

第 11 部**董事的公平處事***(格式變更——2013 年第 1 號編輯修訂紀錄)***第 1 分部 —— 導言****484. 釋義**

(1) 在本分部中 ——

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

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

董事 (director) 包括幕後董事。

(2) 在本分部中，提述未成年子女，即提述 18 歲以下的子女。

485. 構成違反的情況

在本部中，提述構成違反的情況，如屬一項若非因任何事實或情況便會因第 2 分部第 3 次分部而不會被禁止的交易或安排，包括該事實或情況。

486. 有關連實體

(1) 在本部中，提述與公司的董事或前董事有關連的實體，即提述 ——

(a) 該董事或前董事的家庭成員；

(b) 與該董事或前董事處於同居關係的人；

Part 11**Fair Dealing by Directors***(Format changes—E.R. 1 of 2013)***Division 1—Preliminary****484. Interpretation**

(1) In this Division—

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

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

director (董事) includes a shadow director.

(2) In this Division, a reference to a minor child is a reference to a child who is under 18 years of age.

485. Circumstances constituting contravention

In this Part, a reference to circumstances constituting a contravention includes, in the case of a transaction or arrangement that, but for any fact or circumstances, would not be prohibited because of Subdivision 3 of Division 2, the fact or circumstances.

486. Connected entity

(1) In this Part, a reference to an entity connected with a director or former director of a company is a reference to—

(a) a member of the director's or former director's family;

(b) a person who is in a cohabitation relationship with the director or former director;

- (c) 屬 (b) 段所指的人的未成年子女並且符合以下說明的人 ——
- (i) 並非該董事或前董事的子女；及
 - (ii) 與該董事或前董事共同生活；
- (d) 與該董事或前董事有聯繫的法人團體；
- (e) 以指明信託 (為僱員參股計劃或退休金計劃的目的而設的信託除外) 的受託人身分行事的人；或
- (f) 以下述的人的合夥人身分行事的人 ——
- (i) 該董事或前董事；
 - (ii) 該董事或前董事的配偶；
 - (iii) 該董事或前董事的未成年子女；或
 - (iv) 憑藉 (e) 段而屬與該董事或前董事有關連的實體的另一人。
- (2) 就第 (1)(e) 款而言，符合以下說明的信託，即屬指明信託 ——
- (a) 該信託的受益人包括 ——
 - (i) 有關董事或前董事；
 - (ii) 該董事或前董事的配偶；或
 - (iii) 該董事或前董事的未成年子女；或
 - (b) 該 ——
 - (i) 信託的條款賦予有關受託人一項可為以下的人的利益而行使的權力 ——
 - (A) 該董事或前董事；
 - (B) 該董事或前董事的配偶；或
 - (C) 該董事或前董事的未成年子女；而
 - (ii) 董事或前董事知悉該董事或前董事，或該配偶或子女屬該項權力的行使對象。

- (c) a minor child of a person falling within paragraph (b) who—
- (i) is not a child of the director or former director; and
 - (ii) lives with the director or former director;
- (d) a body corporate with which the director or former director is associated;
- (e) a person acting in the capacity as trustee of a specified trust, other than a trust for the purpose of an employee share scheme or a pension scheme; or
- (f) a person acting in the capacity as partner of—
- (i) the director or former director;
 - (ii) the spouse of the director or former director;
 - (iii) a minor child of the director or former director; or
 - (iv) another person who, by virtue of paragraph (e), is an entity connected with the director or former director.
- (2) For the purposes of subsection (1)(e), a trust is a specified trust—
- (a) if the beneficiaries of the trust include—
 - (i) the director or former director;
 - (ii) the spouse of the director or former director; or
 - (iii) a minor child of the director or former director; or
 - (b) if—
 - (i) the terms of the trust give a power to the trustees that may be exercised for the benefit of—
 - (A) the director or former director;
 - (B) the spouse of the director or former director; or

(3) 在本條中 ——

合夥人 (partner) 就另一人而言，指在《合夥條例》(第 38 章) 所指的合夥中屬該人的合夥人的人；

僱員參股計劃 (employee share scheme) 指旨在鼓勵或利便由以下的人持有或為以下的人的利益而持有公司股份的計劃 ——

- (a) 正真誠地受僱於或曾真誠地受僱於該公司或與其同屬一個公司集團成員的另一公司的人；或
- (b) (a)段提述的人的配偶、遺孀、未亡夫或未成年子女。

487. 董事或前董事的家庭成員

在本部中，提述某董事或前董事的家庭成員，即提述 ——

- (a) 該董事或前董事的配偶；
- (b) 該董事或前董事的子女；或
- (c) 該董事或前董事的父母。

488. 與法人團體有聯繫的董事或前董事

(1) 就本部而言，如董事或前董事符合以下說明，即屬與法人團體有聯繫 ——

- (a) 該董事或前董事，或其中一個或多於一個第 (3) 款指明的實體，或該董事或前董事連同其中一個或多於

(C) a minor child of the director or former director; and

- (ii) the director or former director knows that the director or former director, or the spouse or child, is an object of the power.

(3) In this section—

employee share scheme (僱員參股計劃) means a scheme for encouraging or facilitating the holding of shares in a company by or for the benefit of—

- (a) persons employed or formerly employed in good faith by that company or another company in the same group of companies; or
- (b) the spouses, widows, widowers or minor children of persons referred to in paragraph (a);

partner (合夥人), in relation to another person, means a person who is a partner of that other person in a partnership within the meaning of the Partnership Ordinance (Cap. 38).

487. Family member of director or former director

In this Part, a reference to a member of a director's or former director's family is a reference to—

- (a) the spouse of the director or former director;
- (b) a child of the director or former director; or
- (c) a parent of the director or former director.

488. Director or former director associated with body corporate

(1) For the purposes of this Part, a director or former director is associated with a body corporate if—

- (a) the director or former director, or any one or more of the entities specified in subsection (3), or the director or

- 一個該等實體，在該法人團體的任何成員大會上，有權行使多於 30% 表決權，或有權控制多於 30% 表決權的行使；或
- (b) 該法人團體的一眾董事或過半數董事慣於按照以下的人的指示或指令行事 ——
- (i) 該董事或前董事；或
- (ii) 與該董事或前董事有關連的實體。
- (2) 在本條中，提述由某董事、前董事或第 (3) 款指明的實體控制行使的表決權，包括在有關情況下，由另一法人團體控制行使的表決權；有關情況是指該董事或前董事，或其中一個或多於一個該等指明實體，或該董事或前董事連同其中一個或多於一個該等指明實體，在該另一法人團體的任何成員大會上，有權行使多於 50% 表決權，或有權控制多於 50% 表決權的行使。
- (3) 為施行第 (1) 及 (2) 款而指明的實體為 ——
- (a) 有關董事或前董事的配偶；
- (b) 該董事或前董事的未成年子女；或
- (c) 憑藉第 486(1)(e) 條而屬與該董事或前董事有關連的實體的人。

489. 公司受制於多於一項禁止

- (1) 如本部多於一項條文禁止某公司在未獲其成員或其控股公司的成員的批准（按每項條文指明）前，作出某事情，該公司即被禁止在未獲所有該等批准前作出該事情。

- former director together with any one or more of those specified entities, are entitled to exercise, or control the exercise of, more than 30% of the voting power at any general meeting of that body corporate; or
- (b) the directors, or a majority of the directors, of that body corporate are accustomed to act in accordance with the directions or instructions of—
- (i) the director or former director; or
- (ii) an entity connected with the director or former director.
- (2) In this section, a reference to voting power the exercise of which is controlled by a director or former director, or by an entity specified in subsection (3), includes voting power the exercise of which is controlled by another body corporate if the director or former director, or any one or more of the specified entities, or the director or former director together with any one or more of the specified entities, are entitled to exercise, or control the exercise of, more than 50% of the voting power at any general meeting of that other body corporate.
- (3) The entity specified for the purposes of subsections (1) and (2) is—
- (a) the spouse of the director or former director;
- (b) a minor child of the director or former director; or
- (c) a person who, by virtue of section 486(1)(e), is an entity connected with the director or former director.

489. Company subject to more than one prohibition

- (1) If a company is prohibited by more than one provision of this Part from doing something without the approval of the members of the company, or of the members of a holding

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- (2) 第 (1) 款並不規定就施行每項有關條文而通過一項獨立決議。

490. 適用於交易或安排，而不論其管限法律為何

為施行本部，管限交易或安排的法律（除本條例所訂定外）是否香港法律無關重要。

company of the company, specified in each provision, the company is prohibited from doing the thing without all those approvals.

- (2) Subsection (1) does not require a separate resolution for the purposes of each of the provisions.

490. Application to transaction or arrangement despite its governing law

For the purposes of this Part, it is immaterial whether or not the law (apart from this Ordinance) that governs a transaction or arrangement is the law of Hong Kong.

第 2 分部 —— 貸款、類似貸款及信貸交易

Division 2—Loan, Quasi-loan and Credit Transaction

第 1 次分部 —— 導言

Subdivision 1—Preliminary

491. 釋義

- (1) 在本分部中 ——

土地 (land) 包括任何性質或種類的土地、建築物、宅院及物業單位的產業權或權益；

服務 (services) 指貨物或土地以外的任何東西；

指明公司 (specified company) 指 ——

- (a) 公眾公司；或
- (b) 屬某公眾公司的附屬公司的私人公司或擔保有限公司；

董事 (director) 包括幕後董事；

擔保 (guarantee) 包括彌償。

- (2) 就本分部而言，縱使某法人團體的附屬公司的一眾董事或過半數董事，慣於按照該團體的指示或指令行事，該團體不會僅因此而視為其附屬公司的幕後董事。

491. Interpretation

- (1) In this Division—

director (董事) includes a shadow director;

guarantee (擔保) includes indemnity;

land (土地) includes any estate or interest in land, buildings, messuages and tenements of any nature or kind;

services (服務) means anything other than goods or land;

specified company (指明公司) means—

- (a) a public company; or
- (b) a private company or company limited by guarantee that is a subsidiary of a public company.

- (2) For the purposes of this Division, a body corporate is not to be regarded as a shadow director of any of its subsidiaries by reason only that the directors, or a majority of the directors,

of the subsidiary are accustomed to act in accordance with its directions or instructions.

492. 受董事控制的法人團體

- (1) 就本分部而言，如任何法人團體符合以下說明，即屬受某董事控制——
 - (a) 該董事在該法人團體的任何成員大會上，有權行使多於 50% 表決權，或有權控制多於 50% 表決權的行使；或
 - (b) 該法人團體的一眾董事或過半數董事，慣於按照該董事的指示或指令行事。
- (2) 在第 (1) 款中，提述由某董事控制行使的表決權，包括在有關情況下，由另一法人團體控制行使的表決權；有關情況是指該董事在該另一法人團體的任何成員大會上，有權行使多於 50% 表決權，或有權控制多於 50% 表決權的行使。

493. 類似貸款

- (1) 就本分部而言，某人(該人)如作出以下作為，即屬向某董事或與董事有關連的實體借出類似貸款——
 - (a) 同意為該董事或實體支付某數額，或以並非依據協議方式，為該董事或實體支付某數額，而——
 - (i) 同意或付款的條款，是該董事或實體(或代表該董事或實體的另一人)會向該人作出付還；或
 - (ii) 同意或付款的情況，令該董事或實體負有法律責任向該人作出付還；或

492. Body corporate controlled by director

- (1) For the purposes of this Division, a body corporate is controlled by a director if—
 - (a) the director is entitled to exercise, or control the exercise of, more than 50% of the voting power at any general meeting of that body corporate; or
 - (b) the directors, or a majority of the directors, of that body corporate are accustomed to act in accordance with the directions or instructions of the director.
- (2) In subsection (1), a reference to voting power the exercise of which is controlled by a director includes voting power the exercise of which is controlled by another body corporate if the director is entitled to exercise, or control the exercise of, more than 50% of the voting power at any general meeting of that other body corporate.

493. Quasi-loan

- (1) For the purposes of this Division, a person makes a quasi-loan to a director or an entity connected with a director if the person—
 - (a) agrees to pay, or pays otherwise than pursuant to an agreement, a sum for the director or connected entity—
 - (i) on terms that the director or connected entity (or another person on behalf of the director or connected entity) will reimburse the person; or
 - (ii) in circumstances giving rise to a liability on the director or connected entity to reimburse the person; or

- (b) 同意為該董事或實體向另一人付還該另一人所招致的支出，或以並非依據協議方式，為該董事或實體向另一人付還該另一人所招致的支出，而 ——
- (i) 同意或付還的條款，是該董事或實體（或代表該董事或實體的另一人）會向該人作出付還；或
- (ii) 同意或付還的情況，令該董事或實體負有法律責任向該人作出付還。
- (2) 就本分部而言，如某人向某董事或與董事有關連的實體借出類似貸款，則該董事或實體在該項類似貸款下的法律責任，包括任何其他同意代表該董事或實體向該人作出付還的人的法律責任。

494. 信貸交易

- (1) 就本分部而言，某人如作出以下作為，即屬以債權人身分為某董事或與董事有關連的實體訂立信貸交易 ——
- (a) 根據租購協議，提供貨物予該董事或實體；
- (b) 根據有條件售賣協議，售賣貨物或土地予該董事或實體；
- (c) 將貨物出租或租賃予或將土地出租予該董事或實體，以交換定期付款；或
- (d) 基於下述理解而以其他方式提供貨物或服務予或將土地處置而轉予該董事或實體：有關付款（不論是整筆支付、分期支付、定期支付或以其他方式支付）是會延後的。
- (2) 在本條中 ——
- 有條件售賣協議** (conditional sale agreement) 指符合以下說明的售賣貨物或土地的協議 ——

- (b) agrees to reimburse, or reimburses otherwise than pursuant to an agreement, expenditure incurred by another person for the director or connected entity—
- (i) on terms that the director or connected entity (or another person on behalf of the director or connected entity) will reimburse the person; or
- (ii) in circumstances giving rise to a liability on the director or connected entity to reimburse the person.
- (2) For the purposes of this Division, if a person makes a quasi-loan to a director or an entity connected with a director, the director's or connected entity's liabilities under the quasi-loan include the liabilities of any other person who has agreed to reimburse the person on the director's or connected entity's behalf.

494. Credit transaction

- (1) For the purposes of this Division, a person enters into a credit transaction as creditor for a director or an entity connected with a director if the person—
- (a) supplies goods to the director or connected entity under a hire-purchase agreement;
- (b) sells goods or land to the director or connected entity under a conditional sale agreement;
- (c) leases or hires goods or leases land to the director or connected entity in return for periodical payments; or
- (d) otherwise supplies goods or services or disposes of land to the director or connected entity on the understanding that payment (whether in a lump sum or instalments or by way of periodical payments or otherwise) is to be deferred.

- (a) 根據該協議，該貨物或土地的買價或其部分，可藉分期付款方式支付；
- (b) 根據該協議，賣方保留該貨物或土地的產權，直至該協議指明的關於分期付款的條件或其他條件獲履行為止；及
- (c) 根據該協議，儘管有該項產權保留，在該等條件獲履行之前，買方可管有該貨物或土地；

租購協議 (hire-purchase agreement) 指委託保管貨物的協議，而根據該協議，受寄人可購買該貨物，或該貨物的產權將轉移予或可轉移予受寄人。

495. 有交易或安排為之訂立的人

- (1) 在本分部中，提述有交易為之訂立的董事、受董事控制的法人團體或與董事有關連的實體，即提述——
 - (a) (如屬貸款或類似貸款，或關於貸款或類似貸款的擔保或保證) 借入該項貸款或類似貸款的董事、受控制的法人團體或有關連實體；或
 - (b) (如屬信貸交易，或關於信貸交易的擔保或保證) 根據該項信貸交易屬貨物、土地或服務的提供、出售、出租、租賃或以其他方式處置對象的董事或有關連實體。
- (2) 就本分部而言，如有以下情況，安排即屬為董事、受董事控制的法人團體或與董事有關連的實體訂立——
 - (a) (如屬第 504(1)(a) 或 (2)(a) 條所述的安排) 某公司參與該項安排，而另一人根據該項安排，與該董事、受控制的法人團體或有關連實體訂立交易；或

- (2) In this section—

conditional sale agreement (有條件售賣協議) means an agreement for the sale of goods or land under which—

- (a) the purchase price or part of it is payable by instalments;
- (b) the property in the goods or land is to remain in the seller until the conditions regarding the payment of instalments, or other conditions, specified in the agreement are fulfilled; and
- (c) despite such reservation of property, the buyer is to be in possession of the goods or land before the fulfilment of those conditions;

hire-purchase agreement (租購協議) means an agreement for the bailment of goods under which the bailee may buy the goods, or under which the property in the goods will or may pass to the bailee.

495. Person for whom transaction or arrangement entered into

- (1) In this Division, a reference to a director, a body corporate controlled by a director, or an entity connected with a director, for whom a transaction is entered into is—
 - (a) in the case of a loan or quasi-loan, or a guarantee or security in connection with a loan or quasi-loan, a reference to the director, controlled body corporate or connected entity to whom the loan or quasi-loan is made; or
 - (b) in the case of a credit transaction, or a guarantee or security in connection with a credit transaction, a reference to the director or connected entity to whom goods, land or services are supplied, sold, leased, hired or otherwise disposed of under the credit transaction.

- (b) (如屬第 504(1)(b) 或 (2)(b) 條所述的安排) 某公司就另一人與該董事、受控制的法人團體或有關連實體訂立的交易下的任何權利、義務或法律責任，訂立該項安排。

- (2) For the purposes of this Division, an arrangement is entered into for a director, a body corporate controlled by a director, or an entity connected with a director if—
- (a) in the case of an arrangement mentioned in section 504(1)(a) or (2)(a), a company takes part in the arrangement under which another person enters into a transaction with the director, controlled body corporate or connected entity; or
- (b) in the case of an arrangement mentioned in section 504(1)(b) or (2)(b), a company enters into the arrangement in relation to any rights, obligations or liabilities under a transaction entered into by another person with the director, controlled body corporate or connected entity.

