜而可獲付的補償或損害賠償 ——

- (a) 該人停任公司的核數師；或
- (b) 該人不再保持隨着核數師委任的終止而終止的任何委任。

第 7 次分部 —— 離任核數師要求公司召開會議及作出陳詞的權利

421. 辭任核數師可要求召開會議

- (1) 如任何人根據第 417(1) 條發出辭職通知，而該通知隨附根據第 424(a) 條給予的情況陳述，則該人可藉連同該辭職通知向公司發出另一通知，要求董事召開公司成員大會，以聽取及考慮該人提交該大會的對與辭職有關連的情況的解釋。

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See also section 578 which sets out the requirements regarding special notice.

- (3) On receipt of a special notice, the company must send a copy of it to the person proposed to be removed.
- (4) If an ordinary resolution for the removal is passed, the company must deliver a notice in the specified form of that fact to the Registrar for registration within 15 days beginning on the date on which it is passed.
- (5) If a company contravenes subsection (4), 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.

420. Removed auditor not deprived of compensation, damages, etc.

Section 419 does not deprive a person of compensation or damages payable to the person in respect of the person ceasing—

- (a) to hold office as auditor of a company; or
- (b) to hold any appointment that is terminated with the termination of the person's appointment as auditor.

Subdivision 7—Outgoing Auditor's Right to Requisition Meeting of Company and Make Representation

421. Resigning auditor may requisition meeting

- (1) If a person gives under section 417(1) a notice of resignation that is accompanied by a statement of circumstances given under section 424(a), the person may, by another notice given to the company with the notice of resignation, require the directors to convene a general meeting of the company for receiving and considering the explanation of the

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- (2) 凡公司在某日收到上述另一通知，董事須在自該日起計的 21 日內，召開成員大會，會議日期須在給予召開該大會的通知的日期後的 28 日內。
- (3) 如公司的董事違反第 (2) 款，每名沒有採取一切合理步驟確使成員大會按該款的規定召開的董事均屬犯罪 ——
 - (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 5 級罰款及監禁 6 個月。

422. 關乎成員大會的停任陳述及出席成員大會

- (1) 如根據第 421(2) 條召開成員大會，辭去核數師職位的人 ——
 - (a) 可向公司給予該人作出的陳述，以合理篇幅列明該項辭職的背景情況；
 - (b) 可要求該公司就該陳述遵守第 (5) 款指明的規定；及
 - (c) 有權 ——
 - (i) 取得關乎該成員大會而該公司的成員有權取得的每項通知及其他通訊；
 - (ii) 出席該大會；及
 - (iii) 就該大會所討論的事務中與該人作為該公司的核數師或前任核數師有關的部分發言。
- (2) 如有特別通知根據第 400(1)(a) 條就委任某人代替另一人擔任核數師的決議而發出，則該另一人 ——

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circumstances connected with the resignation that the person places before the meeting.

- (2) Within 21 days beginning on the date on which the company receives that other notice, the directors must convene a general meeting for a date falling within 28 days after the date on which the notice convening the meeting is given.
- (3) If the directors of a company contravene subsection (2), every director who failed to take all reasonable steps to secure that a general meeting was convened as required by that subsection commits an offence and 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 5 and to imprisonment for 6 months.

422. Cessation statement in relation to, and attendance at, general meeting

- (1) If a general meeting is convened under section 421(2), the person who resigns from the office of auditor—
 - (a) may give the company a statement by the person that sets out in reasonable length the circumstances surrounding the resignation;
 - (b) may request the company to comply with the requirement specified in subsection (5) in relation to the statement; and
 - (c) is entitled—
 - (i) to be given every notice of, and every other item of communication, relating to the general meeting, that a member of the company is entitled to be given;
 - (ii) to attend the general meeting; and

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- (a) 可向公司給予該另一人作出的陳述，以合理篇幅列明終止核數師委任的背景情況；
- (b) 可要求該公司就該陳述遵守第 (5) 款指明的規定；及
- (c) 有權 ——
 - (i) 取得關乎該成員大會而該公司的成員有權取得的每項通知及其他通訊；
 - (ii) 出席該大會；及
 - (iii) 就該大會所討論的事務中與該人作為該公司的核數師或前任核數師有關的部分發言。
- (3) 如有特別通知根據第 419(2) 條就免除某人的核數師職位的普通決議而發出，則該人 ——
 - (a) 可向公司給予該人作出的陳述，以合理篇幅列明該項建議免任的背景情況；及
 - (b) 可要求該公司就該陳述遵守第 (5) 款指明的規定。
- (4) 如享有第 (1)(c)(ii) 或 (iii) 或 (2)(c)(ii) 或 (iii) 款所指的權利的人屬商號或法人團體，則該權利可由獲該人授權在有關成員大會上擔任其代表的自然人行使。
- (5) 為第 (1)(b)、(2)(b) 或 (3)(b) 款的施行而指明的規定是 ——
 - (a) 如有關公司收到有關陳述的日期，早於根據第 571(1) 條可發出通知召開成員大會的最後日子超過 2 日 ——
 - (i) 須在發出予成員的每份關於該大會的通知內，述明該陳述已作出的規定；及
 - (ii) 凡向或已向成員發出關於該大會的通知，須向每名該等成員送交該陳述的文本的規定；或
 - (b) 如該公司未有將該陳述的文本，送交每名獲發或已獲發關於該大會的通知的成員，即須確保在該大會上宣讀該陳述的規定。

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- (iii) to be heard at the general meeting on any part of the business of the meeting that concerns the person as auditor or former auditor of the company.
- (2) If special notice is given under section 400(1)(a) for a resolution for appointing a person as auditor in place of another person, that other person—
 - (a) may give the company a statement by that other person that sets out in reasonable length the circumstances surrounding the termination of the appointment as auditor;
 - (b) may request the company to comply with the requirement specified in subsection (5) in relation to the statement; and
 - (c) is entitled—
 - (i) to be given every notice of, and every other item of communication, relating to the general meeting, that a member of the company is entitled to be given;
 - (ii) to attend the general meeting; and
 - (iii) to be heard at the general meeting on any part of the business of the meeting that concerns the person as auditor or former auditor of the company.
- (3) If special notice is given under section 419(2) for an ordinary resolution for removing a person from the office of auditor, the person—
 - (a) may give the company a statement by the person that sets out in reasonable length the circumstances surrounding the proposed removal; and
 - (b) may request the company to comply with the requirement specified in subsection (5) in relation to the statement.

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- (6) 有關公司除非獲第 (7) 款所指的命令豁免，否則須遵從根據第 (1)(b)、(2)(b) 或 (3)(b) 款提出的要求。
- (7) 如原訟法庭應有關公司或任何聲稱受屈的人提出的申請，信納已根據第 (1)(a) 及 (b)、(2)(a) 及 (b) 或 (3) 款給予陳述並提出要求的人——
 - (a) 濫用其如此行事的權利；或
 - (b) 運用該權利，在帶誹謗成分的事宜上，取得不必要的宣傳，
 則原訟法庭可命令該公司獲豁免而無需遵從該要求。
- (8) 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 5 級罰款。

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- (4) A person's entitlement under subsection (1)(c)(ii) or (iii) or (2)(c)(ii) or (iii) is, if the person is a firm or body corporate, exercisable by a natural person authorized by the person to act as the person's representative at the meeting.
- (5) The requirement specified for the purposes of subsection (1)(b), (2)(b) or (3)(b) is—
 - (a) if the company receives the statement on a date that is more than 2 days before the last day on which notice may be given under section 571(1) to call the general meeting, the requirement—
 - (i) to state, in every notice of the meeting given to the members, that the statement has been made; and
 - (ii) to send a copy of the statement to every member to whom a notice of the meeting is or has been given; or
 - (b) if the company has not sent a copy of the statement to every member to whom a notice of the meeting is or has been given, the requirement to ensure that the statement is read out at the meeting.
- (6) Unless exempted by an order under subsection (7), the company must comply with a request made under subsection (1)(b), (2)(b) or (3)(b).
- (7) On application by the company or by anyone who claims to be aggrieved, the Court may order that the company is exempted from complying with the request, if it is satisfied that the person who has given a statement and made a request under subsection (1)(a) and (b), (2)(a) and (b) or (3)—
 - (a) has abused the right to do so; or
 - (b) has used such a right to secure needless publicity for defamatory matter.

423. 關於書面決議的停任陳述

- (1) 如公司根據第 401(3)(b)(i) 條向某人送交書面決議的文本，則本條適用。
- (2) 上述的人可在收到公司送交的書面決議的文本後的 14 日內——
 - (a) 向該公司給予該人作出的陳述，以合理篇幅列明終止核數師委任的背景情況；及
 - (b) 要求該公司在根據第 550 或 552 條傳閱該書面決議的同時，向每名成員送交該陳述的文本。
- (3) 第 553 條適用於傳閱書面決議，猶如在第 553(3) 條中對“21 日”的提述被“28 日”所取代一樣。
- (4) 公司除非獲第 (5) 款所指的命令豁免，否則須遵從根據第 (2)(b) 款作出的要求。
- (5) 如原訟法庭應公司或任何聲稱受屈的人提出的申請，信納根據第 (2) 款給予陳述並提出要求的人——
 - (a) 濫用其如此行事的權利；或
 - (b) 運用該權利，在帶誹謗成分的事宜上，取得不必要的宣傳，
 則原訟法庭可命令該公司獲豁免而無需遵從該要求。
- (6) 如公司違反第 (4) 款，有關書面決議即屬無效。

- (8) 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 5.

