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**THIS CIRCULAR IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION**

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**If you are in any doubt** as to any aspect of this circular or as to the action to be taken, you should consult an exchange participant or other registered dealer in securities, a bank manager, solicitor, professional accountant or other professional advisor.

**If you have sold or transferred** all your shares in Hong Kong Exchanges and Clearing Limited, you should at once hand this circular and the accompanying proxy form to the purchaser or transferee or to the bank, exchange participant or other agent through whom the sale or transfer was effected for transmission to the purchaser or transferee.

Pursuant to Chapter 38 of the Listing Rules, the Securities and Futures Commission regulates Hong Kong Exchanges and Clearing Limited in relation to the listing of its shares on The Stock Exchange of Hong Kong Limited. The Securities and Futures Commission takes no responsibility for the contents of this circular, makes no representation as to its accuracy or completeness and expressly disclaims any liability whatsoever for any loss howsoever arising from or in reliance upon the whole or any part of the contents of this circular.

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**Hong Kong Exchanges and Clearing Limited****香港交易及結算所有限公司***(Incorporated in Hong Kong with limited liability)***APPOINTMENT OF DIRECTORS AT THE 2004 ANNUAL GENERAL MEETING,  
GENERAL MANDATES TO ISSUE SHARES AND REPURCHASE SHARES,  
PAYMENT OF REMUNERATION TO NON-EXECUTIVE DIRECTORS,  
ADJUSTMENT OF SUBSCRIPTION PRICE AND CONTRACT SIZE OF  
OPTIONS GRANTED UNDER THE SHARE OPTION SCHEMES AND  
AMENDMENTS TO THE ARTICLES OF ASSOCIATION**

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The Notice of Annual General Meeting of Hong Kong Exchanges and Clearing Limited to be held at the Trading Hall of the Stock Exchange at 1st Floor, One and Two Exchange Square, Central, Hong Kong on Wednesday, 31 March 2004 at 4:30 p.m. is set out on pages 154 to 165 of the Annual Report 2003 sent together with this circular. Whether or not you are able to attend the meeting, you are requested to complete and return the enclosed form of proxy in accordance with the instructions printed thereon to the Company's registrar, Hong Kong Registrars Limited at Rooms 1901-5, 19/F, Hopewell Centre, 183 Queen's Road East, Hong Kong, as soon as possible and in any event not less than 48 hours before the time appointed for holding the meeting. Completion and return of the form of proxy shall not preclude you from attending and voting in person at the Annual General Meeting or any adjourned meeting should you so wish.

2 March 2004

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## DEFINITIONS

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*In this circular, the following expressions have the following meanings unless the context otherwise requires:*

“AGM”	the annual general meeting of HKEx to be held at the Trading Hall of the Stock Exchange at 1st Floor, One and Two Exchange Square, Central, Hong Kong on Wednesday, 31 March 2004 at 4:30 p.m., notice of which is set out on pages 154 to 165 of the Annual Report 2003 sent together with this circular or, where the context so admits, any adjournment thereof;
“Articles of Association”	the articles of association of HKEx, as originally adopted, or as from time to time altered in accordance with the Companies Ordinance;
“Board”	the board of Directors of the Company;
“Company” or “HKEx”	Hong Kong Exchanges and Clearing Limited, a company incorporated in Hong Kong with limited liability;
“Companies Ordinance” or “Ordinance”	the Companies Ordinance, Chapter 32 of the Laws of Hong Kong;
“Directors”	the directors of HKEx;
“Latest Practicable Date”	1 March 2004, being the latest practicable date prior to the printing of this circular for ascertaining certain information referred to in this circular;
“Listing Rules”	the Rules Governing the Listing of Securities on the Stock Exchange;
“Post-Listing Share Option Scheme”	the share option scheme of HKEx adopted on 31 May 2000 and amended on 17 April 2002;
“Pre-Listing Share Option Scheme”	the pre-listing share option scheme of HKEx adopted on 31 May 2000;
“SFC”	the Securities and Futures Commission;
“SFO”	the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong);
“Share Option Schemes”	the Pre-Listing Share Option Scheme and the Post-Listing Share Option Scheme;

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## DEFINITIONS

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“Shareholders”	holders of Shares;
“Shares”	shares of HK\$1.00 each in the share capital of the Company;
“Stock Exchange”	The Stock Exchange of Hong Kong Limited; and
“Takeover Code”	the Hong Kong Code on Takeovers and Mergers.