496. 成員的訂明批准

- (1) 在本分部中，提述訂立某項交易或安排的公司的成員或該公司的控權公司的成員的訂明批准，即提述藉該等成員的符合以下說明的決議取得的批准——
- (a) 在該項交易或安排訂立之前通過；及
- (b) 第 (2) 款指明的規定就該項決議獲符合。
- (2) 為施行第 (1)(b) 款而指明的規定是——
- (a) (如屬書面決議) 一份列出第 (4) 款指明的事項的備忘錄，在建議決議送交每名成員之時或之前，已送交該成員；或
- (b) (如屬成員大會上通過的決議)——
- (i) 一份列出第 (4) 款指明的事項的備忘錄，連同召開該大會的通知書，已送交每名成員；及
- (ii) (如有關公司屬指明公司) 在不理會第 (5) 款指明的成員對該項決議所投的每一贊成票的情況下，該項決議仍獲通過。

496. Prescribed approval of members

- (1) In this Division, a reference to the prescribed approval of the members of a company that enters into a transaction or arrangement, or the members of a holding company of the company, is a reference to an approval obtained by a resolution of those members—
- (a) that is passed before the transaction or arrangement is entered into; and
- (b) in respect of which the requirements specified in subsection (2) are met.
- (2) The requirements specified for the purposes of subsection (1)(b) are—
- (a) that, in the case of a written resolution, a memorandum setting out the matters specified in subsection (4) is sent to every member at or before the time at which the proposed resolution is sent to the member; or

- (3) 除公司的章程細則的任何條文另有規定外，就斷定是否符合第 (2)(a) 或 (b)(i) 款指明的規定而言，任何意外遺漏向成員送交備忘錄的情況，須不予理會。
- (4) 為施行第 (2)(a) 及 (b)(i) 款而指明的事項 ——
- (a) (如屬為第 500、501 或 502 條的目的而通過的決議) 如下 ——
- (i) 有待以該項決議批准的交易的性質；
 - (ii) 有關貸款或類似貸款的款額；
 - (iii) 該項貸款或類似貸款需作何用途；及
 - (iv) 有關公司在任何與該項貸款或類似貸款有關連的交易下的法律責任的範圍；
- (b) (如屬為第 503 條的目的而通過的決議) 如下 ——
- (i) 有待以該項決議批准的交易的性質；
 - (ii) 有關信貸交易的款額及價值；
 - (iii) 根據該項信貸交易提供、出售、出租、租賃或以其他方式處置的貨物、土地或服務需作何用途；及
 - (iv) 有關公司在任何與該項信貸交易有關連的交易下的法律責任的範圍；或
- (c) (如屬為第 504 條的目的而通過的決議) 如下 ——
- (i) 假使有關公司尋求批准有關安排所關乎的交易便會須披露的事項；
 - (ii) 有待以該項決議批准的安排的性質；及
 - (iii) 有關公司在該項安排下的法律責任的範圍。
- (5) 為施行第 (2)(b)(ii) 款而指明的成員 ——
- (a) (如屬為第 500 或 501 條的目的而通過的決議) 是符合以下說明的成員 ——

- (b) that, in the case of a resolution passed at a general meeting—
- (i) a memorandum setting out the matters specified in subsection (4) is sent to every member together with the notice convening the meeting; and
 - (ii) if the company is a specified company, the resolution is passed after disregarding every vote in favour of the resolution by a member specified in subsection (5).
- (3) Subject to any provision of the company's articles, any accidental omission to send the memorandum to a member is to be disregarded for the purpose of determining whether the requirement specified in subsection (2)(a) or (b)(i) has been met.
- (4) The matters specified for the purposes of subsection (2)(a) and (b)(i) are—
- (a) in the case of a resolution for the purposes of section 500, 501 or 502—
- (i) the nature of the transaction to be approved by the resolution;
 - (ii) the amount of the loan or quasi-loan;
 - (iii) the purpose for which the loan or quasi-loan is required; and
 - (iv) the extent of the company's liability under any transaction connected with the loan or quasi-loan;
- (b) in the case of a resolution for the purposes of section 503—
- (i) the nature of the transaction to be approved by the resolution;
 - (ii) the amount and value of the credit transaction;

- (i) 屬身為有關貸款的建議借出對象或實際借出對象的受控制的法人團體；
- (ii) 屬——
- (A) 控制該法人團體的董事；或
- (B) 身為有關貸款或類似貸款的建議借出對象或實際借出對象的董事；或
- (iii) 以信託形式，為該受控制的法人團體或董事持有該公司任何股份；
- (b) (如屬為第 502 條的目的而通過的決議) 是符合以下說明的成員——
- (i) 屬獲有關貸款或類似貸款的建議借出對象或實際借出對象的有關連實體；
- (ii) 屬與該實體有關連的董事；或
- (iii) 以信託形式，為該有關連實體或董事持有該公司任何股份；
- (c) (如屬為第 503 條的目的而通過的決議) 是符合以下說明的成員——
- (i) 屬有關信貸交易已經或建議為之訂立的董事或有關連實體；
- (ii) 屬與該實體有關連的董事；或
- (iii) 以信託形式，為第 (i) 或 (ii) 節指明的董事或該有關連實體持有該公司任何股份；或
- (d) (如屬為第 504 條的目的而通過的決議) 是符合以下說明的成員——
- (i) 屬有關安排已經或建議為之訂立的受控制的法人團體或有關連實體；
- (ii) 屬——
- (A) 控制該法人團體的董事；
- (B) 與該實體有關連的董事；或
- (iii) the purpose for which the goods, land or services supplied, sold, leased, hired or otherwise disposed of under the credit transaction are required; and
- (iv) the extent of the company's liability under any transaction connected with the credit transaction; or
- (c) in the case of a resolution for the purposes of section 504—
- (i) the matters that would have to be disclosed if the company were seeking approval of the transaction to which the arrangement relates;
- (ii) the nature of the arrangement to be approved by the resolution; and
- (iii) the extent of the company's liability under the arrangement.
- (5) The member specified for the purposes of subsection (2)(b)(ii) is—
- (a) in the case of a resolution for the purposes of section 500 or 501—
- (i) one who is the controlled body corporate to whom the loan is proposed to be made or was made;
- (ii) one who is the director—
- (A) who controls that body corporate; or
- (B) to whom the loan or quasi-loan is proposed to be made or was made; or
- (iii) one who holds any shares in the company in trust for that controlled body corporate or director;
- (b) in the case of a resolution for the purposes of section 502—

- (C) 有關安排已經或建議為之訂立的董事；或
- (iii) 以信託形式，為該受控制的法人團體、有關連實體或董事持有該公司任何股份。
- (6) 第 (2)(b)(ii) 款並不阻止第 (5) 款指明的成員出席任何考慮有關決定的會議，或被計入該會議的法定人數，或參與該會議的程序。
- (7) 在本條中，提述某項安排所關乎的交易 ——
- (a) (如屬第 504(1)(a) 或 (2)(a) 條所述的安排) 即提述根據該項安排與董事、受董事控制的法人團體或與董事有關連的實體訂立的交易；或
- (b) (如屬第 504(1)(b) 或 (2)(b) 條所述的關乎某項交易下的任何權利、義務或法律責任的安排) 即提述該項交易。
- (8) 為施行第 (1)(a) 款，有關決議是在本分部的生效日期[#]之前、當日或之後通過，並不相干。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

- (i) one who is the connected entity to whom the loan or quasi-loan is proposed to be made or was made;
- (ii) one who is the director with whom that entity is connected; or
- (iii) one who holds any shares in the company in trust for that connected entity or director;
- (c) in the case of a resolution for the purposes of section 503—
- (i) one who is the director or connected entity for whom the credit transaction is proposed to be entered into or was entered into;
- (ii) one who is the director with whom that entity is connected; or
- (iii) one who holds any shares in the company in trust for the director specified in subparagraph (i) or (ii) or that connected entity; or
- (d) in the case of a resolution for the purposes of section 504—
- (i) one who is the controlled body corporate, or connected entity, for whom the arrangement is proposed to be entered into or was entered into;
- (ii) one who is the director—
- (A) who controls that body corporate;
- (B) with whom that entity is connected; or
- (C) for whom the arrangement is proposed to be entered into or was entered into; or
- (iii) one who holds any shares in the company in trust for that controlled body corporate, connected entity or director.

497. 交易或安排等的價值

- (1) 為施行本分部 ——
 - (a) 交易的價值須按照第 (2) 款斷定；及
 - (b) 任何其他相關交易或安排的價值，是將按照第 (2) 或 (3) 款斷定的交易或安排的價值，減去該相關交易或安排為之而訂立的董事、受董事控制的法人團體或與董事有關連的實體已減少的法律責任的款額。
- (2) 就第 (1) 款而言 ——
 - (a) 貸款的價值，是其本金的款額；

- (6) Subsection (2)(b)(ii) does not prevent a member specified in subsection (5) from attending, being counted towards the quorum for, or taking part in the proceedings at, any meeting at which the decision is considered.
- (7) In this section, a reference to a transaction to which an arrangement relates is—
 - (a) in the case of an arrangement mentioned in section 504(1)(a) or (2)(a), a reference to the transaction entered into with a director, a body corporate controlled by a director, or an entity connected with a director under the arrangement; or
 - (b) in the case of an arrangement mentioned in section 504(1)(b) or (2)(b) in relation to any rights, obligations or liabilities under a transaction, a reference to the transaction.
- (8) For the purposes of subsection (1)(a), it is irrelevant whether the resolution is passed before, on or after the commencement date[#] of this Division.

Editorial Note:

[#] Commencement date: 3 March 2014.

497. Value of transaction or arrangement etc.

- (1) For the purposes of this Division—
 - (a) the value of a transaction is to be determined in accordance with subsection (2); and
 - (b) the value of any other relevant transaction or arrangement is the value of the transaction or arrangement determined in accordance with subsection (2) or (3), reduced by any amount by which the liabilities of the director, the body corporate controlled by a director, or the entity connected with a director, for

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- (b) 類似貸款的價值，是借入該貸款的人負有法律責任向借出該貸款的人作出付還的款額或最高款額；
- (c) 信貸交易的價值，是假使該交易所關乎的貨物、土地或服務在通常業務運作中（在訂立交易之時）提供，並按與已經或將會根據該項交易提供該等貨物、土地或服務相同的條款（除價格外）提供時，便可合理預期能夠取得的價格；及
- (d) 擔保或保證的價值，是擔保或保證的款額。
- (3) 就第 (1)(b) 款而言——
- (a) 第 504(1)(a) 或 (2)(a) 條所述的安排的價值，是根據該項安排與董事、受董事控制的法人團體或與董事有關連的實體訂立的交易的價值；及
- (b) 第 504(1)(b) 或 (2)(b) 條所述的關乎某項交易下的任何權利、義務或法律責任的安排的價值，是該項交易的價值。

498. 風險承擔總額

(1) 在第 509 及 510 條中——

風險承擔總額 (total exposure amount) 指——

- whom the transaction or arrangement was entered into have been reduced.
- (2) For the purposes of subsection (1)—
- (a) the value of a loan is the amount of its principal;
- (b) the value of a quasi-loan is the amount, or maximum amount, that the person to whom the quasi-loan is made is liable to reimburse the person making the quasi-loan;
- (c) the value of a credit transaction is the price that it is reasonable to expect could be obtained for goods, land or services to which the transaction relates if they had been supplied (at the time the transaction is entered into) in the ordinary course of business and on the same terms (apart from the price) as they have been supplied, or are to be supplied, under the transaction; and
- (d) the value of a guarantee or security is the amount guaranteed or secured.
- (3) For the purposes of subsection (1)(b)—
- (a) the value of an arrangement mentioned in section 504(1)(a) or (2)(a) is the value of the transaction entered into with a director, a body corporate controlled by a director, or an entity connected with a director under the arrangement; and
- (b) the value of an arrangement mentioned in section 504(1)(b) or (2)(b) in relation to any rights, obligations or liabilities under a transaction is the value of the transaction.

498. Total exposure amount

(1) In sections 509 and 510—

total exposure amount (風險承擔總額) means—

- (a) (就並非指明公司的公司而言) 第 (2) 款指明的款額的總額；或
- (b) (就指明公司而言) 第 (3) 款指明的款額的總額。
- (2) 為施行第 (1) 款中的**風險承擔總額**的定義的 (a) 段而指明的款額為——
- (a) 有關的交易的款額；
- (b) 在訂立該項交易時，該公司借予其董事或其控權公司的董事的，或借予受該等董事控制的法人團體的每項貸款的未清償本金及利息或其他方面尚未清償的款額的總額 (有關的交易及任何獲第 500 條所述的訂明批准借出或憑藉第 499、505、506、507、508、511 或 512 條借出的貸款除外)；
- (c) (凡該公司在與任何人借予其董事或其控權公司的董事的，或借予受該等董事控制的法人團體的任何貸款有關連的情況下，給予擔保及提供保證 (有關的交易及任何獲第 500 條所述的訂明批准而給予或提供或憑藉第 499、505、506、507、508、511 或 512 條給予或提供的擔保或保證除外)) 該公司當時在每項該等擔保及保證下的最大法律責任的款額的總額；及
- (d) (凡該公司訂立第 (4) 款指明的安排 (任何獲第 504 條所述的訂明批准或憑藉第 499 條訂立的安排除外)) 該公司當時已經或將會在每項該等安排下招致的淨額的總額。
- (3) 為施行第 (1) 款中的**風險承擔總額**的定義的 (b) 段而指明的款額為——
- (a) 有關的交易的款額；
- (b) 在訂立該項交易時，該公司借予其董事或其控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體的每項貸款及類似貸款，以及該公司以債權人身分為其董事或其控權公司的董事、受

- (a) in relation to a company that is not a specified company, the aggregate of the amounts specified in subsection (2); or
- (b) in relation to a specified company, the aggregate of the amounts specified in subsection (3).
- (2) The amounts specified for the purposes of paragraph (a) of the definition of **total exposure amount** in subsection (1) are—
- (a) the amount of the transaction in question;
- (b) the aggregate of the amounts outstanding at the time that transaction is entered into, in respect of the principal and interest or otherwise, on every loan made by the company to a director of the company or of a holding company of the company, or to a body corporate controlled by such a director (excluding the transaction in question, and any loan made with the prescribed approval mentioned in section 500 or by virtue of section 499, 505, 506, 507, 508, 511 or 512);
- (c) the aggregate of the amounts representing the maximum liability of the company at that time under every guarantee given by the company, and in respect of every security provided by the company, in connection with any loan made by any person to a director of the company or of a holding company of the company, or to a body corporate controlled by such a director (excluding the transaction in question, and any guarantee or security given or provided with the prescribed approval mentioned in section 500 or by virtue of section 499, 505, 506, 507, 508, 511 or 512); and
- (d) the aggregate of the net amounts incurred or to be incurred by the company at that time under every arrangement specified in subsection (4) that is entered

該等董事控制的法人團體或與該等董事有關連的實體訂立的每項信貸交易的未清償本金及利息或其他方面尚未清償的款額的總額 (有關的交易及任何獲第 500、501、502 或 503 條所述的訂明批准或憑藉第 499、505、506、507、508、511 或 512 條借出或訂立的貸款、類似貸款或信貸交易除外)；

- (c) (凡該公司在與任何人借予其董事或其控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體的任何貸款或類似貸款有關連的情況下，或在與任何人以債權人身分為其董事或其控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立的任何信貸交易有關連的情況下，給予擔保或提供保證 (有關的交易及任何獲第 500、501、502 或 503 條所述的訂明批准或憑藉第 499、505、506、507、508、511 或 512 條給予或提供的擔保或保證除外)) 該公司當時在每項該等擔保及保證下的最大法律責任的款額的總額；及
- (d) (凡該公司訂立第 (5) 款指明的安排 (任何獲第 504 條所述的訂明批准或憑藉第 499 條訂立的安排除外)) 該公司當時已經或將會在每項該等安排下招致的淨額的總額。
- (4) 為施行第 (2)(d) 款而指明的安排是 ——
- (a) 符合以下說明的安排 ——
- (i) 根據該項安排，另一人向 ——
- (A) 有關公司的董事或該公司的控權公司的董事；或
- (B) 受該等董事控制的法人團體，借出有問題貸款；而
- (ii) 根據該項安排，該另一人已經或將會依據該項安排，從該公司或該公司的有聯繫公司取得任何利益；或

into by the company (excluding any arrangement entered into with the prescribed approval mentioned in section 504 or by virtue of section 499).

- (3) The amounts specified for the purposes of paragraph (b) of the definition of *total exposure amount* in subsection (1) are—
- (a) the amount of the transaction in question;
- (b) the aggregate of the amounts outstanding at the time that transaction is entered into, in respect of the principal and interest or otherwise, on every loan and quasi-loan made by the company to, and every credit transaction entered into by the company as creditor for, a director of the company or of a holding company of the company, or a body corporate controlled by such a director, or an entity connected with such a director (excluding the transaction in question, and any loan, quasi-loan or credit transaction made or entered into with the prescribed approval mentioned in section 500, 501, 502 or 503 or by virtue of section 499, 505, 506, 507, 508, 511 or 512);
- (c) the aggregate of the amounts representing the maximum liability of the company at that time under every guarantee given by the company, and in respect of every security provided by the company, in connection with any loan or quasi-loan made by any person to, or any credit transaction entered into by any person as creditor for, a director of the company or of a holding company of the company, or a body corporate controlled by such a director, or an entity connected with such a director (excluding the transaction in question, and any guarantee or security given or provided with the prescribed approval mentioned in section 500, 501, 502

- (b) 將另一人借予 ——
- (i) 該公司的董事或該公司的控權公司的董事的；或
- (ii) 受該等董事控制的法人團體的，
有問題貸款下的任何權利、義務或法律責任轉讓予該公司的安排，或令該公司承擔該權利、義務或法律責任的安排。
- (5) 為施行第 (3)(d) 款而指明的安排是 ——
- (a) 符合以下說明的安排 ——
- (i) 根據該項安排，另一人向以下人士借出有問題貸款或類似貸款，或以債權人身分為以下人士訂立有問題信貸交易 ——
- (A) 有關公司的董事或該公司的控權公司的董事；
- (B) 受該等董事控制的法人團體；或
- (C) 與該等董事有關連的實體；而
- (ii) 根據該項安排，該另一人已經或將會依據該項安排，從該公司或該公司的有聯繫公司取得任何利益；或
- (b) 將以下貸款、類似貸款或信貸交易下的任何權利、義務或法律責任轉讓予該公司的安排，或令該公司承擔該權利、義務或法律責任的安排 ——
- (i) 另一人向 ——
- (A) 該公司的董事或該公司的控權公司的董事；
- (B) 受該等董事控制的法人團體；或
- (C) 與該等董事有關連的實體，
借出的有問題貸款或類似貸款；或
- (ii) 另一人以債權人身分為 ——

- or 503 or by virtue of section 499, 505, 506, 507, 508, 511 or 512); and
- (d) the aggregate of the net amounts incurred or to be incurred by the company at that time under every arrangement specified in subsection (5) that is entered into by the company (excluding any arrangement entered into with the prescribed approval mentioned in section 504 or by virtue of section 499).
- (4) An arrangement specified for the purposes of subsection (2)(d) is—
- (a) an arrangement under which—
- (i) another person makes a questionable loan to—
- (A) a director of the company or of a holding company of the company; or
- (B) a body corporate controlled by such a director; and
- (ii) that other person, pursuant to the arrangement, has obtained or is to obtain any benefit from the company or an associated company of the company; or
- (b) an arrangement for an assignment to the company, or assumption by the company, of any rights, obligations or liabilities under a questionable loan made by another person to—
- (i) a director of the company or of a holding company of the company; or
- (ii) a body corporate controlled by such a director.
- (5) An arrangement specified for the purposes of subsection (3)(d) is—
- (a) an arrangement under which—

- (A) 該公司的董事或該公司的控權公司的董事；或
- (B) 與該等董事有關連的實體，訂立的有問題信貸交易。
- (6) 在本條中——
- (a) 提述某人根據一項安排向有關公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體借出的有問題貸款或類似貸款，即提述假使是該公司在該項安排的日期借出的話，便會已經被第 500(1)、501(1) 或 502(1) 條禁止的貸款或類似貸款（視屬何情況而定），或在沒有第 509 及 510 條的情況下便會已經被如此禁止的貸款或類似貸款（視屬何情況而定）；
- (b) 提述某人根據一項安排，以債權人身分為有關公司的董事或與該董事有關連的實體訂立的有問題信貸交易，即提述假使是該公司在該項安排的日期訂立的話，便會已經被第 503(1) 條禁止的信貸交易，或在沒有第 509 及 510 條的情況下便會已經被如此禁止的信貸交易；
- (c) 提述某人根據一項安排向有關公司的控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體借出的有問題貸款或類似貸款，即提述假使是該公司在該項安排的日期借出的話，便會已經被第 500(2)、501(2) 或 502(2) 條禁止的貸款或類似貸款（視屬何情況而定），或在沒有第 509 及 510 條的情況下便會已經被如此禁止的貸款或類似貸款（視屬何情況而定）；及
- (d) 提述某人根據一項安排，以債權人身分為有關公司的控權公司的董事或與該等董事有關連的實體訂立的有問題信貸交易，即提述假使是該公司在該項安排的日期訂立的話，便會已經被第 503(2) 條禁止的

- (i) another person makes a questionable loan or quasi-loan to, or enters into a questionable credit transaction as creditor for—
- (A) a director of the company or of a holding company of the company;
- (B) a body corporate controlled by such a director; or
- (C) an entity connected with such a director; and
- (ii) that other person, pursuant to the arrangement, has obtained or is to obtain any benefit from the company or an associated company of the company; or
- (b) an arrangement for an assignment to the company, or assumption by the company, of any rights, obligations or liabilities under—
- (i) a questionable loan or quasi-loan made by another person to—
- (A) a director of the company or of a holding company of the company;
- (B) a body corporate controlled by such a director; or
- (C) an entity connected with such a director; or
- (ii) a questionable credit transaction entered into by another person as creditor for—
- (A) a director of the company or of a holding company of the company; or
- (B) an entity connected with such a director.
- (6) In this section—
- (a) a reference to a questionable loan or quasi-loan made by a person to a director of the company, a body

信貸交易，或在沒有第 509 及 510 條的情況下便會已經被如此禁止的信貸交易。

corporate controlled by such a director, or an entity connected with such a director, under an arrangement is a reference to a loan or quasi-loan (as the case may be) that, if it had been made by the company on the date of the arrangement, would have been prohibited by section 500(1), 501(1) or 502(1) or would have been so prohibited in the absence of sections 509 and 510;

- (b) a reference to a questionable credit transaction entered into by a person as creditor for a director of the company, or an entity connected with such a director, under an arrangement is a reference to a credit transaction that, if it had been entered into by the company on the date of the arrangement, would have been prohibited by section 503(1) or would have been so prohibited in the absence of sections 509 and 510;
- (c) a reference to a questionable loan or quasi-loan made by a person to a director of a holding company of the company, a body corporate controlled by such a director, or an entity connected with such a director, under an arrangement is a reference to a loan or quasi-loan (as the case may be) that, if it had been made by the company on the date of the arrangement, would have been prohibited by section 500(2), 501(2) or 502(2) or would have been so prohibited in the absence of sections 509 and 510; and
- (d) a reference to a questionable credit transaction entered into by a person as creditor for a director of a holding company of the company, or an entity connected with such a director, under an arrangement is a reference to a credit transaction that, if it had been entered into by the company on the date of the arrangement, would have been prohibited by section 503(2) or would have been so prohibited in the absence of sections 509 and 510.