423. Cessation statement in relation to written resolution

- (1) This section applies if a company sends a copy of a written resolution to a person under section 401(3)(b)(i).
- (2) The person may, within 14 days after receiving a copy of the written resolution from the company—
 - (a) give the company a statement by the person that sets out in reasonable length the circumstances surrounding the termination of the appointment as auditor; and
 - (b) require the company to send a copy of the statement to every member at the same time when the written resolution is circulated under section 550 or 552.
- (3) Section 553 applies to the circulation of the written resolution as if the reference to 21 days in section 553(3) were replaced by a reference to 28 days.
- (4) Unless exempted by an order under subsection (5), the company must comply with a requirement made under subsection (2)(b).
- (5) On application by the company or by anyone who claims to be aggrieved, the Court may order that the company is exempted from complying with the requirement, if it is satisfied that the person who has given a statement and made a requirement under subsection (2)—
 - (a) has abused the right to do so; or
 - (b) has used such a right to secure needless publicity for defamatory matter.
- (6) If a company contravenes subsection (4), the written resolution is ineffective.

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根據第 417(1) 條辭去職位的人 ——

- (a) 如認為有與其辭職有關連的情況應獲公司的成員或債權人加以注意，須在辭職時，向該公司給予述明該情況的陳述；或
- (b) 如認為沒有上述情況，須在辭職時，向該公司給予述明沒有該情況的陳述。

425. 卸任或遭免任的核數師給予陳述的職責

(1) 除第 (3) 款另有規定外，根據第 416(1)(a) 或 (d) 款遭終止核數師委任的人 ——

- (a) 如認為有與委任終止有關連的情況應獲公司的成員或債權人加以注意，須在其委任終止時，向該公司給予述明該情況的陳述；或
- (b) 如認為沒有上述情況，須在其委任終止時，向該公司給予述明沒有該情況的陳述。

(2) 如 ——

- (a) 上述的人的任期因該人根據第 403(2)(d) 條不被當作再度獲委任而屆滿，該人送交第 (1) 款所述的陳述，須令該陳述在下一個財政年度的委任期終結之前最少 14 日送抵公司；或
- (b) 屬任何其他情況，該人送交第 (1) 款所述的陳述，須令該陳述在自委任終止的日期起計的 14 日內送抵公司。

(3) 如有以下情況，第 (1) 款不適用 ——

- (a) 有關的人的委任根據第 416(1)(a) 條終止；及

Subdivision 8—Outgoing Auditor’s Statement of Circumstances**424. Duty of resigning auditor to give statement**

A person who resigns from office under section 417(1) must, on the resignation, give the company—

- (a) if the person considers that there are circumstances connected with the resignation that should be brought to the attention of the company’s members or creditors, a statement of those circumstances; or
- (b) if the person considers that there are no such circumstances, a statement to that effect.

425. Duty of auditor who retires or is removed to give statement

(1) Subject to subsection (3), a person whose appointment as auditor is terminated under section 416(1)(a) or (d) must, on the termination, give the company—

- (a) if the person considers that there are circumstances connected with the termination that should be brought to the attention of the company’s members or creditors, a statement of those circumstances; or
- (b) if the person considers that there are no such circumstances, a statement to that effect.

(2) Such a person must send a statement mentioned in subsection (1) to the company so that it will be received by the company—

- (a) where the person’s term of office expires because the person is not deemed to be reappointed as auditor under section 403(2)(d), at least 14 days before the end of the appointment period in relation to the next financial year; or

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- (b) 該人 ——
 - (i) 獲委任為公司的核數師，任期在緊接屆滿的任期之後開始；或
 - (ii) 根據第 403 條，被當作就下一個財政年度再度獲委任為公司的核數師。
- (4) 任何人違反第 (1) 或 (2) 款，即屬犯罪，可處第 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，另處罰款 \$300。
- (5) 凡某人被控犯第 (4) 款所訂罪行，如確立該人已採取一切合理步驟確使第 (1) 或 (2) 款（視屬何情況而定）獲遵守，即屬免責辯護。

426. 公司及受屈的人對情況陳述的回應

- (1) 如有情況陳述給予公司，該公司須在自收到該陳述的日期起計的 14 日內 ——
 - (a) 向該公司的每名成員送交該陳述的文本；或
 - (b) 向原訟法庭提出申請，尋求作出指示無需根據 (a) 段送交該陳述的文本的命令。
- (2) 如公司根據第 (1)(b) 款提出申請，該公司須向給予有關情況陳述予該公司的人，發出關於該申請的通知。

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- (b) in any other case, within 14 days beginning on the date of termination.
- (3) Subsection (1) does not apply if—
 - (a) the person's appointment is terminated under section 416(1)(a); and
 - (b) the person—
 - (i) is appointed as auditor of the company for a term immediately following the term of office that expires; or
 - (ii) is deemed by section 403 to be reappointed as auditor of the company for the next financial year.
- (4) A person who contravenes subsection (1) or (2) commits an offence and 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.
- (5) If a person is charged with an offence under subsection (4), it is a defence to establish that the person took all reasonable steps to secure compliance with subsection (1) or (2) (as the case may be).

426. Company's and aggrieved person's responses to statement of circumstances

- (1) If a company is given a statement of circumstances, the company must, within 14 days beginning on the date on which it receives the statement—
 - (a) send a copy of the statement to every member of the company; or
 - (b) apply to the Court for an order directing that copies of the statement are not to be sent under paragraph (a).

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- (3) 聲稱因某情況陳述而受屈的人，可在自公司收到該陳述的日期起計的 14 日內，向原訟法庭提出申請，尋求作出指示無需根據第 (1)(a) 款送交該陳述的文本的命令。
- (4) 如任何人根據第 (3) 款提出申請，該人須將關於該申請的通知，發出予 ——
 - (a) 有關公司；及
 - (b) 向該公司給予有關情況陳述的人。
- (5) 如 ——
 - (a) 任何人向公司給予情況陳述；及
 - (b) 在自該公司收到該陳述的日期起計的 21 日內，該人沒有收到第 (2) 或 (4) 款所指的申請通知，
 該人須在隨後的 7 日內，將該陳述的文本交付處長登記。
- (6) 如公司違反第 (1) 款，該公司及其每名責任人均屬犯罪 ——
 - (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 5 級罰款及監禁 6 個月。
- (7) 任何人違反第 (5) 款，即屬犯罪，可處第 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，另處罰款 \$300。
- (8) 凡某人被控犯第 (7) 款所訂罪行，如確立該人已採取一切合理步驟確使第 (5) 款獲遵守，即屬免責辯護。

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- (2) If a company makes an application under subsection (1)(b), it must give notice of the application to the person who has given the statement of circumstances to the company.
- (3) A person who claims to be aggrieved by a statement of circumstances may, within 14 days beginning on the date on which the company receives the statement, apply to the Court for an order directing that copies of the statement are not to be sent under subsection (1)(a).
- (4) If a person makes an application under subsection (3), the person must give notice of the application to—
 - (a) the company; and
 - (b) the person who has given the statement of circumstances to the company.
- (5) If—
 - (a) a person gives a company a statement of circumstances; and
 - (b) within 21 days beginning on the date on which the company receives the statement, the person has not received notice of an application under subsection (2) or (4),
 the person must within the next 7 days deliver a copy of the statement to the Registrar for registration.
- (6) If a company contravenes subsection (1), the company, and every responsible person of the company, commit an offence, and each 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 5 and to imprisonment for 6 months.

427. 原訟法庭可命令不得送交情況陳述

- (1) 如有根據第 426(1)(b) 或 (3) 條就任何人向公司給予的情況陳述提出的申請，則本條適用。
- (2) 如原訟法庭信納上述的人濫用情況陳述，或運用情況陳述，以在帶誹謗成分的事宜上取得不必要的宣傳，則 ——
 - (a) 原訟法庭須指示無需根據第 426(1)(a) 條送交該陳述的文本；及
 - (b) 原訟法庭可命令該人支付申請人就該申請而招致的訟費的全部或部分，即使該人不是該申請的一方亦然。
- (3) 如原訟法庭根據第 (2)(a) 款作出指示，公司須在自該指示作出的日期起計的 15 日內 ——
 - (a) 將列明該指示的效力的通知，送交 ——
 - (i) 該公司的每名成員；及
 - (ii) 向該公司給予有關情況陳述的人，但如該人已被指名為法律程序的一方則除外；及
 - (b) 將該通知的文本交付處長登記。
- (4) 如原訟法庭決定不批准有關申請，公司須在自該決定作出的日期或有關法律程序因任何原因而中止的日期起計的 15 日內 ——

- (7) If a person contravenes subsection (5), the person commits an offence and 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.
- (8) If a person is charged with an offence under subsection (7), it is a defence to establish that the person took all reasonable steps to secure compliance with subsection (5).

427. Court may order statement of circumstances not to be sent

- (1) This section applies if an application has been made under section 426(1)(b) or (3) in relation to a statement of circumstances given by a person to a company.
- (2) If the Court is satisfied that the person has abused the use of the statement of circumstances or is using the statement to secure needless publicity for defamatory matter, the Court—
 - (a) must direct that copies of the statement are not to be sent under section 426(1)(a); and
 - (b) may order the person, though not a party to the application, to pay the applicant's costs on the application in whole or in part.
- (3) If the Court gives directions under subsection (2)(a), the company must, within 15 days beginning on the date on which the directions are given—
 - (a) send a notice setting out the effect of the directions to—
 - (i) every member of the company; and
 - (ii) unless already named as a party to the proceedings, the person who has given the statement of circumstances to the company; and
 - (b) deliver a copy of the notice to the Registrar for registration.