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## LETTER FROM THE BOARD OF DIRECTORS

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### **Hong Kong Exchanges and Clearing Limited**

**香港交易及結算所有限公司**

*(Incorporated in Hong Kong with limited liability)*

*Non-executive Directors:*

LEE Yeh Kwong, Charles, *Chairman*

FAN Hung Ling, Henry

FONG Hup

FRESHWATER, Timothy George

KWOK Chi Piu, Bill

LEE Jor Hung, Dannis

LEE Kwan Ho, Vincent Marshall

LEONG Ka Chai

LO Ka Shui

STRICKLAND, John Estmond

WEBB, David Michael

WONG Sai Hung, Oscar

*Registered Office:*

12th Floor

One International Finance Centre

1 Harbour View Street

Central

Hong Kong

*Executive Director:*

CHOW Man Yiu, Paul, *Chief Executive*

2 March 2004

*To the Shareholders*

Dear Sir or Madam,

**APPOINTMENT OF DIRECTORS AT THE 2004 ANNUAL GENERAL MEETING,  
GENERAL MANDATES TO ISSUE SHARES AND REPURCHASE SHARES,  
PAYMENT OF REMUNERATION TO NON-EXECUTIVE DIRECTORS,  
ADJUSTMENT OF SUBSCRIPTION PRICE AND CONTRACT SIZE OF  
OPTIONS GRANTED UNDER THE SHARE OPTION SCHEMES AND  
AMENDMENTS TO THE ARTICLES OF ASSOCIATION**

#### **1. INTRODUCTION**

The purpose of this circular is to give you information on matters to be dealt with at the forthcoming AGM. They are: (i) appointment of Directors; (ii) grant of general mandates to issue Shares and to repurchase Shares; (iii) payment of remuneration to non-executive Directors; (iv) adjustment of the subscription price and contract size of options granted under the Share Option Schemes; and (v) amendments to the Articles of Association.

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## LETTER FROM THE BOARD OF DIRECTORS

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### 2. APPOINTMENT OF DIRECTORS

The Board currently consists of thirteen Directors, including:

- (i) six Directors appointed by the Financial Secretary (“Public Interest Directors”), namely Mr Lee Yeh Kwong, Charles, Mr Fan Hung Ling, Henry, Mr Fong Hup, Mr Timothy George Freshwater, Mr Leong Ka Chai and Dr Lo Ka Shui. The terms of office of Mr Lee, Mr Freshwater and Dr Lo will expire at the conclusion of the AGM, while Mr Fan, Mr Fong and Mr Leong will hold office until the conclusion of the annual general meeting to be held in 2005;
- (ii) five Directors elected by the Shareholders (“Elected Directors”) at the 2003 annual general meeting, namely Dr Kwok Chi Piu, Bill, Mr Lee Jor Hung, Dannis, Mr Lee Kwan Ho, Vincent Marshall, Mr David Michael Webb and Mr Wong Sai Hung, Oscar;
- (iii) Mr John Estmond Strickland, who was appointed by the Board on 16 April 2003 to fill a vacancy in the Elected Directors category; and
- (iv) the Chief Executive of the Company, Mr Chow Man Yiu, Paul, as an *ex-officio* Director.

According to Article 93(1) and (2), at every annual general meeting after the annual general meeting in year 2003, one-third of the Directors who are subject to retirement by rotation or, if their number is not three or a multiple of three, then the number nearest to but not exceeding one-third of the Directors shall retire from office. The Public Interest Directors and the Chief Executive are not subject to retirement by rotation. Mr John Estmond Strickland, who was appointed under Article 92 to hold office until the AGM, is also not subject to retirement by rotation. Article 93(3) further provides that the Directors to retire by rotation on each occasion shall be those who have been longest in office since their last appointment or reappointment, but as between persons who became or were last reappointed Directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by drawing lots. Article 93(5) provides that a retiring Director is eligible for reappointment.

