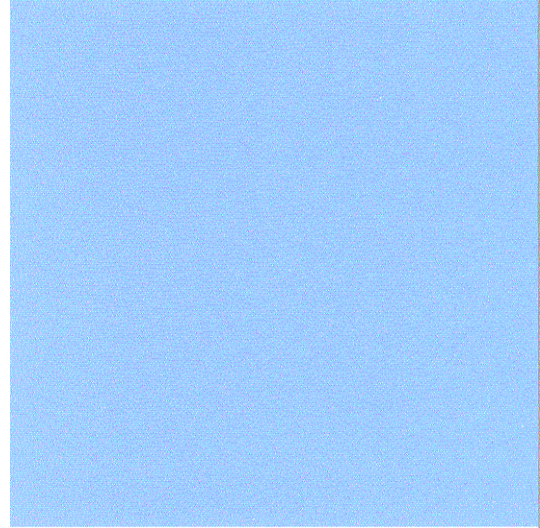




# Consultation on the implications of adopting a system of no-par value shares in Hong Kong

Consultation document (first stage)



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## **Part I : Introduction**

Freshfields Bruckhaus Deringer has been commissioned by the Government of the Hong Kong Special Administrative Region to undertake a consultancy study to ascertain the implications of adopting a system of no-par value shares in Hong Kong. This study will involve a consideration of whether the par value system of shares remains appropriate for Hong Kong or whether it would be preferable, as a number of other countries have done, to adopt a system of no-par value shares instead. This study is an integral part of the ongoing reform of the Companies Ordinance to ensure that Hong Kong company law meets the requirements of a modern international economy and recognises contemporary practices.

In order to ensure that interested parties have an opportunity to comment on this issue, we will solicit views from them over the next few months. This will be conducted in two stages. The first stage, which is launched today, is designed to gauge the extent to which significance is attached to the par value of shares in Hong Kong. The second stage will be more issues focused and will be launched following the completion of the first stage consultation.

Company law is a key part of market frameworks that drive enterprise and productivity, and we hope that you will take this opportunity to really help in its shaping, at least on this important issue by participating in both stages of the consultation.

## **Part II : Responding to this Consultation**

We invite your responses to the questions listed in Part III of this paper by 25 February 2003 at the latest. Earlier responses would, of course, be appreciated. You are welcome to offer views on any other matters related to the issue of par value, though you may wish to consider the second stage consultation document before doing that.

At this stage of the consultation, our concern is not about technical issues and correct answers, but to determine the importance which is placed on the par value of shares by investors and creditors. We therefore request that you respond as candidly as possible. If you are responding to this on behalf of a company, representative body, or other organisation, we would be grateful if you could let us know this fact, and the name of the organisation which you represent. We are however also interested to have personal views, and would therefore encourage responses from individuals as well.

Responses should be sent – by e-mail if possible to:

Mr. Robert Ashworth or Dr. Maisie Ooi  
Freshfields Bruckhaus Deringer  
11/F Two Exchange Square  
Central  
Hong Kong.

Fax: +852 2810 6192

E-mail: [robert.ashworth@freshfields.com](mailto:robert.ashworth@freshfields.com) or [maisie.ooi@freshfields.com](mailto:maisie.ooi@freshfields.com)

If responses are provided in a separate document, please state against each response the question to which you are responding.

Responses to this consultation and the details of the person making the submission may be published, in whole or in part, unless you indicate that any part of your submission is confidential. All respondents and their responses will, in any event, be listed in any report made by us to the Government. We advise you to read the Personal Information Collection Statement at the end of this paper.

Further copies of this consultation paper may be obtained from the contact details provided above.

**Freshfields Bruckhaus Deringer**  
**29 January 2003**

### Part III : Consultation questions

In order to gauge the extent to which significance is placed on the par value of shares in Hong Kong today, we set out below the following scenarios which we invite you to respond to by answering the accompanying questions.

#### Fact Situation 1

You are provided with the prospectuses for the initial public offer of shares of two companies, A and B, both incorporated in Hong Kong and to be listed on the Stock Exchange of Hong Kong. Upon reading the prospectuses you find that the offers are identical in every way, including size, and the companies are almost indistinguishable save for the par value of their ordinary shares, which is \$1.00 in the case of Company A shares and \$0.10 for Company B shares. The issue price of the shares offered in both is \$1.80.

(a) Which of these two companies are you more likely to invest in? (please click on the box)

Company A       Company B       No difference

(b) Is the par value of the shares important to your decision?

Yes                       No

(c) Do you wish to make any observations or comments?

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**Fact Situation 2**

You are provided with the following sales literature in relation to a proposed sale by a custodian of shares in Company C:

*“We are inviting you and a limited number of others to participate in what we believe to be a once in a lifetime investment. Company C shares have a par value of \$1.00 and will be sold in lots of 1,000 shares. Those who agree to purchase Company C shares before 1 February 2003, will receive 1,000 shares at a special price of \$250. This offer is not to be repeated.”*

- (a) Does this appear to be a good buy?  
 Yes       No
- (b) Is the par value of the shares important to your decision?  
 Yes       No
- (c) Do you wish to make any observations or comments?

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**Fact Situation 3**

You are approached by two companies, D and E, each seeking a loan. The companies are almost indistinguishable in every way, including the number of issued shares, save that Company D has a share capital which is divided into shares of par value \$1 each and Company E's share capital is divided into shares of \$0.10 each.

(a) To which of these two companies are you more likely to advance a loan?

Company D     Company E     No difference

(b) Is the par value of the shares important to your decision?

Yes                       No

(c) Do you wish to make any observations or comments?

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Thank you for taking the time to respond to these questions. Your responses will be an important consideration in this study. We would be grateful if you could additionally provide the following details:

Name of respondent: \_\_\_\_\_

Name of organisation, if any: \_\_\_\_\_

Contact details: \_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

## Personal Information Collection Statement

1. This Personal Information Collection Statement is made in accordance with the guidelines issued by the Privacy Commissioner for Personal Data. It sets out the purposes for which your personal data may be used following collection, what you are agreeing to with respect to the use of your personal data and your rights under the Personal Data (Privacy) Ordinance (Chapter 486).

2. "[P]ersonal data" referred to in this document bears the meaning in the Personal Data (Privacy) Ordinance, section 2 of which provides that unless the context otherwise requires, "personal data" means any data:

- (a) relating directly or indirectly to a living individual;
- (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained; and
- (c) in a form in which access to or processing of the data is practicable.

### Purpose of Collection

3. The personal data provided in your response to this consultation paper may be used by Freshfields Bruckhaus Deringer for one or more of the following purposes in connection with the study of the implications of adopting a no-par share regime in Hong Kong:

- (a) research and statistical purposes;
- (b) discussions, consideration of related issues, making recommendations and preparation of reports; and
- (c) other purposes permitted by law.

### Transfer of Personal Data

4. Personal data provided, and any submission made, in response to this consultation may be published (or otherwise disclosed) for the purposes of this study, whether in whole or in part, unless you indicate that the personal data and or submission is confidential. The names of all respondents (and any other details provided) and their responses will, in any event, be listed in any report made by Freshfields Bruckhaus Deringer to the Government.

### Access to Data

5. You have the right to request access to and correction of your personal data in accordance with the provisions of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided in your response to this consultation. Freshfields Bruckhaus Deringer has the right to charge a reasonable fee for processing any data access request.

### Enquiries

6. Any enquiries regarding the personal data provided in your response to this consultation or the personal data privacy policy of Freshfields Bruckhaus Deringer, or requests for access to personal data or correction of personal data, should be addressed in writing to the persons mentioned on page 2 of this paper.



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