- (a) 將關於該決定的通知，發出予向該公司給予情況陳述的人；及
 - (b) 向該公司的每名成員及該人送交該情況陳述的文本。
- (5) 有關的人須在自收到第 (4)(a) 款所指的通知的日期起計的 7 日內，將情況陳述的文本交付處長登記。

428. 關乎第 427 條的罪行

- (1) 如公司違反第 427(3) 或 (4) 款，該公司及其每名責任人均屬犯罪 ——
 - (a) 一經循公訴程序定罪，可各處罰款 \$150,000 及監禁 2 年；或
 - (b) 一經循簡易程序定罪，可各處第 5 級罰款及監禁 6 個月。
- (2) 任何人違反第 427(5) 條，即屬犯罪，可處第 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。
- (3) 凡某人因違反第 427(5) 條而被控犯第 (2) 款所訂罪行，如確立該人已採取一切合理步驟確使該條獲遵守，即屬免責辯護。

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- (4) If the Court decides not to grant the application, the company must, within 15 days beginning on the date on which the decision is made or on which the proceedings are discontinued for any reason—
 - (a) give notice of the decision to the person who has given the statement of circumstances to the company; and
 - (b) send a copy of the statement of circumstances to every member of the company and to that person.
- (5) Within 7 days beginning on the date on which a person receives a notice under subsection (4)(a), the person must deliver a copy of the statement of circumstances to the Registrar for registration.

428. Offences relating to section 427

- (1) If a company contravenes section 427(3) or (4), the company, and every responsible person of the company, commit an offence, and each 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 5 and to imprisonment for 6 months.
- (2) A person who contravenes section 427(5) commits an offence and 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.
- (3) If a person is charged with an offence under subsection (2) for contravening section 427(5), it is a defence to establish that the person took all reasonable steps to secure compliance with that section.

Division 6—Laying and Publication of Financial Statements

and Reports**429. 董事須將財務報表等在成員大會上提交公司省覽**

- (1) 公司的董事須在第 431 條指明的期間內，就每個財政年度，將關乎該財政年度的報告文件的文本，在周年成員大會或原訟法庭指示的任何其他成員大會上，提交公司省覽。
- (2) 如周年成員大會根據第 612 條無須就某財政年度舉行，第 (1) 款並不就該財政年度適用。
- (3) 公司的董事沒有採取一切合理步驟，以確保第 (1) 款獲遵守，即屬犯罪，可處罰款 \$300,000。
- (4) 公司的董事故意沒有採取一切合理步驟，以確保第 (1) 款獲遵守，即屬犯罪，可處罰款 \$300,000 及監禁 12 個月。
- (5) 凡某人被控犯第 (3) 款所訂罪行 ——
 - (a) 如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
 - (i) 已獲委以確保第 (1) 款獲遵守的責任；及
 - (ii) 能夠執行該責任，
即屬免責辯護；及
 - (b) 即使確立有關財務報表或報告事實上並非按本條例的規定擬備的，亦不構成該人的免責辯護。

430. 公司須在成員大會前向成員送交財務報表等的文本**429. Directors must lay financial statements etc. before company in general meeting**

- (1) A company's directors must, in respect of each financial year, lay before the company in annual general meeting, or in any other general meeting directed by the Court, a copy of the reporting documents for the financial year within the period specified in section 431.
- (2) Subsection (1) does not apply in relation to a financial year in respect of which an annual general meeting is not required to be held under section 612.
- (3) A director of a company who fails to take all reasonable steps to secure compliance with subsection (1) commits an offence and is liable to a fine of \$300,000.
- (4) A director of a company who wilfully fails to take all reasonable steps to secure compliance with subsection (1) commits an offence and is liable to a fine of \$300,000 and to imprisonment for 12 months.
- (5) If a person is charged with an offence under subsection (3)—
 - (a) it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
 - (i) was charged with the duty of ensuring that subsection (1) was complied with; and
 - (ii) was in a position to discharge that duty; and
 - (b) it is not a defence to establish that the financial statements or report was not in fact prepared as required by this Ordinance.

430. Company must send copies of financial statements etc. to

- (1) 如公司須按照第 610 條，就某財政年度舉行周年成員大會，則該公司須在第 429 條規定須獲提交關乎該財政年度的報告文件的文本的該大會的日期前最少 21 日，向每名成員送交該文本。
- (2) 為施行第 (1) 款，即使關乎有關財政年度的報告文件的文本，是在第 429 條規定須獲提交該文本的有關大會的日期前不足 21 日送交任何成員的，但如有權出席該大會和在該大會上投票的所有成員均同意，則該文本須視為已在該日期前最少 21 日送交該成員。
- (3) 如公司憑藉第 612(2) 條，而無須按照第 610 條就某財政年度舉行周年成員大會，該公司須在第 431 條指明的期間內，向每名成員送交關乎該財政年度的報告文件的文本。
- (4) 為施行第 833(3)(c) 條 ——
 - (a) 就第 (1) 款而言，有關通知須在第 429 條規定須獲提交有關報告文件的文本的成員大會的日期前最少 21 日送交；或
 - (b) 就第 (3) 款而言，有關通知須在根據該款向每名成員送交報告文件的文本的日期前最少 21 日送交。
- (5) 為施行第 833(3)(d)(i) 條而指明的期間 ——
 - (a) 就第 (1) 款而言，是在第 429 條規定須獲提交有關報告文件的文本的成員大會的日期前最少 21 日開始而在該大會的日期終結的期間；或
 - (b) 就第 (3) 款而言，是在送交第 833(3)(c) 條所指的通知的日期後的 21 日期間。
- (6) 如報告文件的文本是在一段期間中的不同日期根據本條送交的，則就本條例中提述根據本條送交該文本的日期之處而言，該文本須視為在該期間的最後一日送交。

members before general meeting

- (1) If a company is required to hold an annual general meeting in accordance with section 610 in respect of a financial year, the company must send a copy of the reporting documents for the financial year to every member at least 21 days before the date of the meeting at which the copy is required by section 429 to be laid.
- (2) For the purposes of subsection (1), even though a copy of the reporting documents for the financial year is sent to a member less than 21 days before the date of the meeting at which the copy is required by section 429 to be laid, the copy is to be regarded as having been sent to the member at least 21 days before that date if so agreed by all members entitled to attend and vote at that meeting.
- (3) If, by virtue of section 612(2), a company is not required to hold an annual general meeting in accordance with section 610 in respect of a financial year, the company must send a copy of the reporting documents for the financial year to every member within the period specified in section 431.
- (4) For the purposes of section 833(3)(c), a notification is to be sent—
 - (a) in the case of subsection (1), at least 21 days before the date of the general meeting at which a copy of the reporting documents is required by section 429 to be laid; or
 - (b) in the case of subsection (3), at least 21 days before the date on which a copy of the reporting documents is sent to every member under that subsection.
- (5) The period specified for the purposes of section 833(3)(d)(i) is—
 - (a) in the case of subsection (1), the period beginning at least 21 days before the date of the general meeting at

431. 提交及送交財務報表等的期間

(1) 除第 (2) 款另有規定外 ——

- (a) 如有關財政年度是藉參照某會計參照期定出的，而在該會計參照期終結時，有關公司是擔保有限公司或第 (3) 款描述的私人公司 ——
 - (i) 則除第 (ii) 節另有規定外，為施行第 429(1) 及 430(3) 條而指明的期間，是該會計參照期終結後的 9 個月期間，或原訟法庭指示的較長期間；或
 - (ii) 如該會計參照期是該公司的首個會計參照期，且長度超過 12 個月，則為施行第 429(1) 及 430(3) 條而指明的期間，是第 (4)(a) 及 (b) 款列明的期間中最後屆滿者；或
- (b) 如在該會計參照期終結時，有關公司不是擔保有限公司，亦不是第 (3) 款描述的私人公司 ——
 - (i) 則除第 (ii) 節另有規定外，為施行第 429(1) 及 430(3) 條而指明的期間，是該會計參照期終結後的 6 個月期間，或原訟法庭指示的較長期間；或

which a copy of the reporting documents is required by section 429 to be laid and ending on the date of that meeting; or

- (b) in the case of subsection (3), the period of 21 days after the date on which a notification under section 833(3)(c) is sent.
- (6) If a copy or copies of the reporting documents are sent under this section over a period of days, the copy or copies are to be regarded as having been sent on the last day of the period for the purpose of a reference in this Ordinance to the day on which the copy or copies are sent under this section.