Mr John Estmond Strickland, being a Director appointed by the Board after the 2003 annual general meeting of HKEx, will hold office only until the AGM in accordance with Article 92. In addition to Mr Strickland, one of the five Elected Directors elected by Shareholders on 15 April 2003, who are subject to retirement by rotation, shall retire at the AGM. Pursuant to Article 93(3), lots have been drawn and Mr Wong Sai Hung, Oscar shall retire at the conclusion of the AGM. Both Messrs John Estmond Strickland and Wong Sai Hung, Oscar are eligible for reappointment.

Shareholders are invited to elect up to two Elected Directors at the AGM to fill the vacancies available due to retirement of the two said Directors.

Article 90(2) of the Articles of Association provides that no person (other than a Director retiring in accordance with the Articles of Association) may be appointed as an Elected Director unless:

- (a) he is recommended by the Board; or

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## LETTER FROM THE BOARD OF DIRECTORS

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- (b) not less than seven nor more than 28 clear days before the date appointed for the meeting, a Shareholder (who is not the person to be proposed) has given to the Secretary of the Company notice of his intention to propose a resolution for the appointment of that person and a notice executed by that person of his willingness to be appointed.

Accordingly, if a Shareholder wishes to nominate a person to stand for election as a director, notice of his intention to propose a resolution and the notice executed by his nominee of his willingness to be appointed have to be validly served on the Secretary of HKEx during the period from 2 March 2004 to 23 March 2004 (both days inclusive).

The Nomination Committee, comprising three non-executive Directors, namely, Mr Lee Yeh Kwong, Charles, Dr Lo Ka Shui and Mr Wong Sai Hung, Oscar, has nominated Messrs John Estmond Strickland and Wong Sai Hung, Oscar as candidates for the Board to consider and recommend to Shareholders. A list of the two candidates nominated by the Nomination Committee and recommended by the Board together with the individual candidate's brief biography are set out in Appendix I of this circular. Appendix I also contains an explanation of the resolutions and voting procedures in relation to the election of Directors at the AGM. If a valid notice from a Shareholder to propose a person to stand for election as a director at the AGM is received after the printing of this circular, HKEx will issue a supplementary circular to inform Shareholders of the details of the additional candidate proposed.

As for the Public Interest Directors, the terms of office of Mr Lee Yeh Kwong, Charles, Mr Timothy George Freshwater and Dr Lo Ka Shui will expire at the conclusion of the AGM. The Financial Secretary has not yet informed the Company of the persons whom he intends to appoint or reappoint as Directors with effect from the conclusion of the AGM. A press release will be issued once the Company has received the notices of appointment from the Financial Secretary.

### **3. GENERAL MANDATES TO ISSUE SHARES AND TO REPURCHASE SHARES**

At the last annual general meeting of HKEx held on 15 April 2003, ordinary resolutions were passed to grant general mandates to the Directors to repurchase Shares and to issue Shares. These general mandates will lapse at the conclusion of the AGM. Ordinary resolutions will be proposed at the AGM to grant to the Directors a general mandate:

- (i) to allot, issue and deal with Shares not exceeding 20 per cent. of the aggregate nominal amount of the share capital of HKEx in issue on 31 March 2004, the date of the AGM;
- (ii) to allot, issue and deal with Shares, including the aggregate nominal amount of Shares repurchased by HKEx under the Repurchase Mandate as mentioned in (iii) (the mandates referred to in (i) and (ii) herein being hereinafter collectively referred to as the "Issue Mandates"); and
- (iii) to repurchase, inter alia, Shares, the aggregate nominal amount of which does not exceed 10 per cent. of the aggregate nominal amount of the share capital of HKEx in issue on 31 March 2004, the date of the AGM (the "Repurchase Mandate").

