



公 司 註 冊 處
COMPANIES REGISTRY

香港金鐘道六十六號
金鐘道政府合署十五樓

QUEENSWAY GOVERNMENT OFFICES
15TH FLOOR, 66 QUEENSWAY,
HONG KONG.

www.cr.gov.hk

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電話 TEL.: 2867 2827

圖文傳真 FAX: 2869 4195

電郵 E-MAIL: cfsit@cr.gov.hk

5 February 2010

Mr. Steve Ong
Director, Standard Setting
Hong Kong Institute of Certified Public Accountants
37th Floor, Wu Chung House
213 Queen's Road East,
Wanchai,
Hong Kong

Dear Steve,

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IASB Exposure Draft on Management Commentary

I refer to your email to the Registrar of Companies on 19 January 2010.

We have considered the Exposure Draft from the perspective of the Companies Ordinance, Cap 32, of the laws of Hong Kong ("CO") and in the light of the recommendations made in the context of the rewrite of CO. The comments which follow should not therefore be taken as reflecting the position of the Administration as a whole.

For companies incorporated in Hong Kong, the majority of which are not listed companies, the Management Commentary is not relevant as the disclosures required to be made in a directors' report under section 129D of the CO are very specific and different from the general nature of the disclosures explained in the Management Commentary.

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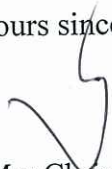
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However, we propose to incorporate a new requirement in the Companies Bill for companies, except those qualified to apply the simplified accounting and reporting requirements, to include a business review in the directors' report for each financial year. An extract of the proposal which shows the content elements of the proposed business review is attached again for your easy reference. We are reviewing the technical requirements of the business review, and you will be able to see the final provision in the Draft Companies Bill Second Phase Consultation shortly. Once the requirements of the business review have been finalized we may revisit the Management Commentary for reference. Please therefore keep me informed of issuance of the Management Commentary in final form.

The above comment is relevant to Question 2 posed in the Exposure Draft. Other than that, we have no comment on the rest of the questions posed in the Exposure Draft.

Thank you for your kind attention.

Yours sincerely,



(Mrs Christine Sit)
for Registrar of Companies

Encl.

Business Review

4.3 The Working Group proposes to require companies (unless otherwise exempted, see paragraphs 4.6, 7.9 and 7.11 below) to prepare, as part of the directors' report, a business review¹ which is more analytical and forward-looking than the information currently required. Specifically, the business review should include, among other things:

(a) a fair review of the business of the company;

(b) a description of the principal risks and uncertainties facing the company;

(c) particulars of any important events affecting the company which have occurred since the end of the financial year;

(d) an indication of likely future developments in the business of the company; and

(e) a balanced and comprehensive analysis of the development, performance or position of the business of the company and, to the extent necessary for an understanding thereof, including:

(i) analysis using financial key performance indicators²; and

(ii) where appropriate, analysis using other non-financial key performance indicators, including information relating to environmental matters and employee matters.

4.4 On paragraph 4.3(e)(ii), the SCCLR has recommended that information relating to environmental and employee matters should be given if such matters have a significant impact on the company. It has further recommended that when drafting the relevant provisions, reference could be made to paragraph 52 of the Appendix 16 to the Listing Rules (Main Board)³. This paragraph sets out the recommended additional disclosures to be made in the management discussion and analysis

¹ The proposed business review is similar to the business review which all companies (except small companies) in the UK have to cover in their directors' reports, see section 234ZZB of the UK Companies Act 1985 and section 417 of the UK Companies Act 2006.

² "Key performance indicators" is a generic term which is intended to refer to factors by reference to which the development, performance or position of the business of the company can be measured effectively.

³ Paragraph 52 of the Appendix 16 to the Listing Rules (Main Board) provides, inter alia:

- a discussion on the company's environmental policies and performance, including compliance with the relevant laws and regulations; and
- an account of the company's key relationships with employees, customers, suppliers and others, on which its success depends.

prepared by listed companies, thereby encouraging them to disclose in their annual report information relating to environmental and employee matters. The proposed requirement to include in the directors' report information relating to environmental and employee matters that have a significant impact on the company is in line with the international trend to promote corporate social responsibility⁴. Shareholders and investors, particularly those of listed companies, are increasingly interested in such information. In other jurisdictions such as the UK and Australia, companies are required to include in the directors' report information on environmental and/or employee matters⁵.

⁴ Corporate social responsibility is about how business takes account of its economic, social and environmental impacts in the way it operates – maximizing the benefits and minimizing the downsides. (Quoted from the website of the UK Government on Corporate Social Responsibility <http://www.societyandbusiness.gov.uk/whatiscsr.shtml>). The issue has drawn the attention of a number of advanced countries in recent years. For example, the increasing trend and demand for companies to be socially responsible has been acknowledged by the Australian government in a report entitled "The Social Responsibility of Corporations". The report was published by the Australian Corporations and Markets Advisory Committee in December 2006 (available at <http://www.camac.gov.au>).

⁵ See footnote 29 above about the relevant UK provisions. Section 299(1)(f) of the Australian Corporations Act 2001 provides that a company's directors' report should give details of the company's performance in relation to environmental regulations if the company's operations are subject to any particular and significant environmental regulation.