431. Period for laying and sending financial statements etc.

(1) Subject to subsection (2), the period specified for the purposes of sections 429(1) and 430(3) is—

- (a) where the company is a private company described in subsection (3), or a company limited by guarantee, at the end of the accounting reference period by reference to which the financial year is determined—
 - (i) subject to subparagraph (ii), the period of 9 months, or any longer period directed by the Court, after the end of that accounting reference period; or
 - (ii) if that accounting reference period is the company's first accounting reference period and is longer than 12 months, whichever of the periods set out in subsection (4)(a) and (b) expires last; or
- (b) where the company is neither a private company described in subsection (3), nor a company limited by guarantee, at the end of that accounting reference period—

- (ii) 如該會計參照期是該公司的首個會計參照期，且長度超過 12 個月，則為施行第 429(1) 及 430(3) 條而指明的期間，是第 (5)(a) 及 (b) 款列明的期間中最後屆滿者。
- (2) 如有關財政年度是藉參照某會計參照期定出的，而在根據第 371(1) 條指明新的會計參照日後，該會計參照期被縮短，則為施行第 429(1) 及 430(3) 條而指明的期間，是以下期間中最後屆滿者 ——
- (a) 第 (1) 款指明的期間；
- (b) 董事決議的日期後的 3 個月期間。
- (3) 就第 (1)(a) 或 (b) 款而言，有關私人公司為在有關財政年度的任何時間均不屬公眾公司的附屬公司的私人公司。
- (4) 為施行第 (1)(a)(ii) 款而列明的期間是 ——
- (a) 公司成立為法團的首個周年日後的 9 個月期間，或原訟法庭指示的較長期間；及
- (b) (如有關的財政年度是藉參照某會計參照期定出的) 該會計參照期終結後的 3 個月期間。
- (5) 為施行第 (1)(b)(ii) 款而列明的期間是 ——
- (a) 公司成立為法團的首個周年日後的 6 個月期間，或原訟法庭指示的較長期間；及
- (b) (如有關的財政年度是藉參照某會計參照期定出的) 該會計參照期終結後的 3 個月期間。

- (i) subject to subparagraph (ii), the period of 6 months, or any longer period directed by the Court, after the end of that accounting reference period; or
- (ii) if that accounting reference period is the company's first accounting reference period and is longer than 12 months, whichever of the periods set out in subsection (5)(a) and (b) expires last.
- (2) If, after a new accounting reference date is specified under section 371(1), the accounting reference period by reference to which the financial year is determined is shortened, the period specified for the purposes of section 429(1) and 430(3) is whichever of the following expires last—
- (a) the period specified in subsection (1);
- (b) the period of 3 months after the date of the directors' resolution.
- (3) For the purposes of subsection (1)(a) or (b), the private company is one that is not a subsidiary of a public company at any time during the financial year.
- (4) The periods set out for the purposes of subsection (1)(a)(ii) are—
- (a) the period of 9 months, or any longer period directed by the Court, after the first anniversary of the company's incorporation; and
- (b) the period of 3 months after the end of the accounting reference period by reference to which the financial year is determined.
- (5) The periods set out for the purposes of subsection (1)(b)(ii) are—

432. 第 430 條的例外情況

- (1) 如公司不知悉某成員的地址，則第 430 條不規定該公司向該成員送交任何文件的文本。
- (2) 第 430 條不規定公司將任何文件的文本送交 ——
 - (a) (如屬股份聯名持有人而各人均無權獲取公司成員大會的通知的情況) 多於一名該等持有人；或
 - (b) (如屬股份聯名持有人而部分人有權獲取公司成員大會的通知而部分人沒有該項權利的情況) 無權獲取公司成員大會通知的持有人。(由 2018 年第 35 號第 51 條修訂)
- (3) 如公司已根據第 441 條或順應第 444 條所指的要求，向某成員送交關乎有關財政年度的財務摘要報告的文本，則第 430 條不規定該公司向該成員送交任何文件的文本。
- (4) 如公司沒有股本，則第 430 條不規定該公司向無權獲取該公司的成員大會的通知的成員送交任何文件的文本。

433. 關乎第 430 條的罪行

- (1) 如公司違反第 430(1) 條，該公司及其每名責任人均屬犯罪，可各處第 5 級罰款。

- (a) the period of 6 months, or any longer period directed by the Court, after the first anniversary of the company's incorporation; and
- (b) the period of 3 months after the end of the accounting reference period by reference to which the financial year is determined.

432. Exception to section 430

- (1) Section 430 does not require a company to send a copy of any document to a member whose address is unknown to the company.
- (2) Section 430 does not require a company to send a copy of any document—
 - (a) in the case of joint holders of shares none of whom is entitled to receive notices of the company's general meeting, to more than one of the holders; or
 - (b) in the case of joint holders of shares some of whom are so entitled and some not, to those who are not entitled.
- (3) Section 430 does not require a company to send a copy of any document to a member if the company has sent the member a copy of the summary financial report for the financial year under section 441, or in compliance with a request under section 444.
- (4) If a company does not have a share capital, section 430 does not require the company to send a copy of any document to a member who is not entitled to receive notice of general meeting of the company.

433. Offences relating to section 430

- (1) If a company contravenes section 430(1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5.

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- (2) 如公司違反第 430(3) 條，該公司及其每名責任人均屬犯罪，可各處罰款 \$300,000。
- (3) 如公司故意違反第 430(3) 條，該公司及其每名責任人均屬犯罪，可各處罰款 \$300,000 及監禁 12 個月。
- (4) 凡某人被控犯第 (1) 或 (2) 款所訂罪行，即使確立有關財務報表或報告事實上並非按本條例的規定擬備的，亦不構成該人的免責辯護。

434. 公司須向無表決權的成員送交其他文件

- (1) 公司須在根據第 430 條送交報告文件的文本時，同時向無權在該公司的成員大會上表決的每名成員送交 ——
 - (a) 該公司發出的、由該公司連同第 430 條所指的報告文件的文本一併傳閱的文件的文本；及
 - (b) 如此傳閱的、旨在提供關於該公司事務的資料的任何其他文件的文本。
- (2) 如公司違反第 (1) 款，該公司及其每名責任人均屬犯罪，可各處第 5 級罰款。

435. 公司須應要求向成員及其他人送交財務報表等的文本

- (1) 公司須在成員或成員的遺產代理人作出要求後的 7 日內，向該成員或遺產代理人送交 ——
 - (a) 最近的財務報表的文本一份；

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- (2) If a company contravenes section 430(3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine of \$300,000.
- (3) If a company wilfully contravenes section 430(3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine of \$300,000 and to imprisonment for 12 months.
- (4) If a person is charged with an offence under subsection (1) or (2), it is not a defence to establish that the financial statements or report was not in fact prepared as required by this Ordinance.

434. Company must send to non-voting members other documents

- (1) A company must, at the same time when it sends a copy of the reporting documents under section 430, send to every member who is not entitled to vote at a general meeting of the company—
 - (a) a copy of any document issued by the company and circulated by the company with a copy of the reporting documents under section 430; and
 - (b) a copy of any other document intended for the purpose of providing information about the company's affairs that is so circulated.
- (2) If a company contravenes subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5.

435. Company must send copies of financial statements etc. to members and others on demand

- (1) Within 7 days after a demand is made by a member or a member's personal representative, a company must send to the member or personal representative—

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- (b) 最近的董事報告的文本一份；或
- (c) 就該最近的財務報表作出的核數師報告的文本一份。
- (2) 任何人有權獲根據第 (1) 款送交的文件文本，是該人在有權獲根據第 430 條送交的文件文本外，該人有權獲送交的文本。
- (3) 如公司違反第 (1) 款，該公司及其每名責任人均屬犯罪，可各處第 5 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 \$1,000。
- (4) 如某人被控犯第 (3) 款所訂罪行，如確立有關成員或成員的遺產代理人（視屬何情況而定）以前曾為取得有關的文件而作出另一要求，並已獲提供該文件的文本，即屬免責辯護。

436. 與發布財務報表等有關連的規定

- (1) 如有以下情況，本條適用 ——
 - (a) 公司傳閱、發布或發出 ——
 - (i) 關於該公司的指明財務報表；或
 - (ii) 關於該公司的非法定帳目；或
 - (b) 公司以其他方式提供該財務報表或帳目讓公眾查閱，而該方式用意在於邀請一般公眾人士或某類別公眾人士閱覽該財務報表或帳目。
- (2) 指明財務報表須隨附就該報表作出的核數師報告。
- (3) 非法定帳目須隨附一項聲明，示明 ——
 - (a) 該帳目不是關於公司的指明財務報表；

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- (a) one copy of the latest financial statements;
- (b) one copy of the latest directors' report; or
- (c) one copy of the auditor's report on those latest financial statements.
- (2) A copy of a document that a person is entitled to be sent under subsection (1) is in addition to any copy of the document that the person is entitled to be sent under section 430.
- (3) If a company contravenes subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (4) If a person is charged with an offence under subsection (3), it is a defence to establish that the member or member's personal representative (as the case may be) had previously made another demand for the document concerned and had been provided with a copy of the document.

436. Requirement in connection with publication of financial statements etc.

- (1) This section applies if a company—
 - (a) circulates, publishes or issues—
 - (i) any specified financial statements in relation to the company; or
 - (ii) any non-statutory accounts in relation to the company; or
 - (b) otherwise makes such financial statements or accounts available for public inspection in a manner calculated to invite members of the public generally, or any class of them, to read the financial statements or accounts.

