



Hong Kong General Chamber of Commerce
香港總商會 1861

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Helping Business since 1861

25 January 2024

Mr Christopher Hui, JP
Secretary for Financial Services & the Treasury
Financial Services & the Treasury Bureau
24/F, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Dear Christopher,

**Re: FSTB Consultation Paper on Promoting Paperless Corporate Communication
for Hong Kong Companies (November 2023)**

The Hong Kong General Chamber of Commerce welcomes the opportunity to respond to the captioned consultation.

The shift to paperless communications is part of a growing trend within the public and private sectors in recent years in response to the rapidly evolving digital landscape and global sustainability goals, amongst others. To this end, we are largely supportive of the Government's latest proposals to further promote such practices amongst Hong Kong's listed and non-listed companies.

At the same time, we recommend that a further and more detailed consultation of industry stakeholders be considered prior to these legislative proposals taking effect, to address any uncertainties arising from these proposals, and meet business needs whilst safeguarding the interests of the investing public.

We hope you will find our comments useful.

Yours sincerely,

Patrick Yeung
CEO

Encl.

Consultation Paper on Promoting Paperless Corporate Communication for Hong Kong Companies (November 2023)

Response by The Hong Kong General Chamber of Commerce (“HKGCC”)

1. Introduction

- 1.1. HKGCC welcomes this opportunity to respond to the proposals put forward in this consultation paper (“CP”).
- 1.2. We agree to, and welcome, the stated objectives of the proposals, namely to eliminate unnecessary costs for businesses, thereby improving efficiency, while at the same time protecting the environment by eliminating the unnecessary use of paper. We believe that these proposals could, and should, pave the way for the use of electronic means of communications by the Government more generally, as opposed to relying purely on paper-based communications.
- 1.3. We have a number of questions on the details of the proposals that are made in the CP, on which we would welcome clarification, before the proposals are put before the Legislative Council.

2. Implied Consent Mechanism

- 2.1. We agree with the proposal to eliminate the need to obtain express consent from shareholders to receive communications via the company’s website. This current requirement is unduly cumbersome and inefficient. But the implied consent mechanism that is proposed in its place requires further clarification. The CP indicates that implied consent requires shareholders’ approval, and suggests that such approval can be given through the company’s Articles of Association.¹ But does this mean that the Articles must expressly provide for communications via the website being sufficient? If so, this seems to conflict with the idea of dispensing with shareholders’ express consent for electronic communications, since any necessary change to the Articles would require shareholders’ consent. Moreover, such a requirement would seem to make the proposed “first-time notification” requirement² redundant, as shareholders will already have been informed of the change. One possible solution is for the legislation to provide that any reference to communications to shareholders in the Articles of Association is deemed to be satisfied if such communications are in electronic form (including website) unless the Articles expressly provide otherwise. Further clarification on this issue would be welcome.

¹ CP para 11.

² CP para 15.

3. One-Off Prior Consent for Non-Notification of New Communications on Website

- 3.1. The CP proposes that companies obtain a one-off express consent from shareholders if they do not wish to be notified when a new corporate communication is uploaded to the company's website. We are concerned about the practicability of this proposal for companies, as it would require companies to keep a record of shareholders who wish to be notified of every corporate communication that is uploaded, and those which do not wish to be so notified. This would seem to be contrary to the objectives of this initiative, namely to increase business efficiency and safeguard the environment. We believe that the first-time notification requirement proposed in paragraph 15 of the CP should provide sufficient protection to shareholders, and give them sufficient notice to pro-actively check the company's website on a regular basis for communications.
- 3.2. There are instances of where electronic communications (including communications via website) can go wrong due to technical problems. Consideration needs to be given to this issue, and what the implications would be if any shareholder has not received a corporate communication because of technical problems.

4. Conclusions

- 4.1. We note that the Government is proposing to introduce an Amendment Bill (to the Companies Ordinance) in the second half of 2024, based on the comments received in response to this CP. Given the significant questions and uncertainties that the CP raises, as outlined above, we believe it would be useful to conduct a further and more detailed round of consultation, and assess the feedback therefrom, before putting specific legislative proposals to LegCo. We would be happy to contribute to this process.

HKGCC Secretariat
January 2024