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## **LETTER FROM THE BOARD OF DIRECTORS**

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Shareholders are referred to the Notice of AGM, set out on pages 154 to 165 of the Annual Report 2003 sent together with this circular, for details of the resolutions on these general mandates which will be considered at the AGM. With reference to these resolutions, the Board wishes to state that it has no immediate plans to repurchase any Shares or to issue any new Shares, whether for cash or otherwise, pursuant to the relevant mandates.

An explanatory statement, as required by the Listing Rules to be sent to Shareholders in connection with the Repurchase Mandate, is set out in Appendix II of this circular. This contains all the information reasonably necessary to enable the Shareholders to make an informed decision on whether or not to vote for or against the ordinary resolution to grant the Repurchase Mandate at the AGM.

#### **4. PAYMENT OF ORDINARY REMUNERATION TO NON-EXECUTIVE DIRECTORS**

At the last annual general meeting, Shareholders approved the payment of HK\$100,000 to each non-executive Director for their services to the Company during the period from the conclusion of the last annual general meeting to the conclusion of the next annual general meeting of HKEx. Payment will be made after the conclusion of the forthcoming AGM. A Director who has not served the entire period will receive payment in proportion to his period of service.

Article 88(1) of the Articles of Association of the Company provides that ordinary remuneration to Directors shall from time to time be determined by the Company in general meeting. The Remuneration Committee recommends that the non-executive Directors of the Company should be remunerated to reflect the time and effort which they contribute to the Company. An ordinary resolution will be proposed at the AGM for the Shareholders to consider and if thought fit, approve the payment of HK\$100,000 to each non-executive Director for their services provided to the Company for the ensuing year calculated from the conclusion of the AGM to the conclusion of the next annual general meeting. The Remuneration Committee considers that the proposed remuneration is reasonable. Payment will be made in proportion to the period of service in the case of a Director who has not served the entire period.

#### **5. ADJUSTMENT OF SUBSCRIPTION PRICE AND CONTRACT SIZE OF OPTIONS GRANTED UNDER THE SHARE OPTION SCHEMES**

On 31 May 2000, the Pre-Listing Share Option Scheme and the Post-Listing Share Option Scheme were adopted by the Shareholders of the Company. The Company has granted options to employees of the Company and the Company's subsidiaries under both Share Option Schemes.

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## LETTER FROM THE BOARD OF DIRECTORS

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Under the terms of the Share Option Schemes, adjustments may be made to the terms of options granted, including the subscription price at which an option holder may subscribe for Shares on the exercise of an option and the number of Shares which are the subject matter of an option (insofar as it is unexercised), in the event of any alteration in the capital structure of the Company. However, the Share Option Schemes do not specifically provide for adjustments to be made to the terms of the options in the event of a payment of special cash dividend by the Company.

In the stock options market operated by the Stock Exchange, there are procedures stipulated in Chapter 14 of the Operational Clearing Procedures for Options Trading Exchange Participants (“Options Clearing Procedures”) which provide for adjustments to the terms of options contracts (including the exercise price and the contract size) if certain corporate events relating to the underlying shares occur. The purpose of such adjustments is to maintain as far as possible the value of the option contract unchanged before and after the ex-entitlement day or the corporate action effective day. Most of the issuers of warrants traded on the Stock Exchange follow the same principle and methodology adopted in the Options Clearing Procedures, except for capital dividend payment for which there is no set market practice for adjustments to warrants. The Options Clearing Procedures can be viewed on HKEx’s website at [www.hkex.com.hk](http://www.hkex.com.hk). Hard copies of the Options Clearing Procedures can also be purchased from HKEx.

Under the Options Clearing Procedures, generally, no adjustment will be made on option positions for an ordinary cash dividend. For a special dividend or an extraordinary dividend, an adjustment will be made if the value of the payment is 2% or more of the relevant share’s closing price on the day of the announcement.