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- (b) 該帳目本要涵蓋的財政年度的指明財務報表，是否已交付處長；
- (c) 是否已就關乎該財政年度的指明財務報表擬備核數師報告；及
- (d) 該核數師報告是否 ——
 - (i) 有保留或以其他方式修改；
 - (ii) 提述該核數師在不就該報告作保留的情況下以強調的方式促請有關的人注意的任何事宜；或
 - (iii) 載有根據第 406(2) 或 407(2) 或 (3) 條作出的陳述。
- (4) 非法定帳目不得隨附就指明財務報表作出的核數師報告。
- (5) 如第 (2)、(3) 或 (4) 款遭違反，公司及其每名責任人均屬犯罪，可各處罰款 \$150,000。
- (6) 在本條中 ——
非法定帳目 (non-statutory accounts) 就公司而言 ——
 - (a) 指 ——
 - (i) 關乎或本意是涵蓋該公司某財政年度的財務狀況表或全面收益表，而該財務狀況表或收益表不是作為由董事擬備的財務報表的一部分；或
 - (ii) 以任何形式出現但不是作為由董事擬備的財務報表的一部分的帳目，該帳目本意是作為包含該公司及其附屬企業的公司集團的財務狀況表或全面收益表的，而該財務狀況表或收益表是關乎或本意是涵蓋該公司某財政年度的；但
 - (b) 並不包括任何財務摘要報告；(由 2018 年第 35 號第 52 條代替)

指明財務報表 (specified financial statements) 就公司而言，指由董事擬備的財務報表，而該報表的文本是 ——

- (a) 須按第 429(1) 條的規定在成員大會上提交公司省覽的；或

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- (2) The specified financial statements must be accompanied by the auditor's report on those statements.
- (3) The non-statutory accounts must be accompanied by a statement indicating—
 - (a) that those accounts are not specified financial statements in relation to the company;
 - (b) whether the specified financial statements for the financial year with which those accounts purport to deal have been delivered to the Registrar;
 - (c) whether an auditor's report has been prepared on the specified financial statements for the financial year; and
 - (d) whether the auditor's report—
 - (i) was qualified or otherwise modified;
 - (ii) referred to any matter to which the auditor drew attention by way of emphasis without qualifying the report; or
 - (iii) contained a statement under section 406(2) or 407(2) or (3).
- (4) The non-statutory accounts must not be accompanied by any auditor's report on the specified financial statements.
- (5) If subsection (2), (3) or (4) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine of \$150,000.
- (6) In this section—
non-statutory accounts (非法定帳目), in relation to a company—
 - (a) means—
 - (i) any statement of financial position or statement of comprehensive income, otherwise than as part of any financial statements prepared by the directors,

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- (b) 該公司須按第 430(3) 條的規定送交每名成員或以其他方式傳閱、發布或發出的。

relating to, or purporting to deal with, a financial year of the company; or

- (ii) accounts in any form, otherwise than as part of any financial statements prepared by the directors, purporting to be a statement of financial position or statement of comprehensive income for a group of companies consisting of the company and its subsidiary undertakings relating to, or purporting to deal with, a financial year of the company; but

- (b) excludes any summary financial report; (*Replaced 35 of 2018 s. 52*)

specified financial statements (指明財務報表), in relation to a company, means any financial statements prepared by the directors—

- (a) a copy of which is required by section 429(1) to be laid before the company in general meeting; or
(b) a copy of which is required by section 430(3) to be sent to every member or is otherwise circulated, published or issued by the company.

第 7 分部 —— 財務摘要報告

Division 7—Summary Financial Reports

437. 釋義

在本分部中 ——

潛在成員 (potential member) 就公司而言，指有權 (不論是有條件或無條件地) 成為該公司成員的人。

437. Interpretation

In this Division—

potential member (潛在成員), in relation to a company, means a person who is entitled, whether conditionally or unconditionally, to become a member of the company.

438. 本分部的適用範圍

如公司不就某財政年度在提交報告方面獲豁免，則本分部就該財政年度適用於該公司。

438. Application of Division

This Division applies to a company in relation to a financial year if the company does not fall within the reporting exemption for the

439. 董事可藉摘要形式擬備財務報告

- (1) 公司的董事可為某財政年度，以摘要形式擬備財務報告，而該報告的內容須來自根據第 430 條須送交公司每名成員的關乎該財政年度的報告文件的文本。
- (2) 根據第 (1) 款擬備的財務報告 ——
 - (a) 須載有《規例》訂明的資料；及
 - (b) 須符合《規例》訂明的其他規定。
- (3) 如第 (2) 款遭違反 ——
 - (a) 沒有採取一切合理步驟確使該款獲遵守的董事即屬犯罪，可處罰款 \$300,000；及
 - (b) 故意不採取一切合理步驟確使該款獲遵守的董事即屬犯罪，可處罰款 \$300,000 及監禁 12 個月。
- (4) 凡某人被控犯第 (3)(a) 款所訂罪行，如確立該人有合理理由相信，而又確實相信，有勝任而可靠的人 ——
 - (a) 已獲委以確保第 (2) 款獲遵守的責任；及
 - (b) 能夠執行該責任，
即屬免責辯護。

440. 財務摘要報告須經批准及簽署

- (1) 財務摘要報告 ——

financial year.

439. Directors may prepare financial report in summary form

- (1) The directors of a company may prepare for a financial year a financial report, in summary form, derived from the reporting documents for the financial year, a copy of which is required to be sent to every member of the company under section 430.
- (2) A financial report prepared under subsection (1)—
 - (a) must contain the information prescribed by the Regulation; and
 - (b) must comply with other requirements prescribed by the Regulation.
- (3) If subsection (2) is contravened—
 - (a) a director who failed to take all reasonable steps to secure compliance with that subsection commits an offence and is liable to a fine of \$300,000; and
 - (b) a director who wilfully failed to take all reasonable steps to secure compliance with that subsection commits an offence and is liable to a fine of \$300,000 and to imprisonment for 12 months.
- (4) If a person is charged with an offence under subsection (3)(a), it is a defence to establish that the person had reasonable grounds to believe, and did believe, that a competent and reliable person—
 - (a) was charged with the duty of ensuring that subsection (2) was complied with; and
 - (b) was in a position to discharge that duty.

440. Summary financial report to be approved and signed

- (1) A summary financial report—

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- (a) 須經董事批准；及
- (b) 須由一名董事代表該等董事簽署。
- (2) 每份根據本分部送交成員或由公司以其他方式傳閱、發布或發出的財務摘要報告，均須述明代表董事簽署該報告的董事的姓名或名稱。
- (3) 如就由公司傳閱、發布或發出的財務摘要報告的文本而言，第 (1) 款遭違反，該公司及其每名責任人均屬犯罪，可各處第 4 級罰款。
- (4) 如第 (2) 款遭違反，公司及其每名責任人均屬犯罪，可各處第 4 級罰款。

441. 公司可向成員送交財務摘要報告的文本

- (1) 如根據第 430 條公司須向某成員送交關乎某財政年度的報告文件的文本，該公司可藉向該成員送交關乎該財政年度的財務摘要報告 (如有的話) 的文本代替。
- (2) 如公司根據第 (1) 款向某成員送交關乎某財政年度的財務摘要報告的文本，該文本須於該公司根據第 430 條須向該成員送交關乎該財政年度的報告文件的文本的期間內送交。

442. 公司可尋求成員對收取財務摘要報告的意向

- (1) 公司可知會每名成員或潛在成員向該公司發出第 (3) 款所指的意向通知。
- (2) 向成員或潛在成員發出的知會 ——

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- (a) must be approved by the directors; and
- (b) must be signed on the directors' behalf by a director.
- (2) Every copy of a summary financial report sent to a member under this Division or otherwise circulated, published or issued by the company must state the name of the director who signed the report on the directors' behalf.
- (3) If, as respect any summary financial report a copy of which is circulated, published or issued by the company, 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 4.
- (4) If subsection (2) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

441. Company may send copy of summary financial report to member

- (1) If a company is required to send a copy of the reporting documents for a financial year to a member under section 430, the company may send a copy of the summary financial report for the financial year (if any) to the member instead.
- (2) If a company sends a copy of the summary financial report for a financial year to a member under subsection (1), the copy must be sent during the period within which a copy of the reporting documents for the financial year would be required to be sent to the member by the company under section 430.

442. Company may seek member's intent on receiving summary financial report

- (1) A company may notify every member or potential member to give the company a notice of intent under subsection (3).

- (a) 須以書面作出；及
- (b) 須就某財政年度作出。
- (3) 成員或潛在成員在回應知會時，可向公司發出意向通知——
 - (a) 表示——
 - (i) 要求獲得報告文件的文本或財務摘要報告的文本；或
 - (ii) 不要求獲得上述文本；及
 - (b) (如屬 (a)(i) 段的情況) 要求該公司送交採用印本形式或電子形式的文本，或藉在網站上提供該文本的方式送交該文本。
- (4) 只有在有關情況下，成員或潛在成員方可在回應知會時，根據第 (3)(b) 款表示要求公司送交採用電子形式的報告文件的文本或財務摘要報告的文本，或藉在網站上提供該文本的方式送交該文本；上述有關情況是指該公司已在該項知會中，讓該成員或潛在成員可選擇要求如此送交該文本。
- (5) 如在根據第 430 條向成員送交關乎有關財政年度的報告文件的文本的首日前最少 28 日前，公司收到意向通知，則該通知就該財政年度及其後每個財政年度具有效力，直至它憑藉第 (7) 款不再具有效力為止。
- (6) 如在根據第 430 條向成員送交關乎有關財政年度的報告文件的文本的首日前不足 28 日，公司收到意向通知，則——
 - (a) 該通知就該財政年度後的每個財政年度具有效力，直至它憑藉第 (7) 款不再具有效力為止；及
 - (b) 有關成員或潛在成員須視為——
 - (i) 已要求獲得關乎該財政年度的財務摘要報告的文本；及