499. 保留成員一致同意的效力

- (1) 如根據本分部的某條文，某公司未獲其成員的訂明批准，便不得訂立某項交易或安排，則該條文並不禁止該項交易或安排獲該等成員在其訂立之前給予的一致同意而訂立。
- (2) 如根據本分部的某條文，某公司可只獲其成員的訂明批准而訂立某項交易或安排，該條文並不阻止該項交易或安排獲該等成員在其訂立之前給予的一致同意而訂立。
- (3) 為施行第 (1) 或 (2) 款，有關一致同意是在本分部的生效日期[#]之前、當日或之後給予，並不相干。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

第 2 次分部 —— 禁止**500. 公司不得向董事或受董事控制的法人團體借出貸款等**

- (1) 任何公司未獲其成員的訂明批准，不得 ——
 - (a) 向 ——
 - (i) 該公司的董事；或
 - (ii) 受該等董事控制的法人團體，借出貸款；或
 - (b) 在與任何人借予以下人士的貸款有關連的情況下，給予擔保或提供保證 ——

499. Preservation of effect of members' unanimous consent

- (1) If, under a provision of this Division, a transaction or arrangement must not be entered into without the prescribed approval of a company's members, the provision does not prohibit the transaction or arrangement from being entered into with the unanimous consent of those members given before it is entered into.
- (2) If, under a provision of this Division, a transaction or arrangement may be entered into with only the prescribed approval of a company's members, the provision does not preclude the transaction or arrangement from being entered into with the unanimous consent of those members given before it is entered into.
- (3) For the purposes of subsection (1) or (2), it is irrelevant whether the unanimous consent is given before, on or after the commencement date[#] of this Division.

Editorial Note:

[#] Commencement date: 3 March 2014.

Subdivision 2—Prohibitions**500. Company must not make loan etc. to director or body corporate controlled by director**

- (1) Without the prescribed approval of its members, a company must not—
 - (a) make a loan to—
 - (i) a director of the company; or
 - (ii) a body corporate controlled by such a director; or
 - (b) give a guarantee or provide security in connection with a loan made by any person to—

- (i) 該公司的董事；或
 - (ii) 受該等董事控制的法人團體。
- (2) 任何公司未獲其成員的訂明批准及該公司的控權公司的成員的訂明批准，不得 ——
- (a) 向 ——
 - (i) 該公司的控權公司的董事；或
 - (ii) 受該等董事控制的法人團體，借出貸款；或
 - (b) 在與任何人借予以下人士的貸款有關連的情況下，給予擔保或提供保證 ——
 - (i) 該公司的控權公司的董事；或
 - (ii) 受該等董事控制的法人團體。
- (3) 儘管有第 (2) 款的規定 ——
- (a) 如某公司的控權公司是在香港以外地方成立為法團的，該公司可只獲其成員的訂明批准而訂立有關交易；及
 - (b) 如某公司屬該控權公司的全資附屬公司，而該控權公司是在香港成立為法團的，該公司可只獲該控權公司的成員的訂明批准而訂立有關交易。

501. 指明公司不得向董事借出類似貸款等

- (1) 任何指明公司未獲其成員的訂明批准，不得 ——
 - (a) 向該公司的董事借出類似貸款；或
 - (b) 在與任何人借予該等董事的類似貸款有關連的情況下，給予擔保或提供保證。

- (i) a director of the company; or
 - (ii) a body corporate controlled by such a director.
- (2) Without the prescribed approval of its members and the prescribed approval of the holding company's members, a company must not—
- (a) make a loan to—
 - (i) a director of a holding company of the company; or
 - (ii) a body corporate controlled by such a director; or
 - (b) give a guarantee or provide security in connection with a loan made by any person to—
 - (i) a director of a holding company of the company; or
 - (ii) a body corporate controlled by such a director.
- (3) Despite subsection (2)—
- (a) a company may enter into the transaction with only the prescribed approval of its members if the holding company is incorporated outside Hong Kong; and
 - (b) a company may enter into the transaction with only the prescribed approval of the holding company's members if it is a wholly owned subsidiary of the holding company, and the holding company is incorporated in Hong Kong.

501. Specified company must not make quasi-loan etc. to director

- (1) Without the prescribed approval of its members, a specified company must not—
 - (a) make a quasi-loan to a director of the company; or
 - (b) give a guarantee or provide security in connection with a quasi-loan made by any person to such a director.

- (2) 任何指明公司未獲其成員的訂明批准及該公司的控權公司的成員的訂明批准，不得——
- (a) 向該控權公司的董事借出類似貸款；或
 - (b) 在與任何人借予該等董事的類似貸款有關連的情況下，給予擔保或提供保證。
- (3) 儘管有第 (2) 款的規定——
- (a) 如某指明公司的控權公司是在香港以外地方成立為法團的，該指明公司可只獲其成員的訂明批准而訂立有關交易；及
 - (b) 如某指明公司屬該控權公司的全資附屬公司，而該控權公司是在香港成立為法團的，該指明公司可只獲該控權公司的成員的訂明批准而訂立有關交易。

502. 指明公司不得向有關連實體借出貸款或類似貸款等

- (1) 任何指明公司未獲其成員的訂明批准，不得——
- (a) 向與該公司的董事有關連的實體借出貸款或類似貸款；或
 - (b) 在與任何人借予與該等董事有關連的實體的貸款或類似貸款有關連的情況下，給予擔保或提供保證。
- (2) 任何指明公司未獲其成員的訂明批准及該公司的控權公司的成員的訂明批准，不得——
- (a) 向與該控權公司的董事有關連的實體借出貸款或類似貸款；或
 - (b) 在與任何人借予與該等董事有關連的實體的貸款或類似貸款有關連的情況下，給予擔保或提供保證。

- (2) Without the prescribed approval of its members and the prescribed approval of the holding company's members, a specified company must not—
- (a) make a quasi-loan to a director of a holding company of the company; or
 - (b) give a guarantee or provide security in connection with a quasi-loan made by any person to such a director.
- (3) Despite subsection (2)—
- (a) a specified company may enter into the transaction with only the prescribed approval of its members if the holding company is incorporated outside Hong Kong; and
 - (b) a specified company may enter into the transaction with only the prescribed approval of the holding company's members if it is a wholly owned subsidiary of the holding company, and the holding company is incorporated in Hong Kong.

502. Specified company must not make loan or quasi-loan etc. to connected entity

- (1) Without the prescribed approval of its members, a specified company must not—
- (a) make a loan or quasi-loan to an entity connected with a director of the company; or
 - (b) give a guarantee or provide security in connection with a loan or quasi-loan made by any person to an entity connected with such a director.
- (2) Without the prescribed approval of its members and the prescribed approval of the holding company's members, a specified company must not—

- (3) 儘管有第 (2) 款的規定 ——
- (a) 如某指明公司的控權公司是在香港以外地方成立為法團的，該指明公司可只獲其成員的訂明批准而訂立有關交易；及
- (b) 如某指明公司是該控權公司的全資附屬公司，而該控權公司是在香港成立為法團的，該指明公司可只獲該控權公司的成員的訂明批准而訂立有關交易。

503. 指明公司不得以債權人身分為董事或有關連實體訂立信貸交易等

- (1) 任何指明公司未獲其成員的訂明批准，不得 ——
- (a) 以債權人身分為以下的人訂立信貸交易 ——
- (i) 該公司的董事；或
- (ii) 與該等董事有關連的實體；或
- (b) 在與任何人以債權人身分為該等董事或與該等董事有關連的實體訂立的信貸交易有關連的情況下，給予擔保或提供保證。
- (2) 任何指明公司未獲其成員的訂明批准及該公司的控權公司的成員的訂明批准，不得 ——
- (a) 以債權人身分 ——
- (i) 為該控權公司的董事訂立信貸交易；或
- (ii) 為與該等董事有關連的實體訂立信貸交易；或

- (a) make a loan or quasi-loan to an entity connected with a director of a holding company of the company; or
- (b) give a guarantee or provide security in connection with a loan or quasi-loan made by any person to an entity connected with such a director.
- (3) Despite subsection (2)—
- (a) a specified company may enter into the transaction with only the prescribed approval of its members if the holding company is incorporated outside Hong Kong; and
- (b) a specified company may enter into the transaction with only the prescribed approval of the holding company's members if it is a wholly owned subsidiary of the holding company, and the holding company is incorporated in Hong Kong.

503. Specified company must not enter into credit transaction etc. as creditor for director or connected entity

- (1) Without the prescribed approval of its members, a specified company must not—
- (a) enter into a credit transaction as creditor for—
- (i) a director of the company; or
- (ii) an entity connected with such a director; or
- (b) give a guarantee or provide security in connection with a credit transaction entered into by any person as creditor for such a director or an entity connected with such a director.
- (2) Without the prescribed approval of its members and the prescribed approval of the holding company's members, a specified company must not—
- (a) enter into a credit transaction as creditor for—

- (b) 在與任何人以債權人身分為該等董事或與該等董事有關連的實體訂立的信貸交易有關連的情況下，給予擔保或提供保證。
- (3) 儘管有第 (2) 款的規定 ——
- (a) 如某指明公司的控權公司是在香港以外地方成立為法團的，該指明公司可只獲其成員的訂明批准而訂立有關交易；及
- (b) 如某指明公司屬該控權公司的全資附屬公司，而該控權公司是在香港成立為法團的，該指明公司可只獲該控權公司的成員的訂明批准而訂立有關交易。

504. 公司不得參與本意是規避第 500 至 503 條的安排

- (1) 任何公司未獲其成員的訂明批准，不得 ——
- (a) 參與符合以下說明的安排 ——
- (i) 根據該項安排，另一人與該公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立有問題交易；而
- (ii) 根據該項安排，該另一人已經或將會依據該項安排，從該公司或該公司的有聯繫公司取得任何利益；或
- (b) 安排將另一人與 ——
- (i) 該公司的董事；
- (ii) 受該等董事控制的法人團體；或

- (i) a director of a holding company of the company; or
- (ii) an entity connected with such a director; or
- (b) give a guarantee or provide security in connection with a credit transaction entered into by any person as creditor for such a director or an entity connected with such a director.
- (3) Despite subsection (2)—
- (a) a specified company may enter into the transaction with only the prescribed approval of its members if the holding company is incorporated outside Hong Kong; and
- (b) a specified company may enter into the transaction with only the prescribed approval of the holding company's members if it is a wholly owned subsidiary of the holding company, and the holding company is incorporated in Hong Kong.

504. Company must not take part in arrangement purporting to circumvent sections 500 to 503

- (1) Without the prescribed approval of its members, a company must not—
- (a) take part in an arrangement under which—
- (i) another person enters into a questionable transaction with a director of the company, a body corporate controlled by such a director, or an entity connected with such a director; and
- (ii) that other person, pursuant to the arrangement, has obtained or is to obtain any benefit from the company or an associated company of the company; or

- (iii) 與該等董事有關連的實體，
訂立的有問題交易下的任何權利、義務或法律責任，
轉讓予該公司，或令該公司承擔該權利、義務或法律責任。
- (2) 任何公司未獲其成員的訂明批准及該公司的控權公司的成員的訂明批准，不得 ——
- (a) 參與符合以下說明的安排 ——
- (i) 根據該項安排，另一人與該控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立有問題交易；而
- (ii) 根據該項安排，該另一人已經或將會依據該項安排，從該公司或該公司的有聯繫公司取得任何利益；或
- (b) 安排將另一人與 ——
- (i) 該公司的控權公司的董事；
- (ii) 受該等董事控制的法人團體；或
- (iii) 與該等董事有關連的實體，
訂立的有問題交易下的任何權利、義務或法律責任，
轉讓予該公司，或令該公司承擔該權利、義務或法律責任。
- (3) 儘管有第 (2) 款的規定 ——
- (a) 如某公司的控權公司是在香港以外地方成立為法團的，該公司可只獲其成員的訂明批准而訂立有關安排；及
- (b) 如某公司屬該控權公司的全資附屬公司，而該控權公司是在香港成立為法團的，該公司可只獲該控權公司的成員的訂明批准而訂立有關安排。
- (4) 在本條中 ——

- (b) arrange for an assignment to the company, or assumption by the company, of any rights, obligations or liabilities under a questionable transaction entered into by another person with—
- (i) a director of the company;
- (ii) a body corporate controlled by such a director; or
- (iii) an entity connected with such a director.
- (2) Without the prescribed approval of its members and the prescribed approval of the holding company's members, a company must not—
- (a) take part in an arrangement under which—
- (i) another person enters into a questionable transaction with a director of a holding company of the company, a body corporate controlled by such a director, or an entity connected with such a director; and
- (ii) that other person, pursuant to the arrangement, has obtained or is to obtain any benefit from the company or an associated company of the company; or
- (b) arrange for an assignment to the company, or assumption by the company, of any rights, obligations or liabilities under a questionable transaction entered into by another person with—
- (i) a director of a holding company of the company;
- (ii) a body corporate controlled by such a director; or
- (iii) an entity connected with such a director.
- (3) Despite subsection (2)—

- (a) 提述某人根據一項安排為有關公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立的有問題交易，即提述假使是該公司在該項安排的日期訂立的話，便會已經被第 500(1)、501(1)、502(1) 或 503(1) 條禁止的交易，或在沒有第 3 次分部的情況下便會已經被如此禁止的交易；及
- (b) 提述某人根據一項安排為有關公司的控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立的有問題交易，即提述假使是該公司在該項安排的日期訂立的話，便會已經被第 500(2)、501(2)、502(2) 或 503(2) 條禁止的交易，或在沒有第 3 次分部的情况下便會已經被如此禁止的交易。

- (a) a company may enter into the arrangement with only the prescribed approval of its members if the holding company is incorporated outside Hong Kong; and
- (b) a company may enter into the arrangement with only the prescribed approval of the holding company's members if it is a wholly owned subsidiary of the holding company, and the holding company is incorporated in Hong Kong.
- (4) In this section—
- (a) a reference to a questionable transaction entered into by a person with a director of the company, a body corporate controlled by such a director, or an entity connected with such a director, under an arrangement is a reference to a transaction that, if it had been entered into by the company on the date of the arrangement, would have been prohibited by section 500(1), 501(1), 502(1) or 503(1) or would have been so prohibited in the absence of Subdivision 3; and
- (b) a reference to a questionable transaction entered into by a person with a director of a holding company of the company, a body corporate controlled by such a director, or an entity connected with such a director, under an arrangement is a reference to a transaction that, if it had been entered into by the company on the date of the arrangement, would have been prohibited by section 500(2), 501(2), 502(2) or 503(2) or would have been so prohibited in the absence of Subdivision 3.

第 3 次分部 —— 第 2 次分部的例外情況

Subdivision 3—Exceptions to Subdivision 2

505. 例外情況：價值不超過淨資產或已催繳股本 5% 的貸款、類似貸款及信貸交易

505. Exception for loan, quasi-loan and credit transaction of value not exceeding 5% of net assets or called-up share capital

- (1) 如有關的交易的價值及任何其他相關交易或安排的價值

- (1) A company is not prohibited by section 500, 501, 502 or

的總額不超過以下款額的 5%，則第 500、501、502 或 503 條並不禁止公司借出貸款或類似貸款、訂立信貸交易，或在與貸款、類似貸款或信貸交易有關連的情況下，給予擔保或提供保證——

- (a) 參照該公司的有關財務報表而釐定的該公司的淨資產的價值；或
 - (b) (如沒有擬備有關財務報表) 該公司的已催繳股本的款額。
- (2) 在本條中，提述某公司的有關財務報表——
- (a) 即提述根據第 9 部擬備的並在最近期根據第 430 條送交該公司成員的該公司的周年財務報表或周年綜合財務報表；或
 - (b) (如自第 430 條的生效日期[#]起無送交周年財務報表或周年綜合財務報表) 即提述根據《前身條例》第 122 條擬備的並在最近期根據該條例第 129G 條送交該公司成員的公司賬目。
- (3) 某項交易或安排如符合以下說明，即屬第 (1) 款所指的相關交易或安排——
- (a) 在有關的交易訂立之前訂立，或與有關的交易同時訂立；及
 - (b) 是——
 - (i) (凡有關的交易是為有關公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立的) 由該公司或該公司的附屬公司在獲第 (1) 款准許下，為該董事、受控制的法人團體或有關連實體訂立；或
 - (ii) (凡有關的交易是為有關公司的控權公司的董事、受該等董事控制的法人團體或與該等董事有關連的實體訂立的) 由該控權公司或其附屬公司在獲第 (1) 款准許下，為該董事、受控制的法人團體或有關連實體訂立。

503 from making a loan or quasi-loan, entering into a credit transaction or giving a guarantee or providing security in connection with a loan, quasi-loan or credit transaction, if the aggregate of the value of the transaction in question, and the value of any other relevant transaction or arrangement, does not exceed 5% of—

- (a) the value of the company's net assets as determined by reference to the relevant financial statements of the company; or
 - (b) if no such relevant financial statements have been prepared, the amount of the company's called-up share capital.
- (2) In this section, a reference to the relevant financial statements of a company is—
- (a) a reference to the company's annual financial statements or annual consolidated financial statements prepared under Part 9 that were most recently sent to its members under section 430; or
 - (b) if no such annual financial statements or annual consolidated financial statements have been sent since the commencement date[#] of section 430, a reference to the company's accounts prepared under section 122 of the predecessor Ordinance that were most recently sent to its members under section 129G of that Ordinance.
- (3) A transaction or arrangement is a relevant transaction or arrangement for the purposes of subsection (1)—
- (a) if it is entered into before, or at the same time as, the transaction in question; and
 - (b) if—
 - (i) where the transaction in question is entered into for a director of the company, a body corporate

- (4) 儘管有第 (3) 款的規定，某項交易或安排如符合以下說明，即不屬第 (1) 款所指的相關交易或安排——
- (a) 由某法人團體訂立，而在訂立時，該法人團體——
- (i) 是訂立有關的交易的公司 (**該公司**) 的附屬公司；或
- (ii) 是該公司的控權公司的附屬公司；及
- (b) 在有關的交易是否屬第 (1) 款所指的交易此一問題產生時，該法人團體已不再是上述的附屬公司。

編輯附註：

* 生效日期：2014 年 3 月 3 日。

506. 例外情況：公司業務支出

- (1) 第 500、501、502 或 503 條並不禁止公司訂立任何交易，以向——

controlled by such a director, or an entity connected with such a director, it is entered into for the director, controlled body corporate or connected entity by the company or a subsidiary of the company as permitted by subsection (1); or

(ii) where the transaction in question is entered into for a director of a holding company of the company, a body corporate controlled by such a director, or an entity connected with such a director, it is entered into for the director, controlled body corporate or connected entity by the holding company or a subsidiary of the holding company as permitted by subsection (1).