The Board has carried out a review of the group’s policy regarding its cash funds, which are made up largely of liquid funds required in connection with our clearing businesses but also include substantial retained earnings. The review has taken into account the changed economic environment, the group’s strategy and the medium-term capital and risk management requirements. Following the review, the Board has recommended the payment of a special dividend to Shareholders in the amount of HK\$1.68 per Share. If the payment of the special dividend is approved by the Shareholders at the AGM, a resolution will be proposed at the AGM for adjusting the subscription price and the contract size of the options granted under the Share Option Schemes. Shareholders are referred to the Notice of AGM, set out on pages 154 to 165 of the Annual Report 2003 sent together with this circular, for details of the proposed resolution.

For the sake of fairness to employees of HKEx and its subsidiaries, the Board considers that an adjustment should be made to the terms of the options granted under the Share Option Schemes in line with the adjustment provisions set out in Chapter 14 of the Options Clearing Procedures. The subscription price and the contract size of the options granted are proposed to be adjusted as follows:

Adjusted Subscription Price

$$ASP = OSP \times \frac{S - OD - CD}{S - OD}$$



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## LETTER FROM THE BOARD OF DIRECTORS

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Adjusted Contract Size

$$\text{ACS} = \frac{\text{OSP} \times \text{Old Contract Size}}{\text{ASP}}$$

where:

ACS = the contract size of the option (being the number of shares which are the subject matter of the option (insofar as it is unexercised)) adjusted in accordance with the resolution

ASP = the subscription price of the option adjusted in accordance with the resolution

OSP = the original subscription price of the option prior to adjustment

CD = the per share amount of the special cash dividend approved by shareholders at the AGM

OD = the per share amount of any ordinary cash dividend approved by shareholders at the AGM

S = the closing price of HKEx shares on the Stock Exchange on the last trading day on which the HKEx shares are traded cum the special cash dividend

Under Chapter 17 of the Listing Rules, any change to the terms of options granted under the Share Option Schemes must be approved by the Shareholders. Strictly speaking, the consent of the relevant option holder is also required before the adjustment will take effect.

No option has been granted by HKEx under the Share Option Schemes since the publication of HKEx's results announcement on 26 February 2004, and no such option will be granted on or before the date of the approval or disapproval (as the case may be) of the proposed resolution for the adjustment of the subscription price and the contract size.

### **6. AMENDMENTS TO THE ARTICLES OF ASSOCIATION**

The Stock Exchange has revised the Listing Rules based on the results of the Consultation Conclusions on Proposed Amendments to the Listing Rules Relating to Corporate Governance Issues issued in January 2003. In anticipation of the coming into effect of the revised Listing Rules on 31 March 2004, the Board considers that changes to the Articles of Association should be made in line with the changes required under the revised Listing Rules.

In addition, after the Companies (Amendment) Ordinance 2003 became effective on 13 February 2004, a director may be removed by an ordinary resolution instead of a special resolution notwithstanding any provision in a company's constitution. In this regard, amendments to the Articles of Association to reflect this legislative change will also be proposed at the AGM.

A special resolution which requires not less than 75 per cent. of the votes cast by the Shareholders attending and entitled to vote at the AGM will be put forth as special business to be considered and approved by the Shareholders at the AGM. Details relating to the proposed amendments are set out in Appendix III of this circular.

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## LETTER FROM THE BOARD OF DIRECTORS

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As Shareholders may know, the Articles of Association may not be amended without the approval in writing of the SFC pursuant to section 67 of the SFO. The proposed amendments to the Articles of Association will be subject to the written approval of the SFC after passing of the special resolution at the AGM by the Shareholders. A press release will be issued after HKEx has received the said approval from the SFC.

### 7. RECOMMENDATIONS

The Board is pleased to recommend its two candidates for Elected Directors as set out in Appendix I for the Shareholders' consideration. Shareholders may, if thought fit, appoint the candidates as Elected Directors with effect from the conclusion of the AGM to fill the vacancies arising from the retirement of Directors. Shareholders are encouraged to actively participate in the election of Directors at the AGM. The Board also believes that the granting of the Issue Mandates and the Repurchase Mandate, the payment of remuneration to non-executive Directors, the adjustment of the subscription price and contract size of options granted under the Share Option Schemes and the amendments to the Articles of Association are in the best interests of HKEx and the Shareholders, and accordingly recommends you to vote in favour of all the relevant resolutions to be proposed at the AGM. For the sake of good corporate governance practice, the Chairman intends to demand poll voting at the AGM for all the resolutions set out in the Notice of AGM.