- (2) A notification to a member or potential member—
 - (a) must be given in writing; and
 - (b) must be given in relation to a financial year.
- (3) In response to a notification, a member or potential member may give the company a notice of intent to—
 - (a) request—
 - (i) either a copy of the reporting documents or a copy of the summary financial report; or
 - (ii) none of those copies; and
 - (b) in the case of paragraph (a)(i), request the copy to be sent by the company in hard copy form, in electronic form, or by making it available on a website.
- (4) A member or potential member may only make a request under subsection (3)(b) in response to a notification for a copy of the reporting documents or a copy of the summary financial report to be sent in electronic form or by making it available on a website if the company has given, in the notification, the member or potential member an option to request the copy to be so sent.
- (5) If a notice of intent is received by the company at least 28 days before the first date on which a copy of the reporting documents for the financial year is sent to a member under section 430, the notice of intent has effect in relation to that financial year, and every subsequent financial year, until it ceases to have effect by virtue of subsection (7).
- (6) If a notice of intent is received by the company less than 28 days before the first date on which a copy of the reporting documents for the financial year is sent to a member under section 430—

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- (ii) 已要求該公司送交採用印本形式的該財務摘要報告。
- (7) 如發出意向通知的人 ——
 - (a) 不再是公司的成員；或
 - (b) 藉向公司發出書面撤銷通知，撤銷該意向通知，則該意向通知不再具有效力。
- (8) 如成員或潛在成員沒有在根據第 430 條向成員送交關乎有關財政年度的報告文件的文本的首日前，向公司發出意向通知以回應知會，則該成員或潛在成員須視為 ——
 - (a) 已要求獲得關乎該財政年度及其後每個財政年度的財務摘要報告的文本；及
 - (b) 已要求該公司送交採用印本形式的該財務摘要報告。
- (9) 任何人如 ——
 - (a) 不再是公司的成員；或
 - (b) 向公司發出取消法定選擇的書面通知，則第 (8) 款不再就該人具有效力。

443. 撤銷通知及取消法定選擇通知

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- (a) the notice of intent has effect in relation to every financial year subsequent to that financial year until it ceases to have effect by virtue of subsection (7); and
- (b) the member or potential member is to be regarded as—
 - (i) having requested a copy of the summary financial report for the financial year; and
 - (ii) having requested the summary financial report to be sent by the company in hard copy form.
- (7) A notice of intent ceases to have effect if the person who gave the notice—
 - (a) is no longer a member of the company; or
 - (b) revokes the notice by giving the company a written notice of revocation.
- (8) If a member or potential member does not give the company a notice of intent in response to a notification before the first date on which a copy of the reporting documents for the financial year is sent to a member under section 430, the member or potential member is to be regarded as—
 - (a) having requested a copy of the summary financial report for the financial year and every subsequent financial year; and
 - (b) having requested the summary financial report to be sent by the company in hard copy form.
- (9) Subsection (8) ceases to have effect in relation to a person if—
 - (a) the person is no longer a member of the company; or
 - (b) the person gives the company a written notice of cessation of statutory election.

443. Notice of revocation and notice of cessation of statutory election

- (1) 任何人為第 442(7)(b) 條的目的發出的撤銷通知，須 ——
 - (a) 述明它所關乎的財政年度；
 - (b) 述明該人先前發出的意向通知被撤銷；
 - (c) 述明該人 ——
 - (i) 要求獲得報告文件的文本或財務摘要報告的文本；或
 - (ii) 不要求獲得上述文本；及
 - (d) (如屬 (c)(i) 段的情況) 述明該人要求公司送交採用印本形式或電子形式的文本，或藉在網站上提供該文本的方式送交該文本。
- (2) 在第 (1)(c) 款所指的撤銷通知內述明的要求，須有別於該撤銷通知所撤銷的意向通知的要求。
- (3) 任何人為第 442(9)(b) 條的目的而發出的取消法定選擇通知，須 ——
 - (a) 述明它所關乎的財政年度；
 - (b) 述明該人不再被視為已作出第 442(8) 條所述的要求；
 - (c) 述明該人 ——
 - (i) 要求獲得報告文件的文本或財務摘要報告的文本；或
 - (ii) 不要求獲得上述文本；及
 - (d) (如屬 (c)(i) 段的情況) 述明該人要求公司送交採用印本形式或電子形式的文本，或藉在網站上提供該文本的方式送交該文本。
- (4) 只有在有關情況下，某人方可根據第 (1)(d) 款在撤銷通知內，或根據第 (3)(d) 款在取消法定選擇通知內，述明該人要求公司送交採用電子形式的報告文件的文本或財務摘要報告的文本，或藉在網站上提供該文本的方式送交該文本；上述有關情況是指該公司已在根據第 442(1) 條作

- (1) A notice of revocation given by a person for the purposes of section 442(7)(b)—
 - (a) must state the financial year to which it relates;
 - (b) must state that the notice of intent previously given by the person is revoked;
 - (c) must state that the person requests—
 - (i) either a copy of the reporting documents or a copy of the summary financial report; or
 - (ii) none of those copies; and
 - (d) in the case of paragraph (c)(i), must state that the person requests the copy to be sent by the company in hard copy form, in electronic form, or by making it available on a website.
- (2) The request stated in a notice of revocation under subsection (1)(c) must be different from the request stated in the notice of intent revoked by the notice of revocation.
- (3) A notice of cessation of statutory election given by a person for the purposes of section 442(9)(b)—
 - (a) must state the financial year to which it relates;
 - (b) must state that the person is no longer regarded as having made the requests mentioned in section 442(8);
 - (c) must state that the person requests—
 - (i) either a copy of the reporting documents or a copy of the summary financial report; or
 - (ii) none of those copies; and
 - (d) in the case of paragraph (c)(i), must state that the person requests the copy to be sent by the company in hard copy form, in electronic form, or by making it available on a website.

出的、關乎該通知的知會中，讓該人可選擇要求如此送交該文本。

- (5) 如關乎某財政年度的撤銷通知或取消法定選擇通知，是公司在根據第 430 條向成員送交關乎該財政年度的報告文件的文本的首日前最少 28 日收到的，則該通知就該財政年度及其後每個財政年度具有效力。
- (6) 如關乎某財政年度的撤銷通知或取消法定選擇通知，是公司在根據第 430 條向成員送交關乎該財政年度的報告文件的文本的首日前不足 28 日收到的，則該通知就該財政年度後的每個財政年度具有效力。

444. 公司須順應成員在意向通知內的要求等

- (1) 如有人在有關通知內，要求獲得報告文件的文本或財務摘要報告的文本，則除非第 446 條禁止公司如此行事，否則該公司須順應該要求。
- (2) 如公司須根據第 430 條，在某段期間內向某人送交關乎有關財政年度的報告文件的文本，則該公司須在該期間內順應上述要求。
- (3) 除非潛在成員在公司根據第 430(1) 或 (3) 條向成員送交關乎上述財政年度的報告文件的文本的首日前最少 28 日成為該公司的成員，否則第 (1) 款不規定公司順應該潛在成員的要求。

- (4) A person may only state in a notice of revocation under subsection (1)(d), or a notice of cessation of statutory election under subsection (3)(d), that the person requests for a copy of the reporting documents or a copy of the summary financial report to be sent in electronic form or by making it available on a website if the company has given, in the notification under section 442(1) to which the notice relates, the person an option to request the copy to be so sent.
- (5) If a notice of revocation, or a notice of cessation of statutory election, is received by the company at least 28 days before the first date on which a copy of the reporting documents for the financial year to which the notice relates is sent to a member under section 430, the notice has effect in relation to that financial year, and every subsequent financial year.
- (6) If a notice of revocation, or a notice of cessation of statutory election, is received by the company less than 28 days before the first date on which a copy of the reporting documents for the financial year to which the notice relates is sent to a member under section 430, the notice has effect in relation to every financial year subsequent to that financial year.

444. Company must comply with member's request in notice of intent etc.

- (1) If a person requests a copy of the reporting documents, or a copy of the summary financial report, in a relevant notice, the company must comply with the request unless it is prohibited from doing so by section 446.
- (2) The request must be complied with during the period within which a copy of the reporting documents for the relevant financial year would be required to be sent to the person by the company under section 430.
- (3) Subsection (1) does not require a company to comply with a potential member's request unless the potential member

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(4) 在本條中 ——

有關財政年度 (relevant financial year) 指有關通知根據第 442 或 443 條就之具有效力的財政年度；

有關通知 (relevant notice) 指 ——

- (a) 根據第 442(3) 條發出的意向通知；
- (b) 為第 442(7)(b) 條的目的而發出的撤銷通知；或
- (c) 為第 442(9)(b) 條的目的而發出的取消法定選擇通知。

445. 公司須送交額外的報告等的文本

- (1) 如公司已根據第 441 條或順應根據第 444 條作出的要求，向某人送交關乎某財政年度的財務摘要報告的文本，則如該人有所要求，該公司須於第 (3) 款指明的時間內，向該人送交關乎該財政年度的報告文件的文本。
- (2) 如公司已根據第 430 條，向某人送交關乎某財政年度的報告文件的文本，則如該人有所要求，除非第 446 條禁止該公司如此行事，否則該公司須於第 (3) 款指明的時間內，向該人送交關乎該財政年度的財務摘要報告的文本。
- (3) 如 ——
 - (a) 根據第 429(1) 條，須在成員大會上將關乎有關財政年度的報告文件的文本提交公司省覽，而該公司在該大會的日期前的 14 日之前收到有關的人的要求，則為施行第 (1) 或 (2) 款而指明的時間，是該大會的日期前最少 7 日內的任何時間；或

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becomes a member of the company at least 28 days before the first date on which a copy of the reporting documents for the financial year is sent to a member under section 430(1) or (3).