- (4) Despite subsection (3), a transaction or arrangement is not a relevant transaction or arrangement for the purposes of subsection (1) if—
- (a) it was entered into by a body corporate that, at the time it was entered into—
- (i) was a subsidiary of the company entering into the transaction in question; or
- (ii) was a subsidiary of a holding company of that company; and
- (b) at the time the question arises as to whether the transaction in question falls within subsection (1), the body corporate is no longer such a subsidiary.

Editorial Note:

* Commencement date: 3 March 2014.

506. Exception for expenditure on company business

- (1) A company is not prohibited by section 500, 501, 502 or 503 from entering into any transaction to provide—

- (a) 該公司的董事或該公司的控權公司的董事；
 - (b) 受該等董事控制的法人團體；或
 - (c) 與該等董事有關連的實體，
提供資金，以支付第 (2) 款指明的支出，或避免招致該等支出。
- (2) 上述支出是有關董事、受控制的法人團體或有關連實體 (視屬何情況而定) ——
- (a) 為有關公司的目的而招致的支出，或將會為該目的而招致的支出；或
 - (b) 為使該董事、受控制的法人團體或有關連實體 (視屬何情況而定) 能作為該公司的高級人員妥善地履行職責的目的而招致的支出，或將會為該目的而招致的支出。

507. 例外情況：在法律程序中辯護等的支出

- (1) 如第 (2) 款指明的條件獲符合，第 500、501、502 或 503 條並不禁止公司為以下目的訂立任何交易 ——
- (a) 向該公司的董事或該公司的控權公司的董事提供資金，以支付該等董事在以下情況下招致或將會在以下情況下招致的支出 ——
 - (i) 在與該等董事被指稱作出的關乎該公司或該公司的有聯繫公司的疏忽、失責、失職或違反信託行為有關連的情況下進行的刑事或民事法律程序中，進行抗辯；或
 - (ii) 在與根據《前身條例》第 358 條或本條例第 903 或 904 條提出的寬免申請有關連的情況下；或
 - (b) 使該等董事能避免招致該等支出。
- (2) 有關條件是有關的交易按照以下條款訂立 ——
- (a) 在以下情況下，有關資金須予償還，或有關公司就該項交易而招致的任何法律責任須予履行 ——

- (a) a director of the company or of a holding company of the company;
 - (b) a body corporate controlled by such a director; or
 - (c) an entity connected with such a director,
with funds to meet expenditure specified in subsection (2) or to avoid incurring such expenditure.
- (2) The expenditure is one incurred or to be incurred by the director, controlled body corporate or connected entity (as the case may be)—
- (a) for the purposes of the company; or
 - (b) for the purpose of enabling the director, controlled body corporate or connected entity (as the case may be) to properly perform duties as an officer of the company.

507. Exception for expenditure on defending proceedings etc.

- (1) If the condition specified in subsection (2) is satisfied, a company is not prohibited by section 500, 501, 502 or 503 from entering into any transaction—
- (a) to provide a director of the company or of a holding company of the company with funds to meet expenditure incurred or to be incurred by the director—
 - (i) in defending any criminal or civil proceedings in connection with any alleged negligence, default, breach of duty or breach of trust by the director in relation to the company or an associated company of the company; or
 - (ii) in connection with an application for relief under section 358 of the predecessor Ordinance or section 903 or 904; or
 - (b) to enable such a director to avoid incurring such expenditure.

- (i) 有關董事在有關法律程序中被定罪；
- (ii) 有關董事在有關法律程序中被判敗訴；或
- (iii) 法院拒絕應申請而向有關董事批予濟助；及
- (b) 須於該項定罪、判決或拒絕成為終局定罪、判決或拒絕的日期或之前，如此償還該資金或履行該法律責任。
- (3) 為施行第(2)款——
 - (a) 如無人就定罪、判決或拒絕提出上訴，該項定罪、判決或拒絕在提出上訴的限期結束之時，成為終局定罪、判決或拒絕；或
 - (b) 如有人就定罪、判決或拒絕提出上訴，該項定罪、判決或拒絕在上訴或任何進一步上訴獲了結之時，成為終局定罪、判決或拒絕。
- (4) 為施行第(3)(b)款，如有以下情況，上訴即屬獲了結——
 - (a) 上訴已獲得裁定，而提出任何進一步上訴的限期已結束；或
 - (b) 上訴已被放棄，或在其他情況下終止有效。

508. 例外情況：在與調查或規管行動有關連的情況下招致的支出

- (1) 如第(2)款指明的條件獲符合，第 500、501、502 或 503 條並不禁止公司為以下目的訂立任何交易——
 - (a) 向該公司的董事或該公司的控權公司的董事提供資金，以支付該董事於以下調查或行動中作出抗辯而

- (2) The condition is that the transaction in question is entered into on the terms—
 - (a) that the funds are to be repaid, or any liability of the company incurred in relation to that transaction is to be discharged, if—
 - (i) the director is convicted in the proceedings;
 - (ii) judgment is given against the director in the proceedings; or
 - (iii) the court refuses to grant the director relief on the application; and
 - (b) that the funds are to be so repaid, or such liability is to be so discharged, not later than the date when the conviction, judgment or refusal of relief becomes final.
- (3) For the purposes of subsection (2), a conviction, judgment or refusal of relief—
 - (a) if not appealed against, becomes final at the end of the period for bringing an appeal; or
 - (b) if appealed against, becomes final when the appeal, or any further appeal, is disposed of.
- (4) For the purposes of subsection (3)(b), an appeal is disposed of if—
 - (a) it is determined, and the period for bringing any further appeal has ended; or
 - (b) it is abandoned or otherwise ceases to have effect.

508. Exception for expenditure in connection with investigation or regulatory action

- (1) If the condition specified in subsection (2) is satisfied, a company is not prohibited by section 500, 501, 502 or 503 from entering into any transaction—

招致或將會為作出抗辯而招致的支出：規管機構在與該董事被指稱作出的關乎該公司或該公司的有聯繫公司的任何不當行為有關連的情況下進行的調查，或已採取或擬採取的行動中；或

- (b) 使該等董事能避免招致該等支出。
- (2) 有關條件是有關的交易按照以下條款訂立 ——
- (a) 如有關董事在有關調查或行動中，被裁定有作出有關不當行為，則有關資金須予償還，或有關公司就該項交易而招致的任何法律責任須予履行；及
- (b) 須於有關裁定成為終局裁定的日期或之前，如此償還該資金或履行該法律責任。
- (3) 為施行第 (2) 款 ——
- (a) 如 ——
- (i) 無人就可予覆核的裁定提出覆核申請，該項裁定在提出覆核申請的限期結束之時，成為終局裁定；或
- (ii) 有人就可予覆核的裁定提出覆核申請，該項裁定在覆核或任何進一步覆核獲了結之時，成為終局裁定；
- (b) 如 ——
- (i) 無人就可予上訴的裁定提出上訴，該項裁定在提出上訴的限期結束之時，成為終局裁定；或
- (ii) 有人就可予上訴的裁定提出上訴，該項裁定在上訴或任何進一步上訴獲了結之時，成為終局裁定；及
- (c) 不可覆核或不可上訴的裁定在作出之時，即成為終局裁定。
- (4) 為施行第 (3)(a)(ii) 或 (b)(ii) 款，如有以下情況，覆核或上訴即屬獲了結 ——

- (a) to provide a director of the company or of a holding company of the company with funds to meet expenditure incurred or to be incurred by the director in putting up a defence in an investigation, or against any action taken or proposed to be taken, by a regulatory authority in connection with any alleged misconduct by the director in relation to the company or an associated company of the company; or
- (b) to enable such a director to avoid incurring such expenditure.
- (2) The condition is that the transaction in question is entered into on the terms—
- (a) that the funds are to be repaid, or any liability of the company incurred in relation to that transaction is to be discharged, if the director is found in the investigation or action to have committed the misconduct; and
- (b) that the funds are to be so repaid, or such liability is to be so discharged, not later than the date when the finding becomes final.
- (3) For the purposes of subsection (2)—
- (a) a finding subject to review—
- (i) if no application for review has been made, becomes final at the end of the period for making an application for review; or
- (ii) if an application for review has been made, becomes final when the review, or any further review, is disposed of;
- (b) a finding subject to appeal—
- (i) if not appealed against, becomes final at the end of the period for bringing an appeal; or

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- (a) 覆核或上訴已獲裁定，而提出任何進一步覆核或上訴的限期已結束；或
- (b) 覆核或上訴已被放棄，或在其他情況下終止有效。
- (5) 在本條中 ——
- 不當行為** (misconduct) 指疏忽、失責、失職或違反信託行為。

- (ii) if appealed against, becomes final when the appeal, or any further appeal, is disposed of; and
- (c) a finding not subject to review or appeal becomes final when it is made.
- (4) For the purposes of subsection (3)(a)(ii) or (b)(ii), a review or appeal is disposed of if—
- (a) it is determined, and the period for bringing any further review or appeal has ended; or
- (b) it is abandoned or otherwise ceases to have effect.
- (5) In this section—
- misconduct** (不當行為) means negligence, default, breach of duty or breach of trust.

509. 例外情況：居所貸款

- (1) 如第 (2) 款指明的條件獲符合，第 500、501、502 或 503 條並不禁止公司訂立任何交易 ——
- (a) 藉以便利購買任何住用處所，用作以下的人的唯一或主要住所 ——
- (i) 該公司的董事；
- (ii) 該公司的僱員，而該僱員是該公司的控權公司的董事；或
- (iii) 該公司的僱員，而該僱員是與該公司的或其控權公司的董事有關連的實體；
- (b) 藉以改善任何作如此用途的住用處所；或
- (c) 代替任何其他人為 (a) 或 (b) 段指明的用途而訂立的任何交易。
- (2) 有關條件是 ——
- (a) 在有關的交易訂立之時，有關風險承擔總額不超過以下款額的 10% ——

509. Exception for home loan

- (1) If the conditions specified in subsection (2) are satisfied, a company is not prohibited by section 500, 501, 502 or 503 from entering into any transaction—
- (a) for the purpose of facilitating the purchase of any residential premises for use as the only or main residence of—
- (i) a director of the company;
- (ii) an employee of the company who is a director of a holding company of the company; or
- (iii) an employee of the company who is an entity connected with a director of the company or of a holding company of the company;
- (b) for the purpose of improving any residential premises so used; or

- (i) 參照有關公司的有關財務報表而釐定的該公司的淨資產的價值；或
- (ii) (如沒有擬備有關財務報表) 該公司的已催繳股本的款額；
- (b) 該公司通常訂立作第 (3) 款指明的用途的交易的條款，不遜於訂立有關交易所按的條款；
- (c) 該住用處所的估值報告，是由一名具有專業資格並受專業團體紀律約束的估值測量師，在訂立有關的交易的日期之前的 3 個月內作出和簽署；及
- (d) 有關的交易是以包括有關住用處所的土地的法律按揭作為保證。
- (3) 為施行第 (2)(b) 款而指明的用途是 ——
 - (a) 利便購買任何住用處所，用作該公司的僱員的唯一或主要住所；
 - (b) 改善任何作如此用途的住用處所；或
 - (c) 代替任何其他人為 (a) 或 (b) 段指明的用途而訂立的任何交易。
- (4) 在本條中 ——
住用處所 (residential premises) 指任何住用處所連同任何與該處所一併佔用或享用的土地。
- (5) 在本條中，提述某公司的有關財務報表 ——
 - (a) 即提述根據第 9 部擬備的並在最近期根據第 430 條送交該公司成員的該公司的周年財務報表或周年綜合財務報表；或
 - (b) (如自第 430 條的生效日期[#]起無送交周年財務報表或周年綜合財務報表) 即提述根據《前身條例》第 122 條擬備的並在最近期根據該條例第 129G 條送交該公司成員的公司賬目。

編輯附註：

- (c) in substitution for any transaction entered into by any other person for a purpose specified in paragraph (a) or (b).
- (2) The conditions are—
 - (a) that, at the time the transaction in question is entered into, the total exposure amount does not exceed 10% of—
 - (i) the value of the company's net assets as determined by reference to the relevant financial statements of the company; or
 - (ii) if no such relevant financial statements have been prepared, the amount of the company's called-up share capital;
 - (b) that the company ordinarily enters into transactions for a purpose specified in subsection (3) on terms no less favourable than those on which the transaction in question is entered into;
 - (c) that a valuation report on the residential premises is made and signed by a professionally qualified valuation surveyor, who is subject to the discipline of a professional body, within 3 months before the date on which the transaction in question is entered into; and
 - (d) that the transaction in question is secured by a legal mortgage on the land comprising the residential premises.
- (3) The purpose specified for the purposes of subsection (2)(b) is—
 - (a) to facilitate the purchase of any residential premises for use as the only or main residence of an employee of the company;
 - (b) to improve any residential premises so used; or

生效日期：2014 年 3 月 3 日。

510. 例外情況：將貨物及土地出租等

- (1) 如第 (2) 款指明的條件獲符合，則第 500、501、502 或 503 條並不禁止公司將貨物出租或租賃予或將土地出租予——
- (a) 該公司的董事或該公司的控權公司的董事；
 - (b) 受該等董事控制的法人團體；或
 - (c) 與該等董事有關連的實體。
- (2) 有關條件是——

- (c) to substitute for any transaction entered into by any other person for a purpose specified in paragraph (a) or (b).

- (4) In this section—

residential premises (住用處所) means any residential premises together with any land to be occupied or enjoyed with the premises.

- (5) In this section, a reference to the relevant financial statements of a company is—

- (a) a reference to the company's annual financial statements or annual consolidated financial statements prepared under Part 9 that were most recently sent to its members under section 430; or
- (b) if no such annual financial statements or annual consolidated financial statements have been sent since the commencement date[#] of section 430, a reference to the company's accounts prepared under section 122 of the predecessor Ordinance that were most recently sent to its members under section 129G of that Ordinance.

Editorial Note:

Commencement date: 3 March 2014.

510. Exception for leasing goods and land etc.

- (1) If the conditions specified in subsection (2) are satisfied, a company is not prohibited by section 500, 501, 502 or 503 from leasing or hiring goods or leasing land to—
- (a) a director of the company or of a holding company of the company;
 - (b) a body corporate controlled by such a director; or
 - (c) an entity connected with such a director.

- (a) 在有關的交易訂立之時，有關風險承擔總額不超過以下款額的 10% ——
- (i) 參照有關公司的有關財務報表而釐定的該公司的淨資產的價值；或
 - (ii) (如沒有擬備有關財務報表) 該公司的已催繳股本的款額；及
- (b) 將假使在公開市場將該貨物出租或租賃予或將該土地出租予與該公司沒有關連的人時可合理預期該公司會提出的條款，與有關的交易的條款相比，後者並非較為優惠。
- (3) 在本條中，提述某公司的有關財務報表 ——
- (a) 即提述根據第 9 部擬備的並在最近期根據第 430 條送交該公司成員的該公司的周年財務報表或周年綜合財務報表；或
 - (b) (如自第 430 條的生效日期[#]起無送交周年財務報表或周年綜合財務報表) 即提述根據《前身條例》第 122 條擬備的並在最近期根據該條例第 129G 條送交該公司成員的公司賬目。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

511. 例外情況：在通常業務運作中訂立的交易

- (2) The conditions are—
- (a) that, at the time the transaction in question is entered into, the total exposure amount does not exceed 10% of—
 - (i) the value of the company's net assets as determined by reference to the relevant financial statements of the company; or
 - (ii) if no such relevant financial statements have been prepared, the amount of the company's called-up share capital; and
 - (b) that the terms of the transaction in question are not more favourable than what is reasonable to expect the company to have offered, if the goods had been leased or hired, or the land had been leased, on the open market, to a person unconnected with the company.
- (3) In this section, a reference to the relevant financial statements of a company is—
- (a) a reference to the company's annual financial statements or annual consolidated financial statements prepared under Part 9 that were most recently sent to its members under section 430; or
 - (b) if no such annual financial statements or annual consolidated financial statements have been sent since the commencement date[#] of section 430, a reference to the company's accounts prepared under section 122 of the predecessor Ordinance that were most recently sent to its members under section 129G of that Ordinance.

Editorial Note:

[#] Commencement date: 3 March 2014.