Yours faithfully,

By Order of the Board

**HONG KONG EXCHANGES AND CLEARING LIMITED**

**Lee Yeh Kwong, Charles**

*Chairman*

**LIST OF CANDIDATES**

The two candidates nominated by the Nomination Committee and recommended by the Board are set out below in alphabetical order.

**STRICKLAND, John Estmond, GBS, JP**, aged 64, has been a Non-executive Director of HKEx since 3 April 2000. Mr Strickland graduated from Jesus College, Cambridge University with a degree in Physics. He spent most of his working career with HSBC in Hong Kong, being responsible for the HSBC Group's IT from 1971 to 1995. From 1996 to 1998 he was chairman of The Hongkong and Shanghai Banking Corporation Limited, which has responsibility for HSBC's operations in Asia Pacific. Presently he is chairman of Hong Kong Cyberport Management Co Ltd, a director of the Airport Authority Hong Kong and Esquel Holdings Inc. He is a member of the Council of The University of Hong Kong, President of the Outward Bound Trust, and a member of the boards of the Community Chest, the Boys and Girls Clubs Association, the Youth Hostel Association, the Salvation Army Advisory Board, the Antiquities Advisory Board, the Hong Kong Adventure Corps, the China Exploration and Research Society, the Asia Society and the ICAC Operations Review Committee. He has honorary doctorates awarded by City University of Hong Kong and The Hong Kong Polytechnic University. He has honorary fellowships awarded by The Hong Kong Computer Society, the Hong Kong Institute of Bankers, the Hong Kong Management Association and The University of Hong Kong.

**WONG Sai Hung, Oscar**, aged 48, has been the Chief Executive Officer of BOCI-Prudential Asset Management Limited since 1 January 2001. Mr Wong was the Regional Managing Director of Prudential Portfolio Managers Asia from 1999 to 2000. From 1977 to October 1998, Mr Wong was working with LGT Asset Management Limited, a company which became a subsidiary of AMVESCAP, the parent of INVESCO in June 1998. During his first 10 years with LGT in Hong Kong, Mr Wong was involved in managing equity portfolios with investments in the Japanese and other Asia Pacific markets. From 1987 to 1990, Mr Wong was seconded to run an investment management joint venture in Taipei and assisted in starting of other similar investment management joint ventures of LGT in Thailand, Indonesia and the Mainland China. From 1994 to 1997, Mr Wong was responsible for LGT's mutual fund marketing operations in Canada, a business which he helped to establish in 1994. Mr Wong was the Deputy Managing Director of LGT from 1990 to 1994 and became the head of its Asian operations in January 1998. From June to October 1998, Mr Wong was the Deputy Chief Executive of INVESCO Asia Limited. Mr Wong studied business at Hong Kong Polytechnic University and was one of its first Marketing graduates in 1977. Mr Wong has over 26 years of experience in the fund management industry.

**RESOLUTIONS AND VOTING**

In order to comply with section 157A of the Companies Ordinance and Article 91 of the Articles of Association of HKEx, there must be a separate resolution for the appointment of each candidate, unless a resolution that a single resolution for the appointment of two or more candidates shall be

proposed has been first agreed to by the meeting without any vote being cast against it. The resolutions themselves will contain a method of determining support for a candidate. Each resolution to be proposed at the AGM will provide as follows:

“**THAT** subject to the number of net votes cast in relation to this resolution (net votes being votes cast in favour minus votes cast against this resolution) being among the two highest number of net votes cast on each of the resolutions for the appointment of a person as a director of the Company at the annual general meeting to be held on 31 March 2004 (“AGM”), [name of candidate] be and is hereby appointed as a director of the Company with effect from the conclusion of the AGM, provided that if any two or more of such resolutions record the same number of net votes (the “tied resolutions”), the ranking of the tied resolutions from highest to lowest number of net votes shall be determined by the drawing of lots by the chairman of the meeting.”