(4) In this section—

relevant financial year (有關財政年度) means the financial year in relation to which the relevant notice has effect under section 442 or 443;

relevant notice (有關通知) means—

- (a) a notice of intent given under section 442(3);
- (b) a notice of revocation given for the purposes of section 442(7)(b); or
- (c) a notice of cessation of statutory election given for the purposes of section 442(9)(b).

445. Additional copy of reports etc. to be sent by company

- (1) If a company has sent a copy of the summary financial report for a financial year to a person under section 441, or in compliance with a request under section 444, the company must, at the person's request, send a copy of the reporting documents for the financial year to the person at the time specified in subsection (3).
- (2) If a company has sent a copy of the reporting documents for a financial year to a person under section 430, the company must, at the person's request, send a copy of the summary financial report for the financial year to the person at the time specified in subsection (3) unless it is prohibited from doing so by section 446.
- (3) The time specified for subsection (1) or (2) is—
 - (a) where a copy of the reporting documents for the financial year is to be laid before the company in general

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- (b) 屬任何其他情況，則為施行第 (1) 或 (2) 款而指明的時間，是公司收到有關的人的要求的日期後 14 日內的任何時間。
- (4) 如有以下情況，第 (1) 或 (2) 款不規定公司須向任何人送交關乎某財政年度的財務摘要報告的文本或關乎某財政年度的報告文件 ——
- (a) 根據第 429(1) 條須在成員大會上將關乎該財政年度的報告文件的文本提交公司省覽，而該人的要求是在該大會的日期後的 6 個月期間屆滿後作出的；或
- (b) 根據第 430(3) 條須向每名成員送交關乎該財政年度的報告文件的文本，而該人的要求是在送交該文本的日期後的 6 個月期間屆滿後作出的。
- (5) 第 (2) 款不規定公司向任何人送交關乎某財政年度的財務摘要報告的文本，但如屬以下情況則除外 ——
- (a) 該公司已就該財政年度擬備財務摘要報告；及
- (b) 當該公司向該人送交關乎該財政年度的報告文件的文本時，該公司給予該人要求獲得關乎該財政年度的財務摘要報告的文本的權利。
- (6) 如公司違反第 (1) 或 (2) 款，該公司及其每名責任人均屬犯罪，可各處第 5 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 \$1,000。
- (7) 凡某公司被控犯第 (6) 款所訂罪行，如確立該公司已採取一切合理步驟，以確保第 (1) 或 (2) 款（視屬何情況而定）獲遵守，即屬免責辯護。

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- meeting under section 429(1), and the company receives the person's request more than 14 days before the date of that meeting, any time falling at least 7 days before the date of that meeting; or
- (b) in any other case, any time within 14 days after the date on which the company receives the person's request.
- (4) Subsection (1) or (2) does not require a company to send a copy of the summary financial report or reporting documents for a financial year to a person if—
- (a) where a copy of the reporting documents for the financial year is laid before the company in general meeting under section 429(1), the person's request is made after the expiry of a period of 6 months after the date of that meeting; or
- (b) where a copy of the reporting documents for the financial year is sent to every member under section 430(3), the person's request is made after the expiry of a period of 6 months after the date on which the copy is sent.
- (5) Subsection (2) does not require a company to send a copy of the summary financial report for a financial year to a person unless—
- (a) the company has prepared the summary financial report for the financial year; and
- (b) when the company sent a copy of the reporting documents for the financial year to the person, the company gave the person a right to request a copy of the summary financial report for the financial year.
- (6) If a company contravenes subsection (1) or (2), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5 and, in the case

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446. 在某些情況下公司不得送交財務摘要報告

- (1) 如有以下情況，公司不得為第 441(1) 條的目的，向成員送交關乎某財政年度的財務摘要報告的文本——
 - (a) 該公司的章程細則規定須向每名成員送交關乎該財政年度的報告文件的文本；或
 - (b) 該公司的章程細則禁止該公司為第 441(1) 條的目的而向成員送交關乎該財政年度的財務摘要報告的文本。
- (2) 如有以下情況，公司不得向成員送交關乎某財政年度的財務摘要報告的文本——
 - (a) 尚未就關乎該財政年度的財務報表擬備核數師報告；
 - (b) 董事尚未批准該財務摘要報告；
 - (c) 尚未有人代表董事簽署該財務摘要報告；或
 - (d) 財務摘要報告不符合第 439(2) 條的規定。
- (3) 如公司違反第 (1) 或 (2) 款，該公司及其每名責任人均屬犯罪，可各處第 5 級罰款。

of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

- (7) If a company is charged with an offence under subsection (6), it is a defence to establish that it took all reasonable steps to secure compliance with subsection (1) or (2) (as the case may be).

446. Company must not send summary financial report under some circumstances

- (1) A company must not send a copy of the summary financial report for the purposes of section 441(1) for a financial year to a member if—
 - (a) the company's articles require that a copy of the reporting documents for the financial year must be sent to each member; or
 - (b) the company's articles prohibit the company from sending a copy of the summary financial report for the purposes of section 441(1) for the financial year to a member.
- (2) A company must not send a copy of the summary financial report for a financial year to a member if—
 - (a) an auditor's report has not been prepared on the financial statements for the financial year;
 - (b) the summary financial report has not been approved by the directors;
 - (c) the summary financial report has not been signed on the directors' behalf; or
 - (d) the summary financial report does not comply with section 439(2).

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447. 適用於不活動公司的豁免

- (1) 公司如屬第 5(1) 條所指的不活動公司，則以下條文不適用該公司 ——
 - (a) 第 367(4) 條；
 - (b) 第 4 分部第 3 及 4 次分部；
 - (c) 第 5 分部第 2 及 3 次分部；
 - (d) 第 411 及 412 條；
 - (e) 第 5 分部第 6、7 及 8 次分部；
 - (f) 第 6 及 7 分部。
- (2) 如上述公司訂立任何會計交易，則 ——
 - (a) 自該會計交易的日期起，第 (1) 款不再具有效力；及
 - (b) 知悉或理應知悉該會計交易的該公司成員，及該公司的每名董事，均須就該會計交易而產生的該公司任何債項或債務，承擔個人法律責任。
- (3) 在本條中 ——
董事 (director) 包括幕後董事。

448. 就報告內不真實或具誤導性的陳述而負有的法律責任

- (1) 本條適用於 ——
 - (a) 董事報告；及

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447. Exemption applicable to dormant company

- (1) The following provisions do not apply to a company that is a dormant company under section 5(1)—
 - (a) section 367(4);
 - (b) Subdivisions 3 and 4 of Division 4;
 - (c) Subdivisions 2 and 3 of Division 5;
 - (d) sections 411 and 412;
 - (e) Subdivisions 6, 7 and 8 of Division 5;
 - (f) Divisions 6 and 7.
- (2) If such a company enters into an accounting transaction—
 - (a) subsection (1) ceases to have effect on and after the date of the accounting transaction; and
 - (b) a member of the company who knew or ought to have known about the accounting transaction, and every director of the company, are personally liable for any debt or liability of the company arising out of the accounting transaction.
- (3) In this section—
director (董事) includes a shadow director.

448. Liability for untrue or misleading statement in reports

- (1) This section applies to—
 - (a) a directors' report; and

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- (b) 財務摘要報告 (只限於該報告的內容是來自董事報告的範圍內) 。
- (2) 公司的董事有法律責任就該公司因以下事宜而蒙受的損失作出補償 ——
- (a) 有關報告內的不真實或具誤導性的陳述；或
- (b) 有關報告遺漏了它按規定須載有的任何事宜。
- (3) 就 ——
- (a) 第 (2)(a) 款而言，除非董事知道有關陳述屬不真實或具誤導性，或該董事罔顧該陳述是否不真實或具誤導性，否則該董事無需負上法律責任；或
- (b) 第 (2)(b) 款而言，除非董事知道有關遺漏屬不誠實地隱瞞屬事關重要的事實，否則該董事無需負上法律責任。
- (4) 有關的人不須對另一人 (有關公司除外) 因該另一人或任何其他人士倚賴有關報告所載的資料而負上法律責任。
- (5) 就第 (4) 款而言，有關的人 (**前者**) 在以下情況下亦須對另一人負上法律責任：該另一人有權針對前者 ——
- (a) 獲給予民事補救；或
- (b) 撤銷或廢除合約。
- (6) 本條不影響刑事罪行的法律責任。

449. 自發修改財務報表等

- (1) 如 ——
- (a) 由公司的董事擬備的財務報表的文本，已根據第 430 條向成員送交；及

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- (b) a summary financial report so far as it is derived from a directors' report.
- (2) A director of a company is liable to compensate the company for any loss suffered by the company as a result of—
- (a) any untrue or misleading statement in the report; or
- (b) the omission from the report of anything required to be included in it.
- (3) A director is not liable unless—
- (a) in the case of subsection (2)(a), the director knew the statement to be untrue or misleading or was reckless as to whether it was untrue or misleading; or
- (b) in the case of subsection (2)(b), the director knew the omission to be a dishonest concealment of a material fact.
- (4) A person is not subject to any liability to another person other than the company resulting from reliance, by that other person or any other person, on information contained in the report.
- (5) For the purposes of subsection (4), a person is also subject to a liability to another person if that other person is entitled against the person—
- (a) to be granted any civil remedy; or
- (b) to rescind or repudiate an agreement.
- (6) This section does not affect liability for criminal offence.