511. Exception for transaction entered into in ordinary course of

- (1) 如有以下情況，第 500、501 或 502 條並不禁止公司借出貸款或類似貸款，或在與貸款或類似貸款有關連的情況下，給予擔保或提供保證——
- (a) 該公司的通常業務包括借出貸款或類似貸款，或在與貸款或類似貸款有關連的情況下，給予擔保或提供保證（視屬何情況而定）；
 - (b) 該項貸款、類似貸款、擔保或保證由該公司在其通常業務運作中借出、給予或提供；及
 - (c) 該項貸款、類似貸款、擔保或保證的款額，並不大於可合理預期該公司會向另一名財務狀況相同但與該公司沒有關連的人提供的款額，而將可合理預期該公司會向該另一人提出的條款，與該項貸款、類似貸款、擔保或保證的條款相比，後者並非較為優惠。
- (2) 如有以下情況，第 503 條並不禁止公司訂立信貸交易，或在與信貸交易有關連的情況下，給予擔保或提供保證——
- (a) 該公司的通常業務包括訂立信貸交易，或在與信貸交易有關連的情況下，給予擔保或提供保證（視屬何情況而定）；
 - (b) 該項信貸交易、擔保或保證由該公司在其通常業務運作中訂立、給予或提供；及
 - (c) 該項信貸交易、擔保或保證的款額，並不大於可合理預期該公司會向另一名財務狀況相同但與該公司沒有關連的人提供的款額，而將可合理預期該公司會向該另一人提出的條款，與該項信貸交易、擔保或保證的條款相比，後者並非較為優惠。

business

- (1) A company is not prohibited by section 500, 501 or 502 from making a loan or quasi-loan, or giving a guarantee or providing security in connection with a loan or quasi-loan, if—
- (a) the company's ordinary business includes the making of loans or quasi-loans, or the giving of guarantees or provision of securities in connection with loans or quasi-loans (as the case may be);
 - (b) the loan, quasi-loan, guarantee or security is made, given or provided by the company in the ordinary course of its business; and
 - (c) the amount of the loan or quasi-loan, guarantee or security is not greater, and the terms of it are not more favourable, than what is reasonable to expect the company to have offered to a person of the same financial standing but unconnected with the company.
- (2) A company is not prohibited by section 503 from entering into a credit transaction, or giving a guarantee or providing security in connection with a credit transaction, if—
- (a) the company's ordinary business includes the entering into of credit transactions, or the giving of guarantees or provision of securities in connection with credit transactions (as the case may be);
 - (b) the credit transaction, guarantee or security is entered into, given or provided by the company in the ordinary course of its business; and
 - (c) the amount of the credit transaction, guarantee or security is not greater, and the terms of it are not more favourable, than what is reasonable to expect the company to have offered to a person of the same financial standing but unconnected with the company.

512. 例外情況：集團內部交易

如公司屬某公司集團成員，第 500、501、502 或 503 條並不禁止該公司——

- (a) 向屬該集團成員的法人團體借出貸款或類似貸款，或以債權人身份，為該法人團體訂立信貸交易；或
- (b) 在與以下貸款、類似貸款或信貸交易有關連的情況下，給予擔保或提供保證——
 - (i) 任何人借予該法人團體的貸款或類似貸款；或
 - (ii) 任何人以債權人身份為該法人團體訂立的信貸交易。

第 4 次分部 —— 違反的後果**513. 違反的民事後果**

- (1) 如某公司在違反第 500、501、502 或 503 條的情況下訂立交易，或在違反第 504 條的情況下訂立安排，則除非有以下情況，否則有關交易或安排可由該公司提出要求而致使無效——
 - (a) 復還屬該項交易或安排的標的物的任何款項或其他資產，已不再可能；
 - (b) 該公司已就該項交易或安排所導致的損失或損害，獲得彌償；或
 - (c) 由某人（並非為之訂立該項交易或安排的董事、受控制的法人團體或有關連實體者）在不實際知悉有關違反的情況下真誠地並付出價值而取得的權利，會因該項交易或安排被致無效而受影響。
- (2) 不論有關交易或安排是否已被致無效，每名第 (3) 款指明的人均負有法律責任——

512. Exception for intra-group transaction

If a company is a member of a group of companies, the company is not prohibited by section 500, 501, 502 or 503 from—

- (a) making a loan or quasi-loan to, or entering into a credit transaction as creditor for, a body corporate that is a member of the group; or
- (b) giving a guarantee or providing security in connection with—
 - (i) a loan or quasi-loan made by any person to such a body corporate; or
 - (ii) a credit transaction entered into by any person as creditor for such a body corporate.

Subdivision 4—Consequences of Contravention**513. Civil consequences of contravention**

- (1) If a company enters into a transaction in contravention of section 500, 501, 502 or 503, or enters into an arrangement in contravention of section 504, the transaction or arrangement is voidable at the company's instance unless—
 - (a) restitution of any money or other asset that was the subject matter of the transaction or arrangement is no longer possible;
 - (b) the company has been indemnified for any loss or damage resulting from the transaction or arrangement; or
 - (c) a person other than the director, controlled body corporate, or connected entity, for whom the transaction or arrangement was entered into acquired rights in good faith, for value, and without actual notice of the

- (a) 就該人藉該項交易或安排而直接或間接獲得的收益，向有關公司作出交代；及
- (b) 與任何其他須根據本條如此負有法律責任的人，共同及各別就該項交易或安排所導致的任何損失或損害，向該公司作出彌償。
- (3) 有關的人是 ——
- (a) 有關公司為之訂立有關交易或安排的、該公司的董事或該公司的控權公司的董事；
- (b) 該公司為之訂立該項交易或安排的、受該等董事控制的法人團體或與該等董事有關連的實體；
- (c) 控制該等法人團體的該公司的董事，或與該等實體有關連的該公司的董事；
- (d) 控制該等法人團體的該公司的控權公司的董事，或與該等實體有關連的該公司的控權公司的董事；及
- (e) 該公司的任何其他授權該項交易或安排的董事。
- (4) 儘管有第 (2) 款的規定 ——
- (a) 如第 (3)(b) 款指明的受控制的法人團體或有關連實體確立在訂立有關交易或安排時，該法人團體或實體並不知悉構成有關違反的情況，則該法人團體或實體無須負法律責任；
- (b) 如第 (3)(c) 或 (d) 款指明的董事確立該董事已採取一切合理步驟，以確使有關公司遵守第 500、502、503 或 504 條 (視屬何情況而定)，則該董事無須負法律責任；及
- (c) 如第 (3)(e) 款指明的董事確立在訂立有關交易或安排時，該董事並不知悉構成有關違反的情況，則該董事無須負法律責任。
- (5) 凡有關交易或安排憑藉任何其他條例或法律規則而可被質疑，或由有關公司所負的法律責任可憑藉任何其他條

- contravention, and those rights would be affected by the avoidance.
- (2) Whether or not the transaction or arrangement has been avoided, each of the persons specified in subsection (3) is liable—
- (a) to account to the company for any gain that the person has made, directly or indirectly, by the transaction or arrangement; and
- (b) jointly and severally with any other person so liable under this section, to indemnify the company for any loss or damage resulting from the transaction or arrangement.
- (3) The persons are—
- (a) a director of the company, or of a holding company of the company, for whom the company entered into the transaction or arrangement;
- (b) a body corporate controlled by such a director, or an entity connected with such a director, for whom the company entered into the transaction or arrangement;
- (c) the director of the company who controls such a body corporate or with whom such an entity is connected;
- (d) the director of a holding company of the company who controls such a body corporate or with whom such an entity is connected; and
- (e) any other director of the company who authorized the transaction or arrangement.
- (4) Despite subsection (2)—
- (a) the controlled body corporate or connected entity specified in subsection (3)(b) is not liable if the controlled body corporate or connected entity establishes that, at the time the transaction or arrangement was

例或法律規則而產生，則本條並不排除該等條例或法律規則的實施。

514. 確認構成違反的交易或安排

- (1) 儘管有第 513 條的規定，如某項交易或安排在其訂立之後的一段合理期間內獲確認，該項交易或安排再不可根據該條而被致無效。
- (2) 如某項交易或安排因未獲有關公司的成員的訂明批准訂立，而違反第 2 次分部，該項交易或安排的確認，須藉該公司的成員的決議取得。
- (3) 如某項交易或安排因未獲有關控權公司的成員的訂明批准訂立，而違反第 2 次分部，該項交易或安排的確認，須藉該控權公司的成員的決議取得。
- (4) 如某項交易或安排因未獲有關公司的成員的訂明批准及有關控權公司的成員的訂明批准訂立，而違反第 2 次分部，該項交易或安排的確認，須藉以下方式取得——
 - (a) 該公司的成員的決議；及

entered into, it was not aware of the circumstances constituting the contravention;

- (b) the director specified in subsection (3)(c) or (d) is not liable if the director establishes that the director took all reasonable steps to secure the company's compliance with section 500, 502, 503 or 504 (as the case may be); and
 - (c) a director specified in subsection (3)(e) is not liable if the director establishes that, at the time the transaction or arrangement was entered into, the director was not aware of the circumstances constituting the contravention.
- (5) This section does not exclude the operation of any other Ordinance or rule of law by virtue of which the transaction or arrangement may be called into question or any liability to the company may arise.

514. Affirmation of contravening transaction or arrangement

- (1) Despite section 513, a transaction or arrangement may no longer be avoided under that section if, within a reasonable period after it is entered into, the transaction or arrangement is affirmed.
- (2) If a transaction or arrangement contravenes Subdivision 2 because it was entered into without the prescribed approval of the company's members, the affirmation of the transaction or arrangement must be obtained by a resolution of the company's members.
- (3) If a transaction or arrangement contravenes Subdivision 2 because it was entered into without the prescribed approval of the holding company's members, the affirmation of the transaction or arrangement must be obtained by a resolution of the holding company's members.

- (b) 該控權公司的成員的決議。
- (5) 如某公司或控權公司確認某項交易或安排的決定，藉該公司或該控權公司的成員的一致同意作出，則第 (2)、(3) 及 (4) 款並不影響該決定的有效性。

515. 第 514 條的補充條文

- (1) 就根據第 514 條通過的任何公司的成員的決議而言，以下規定須獲符合——
- (a) (如屬書面決議) 一份列出第 (3) 款指明的事項的備忘錄，在建議決議送交每名成員之時或之前，已送交該成員；或
- (b) (如屬成員大會上通過的決議) ——
- (i) 一份列出第 (3) 款指明的事項的備忘錄，連同召開該大會的通知書，已送交每名成員；及
- (ii) (如有關公司屬指明公司) 在不理會第 (4) 款指明的成員對該項決議所投的每一贊成票的情況下，該項決議仍獲通過。
- (2) 除公司的章程細則的任何條文另有規定外，就斷定是否符合第 (1)(a) 或 (b)(i) 款指明的規定而言，任何意外遺漏向成員送交備忘錄的情況，須不予理會。
- (3) 為施行第 (1)(a) 及 (b)(i) 款而指明的事項 ——
- (a) (如屬須為違反第 500、501 或 502 條而通過的決議) 如下 ——

- (4) If a transaction or arrangement contravenes Subdivision 2 because it was entered into without the prescribed approval of the company's members and the prescribed approval of the holding company's members, the affirmation of the transaction or arrangement must be obtained—
- (a) by a resolution of the company's members; and
- (b) by a resolution of the holding company's members.
- (5) Subsections (2), (3) and (4) do not affect the validity of a company's or holding company's decision to affirm a transaction or arrangement if it is taken by unanimous consent of the company's or holding company's members.

515. Provisions supplementary to section 514

- (1) The following requirements must be met in relation to a resolution of the members of any company under section 514—
- (a) in the case of a written resolution, a memorandum setting out the matters specified in subsection (3) is sent to every member at or before the time at which the proposed resolution is sent to the member; or
- (b) in the case of a resolution passed at a general meeting—
- (i) a memorandum setting out the matters specified in subsection (3) is sent to every member together with the notice convening the meeting; and
- (ii) if the company is a specified company, the resolution is passed after disregarding every vote in favour of the resolution by a member specified in subsection (4).
- (2) Subject to any provision of the company's articles, any accidental omission to send the memorandum to a member is to be disregarded for the purpose of determining whether the

- (i) 有待以該項決議確認的交易的性質；
 - (ii) 有關貸款或類似貸款的款額；
 - (iii) 該項貸款或類似貸款需作何用途；及
 - (iv) 有關公司在任何與該項貸款或類似貸款有關連的交易下的法律責任的範圍；
- (b) (如屬須為違反第 503 條而通過的決議) 如下 ——
- (i) 有待以該項決議確認的交易的性質；
 - (ii) 有關信貸交易的款額及價值；
 - (iii) 根據該項信貸交易提供、出售、出租、租賃或以其他方式處置的貨物、土地或服務需作何用途；及
 - (iv) 有關公司在任何與該項信貸交易有關連的交易下的法律責任的範圍；或
- (c) (如屬須為違反第 504 條而通過的決議) 如下 ——
- (i) 假使有關公司尋求確認關乎有關安排的交易便會須披露的事項；
 - (ii) 有待以該項決議確認的安排的性質；及
 - (iii) 有關公司在該項安排下的法律責任的範圍。
- (4) 為施行第 (1)(b)(ii) 款而指明的成員 ——
- (a) (如屬須為違反第 500 或 501 條而通過的決議) 是符合以下說明的成員 ——
- (i) 屬有關貸款的建議借出對象或實際借出對象的受控制的法人團體；
 - (ii) 屬 ——
 - (A) 控制該法人團體的董事；或
 - (B) 有關貸款或類似貸款的建議借出對象或實際借出對象的董事；

- requirement specified in subsection (1)(a) or (b)(i) has been met.
- (3) The matters specified for the purposes of subsection (1)(a) and (b)(i) are—
- (a) in the case of a resolution for the purpose of a contravention of section 500, 501 or 502—
- (i) the nature of the transaction to be affirmed by the resolution;
 - (ii) the amount of the loan or quasi-loan;
 - (iii) the purpose for which the loan or quasi-loan is required; and
 - (iv) the extent of the company's liability under any transaction connected with the loan or quasi-loan;
- (b) in the case of a resolution for the purpose of a contravention of section 503—
- (i) the nature of the transaction to be affirmed by the resolution;
 - (ii) the amount and value of the credit transaction;
 - (iii) the purpose for which the goods, land or services supplied, sold, leased, hired or otherwise disposed of under the credit transaction are required; and
 - (iv) the extent of the company's liability under any transaction connected with the credit transaction; or
- (c) in the case of a resolution for the purpose of a contravention of section 504—
- (i) the matters that would have to be disclosed if the company were seeking affirmation of the transaction to which the arrangement relates;

- (iii) 屬授權借出該項貸款或類似貸款的該公司的任何其他董事；或
- (iv) 以信託形式，為第 (ii) 或 (iii) 節指明的董事或該受控制的法人團體持有該公司任何股份；
- (b) (如屬須為違反第 502 條而通過的決議) 是符合以下說明的成員——
- (i) 屬獲有關貸款或類似貸款的建議借出對象或實際借出對象的有關連實體；
- (ii) 屬與該實體有關連的董事；
- (iii) 屬授權借出該項貸款或類似貸款的該公司的任何其他董事；或
- (iv) 以信託形式，為第 (ii) 或 (iii) 節指明的董事或該有關連實體持有該公司任何股份；
- (c) (如屬須為違反第 503 條而通過的決議) 是符合以下說明的成員——
- (i) 屬有關信貸交易已經或建議為之訂立的董事或有關連實體；
- (ii) 屬與該實體有關連的董事；
- (iii) 屬授權訂立該項信貸交易的該公司的任何其他董事；或
- (iv) 以信託形式，為第 (i)、(ii) 或 (iii) 節指明的董事或該有關連實體持有該公司任何股份；或
- (d) (如屬須為違反第 504 條而通過的決議) 是符合以下說明的成員——
- (i) 屬有關安排已經或建議為之訂立的受控制的法人團體或有關連實體；
- (ii) 屬——
- (A) 控制該法人團體的董事；
- (B) 與該實體有關連的董事；或
- (ii) the nature of the arrangement to be affirmed by the resolution; and
- (iii) the extent of the company's liability under the arrangement.
- (4) The member specified for the purposes of subsection (1)(b)(ii) is—
- (a) in the case of a resolution for the purpose of a contravention of section 500 or 501—
- (i) one who is the controlled body corporate to whom the loan is proposed to be made or was made;
- (ii) one who is the director—
- (A) who controls that body corporate; or
- (B) to whom the loan or quasi-loan is proposed to be made or was made;
- (iii) one who is any other director of the company who authorized the loan or quasi-loan; or
- (iv) one who holds any shares in the company in trust for the director specified in subparagraph (ii) or (iii) or that controlled body corporate;
- (b) in the case of a resolution for the purpose of a contravention of section 502—
- (i) one who is the connected entity to whom the loan or quasi-loan is proposed to be made or was made;
- (ii) one who is the director with whom that entity is connected;
- (iii) one who is any other director of the company who authorized the loan or quasi-loan; or
- (iv) one who holds any shares in the company in trust for the director specified in subparagraph (ii) or (iii) or that connected entity;

- (C) 有關安排已經或建議為之訂立的董事；
- (iii) 屬授權參與該項安排的該公司的任何其他董事；或
- (iv) 以信託形式，為第 (ii) 或 (iii) 節指明的董事、該受控制的法人團體或該有關連實體持有該公司任何股份。
- (5) 第 (1)(b)(ii) 款並不阻止第 (4) 款指明的成員出席任何考慮有關決定的會議，或被計入該會議的法定人數，或參與該會議的程序。
- (6) 在本條中，提述某項安排所關乎的交易 ——
- (a) (如屬第 504(1)(a) 或 (2)(a) 條所述的安排) 即提述根據該項安排與董事、受董事控制的法人團體或與董事有關連的實體訂立的交易；或
- (b) (如屬第 504(1)(b) 或 (2)(b) 條所述的關乎某項交易下的任何權利、義務或法律責任的安排) 即提述該項交易。

- (c) in the case of a resolution for the purpose of a contravention of section 503—
- (i) one who is the director or connected entity for whom the credit transaction is proposed to be entered into or was entered into;
- (ii) one who is the director with whom that entity is connected;
- (iii) one who is any other director of the company who authorized the credit transaction; or
- (iv) one who holds any shares in the company in trust for the director specified in subparagraph (i), (ii) or (iii) or that connected entity; or
- (d) in the case of a resolution for the purpose of a contravention of section 504—
- (i) one who is the controlled body corporate, or connected entity, for whom the arrangement is proposed to be entered into or was entered into;
- (ii) one who is the director—
- (A) who controls that body corporate;
- (B) with whom that entity is connected; or
- (C) for whom the arrangement is proposed to be entered into or was entered into;
- (iii) one who is any other director of the company who authorized the arrangement; or
- (iv) one who holds any shares in the company in trust for the director specified in subparagraph (ii) or (iii) or that controlled body corporate or connected entity.
- (5) Subsection (1)(b)(ii) does not prevent a member specified in subsection (4) from attending, being counted towards the

第 3 分部 —— 失去職位的付款

第 1 次分部 —— 導言

516. 釋義

(1) 在本分部中 ——

收購要約 (takeover offer) 指第 689 條所界定的收購要約；

受影響成員 (affected member) 指 ——

- (a) 收購要約的目標股份的持有人；或
- (b) 與收購要約的目標股份屬相同類別的股份的持有人；

董事 (director) 包括幕後董事。

(2) 在本分部中 ——

- (a) 提述付款、賠償或代價，包括非現金利益；及
- (b) 提述失去董事職位，不包括某人失去作為幕後董事的地位。

quorum for, or taking part in the proceedings at, any meeting at which the decision is considered.

(6) In this section, a reference to a transaction to which an arrangement relates is—

- (a) in the case of an arrangement mentioned in section 504(1)(a) or (2)(a), a reference to the transaction entered into with a director, a body corporate controlled by a director, or an entity connected with a director under the arrangement; or
- (b) in the case of an arrangement mentioned in section 504(1)(b) or (2)(b) in relation to any rights, obligations or liabilities under a transaction, a reference to the transaction.

Division 3—Payment for Loss of Office

Subdivision 1—Preliminary

516. Interpretation

(1) In this Division—

affected member (受影響成員) means—

- (a) a holder of the shares to which the takeover offer relates; or
- (b) a holder of shares of the same class as any of the shares to which the takeover offer relates;

director (董事) includes a shadow director;

takeover offer (收購要約) means a takeover offer as defined by section 689.

(2) In this Division—

- (a) a reference to payment, compensation or consideration includes benefits otherwise than in cash; and

- (3) 在第 517 條及第 2 及 3 次分部中，提述向董事或前董事作出的付款，包括 ——
- (a) 向與該董事或前董事有關連的實體作出的付款；及
- (b) 應以下的人的指示或為以下的人的利益而向某人作出的付款 ——
- (i) 該董事或前董事；或
- (ii) 與該董事或前董事有關連的實體。
- (4) 在第 517 條及第 2 及 3 次分部中，提述由某人作出的付款，包括由另一人應該人的指示或代表該人作出的付款。
- (5) 就本分部而言，縱使某法人團體的附屬公司的一眾董事或過半數董事，慣於按照該團體的指示或指令行事，該團體不會僅因此而視為其附屬公司的幕後董事。

517. 就失去職位而作出的付款

- (1) 在本分部中，提述就失去職位而向公司的董事或前董事作出的付款，即提述 ——
- (a) 作為失去該公司董事職位的補償，向該董事或前董事作出的付款；
- (b) 於該董事或前董事出任該公司董事期間，或在與其停任該公司董事有關連的情況下 ——
- (i) 作為失去關於管理該公司事務的任何其他職位或受僱工作的補償，向該董事或前董事作出的付款；或

- (b) a reference to loss of office as a director excludes loss of a person's status as a shadow director.

- (3) In section 517 and Subdivisions 2 and 3, a reference to a payment to a director or former director includes—

- (a) a payment to an entity connected with the director or former director; and

- (b) a payment to a person made at the direction of, or for the benefit of—

- (i) the director or former director; or

- (ii) an entity connected with the director or former director.

- (4) In section 517 and Subdivisions 2 and 3, a reference to a payment by a person includes a payment by another person made at the direction of, or on behalf of, the person.

- (5) For the purposes of this Division, a body corporate is not to be regarded as a shadow director of any of its subsidiaries by reason only that the directors, or a majority of the directors, of the subsidiary are accustomed to act in accordance with its directions or instructions.

517. Payment for loss of office

- (1) In this Division, a reference to a payment for loss of office made to a director or former director of a company is a reference to a payment made to the director or former director—

- (a) by way of compensation for loss of office as director of the company;

- (b) by way of compensation for loss, while director of the company or in connection with ceasing to be director of it, of—

- (ii) 作為失去關於管理該公司任何附屬企業的事務的任何職位（董事或其他職位）或受僱工作的補償，向該董事或前董事作出的付款；
- (c) 作為該董事或前董事卸任該公司董事職位的代價，或在與其卸任該職位給予的代價有關連的情況下，向該董事或前董事作出的付款；或
- (d) 於該董事或前董事出任該公司董事期間，或在與其停任該公司董事有關連的情況下——
- (i) 作為卸任關於管理該公司事務的任何其他職位或受僱工作的代價，或作為關於該項卸任的代價，向該董事或前董事作出的付款；或
- (ii) 作為卸任關於管理該公司任何附屬企業的事務的任何職位（董事或其他職位）或受僱工作的代價，或作為關於該項卸任的代價，向該董事或前董事作出的付款。
- (2) 如在與第 522 或 523 條所述的轉讓有關連的情況下——
- (a) 就有關公司任何股份而向第 (3) 款指明的該公司董事或前董事支付的價格，超逾其他持有同類股份的人當時能取得的價格；或
- (b) 由有關公司以外的人，向第 (3) 款指明的該公司董事或前董事給予任何有值代價，
- 則就第 522 及 523 條而言，上述超逾之數或（視屬何情況而定）該項代價的金錢價值，須視為就失去職位而作出的付款。
- (3) 有關公司的董事或前董事是——
- (a) 屬將會或已經在與該項轉讓有關連的情況下不再擔任職位的董事或前董事者；或
- (b) 屬將會或已經在與該項轉讓有關連的情況下不再擔任以下其中一項職位者——

- (i) any other office or employment in connection with the management of the affairs of the company; or
- (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company;
- (c) as consideration for or in connection with the retirement from the office as director of the company; or
- (d) as consideration for or in connection with the retirement, while director of the company or in connection with ceasing to be director of it, from—
- (i) any other office or employment in connection with the management of the affairs of the company; or
- (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.
- (2) If, in connection with a transfer mentioned in section 522 or 523—
- (a) the price to be paid to a director or former director of the company specified in subsection (3) for any shares in the company exceeds the price that could at the time have been obtained by other holders of like shares; or
- (b) any valuable consideration is given to a director or former director of the company specified in subsection (3) by a person other than the company,
- the excess, or (as the case may be) the money value of the consideration, is to be regarded as a payment for loss of office for the purposes of sections 522 and 523.
- (3) The director or former director of the company is—
- (a) one who is or was to cease to hold office in connection with the transfer; or

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- (i) 關於管理該公司的事務的任何其他職位或受僱工作；
 - (ii) 關於管理該公司附屬企業的事務的任何職位（董事或其他職位）或受僱工作。
- (4) 第(1)(a)及(b)款適用於在本分部的生效日期[#]當日或之後失去職位。
- (5) 第(1)(c)及(d)款適用於在本分部的生效日期[#]當日或之後卸任。
- (6) 為施行第(4)及(5)款，失去職位或卸任在以下時間發生——
- (a) （如屬董事席位）有關的人不再是董事時；
 - (b) （如屬任何其他職位）有關的人不再擔任該職位時；或
 - (c) （如屬受僱工作）有關受僱工作終結時。
- (7) 在本條中——

附屬企業 (subsidiary undertaking) 的涵義與第 9 部中該詞的涵義相同。（由 2018 年第 35 號第 57 條增補）

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

518. 成員或受影響成員的訂明批准

- (1) 在本分部中，提述某公司的成員或受影響成員的訂明批准，即提述藉該等成員或受影響成員的符合以下說明的決議取得的批准——

- (b) one who is or was to cease to be the holder of either of the following offices in connection with the transfer—
- (i) any other office or employment in connection with the management of the affairs of the company;
 - (ii) any office (as director or otherwise) or employment in connection with the management of the affairs of any subsidiary undertaking of the company.
- (4) Subsection (1)(a) and (b) applies to a loss of office occurring on or after the commencement date[#] of this Division.
- (5) Subsection (1)(c) and (d) applies to a retirement occurring on or after the commencement date[#] of this Division.
- (6) For the purposes of subsections (4) and (5), a loss of office or retirement occurs—
- (a) in the case of a directorship, when the person ceases to be a director;
 - (b) in the case of any other office, when the person ceases to hold the office; or
 - (c) in the case of an employment, when the employment comes to an end.

- (7) In this section—

subsidiary undertaking (附屬企業) has the same meaning as in Part 9. (Added 35 of 2018 s. 57)

Editorial Note:

[#] Commencement date: 3 March 2014.

518. Prescribed approval of members or affected members

- (1) In this Division, a reference to the prescribed approval of the members or affected members of a company is a reference to an approval obtained by a resolution of those members or affected members—

- (a) 在就失去職位作出付款之前通過；及
- (b) 第 (2) 款指明的規定就該項決議獲符合。
- (2) 為施行第 (1)(b) 款而指明的規定是 ——
- (a) (如屬書面決議) 一份列出付款的詳情的備忘錄，在建議決議送交每名成員或受影響成員(視屬何情況而定)之時或之前，已送交該成員或受影響成員；或
- (b) (如屬成員大會上通過的決議) ——
- (i) 一份列出付款的詳情的備忘錄，連同召開該大會的通知書，已送交每名成員或受影響成員(視屬何情況而定)；及
- (ii) (如有關公司屬公眾公司) 在不理會第 (4) 或 (5) 款指明的成員或受影響成員(視屬何情況而定) 對該項決議所投的每一贊成票的情況下，該項決議仍獲通過。
- (3) 除公司的章程細則的任何條文另有規定外，就斷定是否符合第 (2)(a) 或 (b)(i) 款指明的規定而言，任何意外遺漏向成員或受影響成員(視屬何情況而定) 送交備忘錄的情況，須不予理會。
- (4) 如屬為第 521 或 522 條的目的而通過的決議，則為施行第 (2)(b)(ii) 款而指明的成員是符合以下說明的成員 ——
- (a) 屬建議就失去職位獲得付款的董事或前董事；
- (b) 屬就失去職位而作出的付款的建議收款人而非 (a) 段指明的董事或前董事；或
- (c) 以信託形式，為該董事、前董事或收款人持有該公司任何股份。
- (5) 如屬為第 523 條的目的而通過的決議，則為施行第 (2)(b)(ii) 款而指明的受影響成員是符合以下說明的成員 ——
- (a) 屬建議就失去職位獲得付款的董事或前董事；

- (a) that is passed before the payment for loss of office is made; and
- (b) in respect of which the requirements specified in subsection (2) are met.
- (2) The requirements specified for the purposes of subsection (1)(b) are—
- (a) that, in the case of a written resolution, a memorandum setting out the particulars of the payment is sent to every member or affected member (as the case may be) at or before the time at which the proposed resolution is sent to the member or affected member; or
- (b) that, in the case of a resolution passed at a general meeting—
- (i) a memorandum setting out the particulars of the payment is sent to every member or affected member (as the case may be) together with the notice convening the meeting; and
- (ii) if the company is a public company, the resolution is passed after disregarding every vote in favour of the resolution by a member or affected member (as the case may be) specified in subsection (4) or (5).
- (3) Subject to any provision of the company's articles, any accidental omission to send the memorandum to a member or affected member (as the case may be) is to be disregarded for the purpose of determining whether the requirement specified in subsection (2)(a) or (b)(i) has been met.
- (4) In the case of a resolution for the purposes of section 521 or 522, the member specified for the purposes of subsection (2)(b)(ii) is—
- (a) one who is the director or former director to whom the payment for loss of office is proposed to be made;

- (b) 屬就失去職位而作出的付款的建議收款人而非 (a) 段指明的董事或前董事；
- (c) 作出有關收購要約；
- (d) 屬作出有關收購要約的人的有聯繫者；或
- (e) 以信託形式，為以下的人持有該公司任何股份 ——
- (i) 該董事、前董事或收款人；
 - (ii) 作出 (c) 段指明的收購要約的人；或
 - (iii) 有關的有聯繫者。
- (6) 第 (2)(b)(ii) 款並不阻止第 (4) 或 (5) 款指明的成員或受影響成員 (視屬何情況而定) 出席任何考慮有關決定的會議，或被計入該會議的法定人數，或參與該會議的程序。
- (7) 在本條中 ——
有聯繫者 (associate) 就作出收購要約的人而言，指第 667 條所界定的該人的有聯繫者。
- (8) 為施行第 (1)(a) 款，有關決議是在本分部的生效日期[#]之前、當日或之後通過，並不相干。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

- (b) one who is the proposed recipient of the payment for loss of office and who is not the director or former director specified in paragraph (a); or
- (c) one who holds any shares in the company in trust for that director, former director or recipient.
- (5) In the case of a resolution for the purposes of section 523, the affected member specified for the purposes of subsection (2)(b)(ii) is—
- (a) one who is the director or former director to whom the payment for loss of office is proposed to be made;
 - (b) one who is the proposed recipient of the payment for loss of office and who is not the director or former director specified in paragraph (a);
 - (c) one who makes the takeover offer;
 - (d) one who is an associate of the person making the takeover offer; or
 - (e) one who holds any shares in the company in trust for—
 - (i) that director, former director or recipient;
 - (ii) the maker of the takeover offer specified in paragraph (c); or
 - (iii) the associate.
- (6) Subsection (2)(b)(ii) does not prevent a member or affected member (as the case may be) specified in subsection (4) or (5) from attending, being counted towards the quorum for, or taking part in the proceedings at, any meeting at which the decision is considered.
- (7) In this section—
associate (有聯繫者), in relation to a person making a takeover offer, means an associate of the person as defined by section 667.

519. 保留成員或受影響成員一致同意的效力

- (1) 如根據本分部的某條文，某公司未獲其成員或受影響成員的訂明批准，便不得訂立某項交易，則該條文並不禁止該項交易獲該等成員或受影響成員在其訂立之前給予的一致同意而訂立。
- (2) 如根據本分部的某條文，某公司可只獲其成員或受影響成員的訂明批准而訂立某項交易，該條文並不阻止該項交易獲該等成員或受影響成員在其訂立之前給予的一致同意而訂立。
- (3) 為施行第 (1) 或 (2) 款，有關一致同意是在本分部的生效日期[#]之前、當日或之後給予，並不相干。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

520. 本分部不影響其他條例或法律的施行

本分部不影響任何其他規定披露關於以下事項的條例或法律規則的施行——

- (8) For the purposes of subsection (1)(a), it is irrelevant whether the resolution is passed before, on or after the commencement date[#] of this Division.

Editorial Note:

[#] Commencement date: 3 March 2014.

519. Preservation of effect of members' or affected members' unanimous consent

- (1) If, under a provision of this Division, a transaction must not be entered into without the prescribed approval of a company's members or affected members, the provision does not prohibit the transaction from being entered into with the unanimous consent of those members or affected members given before it is entered into.
- (2) If, under a provision of this Division, a transaction may be entered into with only the prescribed approval of a company's members or affected members, the provision does not preclude the transaction from being entered into with the unanimous consent of those members or affected members given before it is entered into.
- (3) For the purposes of subsection (1) or (2), it is irrelevant whether the unanimous consent is given before, on or after the commencement date[#] of this Division.

Editorial Note:

[#] Commencement date: 3 March 2014.

520. This Division does not affect operation of other Ordinance or law

This Division does not affect the operation of any other Ordinance or rule of law requiring disclosure to be made with respect to—

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- (a) 任何第 521、522 或 523 條所述的就失去職位作出的付款；或
- (b) 任何其他已經或將會向某公司的董事或前董事作出的同類付款。

- (a) any payment for loss of office mentioned in section 521, 522 or 523; or
- (b) any other like payment made or to be made to a director or former director of a company.

第 2 次分部 —— 禁止**Subdivision 2—Prohibitions****521. 公司不得就失去職位向董事或前董事作出付款****521. Company must not make payment for loss of office to director or former director**

- (1) 任何公司未獲其成員的訂明批准，不得就失去職位而向其董事或前董事作出付款。
- (2) 任何公司未獲其成員的訂明批准及該公司的控權公司的成員的訂明批准，不得就失去職位而向其控權公司的董事或前董事作出付款。
- (3) 儘管有第 (2) 款的規定 ——
 - (a) 如某公司的控權公司是在香港以外地方成立為法團的，該公司可只獲其成員的訂明批准而訂立有關交易；及
 - (b) 如某公司屬該控權公司的全資附屬公司，而該控權公司是在香港成立為法團的，該公司可只獲該控權公司的成員的訂明批准而訂立有關交易。

- (1) Without the prescribed approval of its members, a company must not make a payment for loss of office to a director or former director of the company.
- (2) Without the prescribed approval of its members and the prescribed approval of the holding company's members, a company must not make a payment for loss of office to a director or former director of a holding company of the company.
- (3) Despite subsection (2)—
 - (a) a company may enter into the transaction with only the prescribed approval of its members if the holding company is incorporated outside Hong Kong; and
 - (b) a company may enter into the transaction with only the prescribed approval of the holding company's members if it is a wholly owned subsidiary of the holding company, and the holding company is incorporated in Hong Kong.

522. 任何人不得在與轉讓公司業務或財產有關連的情況下，就失去職位而向董事或前董事作出付款**522. Person must not make payment for loss of office to director or former director in connection with transfer of company's undertaking or property**

- (1) 任何人未獲公司成員的訂明批准，不得在與轉讓該公司的業務或財產的全部或任何部分有關連的情況下，就失去職位而向該公司的董事或前董事作出付款。

- (1) Without the prescribed approval of the company's members, a person must not make a payment for loss of office to a

- (2) 任何人未獲公司成員的訂明批准及該公司的附屬公司的成員的訂明批准，不得在與轉讓該公司的附屬公司的業務或財產的全部或任何部分有關連的情況下，就失去職位而向該公司的董事或前董事作出付款。
- (3) 就本條而言，如某項付款是——
- (a) 依據一項作為轉讓公司業務或財產的協議的一部分而訂立的安排作出的，或是在該協議訂立之前的一年內作出的，或是在該協議訂立之後的 2 年內作出的；及
- (b) 依據一項該公司或任何受轉讓人參與的安排作出的，則除非證明情況相反，該項付款須推定為在與該項轉讓有關連的情況下作出。
- (4) 儘管有第 (2) 款的規定，如有關附屬公司是在香港以外地方成立為法團的，或屬有關公司的全資附屬公司，任何人可只獲該公司成員的訂明批准而訂立有關交易。

523. 任何人不得在與收購要約所導致的股份轉讓有關連的情況下，就失去職位而向董事或前董事作出付款

- (1) 任何人未獲受影響成員的訂明批准，不得在與收購要約所導致的公司股份轉讓或公司的附屬公司股份轉讓有關連的情況下，就失去職位而向該公司的董事或前董事作出付款。
- (2) 就本條而言，如某項付款是——
- (a) 依據一項作為轉讓公司任何股份的協議的一部分而訂立的安排作出的，或是在該協議訂立之前的一年

director or former director of a company in connection with a transfer of the whole or any part of the undertaking or property of the company.

- (2) Without the prescribed approval of the company's members and the prescribed approval of the subsidiary's members, a person must not make a payment for loss of office to a director or former director of a company in connection with a transfer of the whole or any part of the undertaking or property of a subsidiary of the company.
- (3) For the purposes of this section, a payment is presumed, except in so far as the contrary is shown, to be made in connection with a transfer of any undertaking or property of a company if it is made pursuant to an arrangement—
- (a) entered into as part of the agreement for the transfer, or within one year before or 2 years after that agreement is entered into; and
- (b) to which the company, or any person to whom the transfer is made, is privy.
- (4) Despite subsection (2), a person may enter into the transaction with only the prescribed approval of the company's members if the subsidiary is incorporated outside Hong Kong or is a wholly owned subsidiary of the company.

523. Person must not make payment for loss of office to director or former director in connection with transfer of shares resulting from takeover offer

- (1) Without the prescribed approval of the affected members, a person must not make a payment for loss of office to a director or former director of a company in connection with a transfer of shares in the company, or in a subsidiary of the company, resulting from a takeover offer.

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內作出的，或是在該協議訂立之後的 2 年內作出的；
及

- (b) 依據一項該公司或任何受轉讓人參與的安排作出的，則除非證明情況相反，該項付款須推定為在與該項轉讓有關連的情況下作出。
- (3) 儘管有第 (1) 款的規定，如有關法人團體是在香港以外地方成立為法團的，任何人可無須獲該法人團體的受影響成員的訂明批准而訂立有關交易。
- (4) 就本條而言，如有以下情況，須視為已取得受影響成員對某項付款的訂明批准 ——
- (a) 出席考慮符合第 518(2)(b)(i) 條指明的規定的決議的成員大會的人，未達法定人數；
- (b) 該大會延期至較後日期舉行；及
- (c) 出席該經延期大會的人，未達法定人數。

第 3 次分部 —— 第 2 次分部的例外情況

524. 例外情況：付款以履行法律義務等

- (1) 第 2 次分部並不禁止任何人真誠地作出付款 ——
- (a) 以履行現存法律義務；
- (b) 作為違反現存法律義務的損害賠償；
- (c) 作為在與終止某人的職位或受僱工作有關連的情況下產生的申索的和解或妥協；或

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- (2) For the purposes of this section, a payment is presumed, except in so far as the contrary is shown, to be made in connection with a transfer of any shares in a company if it is made pursuant to an arrangement—
- (a) entered into as part of the agreement for the transfer, or within one year before or 2 years after that agreement is entered into; and
- (b) to which the company, or any person to whom the transfer is made, is privy.
- (3) Despite subsection (1), a person may enter into the transaction without the prescribed approval of a body corporate's affected members if the body corporate is incorporated outside Hong Kong.
- (4) For the purposes of this section, the prescribed approval of the affected members of a payment is to be regarded as being obtained if—
- (a) a quorum is not present at a general meeting to consider the resolution in respect of which the requirement specified in section 518(2)(b)(i) is met;
- (b) the meeting is adjourned to a later date; and
- (c) a quorum is not present at the adjourned meeting.