449. Voluntary revision of financial statements etc.

- (1) If—
- (a) a copy of any financial statements prepared by the directors of a company has been sent under section 430 to a member; and

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- (b) 該公司的董事其後覺得該財務報表不符合本條例的規定，
則該董事可安排修改該財務報表，以及對有關財務摘要報告或董事報告作出必需的相應修改。
- (2) 上述對財務報表的修改，須只限於 ——
- (a) 該財務報表內不符合本條例的規定的方面；及
- (b) 其他必需的相應修改。
- (3) 如 ——
- (a) 公司的董事決定根據第 (1) 款安排對財務報表作出修改；及
- (b) 該財務報表的文本已遵照第 664(3)(b) 條的規定交付處長，
則該公司須在該決定作出後的 7 日內，將一份述明該財務報表將會被如此修改的警告陳述，交付處長登記，該陳述須符合指明格式。
- (4) 如公司違反第 (3) 款，該公司及其每名責任人均屬犯罪，可各處第 5 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 \$1,000。

450. 財政司司長可就財務報表等的修改訂立規例

- (1) 財政司司長可藉規例 ——
- (a) 訂定本條例就根據第 449 條修改的財務報表、財務摘要報告或董事報告的適用情況；及

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- (b) it subsequently appears to the directors of the company that the financial statements did not comply with this Ordinance,
the directors may cause the financial statements to be revised and make necessary consequential revisions to the summary financial report or directors' report concerned.
- (2) Such revision of the financial statements is to be confined to—
- (a) those aspects of the financial statements that did not comply with this Ordinance; and
- (b) other necessary consequential revisions.
- (3) If—
- (a) the directors of a company decide to cause any financial statements to be revised under subsection (1); and
- (b) a copy of the financial statements has been delivered to the Registrar in compliance with section 664(3)(b),
the company must, within 7 days after the decision, deliver to the Registrar for registration a warning statement, in the specified form, that the financial statements will be so revised.
- (4) If a company contravenes subsection (3), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

450. Financial Secretary may make regulation regarding revision of financial statements etc.

- (1) The Financial Secretary may make regulations—
- (a) providing for the application of this Ordinance in relation to the financial statements, summary financial

- (b) 訂定關乎經修改的財務報表、財務摘要報告或董事報告的規定。
- (2) 上述規例 ——
- (a) 可視乎財務報表、財務摘要報告或董事報告是 ——
- (i) 用另一份顯示有關修改的文件補充該財務報表或報告的方式修改；還是
- (ii) 用另一份財務報表或報告取而代之的方式修改，而訂定不同條文；
- (b) 可訂定擬備核數師報告的人在經修改的財務報表、財務摘要報告或董事報告方面的職能；
- (c) 在 ——
- (i) 財務報表或董事報告或其文本經修改前，已根據第 429 條在成員大會上提交公司省覽、已根據第 430 條送交成員或已遵照第 664(3)(b) 條的規定交付處長；或
- (ii) 有關的財務摘要報告的文本經修改前，已根據第 441 條向成員送交，或已為順應第 444 或 445(2) 條所指的要求而向成員送交，
- 的情況下，可規定公司或公司的董事就經修改的財務報表或報告採取該規例指明的步驟；及
- (d) 可就本條例在該規例指明的增補、例外情況及變通的規限下適用於經修改的財務報表、財務摘要報告或董事報告，訂定條文。
- (3) 上述規例可將以下任何行為定為罪行 ——
- (a) 沒有採取一切合理步驟確使經修改的財務報表、財務摘要報告或董事報告符合 ——
- (i) 該規例的指明條文；或
- (ii) 根據該規例而具有效力的本條例的指明條文；
- (b) 違反 ——

report or directors' report that has been revised under section 449; and

- (b) providing for requirements in relation to revised financial statements, summary financial report or directors' report.
- (2) The regulations may—
- (a) make different provisions according to whether the financial statements, summary financial report or directors' report has been revised by—
- (i) supplementing the financial statements or report with another document that shows the revisions; or
- (ii) replacing the financial statements or report;
- (b) provide for the functions of the persons who prepare the auditor's report in relation to the financial statements, summary financial report or directors' report that has been revised;
- (c) where—
- (i) the financial statements or directors' report, or a copy of the statements or report, has, before the revision, been laid before the company in general meeting under section 429, been sent to members under section 430, or been delivered to the Registrar in compliance with section 664(3)(b); or
- (ii) a copy of a summary financial report has, before the revision, been sent to a member under section 441, or in compliance with a request under section 444 or 445(2),

require the company or the directors of the company to take the steps specified in the regulations in relation to the financial statements or report that has been revised; and

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- (i) 該規例的指明條文；或
- (ii) 根據該規例而具有效力的本條例的指明條文。
- (4) 就屬故意干犯的罪行可訂明的最高罰款額為 \$300,000，而可訂明的最高監禁刑期為 12 個月。就不屬故意干犯的罪行可訂明的最高罰款額為 \$300,000。此外，如有關罪行是持續的罪行，可訂明就該罪行持續期間的每一日，另處罰款不超過 \$2,000。
- (4A) 上述規例亦可 ——
 - (a) 將違反關乎經修改的財務報表的條文定為罪行；及
 - (b) 訂明以下最高刑罰 ——
 - (i) 就任何人經循公訴程序被定罪的罪行而言 —— \$150,000 罰款及監禁 2 年；及
 - (ii) 就任何人經循簡易程序被定罪的罪行而言 —— 第 5 級罰款及監禁 6 個月。(由 2018 年第 35 號第 53 條增補)
- (5) 上述規例可訂定就上述罪行提出的免責辯護。

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- (d) provide for the application of this Ordinance to the financial statements, summary financial report or directors' report that has been revised, subject to such additions, exceptions and modifications as may be specified in the regulations.
- (3) The regulations may provide that any of the following is an offence—
 - (a) a failure to take all reasonable steps to secure compliance with, as respects the financial statements, summary financial report or directors' report that has been revised—
 - (i) a specified provision of the regulations; or
 - (ii) a specified provision of this Ordinance as having effect under the regulations;
 - (b) a contravention of—
 - (i) a specified provision of the regulations; or
 - (ii) a specified provision of this Ordinance as having effect under the regulations.
- (4) The maximum fine that may be prescribed for an offence committed wilfully is \$300,000 and the maximum imprisonment is 12 months. The maximum fine that may be prescribed for an offence not committed wilfully is \$300,000. In addition, in the case of a continuing offence, a further fine not exceeding \$2,000 for each day during which the offence continues may be prescribed.
- (4A) The regulations may also provide that—
 - (a) a contravention of a provision in relation to revised financial statements is an offence; and
 - (b) the maximum penalty that may be prescribed—

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451. 財政司司長可就披露某些資料訂立規例

財政司司長可訂立規例，為施行第 383(3) 條訂明關乎有關財政年度的財務報表，須載有顯示關於第 383(1)(d) 條所述的事宜的資料的陳述。

452. 財政司司長可訂立其他規例

- (1) 財政司司長可訂立規例，為施行第 357(1) 條中會計準則的定義，訂明團體。(由 2018 年第 35 號第 54 條修訂)
- (2) 財政司司長可訂立規例 ——
 - (a) 訂明根據第 383(1) 條須載於財務報表的附註內的資料；及
 - (b) 訂明關於財務報表的附註的其他規定。
- (3) 財政司司長可訂立規例 ——
 - (a) 訂明根據第 388(1) 或 (2) 條須載於董事報告內的資料；及
 - (b) 訂明關於董事報告的其他規定。
- (4) 財政司司長可訂立規例 ——
 - (a) 訂明根據第 439(2) 條須載於財務摘要報告內的資料；及

- (i) for such an offence of which a person is convicted on indictment, is a fine of \$150,000 and imprisonment for 2 years; and
- (ii) for such an offence of which a person is summarily convicted, is a fine at level 5 and imprisonment for 6 months. (*Added 35 of 2018 s. 53*)

- (5) The regulations may provide for defences to any such offence.

451. Financial Secretary may make regulation regarding disclosures of certain information

The Financial Secretary may make regulations prescribing, for the purposes of section 383(3), a requirement that the financial statements for the financial year are to contain a statement showing the information about the matter mentioned in section 383(1)(d).

452. Financial Secretary may make other regulations

- (1) The Financial Secretary may make regulations prescribing a body for the purposes of the definition of **accounting standards** in section 357(1). (*Amended 35 of 2018 s. 54*)
- (2) The Financial Secretary may make regulations—
 - (a) prescribing information that is required to be contained in the notes to any financial statements under section 383(1); and
 - (b) prescribing other requirements for notes to any financial statements.
- (3) The Financial Secretary may make regulations—
 - (a) prescribing information that is required to be contained in a directors' report under section 388(1) and (2); and
 - (b) prescribing other requirements for a directors' report.
- (4) The Financial Secretary may make regulations—

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- (b) 訂明關於財務摘要報告的其他規定。
 - (5) 財政司司長可訂立規例 ——
 - (a) 訂定以下項目的格式及內容 ——
 - (i) 第 442(2) 條所指的通知；
 - (ii) 第 442(3) 條所指的意向通知；或
 - (iii) 該通知或意向通知隨附的文件；及
 - (b) 規定上述文件須是預付郵資的文件。
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- (a) prescribing information that is required to be contained in a summary financial report under section 439(2); and
 - (b) prescribing other requirements for a summary financial report.
 - (5) The Financial Secretary may make regulations—
 - (a) providing for the form and contents of—
 - (i) a notification under section 442(2);
 - (ii) a notice of intent under section 442(3); or
 - (iii) any document attached to such a notification or notice; and
 - (b) providing that any such document is to be postage prepaid.
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