Subdivision 3—Exceptions to Subdivision 2

524. Exception for payments in discharge of legal obligation etc.

- (1) A person is not prohibited by Subdivision 2 from making a payment in good faith—
- (a) in discharge of an existing legal obligation;
- (b) by way of damages for breach of an existing legal obligation;

- (d) 作為過去服務的退休金。
- (2) 就第 (1) 款而言，如付款的一部分屬該款所指者而另一部分不屬該款所指者，該項付款須在猶如該等部分為各別的付款的情況下看待。
- (3) 在本條中 ——
退休金 (pension) 包括任何離職津貼、離職酬金或類似的付款；
現存法律義務 (existing legal obligation) ——
- (a) 就屬第 521 條所指者並由某公司作出的付款而言，指該公司或其有聯繫公司的義務，而該義務並非在與引致就失去職位而付款的事件有關連的情況下訂立，亦非由於該事件以致訂立；或
- (b) 就屬第 522 或 523 條所指者及由某人在與任何業務、財產或股份的轉讓有關連的情況下作出的付款而言，指該人的義務，而該義務並非為該項轉讓的目的訂立或就該項轉讓訂立，亦非由於該項轉讓以致訂立。
- (4) 就第 (3) 款中**現存法律義務**的定義而言，如某項付款兼屬第 521 及 522 條或兼屬第 521 及 523 條所指者，則該項付款須視為屬第 521 條所指者但不屬第 522 或 523 條所指者。

525. 例外情況：小額付款

- (1) 如某公司或其附屬公司向某董事或前董事作出付款，而該項付款的款額或價值，加上由該公司或其附屬公司在

- (c) by way of settlement or compromise of any claim arising in connection with the termination of a person's office or employment; or
- (d) by way of pension in respect of past services.
- (2) For the purposes of subsection (1), if part of a payment falls within that subsection and part of it does not, the payment is to be regarded as if those parts were separate payments.
- (3) In this section—
existing legal obligation (現存法律義務)—
- (a) in relation to a payment falling within section 521 and made by a company, means an obligation of the company, or an associated company of it, that was not entered into in connection with, or in consequence of, the event giving rise to the payment for loss of office; or
- (b) in relation to a payment falling within section 522 or 523 and made by a person in connection with a transfer of any undertaking, property or shares, means an obligation of the person that was not entered into for the purpose of, in connection with, or in consequence of, the transfer;
- pension** (退休金) includes any superannuation allowance, superannuation gratuity or similar payment.
- (4) For the purposes of the definition of **existing legal obligation** in subsection (3), if a payment falls within both sections 521 and 522 or within both sections 521 and 523, it is to be regarded as falling within section 521 but not within section 522 or 523.

525. Exception for small payment

- (1) A company is not prohibited by section 521 from making a payment to a director or former director if the aggregate of

- 與同一事件有關連的情況下就失去職位而向該董事或前董事作出的任何其他付款的款額或價值，總額不超過 \$100,000，則第 521 條並不禁止該公司作出該項付款。
- (2) 如某公司或其附屬公司在與轉讓該公司或其附屬公司的任何業務或財產或股份有關連的情況下，向某董事或前董事作出付款，而該項付款的款額或價值，加上由該公司或其附屬公司在與該項轉讓有關連的情況下就失去職位而向該董事或前董事作出的任何其他付款的款額或價值，總額不超過 \$100,000，則第 522 或 523 條並不禁止該公司作出該項付款。
 - (3) 如某公司的附屬公司 (**例外附屬公司**) 在與轉讓該公司或其附屬公司的任何業務或財產或股份有關連的情況下，向某董事或前董事作出付款，而該項付款的款額或價值，加上由例外附屬公司或例外附屬公司的附屬公司在與該項轉讓有關連的情況下就失去職位而向該董事或前董事作出的任何其他付款的款額或價值，總額不超過 \$100,000，則第 522 或 523 條並不禁止例外附屬公司作出該項付款。(由 2018 年第 35 號第 58 條修訂)
 - (4) 第 (3) 款適用於《2018 年公司 (修訂) (第 2 號) 條例》(2018 年第 35 號) 第 58 條生效日期 * 當日或之後失去職位的情況。(由 2018 年第 35 號第 58 條增補)
 - (5) 在緊接《2018 年公司 (修訂) (第 2 號) 條例》(2018 年第 35 號) 第 58 條生效日期 * 前屬有效的第 (3) 款，繼續適用於該款所指明並在該生效日期 * 前發生的失去職位的情況。(由 2018 年第 35 號第 58 條增補)

編輯附註：

* 生效日期：2019 年 2 月 1 日。

the amount or value of the payment, and the amount or value of any other payment for loss of office made by the company or a subsidiary of the company to the director or former director in connection with the same event, does not exceed \$100,000.

- (2) A company is not prohibited by section 522 or 523 from making a payment to a director or former director in connection with a transfer of any undertaking or property of, or shares in, the company or a subsidiary of the company if the aggregate of the amount or value of the payment, and the amount or value of any other payment for loss of office made by the company or a subsidiary of the company to the director or former director in connection with the transfer, does not exceed \$100,000.
- (3) A subsidiary of a company (**excepted subsidiary**) is not prohibited by section 522 or 523 from making a payment to a director or former director in connection with a transfer of any undertaking or property of, or shares in, the company or a subsidiary of the company if the aggregate of the amount or value of the payment, and the amount or value of any other payment for loss of office made by the excepted subsidiary or a subsidiary of the excepted subsidiary to the director or former director in connection with the transfer, does not exceed \$100,000. (*Amended 35 of 2018 s. 58*)
- (4) Subsection (3) applies in relation to a loss of office that occurs on or after the commencement date* of section 58 of the Companies (Amendment) (No. 2) Ordinance 2018 (35 of 2018). (*Added 35 of 2018 s. 58*)
- (5) Subsection (3), as in force immediately before the commencement date* of section 58 of the Companies (Amendment) (No. 2) Ordinance 2018 (35 of 2018), continues to apply in relation to a loss of office specified

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第 4 次分部 —— 違反的後果

526. 釋義

就本分部而言 ——

- (a) 除非法院另有指示，否則某項付款如在同時違反第 521 及 522 條的情況下作出，須視為在違反第 522 條的情況下作出；及
- (b) 除非法院另有指示，否則某項付款如在同時違反第 521 及 523 條的情況下作出，須視為在違反第 523 條的情況下作出。

527. 違反第 521 條的民事後果

如公司在違反第 521 條的情況下，作出付款 ——

- (a) 收款人即屬以信託形式，為該公司持有有關款項；及
- (b) 該公司任何授權作出該付款的董事，須共同及各別負有法律責任，就該項付款所導致的任何損失，向該公司作出彌償。

528. 違反第 522 條的民事後果

- (1) 如有付款在違反第 522 條的情況下，在與轉讓某公司或某公司的附屬公司的任何業務或財產有關連的情況下作出，則本條適用。

in that subsection that occurred before that commencement date*. (*Added 35 of 2018 s. 58*)

Editorial Note:

* Commencement date: 1 February 2019.

Subdivision 4—Consequences of Contravention

526. Interpretation

For the purposes of this Division—

- (a) unless the court directs otherwise, a payment is to be regarded as being made in contravention of section 522 if it is made in contravention of both sections 521 and 522; and
- (b) unless the court directs otherwise, a payment is to be regarded as being made in contravention of section 523 if it is made in contravention of both sections 521 and 523.

527. Civil consequences of contravention of section 521

If a payment is made by a company in contravention of section 521—

- (a) the payment is held by the recipient in trust for the company; and
- (b) any director of the company who authorized the payment is jointly and severally liable to indemnify the company for any loss resulting from the payment.

528. Civil consequences of contravention of section 522

- (1) This section applies if a payment is made in connection with a transfer of any undertaking or property of a company, or a subsidiary of a company, in contravention of section 522.

- (2) 收款人即屬以信託形式，為有關公司或附屬公司持有有關款項。
- (3) 如有關付款由有關公司作出，或由另一人代表該公司作出，則該公司任何授權作出該付款的董事，須共同及各別負有法律責任，就該項付款所導致的任何損失，向該公司作出彌償。
- (4) 如有關付款由有關附屬公司作出，或由另一人代表該附屬公司作出，則該附屬公司任何授權作出該付款的董事，須共同及各別負有法律責任，就該項付款所導致的任何損失，向該附屬公司作出彌償。

529. 違反第 523 條的民事後果

- (1) 如有付款在違反第 523 條的情況下，在與收購要約導致的公司股份轉讓或公司的附屬公司股份轉讓有關連的情況下作出，則本條適用。
- (2) 收款人即屬以信託形式，為因該項要約而出售其股份的人持有有關款項。
- (3) 在將有關款項分配予已出售其股份的人的過程中招致的費用，須由收款人承擔。
- (4) 如有關付款由有關公司作出，或由另一人代表該公司作出，則該公司任何授權作出該付款的董事，須共同及各別負有法律責任，就該項付款所導致的任何損失，向該公司作出彌償。
- (5) 如有關付款由有關附屬公司作出，或由另一人代表該附屬公司作出，則該附屬公司任何授權作出該付款的董事，須共同及各別負有法律責任，就該項付款所導致的任何損失，向該附屬公司作出彌償。

第 4 分部 —— 董事的服務合約**530. 釋義**

- (2) The payment is held by the recipient in trust for the company or subsidiary.
- (3) If the payment is made by or on behalf of the company, any director of the company who authorized the payment is jointly and severally liable to indemnify the company for any loss resulting from the payment.
- (4) If the payment is made by or on behalf of the subsidiary, any director of the subsidiary who authorized the payment is jointly and severally liable to indemnify the subsidiary for any loss resulting from the payment.

529. Civil consequences of contravention of section 523

- (1) This section applies if a payment is made in connection with a transfer of shares in a company, or a subsidiary of a company, resulting from a takeover offer in contravention of section 523.
- (2) The payment is held by the recipient in trust for those who have sold their shares as a result of the offer made.
- (3) The recipient must bear the expenses in distributing that sum amongst those who have sold their shares.
- (4) If the payment is made by or on behalf of the company, any director of the company who authorized the payment is jointly and severally liable to indemnify the company for any loss resulting from the payment.
- (5) If the payment is made by or on behalf of the subsidiary, any director of the subsidiary who authorized the payment is jointly and severally liable to indemnify the subsidiary for any loss resulting from the payment.

Division 4—Directors' Service Contract**530. Interpretation**

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第 531 條

- (1) 在本分部中 ——
董事 (director) 包括幕後董事。
- (2) 就本分部而言，縱使某法人團體的附屬公司的一眾董事或過半數董事，慣於按照該團體的指示或指令行事，該團體不會僅因此而視為其附屬公司的幕後董事。

531. 服務合約

- (1) 在本分部中，提述公司的某董事的服務合約 ——
- (a) 即提述符合以下說明的合約 ——
- (i) 根據該合約，該董事承諾親自以董事或其他身分，為該公司或該公司的附屬公司履行服務；或
- (ii) 根據該合約，該董事承諾親自以董事或其他身分履行的服務，須由第三者向該公司或該公司的附屬公司提供；及
- (b) 包括委任某人為該公司的董事的委任條款。
- (2) 在本分部中，提述公司的某董事的服務合約，並不局限於履行在董事一般職務範圍以外的服務的合約。

532. 成員的訂明批准

- (1) 在本分部中，提述某公司的成員的訂明批准，即提述藉該等成員的符合以下說明的決議取得的批准 ——
- (a) 在公司同意有關條文之前通過；及
- (b) 第 (2) 款指明的規定就該項決議獲符合。

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- (1) In this Division—
director (董事) includes a shadow director.
- (2) For the purposes of this Division, a body corporate is not to be regarded as a shadow director of any of its subsidiaries by reason only that the directors, or a majority of the directors, of the subsidiary are accustomed to act in accordance with its directions or instructions.

531. Service contract

- (1) In this Division, a reference to a service contract of a director of a company—
- (a) is a reference to a contract under which—
- (i) the director undertakes personally to perform services, as director or otherwise, for the company or for a subsidiary of the company; or
- (ii) services that the director undertakes personally to perform, as director or otherwise, are to be made available by a third party to the company or to a subsidiary of the company; and
- (b) includes the terms of a person's appointment as director of the company.
- (2) In this Division, a reference to a service contract of a director of a company is not restricted to a contract for the performance of services outside the scope of a director's ordinary duties as director.

532. Prescribed approval of members

- (1) In this Division, a reference to the prescribed approval of the members of a company is a reference to an approval obtained by a resolution of those members—

- (2) 為施行第 (1)(b) 款而指明的規定是 ——
- (a) (如屬書面決議) 一份列出建議服務合約 (包含有關的條文者) 的備忘錄, 在建議決議送交每名成員之時或之前, 已送交該成員; 或
- (b) (如屬成員大會上通過的決議) ——
- (i) 一份列出建議服務合約 (包含有關的條文者) 的備忘錄, 連同召開該大會的通知書, 已送交每名成員; 及
- (ii) (如有關公司屬公眾公司) 在不理會第 (4) 款指明的成員對該項決議所投的每一贊成票的情況下, 該項決議仍獲得通過。
- (3) 除公司的章程細則的任何條文另有規定外, 就斷定是否符合第 (2)(a) 或 (b)(i) 款指明的規定而言, 任何意外遺漏向成員送交備忘錄的情況, 須不予理會。
- (4) 為施行第 (2)(b)(ii) 款而指明的成員是符合以下說明的成員 ——
- (a) 屬建議與之訂立服務合約的董事; 或
- (b) 以信託形式, 為該董事持有該公司任何股份。
- (5) 第 (2)(b)(ii) 款並不阻止第 (4) 款指明的成員出席任何考慮有關決定的會議, 或被計入該會議的法定人數, 或參與該會議的程序。
- (6) 為施行第 (1)(a) 款, 有關決議是在本分部的生效日期[#]之前、當日或之後通過, 並不相干。

編輯附註:

[#] 生效日期: 2014 年 3 月 3 日。

- (a) that is passed before the company agrees to the provision; and
- (b) in respect of which the requirements specified in subsection (2) are met.
- (2) The requirements specified for the purposes of subsection (1)(b) are—
- (a) that, in the case of a written resolution, a memorandum setting out the proposed service contract (incorporating the provision in question) is sent to every member at or before the time at which the proposed resolution is sent to the member; or
- (b) that, in the case of a resolution passed at a general meeting—
- (i) a memorandum setting out the proposed service contract (incorporating the provision in question) is sent to every member together with the notice convening the meeting; and
- (ii) if the company is a public company, the resolution is passed after disregarding every vote in favour of the resolution by a member specified in subsection (4).
- (3) Subject to any provision of the company's articles, any accidental omission to send the memorandum to a member is to be disregarded for the purpose of determining whether the requirement specified in subsection (2)(a) or (b)(i) has been met.
- (4) The member specified for the purposes of subsection (2)(b)(ii) is—
- (a) one who is the director with whom the service contract is proposed to be entered into; or

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533. 保留成員一致同意的效力

- (1) 如根據第 534(1) 條，某公司未獲其成員的訂明批准，便不得就任何條文作出同意，則該條並不禁止該條文在獲得同意之前經該等成員給予的一致同意而作出同意。
- (2) 為施行第 (1) 款，有關一致同意是在本分部的生效日期[#]之前、當日或之後給予，並不相干。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

534. 公司不得同意董事長期受僱

- (1) 任何公司未獲其成員的訂明批准，不得同意有以下規定的合約條文：該公司的董事於該公司受僱用的保證年期，超過或可超過 3 年。
- (2) 在本條中 ——

僱用 (employment) 指根據董事服務合約所作的僱用。

(b) one who holds any shares in the company in trust for that director.

- (5) Subsection (2)(b)(ii) does not prevent a member specified in subsection (4) from attending, being counted towards the quorum for, or taking part in the proceedings at, any meeting at which the decision is considered.
- (6) For the purposes of subsection (1)(a), it is irrelevant whether the resolution is passed before, on or after the commencement date[#] of this Division.

Editorial Note:

[#] Commencement date: 3 March 2014.

533. Preservation of effect of members' unanimous consent

- (1) If, under section 534(1), any provision must not be agreed to without the prescribed approval of a company's members, that section does not prohibit the provision from being agreed to with the unanimous consent of those members given before it is agreed to.
- (2) For the purposes of subsection (1), it is irrelevant whether the unanimous consent is given before, on or after the commencement date[#] of this Division.

Editorial Note:

[#] Commencement date: 3 March 2014.

534. Company must not agree to director's long-term employment

- (1) Without the prescribed approval of its members, a company must not agree to any provision under which the guaranteed term of the employment of a director of the company with the company exceeds or may exceed 3 years.
- (2) In this section—

- (3) 在本條中，提述董事受僱用的保證年期 ——
- (a) 即提述符合以下說明的期間 (如有的話) ——
- (i) 在該期間內，有關僱用須在或可在由有關公司提出要求以外的情況下繼續 (不論是根據原有合約或依據該合約訂立的新合約) ；及
- (ii) 在該期間內，公司不可藉通知而終止僱用，或只可在指明情況下如此終止僱用；
- (b) (如公司可藉通知而終止僱用) 即提述終止僱用需給予的通知期；或
- (c) (如該項僱用有 (a) 段所指的期間及 (b) 段所指的期間) 即提述該等期間的總和。
- (4) 就本條而言，如在董事受僱用的保證年期屆滿之前的 6 個月之前，公司在並非依據由原有合約給予或根據該合約給予合約的另一方的權利的情況下，訂立進一步的服務合約，則該進一步合約下的受僱用的保證年期，須視為包括原有合約下的受僱用的保證年期的剩餘期間。
- (5) 為施行第 (4) 款，有關原有合約是在本分部的生效日期[#]之前、當日或之後訂立，並不相干。

編輯附註：

[#] 生效日期：2014 年 3 月 3 日。

employment (僱用) means any employment under a director's service contract.

- (3) In this section, a reference to the guaranteed term of a director's employment is—
- (a) a reference to the period (if any) during which the employment—
- (i) is to continue, or may be continued, otherwise than at the instance of the company (whether under the original contract or under a new contract entered into pursuant to it); and
- (ii) cannot be terminated by the company by notice, or can be so terminated only in specified circumstances;
- (b) in the case of employment terminable by the company by notice, a reference to the period of notice required to be given; or
- (c) in the case of employment having a period within paragraph (a) and a period within paragraph (b), a reference to the aggregate of those periods.
- (4) For the purposes of this section, if, more than 6 months before the end of the guaranteed term of a director's employment, the company enters into a further service contract otherwise than pursuant to a right given, by or under the original contract, to the other party to it, the guaranteed term of the employment under the further contract is to be regarded as including the unexpired period of the guaranteed term of the employment under the original contract.
- (5) For the purposes of subsection (4), it is irrelevant whether the original contract is entered into before, on or after the commencement date[#] of this Division.

Editorial Note:

Commencement date: 3 March 2014.

535. 違反第 534 條的民事後果

如某公司在違反第 534 條的情況下，同意某條文 ——

- (a) 該條文在該項違反的範圍內屬無效；及
- (b) 有關合約須視為載有條款，令該公司有權隨時藉給予合理通知而終止該合約。

第 5 分部 —— 在交易、安排或合約中的具相當分量的利害關係

536. 董事須申報具相當分量的利害關係

- (1) 如公司的董事以任何方式，在與該公司訂立或建議與該公司訂立的交易、安排或合約中，有直接或間接的利害關係，而該項交易、安排或合約就該公司的業務而言屬重大的，則如該董事的利害關係是具相當分量的，該董事須按照第 537、538 及 539 條，向其他董事申報其利害關係的性質及範圍。
- (2) 如與公眾公司的董事有關連的實體以任何方式，在與該公司訂立或建議與該公司訂立的交易、安排或合約中，有直接或間接的利害關係，而該項交易、安排或合約就該公司的業務而言屬重大的，則如該實體的利害關係是具相當分量的，該董事須按照第 537、538 及 539 條，向其他董事申報該實體的利害關係的性質及範圍。
- (3) 如根據第 (1) 或 (2) 款作出的申報經證實為或變為不準確或不完整，則有關董事須按照第 537、538 及 539 條，作出進一步申報。
- (4) 如 ——

535. Civil consequences of contravention of section 534

If a company agrees to a provision in contravention of section 534—

- (a) the provision is void to the extent of the contravention; and
- (b) the contract is to be regarded as containing a term entitling the company to terminate it at any time by giving reasonable notice.

Division 5—Material Interests in Transaction, Arrangement or Contract

536. Director must declare material interests

- (1) If a director of a company is in any way, directly or indirectly, interested in a transaction, arrangement or contract, or a proposed transaction, arrangement or contract, with the company that is significant in relation to the company's business, and the director's interest is material, the director must declare the nature and extent of the director's interest to the other directors in accordance with sections 537, 538 and 539.
- (2) If an entity connected with a director of a public company is in any way, directly or indirectly, interested in a transaction, arrangement or contract, or a proposed transaction, arrangement or contract, with the company that is significant in relation to the company's business, and the connected entity's interest is material, the director must declare the nature and extent of the connected entity's interest to the other directors in accordance with sections 537, 538 and 539.

- (a) 董事並不知悉有關利害關係或有關的交易、安排或合約；或
- (b) 該利害關係關乎董事的服務合約的符合以下說明的條款，或在該利害關係關乎董事的服務合約的符合以下說明的條款的範圍內——
 - (i) 董事會議已經或將會考慮該等條款；或
 - (ii) 根據公司的章程細則為有關目的委任的董事委員會已經或將會考慮該等條款，

本條並不規定該董事在上述情況下申報該利害關係。

- (5) 為施行第 (4)(a) 款，董事須視為知悉該董事理應知悉的事情。
- (6) 限制公司的董事在與該公司訂立的交易、安排或合約中有任何利害關係的任何其他條例或法律規則的實施，不受本條影響。

537. 向董事作出的申報：為時

- (1) 根據第 536 條申報的在已訂立的交易、安排或合約中的利害關係，須在合理地切實可行的範圍內，盡快作出。
- (2) 根據第 536 條申報的在建議訂立的交易、安排或合約中的利害關係，須在有關公司訂立該交易、安排或合約之前作出。
- (3) 第 (1) 或 (2) 款不獲遵從，並不影響作出申報的基本責任。

- (3) If a declaration made under subsection (1) or (2) proves to be, or becomes, inaccurate or incomplete, the director must make a further declaration in accordance with sections 537, 538 and 539.
- (4) This section does not require a director to declare an interest—
 - (a) if the director is not aware of the interest or the transaction, arrangement or contract in question; or
 - (b) if, or to the extent that, the interest concerns the terms of the director's service contract that have been or are to be considered by—
 - (i) a meeting of the directors; or
 - (ii) a committee of the directors appointed for the purpose under the company's articles.
- (5) For the purposes of subsection (4)(a), a director is to be regarded as being aware of matters of which the director ought reasonably to be aware.
- (6) This section does not affect the operation of any other Ordinance or rule of law restricting a director of a company from having any interest in a transaction, arrangement or contract with the company.

537. Declaration to directors: timing

- (1) A declaration of interest under section 536 in a transaction, arrangement or contract that has been entered into must be made as soon as reasonably practicable.
- (2) A declaration of interest under section 536 in a proposed transaction, arrangement or contract must be made before the company enters into the transaction, arrangement or contract.
- (3) Failure to comply with subsection (1) or (2) does not affect the underlying duty to make the declaration.

538. 向董事作出的申報：程序

- (1) 根據第 536 條向董事作出的申報，須 ——
 - (a) 在董事會議上作出；
 - (b) 由作出申報的董事藉書面通知作出，並須由該董事送交其他董事；或
 - (c) 由作出申報的董事藉一般通知作出。
- (2) 為第 (1)(b) 款的目的而發出的通知 ——
 - (a) 須 ——
 - (i) 採用印本形式送交；或
 - (ii) (如有關收受人同意接收採用電子形式的該通知) 以如此同意的電子形式送交；及
 - (b) 須 ——
 - (i) 由專人送交，或藉郵遞送交；或
 - (ii) (如有關收受人同意藉電子形式接收該通知) 藉如此同意的電子形式送交。
- (3) 如根據第 536 條向董事作出的申報藉書面通知作出 ——
 - (a) 該項申報的作出，須視為構成發出通知之後的下次董事會議的程序的一部分；及
 - (b) 第 481 條適用，猶如該項申報在該會議上作出。
- (4) 為第 (1)(c) 款的目的而由某董事發出的一般通知，是通報以下事項的通知 ——
 - (a) 該董事 ——
 - (i) 在該通知指明的法人團體或商號中 (作為成員、高級人員、僱員或以其他身分)，有利害關係；及

538. Declaration to directors: procedures

- (1) A declaration to directors under section 536 must be—
 - (a) made at a directors' meeting;
 - (b) made by notice in writing and sent by the director to the other directors; or
 - (c) made by general notice by the director.
- (2) A notice for the purposes of subsection (1)(b)—
 - (a) must be sent—
 - (i) in hard copy form; or
 - (ii) if the recipient has agreed to receive it in electronic form, in the electronic form so agreed; and
 - (b) must be sent—
 - (i) by hand or by post; or
 - (ii) if the recipient has agreed to receive it by electronic means, by the electronic means so agreed.
- (3) If a declaration to directors under section 536 is made by notice in writing—
 - (a) the making of the declaration is to be regarded as forming part of the proceedings at the next directors' meeting after the notice is given; and
 - (b) section 481 applies as if the declaration had been made at that meeting.
- (4) A general notice by a director for the purposes of subsection (1)(c) is a notice to the effect that—
 - (a) the director—

- (ii) 須視為在可與該指明的法人團體或商號於該通知的生效日期之後訂立的任何交易、安排或合約中，有利害關係；或
 - (b) 該董事 ——
 - (i) 與該通知指明的人（法人團體或商號除外）有關連；及
 - (ii) 須視為在可與該指明的人於該通知的生效日期之後訂立的任何交易、安排或合約中，有利害關係。
 - (5) 一般通知須述明 ——
 - (a) 有關董事在指明的法人團體或商號中的利害關係的性質及範圍；或
 - (b) 該董事與指明的人的關連的性質。
 - (6) 一般通知須 ——
 - (a) 在董事會議上發出；或
 - (b) 以書面發出，並送交予有關公司。
- 附註 ——**
請亦參閱第 541 條，該條規定收到一般通知的公司，須將該通知送交其他董事。
- (7) 根據第 (6)(a) 款發出的一般通知，自有關董事會議的日期起生效。
 - (8) 根據第 (6)(b) 款發出的一般通知，自該通知送交予有關公司的日子後第 21 天起生效。

- (i) has an interest (as member, officer, employee or otherwise) in a body corporate or firm specified in the notice; and
 - (ii) is to be regarded as interested in any transaction, arrangement or contract that may, after the effective date of the notice, be entered into with the specified body corporate or firm; or
 - (b) the director—
 - (i) is connected with a person specified in the notice (other than a body corporate or firm); and
 - (ii) is to be regarded as interested in any transaction, arrangement or contract that may, after the effective date of the notice, be entered into with the specified person.
 - (5) A general notice must state—
 - (a) the nature and extent of the director's interest in the specified body corporate or firm; or
 - (b) the nature of the director's connection with the specified person.
 - (6) A general notice must be given—
 - (a) at a directors' meeting; or
 - (b) in writing and sent to the company.
- Note—**
See also section 541 which requires a company receiving a general notice to send the general notice to other directors.
- (7) A general notice given under subsection (6)(a) takes effect on the date of the directors' meeting.
 - (8) A general notice given under subsection (6)(b) takes effect on the twenty-first day after the day on which it is sent to the company.

539. 在公司有唯一董事的情況下向董事作出的申報

- (1) 如公司的唯一董事按規定須根據第 536 條向董事作出申報，而該公司按規定須有多於一名董事——
 - (a) 該項申報須以書面記錄；
 - (b) 該項申報的作出，須視為構成發出有關通知之後的下次董事會議的程序的一部分；及
 - (c) 第 481 條適用，猶如該項申報是在該會議上作出。
- (2) 本條不影響第 545 條的實施。

540. 本分部對幕後董事的適用

- (1) 除第 (2)、(3) 及 (4) 款另有規定外，關乎董事根據第 536 條申報利害關係的責任的本分部條文，適用於幕後董事，方式一如該等條文適用於董事。
- (2) 第 538(1)(a) 及 (6) 條不適用於幕後董事。
- (3) 除非幕後董事為第 538(1)(c) 條的目的發出的一般通知藉書面通知發出，並由該幕後董事送交其他董事，否則該通知無效。
- (4) 為第 (3) 款的目的而發出的通知——
 - (a) 須——
 - (i) 採用印本形式送交；或
 - (ii) (如有關收受人同意接收採用電子形式的該通知) 以如此同意的電子形式送交；及
 - (b) 須——
 - (i) 由專人送交，或藉郵遞送交；或

539. Declaration to directors in case of company with sole director

- (1) If a declaration to directors under section 536 is required of a sole director of a company that is required to have more than one director—
 - (a) the declaration must be recorded in writing;
 - (b) the making of the declaration is to be regarded as forming part of the proceedings at the next directors' meeting after the notice is given; and
 - (c) section 481 applies as if the declaration had been made at that meeting.
- (2) This section does not affect the operation of section 545.

540. Application of Division to shadow director

- (1) Subject to subsections (2), (3) and (4), the provisions of this Division relating to the duty of a director to declare an interest under section 536 apply to a shadow director in the same manner as they apply to a director.
- (2) Section 538(1)(a) and (6) does not apply to a shadow director.
- (3) A general notice by a shadow director for the purposes of section 538(1)(c) is not effective unless it is given by notice in writing and sent by the shadow director to the other directors.
- (4) A notice for the purposes of subsection (3)—
 - (a) must be sent—
 - (i) in hard copy form; or
 - (ii) if the recipient has agreed to receive it in electronic form, in the electronic form so agreed; and
 - (b) must be sent—
 - (i) by hand or by post; or

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(ii) (如有關收受人同意藉電子形式接收該通知) 藉如此同意的電子形式送交。

(ii) if the recipient has agreed to receive it by electronic means, by the electronic means so agreed.

541. 公司須將一般通知送交其他董事

- (1) 公司如從董事收到第 538(6)(b) 條所指的通知，須在收到該通知的日子後的 15 日內，將該通知的文本送交該公司的其他董事。
- (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 6 級罰款。

541. Companies must send general notices to other directors

- (1) If a company receives a notice under section 538(6)(b) from a director, it must, within 15 days after the day on which it receives the notice, send a copy of the notice to other directors of the company.
- (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 6.

542. 罪行

- (1) 任何董事或幕後董事違反第 536(1)、(2) 或 (3) 條，即屬犯罪，可處第 6 級罰款。
- (2) 凡任何人因違反第 536(2) 條而被控犯第 (1) 款所訂罪行，如確立被控人已採取一切合理步驟，以確使該條獲遵守，即屬免責辯護。

542. Offence

- (1) A director or shadow director who contravenes section 536(1), (2) or (3) commits an offence and is liable to a fine at level 6.
- (2) If a person is charged with an offence under subsection (1) for contravening section 536(2), it is a defence to establish that the person took all reasonable steps to secure compliance with that section.

第 6 分部 —— 雜項條文**Division 6—Miscellaneous****543. 披露管理合約**

- (1) 如有以下情況，本條適用 ——
 - (a) 公司訂立合約，而某人按該合約承擔該公司的全部或任何重大部分業務的管理及行政；及
 - (b) 該合約並非與該公司的任何董事或任何全職僱員所訂立的服務合約。
- (2) 在有關合約有效的任何年度的董事報告內，須載有 ——

543. Disclosure of management contract

- (1) This section applies if—
 - (a) a company enters into a contract by which a person undertakes the management and administration of the whole or any substantial part of any business of the company; and

- (a) 一項陳述，說明該合約的存在及其有效期；及
- (b) 在該合約中有利害關係的每名董事及幕後董事的姓名或名稱，及該利害關係的性質及範圍。
- (3) 有關公司須在其註冊辦事處或根據第 657 條訂立的規例所訂明的地點備存以下文件——
- (a) 有關合約的文本；
- (b) (如該合約並非書面合約) 列出該合約的條款的書面備忘錄。
- (4) 有關公司——
- (a) 須在有關合約終止或期滿的日期之後，保留上述文本或備忘錄最少一年；及
- (b) 須備存該文本或備忘錄，以供在該段時間內查閱。
- (5) 如有關文本或備忘錄備存在有關公司的註冊辦事處以外的地點，則該公司須將關於該備存地點或該地點的任何更改的通知，交付處長登記，該通知須符合指明格式。該通知在該文本或備忘錄首次備存在該地點之後的 15 日內，或該項更改之後的 15 日內(視屬何情況而定)，交付處長。
- (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。
- (7) 如第 (5) 款遭違反，有關公司及其每名責任人均屬犯罪，可各處第 3 級罰款，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。
- (8) 在本條中——
- 董事報告** (directors' report) 指——
- (a) 根據第 388(1) 條須擬備的報告；或
- (b) 根據第 388(2) 條須擬備的綜合報告。

- (b) the contract is not a contract of service with any director of the company or any person engaged in the full-time employment of the company.
- (2) The directors' report for any year in which the contract is in force must include—
- (a) a statement of the existence and duration of the contract; and
- (b) the name of every director and shadow director interested in the contract, and the nature and extent of the interest.
- (3) The company must keep the following at its registered office or at a place prescribed by regulations made under section 657—
- (a) a copy of the contract;
- (b) if such a contract is not in writing, a written memorandum setting out the terms of the contract.
- (4) The company—
- (a) must retain the copy or memorandum for at least one year after the date of termination or expiry of the contract; and
- (b) must keep the copy or memorandum available for inspection during that time.
- (5) If the copy or memorandum is kept at a place other than the company's registered office, the company must deliver to the Registrar for registration a notice, in the specified form, of the place, or any change in the place, at which the copy or memorandum is kept. The notice must be delivered to the Registrar within 15 days after the copy or memorandum is first kept at that place or within 15 days after the change (as the case may be).

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544. 成員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 543 條備存的合約的文本或書面備忘錄。
- (2) 有關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，獲提供有關合約或備忘錄的文本。
- (3) 在本條中，提述合約，包括該合約的更改。
- (4) 在本條中 ——

訂明 (prescribed) 指根據第 657 條訂立的規例所訂明。

- (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.
- (7) If subsection (5) 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.
- (8) In this section—
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).

544. Right of member 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, in accordance with regulations made under section 657, a copy of a contract or a written memorandum kept by the company under section 543.
- (2) A member of the company is entitled, on request and on payment of a prescribed fee, to be provided with a copy of the contract or memorandum in accordance with regulations made under section 657.
- (3) In this section, a reference to a contract includes a variation of the contract.
- (4) In this section—
prescribed (訂明) means prescribed by regulations made under section 657.

545. 與兼具董事身分的唯一成員訂立合約

- (1) 如有以下情況，本條適用——
 - (a) 只有一名成員的公司與該成員訂立合約；
 - (b) 該成員亦是該公司的董事；及
 - (c) 該合約並非在該公司的通常業務運作中訂立的。
- (2) 除非有關合約是以書面訂立的，否則有關公司須確保——
 - (a) 在該合約訂立後的 15 日內，該合約的條款於一份書面備忘錄列明；及
 - (b) 該備忘錄備存於備存載有董事會議紀錄的簿冊的地方。
- (3) 如某公司違反第 (2) 款，該公司及其每名責任人均屬犯罪，可各處第 3 級罰款。
- (4) 就某合約違反第 (2) 款，並不影響該合約的有效性。
- (5) 本條不得理解為排除適用於公司與其董事訂立的合約的任何其他條例或法律規則的實施。
- (6) 在本條中——

董事 (director) 包括幕後董事。

- (7) 就本條而言，縱使某法人團體的附屬公司的一眾董事或過半數董事，慣於按照該團體的指示或指令行事，該團體不會僅因此而視為其附屬公司的幕後董事。

545. Contract with sole member who is also director

- (1) This section applies if—
 - (a) a company having only one member enters into a contract with the member;
 - (b) the member is also a director of the company; and
 - (c) the contract is not entered into in the ordinary course of the company's business.
- (2) Unless the contract is in writing, the company must ensure that—
 - (a) the terms of the contract are set out in a written memorandum within 15 days from the entering into of the contract; and
 - (b) the memorandum is kept at the place at which the books containing the minutes of the directors' meetings are kept.
- (3) 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.
- (4) A contravention of subsection (2) in relation to a contract does not affect the validity of the contract.
- (5) This section does not exclude the operation of any other Ordinance or rule of law applying to contracts between a company and a director of the company.
- (6) In this section—
director (董事) includes a shadow director.
- (7) For the purposes of this section, a body corporate is not to be regarded as a shadow director of any of its subsidiaries by reason only that the directors, or a majority of the directors,

546. 財政司司長可修訂若干數額或百分率數字

- (1) 除第 (2) 款另有規定外，財政司司長可藉在憲報刊登的公告，藉以下方式修訂第 2 或 3 分部的任何條文 ——
 - (a) 以該公告指明的數額，代替該條文指明的任何數額；或
 - (b) 以該公告指明的百分率數字，代替該條文指明的任何百分率數字。
 - (2) 本條所指的廣告不可修訂罰款額。
 - (3) 本條所指的廣告就於該廣告生效之前作出的或沒有作出的事情而言，並不具效力。
 - (4) 就任何在本條所指的廣告生效之前招致的法律責任進行的法律程序，可予繼續或提起，猶如該廣告不曾訂立。
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of the subsidiary are accustomed to act in accordance with its directions or instructions.

546. Financial Secretary may amend certain sums or percentage figures

- (1) Subject to subsection (2), the Financial Secretary may, by notice published in the Gazette, amend any provision of Division 2 or 3—
 - (a) by substituting for any sum of money specified in the provision a sum specified in the notice; or
 - (b) by substituting for any percentage figure specified in the provision a percentage figure specified in the notice.
 - (2) A notice under this section may not be made to amend the amount of a fine.
 - (3) A notice under this section does not have effect in relation to anything done or not done before the notice comes into operation.
 - (4) Proceedings in respect of any liability incurred before a notice under this section comes into operation may be continued or instituted as if the notice had not been made.
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