Given the complexity of the resolutions to be considered at the AGM, it is expected that the chairman of the meeting will demand that such resolutions be voted on by way of poll. It is also expected that in order to streamline voting procedures for the convenience of Shareholders, the poll on each of the two resolutions will be taken at the same time. On a poll, every Shareholder present in person or by proxy will have one vote for every Share he holds. A Shareholder which is a corporation will be present in person if such Shareholder is present by a duly authorised representative. A Shareholder present in person or by proxy who is entitled to more than one vote does not need to use all his votes (i.e. he can cast less votes than the number of shares he holds or represents) or to cast all his votes the same way (i.e. he can cast some of his votes in favour of the resolution and some of his votes against the resolution). The Board believes that in most situations, Shareholders (other than nominee companies) usually cast all their votes either in favour of a resolution or against a resolution.

**If a resolution is passed by a majority of the votes cast on it, the candidate who is the subject of that resolution will be eligible to be elected a Director. On the other hand, if a resolution is not passed, the candidate who is the subject of that resolution will not be eligible to be elected a Director. If there are less than two resolutions passed by a majority of the votes cast, the Board may appoint any person to fill the vacancy in the Elected Directors category pursuant to Article 92.**

**Assuming a resolution is passed by a majority of the votes cast on it, the candidate who is the subject of that resolution will only actually be elected to one of the two positions on the Board if the net votes cast in favour of his resolution rank within the top two resolutions passed in terms of net votes. Net votes are calculated by taking the votes cast in favour of a resolution and subtracting the votes cast against that resolution. In the event there is a tie in the net votes for two or more resolutions, the tie will be resolved by the drawing of lots by the chairman of the meeting.**

**Therefore, if you wish to support a particular candidate, you should vote in favour of his resolution. If you do not wish to support a candidate, you may vote against his resolution or abstain from voting. If you abstain from voting, you should note that your votes will not be counted when calculating the net votes in relation to that candidate.**

A specimen of the draft voting slip proposed for use at the AGM together with examples of how a Shareholder can vote, which do not form part of this circular or the notice of the AGM, will be despatched to Shareholders for information purposes only by the Company's registrar, Hong Kong Registrars Limited, on or before 24 March 2004.

This appendix serves as an explanatory statement to the Shareholders as required under the Listing Rules in connection with the proposed Repurchase Mandate and also constitutes the memorandum required under section 49BA of the Companies Ordinance.

## 1. THE LISTING RULES

The Listing Rules permit a company with a primary listing on the Stock Exchange to repurchase its securities on the Stock Exchange subject to certain restrictions, the most important of which are summarised below:

### *(a) Shareholders' approval*

The Listing Rules provide that all proposed repurchases of securities by a company with a primary listing on the Stock Exchange must be approved in advance by an ordinary resolution, either by way of a general mandate or by specific approval of a particular transaction.

Such authority may only continue in force during the period from the passing of the resolution until whichever is the earlier of: (i) the conclusion of the next annual general meeting of the company, (ii) the expiration of the period within which the next annual general meeting of the company is required by law to be held, or (iii) the passing of an ordinary resolution by shareholders in general meeting of the company revoking or varying such mandate.

### *(b) Source of funds*

Repurchases must be funded out of funds legally available for such purpose. A listed company may not repurchase its own securities on the Stock Exchange for a consideration other than cash or for settlement otherwise than in accordance with the trading rules of the Stock Exchange.

### *(c) Trading restrictions*

The shares proposed to be repurchased by a company must be fully paid up. A maximum of 10 per cent. of the existing issued share capital as of the date of resolution passed on the grant of a repurchase mandate may be repurchased on the Stock Exchange. A company may not issue or announce an issue of new shares for a period of 30 days immediately following a repurchase (other than an issue of securities pursuant to an exercise of share options or similar instruments requiring the company to issue securities which were outstanding prior to such repurchase) without the prior approval of the Stock Exchange (or in the case of HKEx, the SFC). In addition, under the Listing Rules in force as at the date of this circular, all repurchases of securities on the Stock Exchange in any calendar month are limited to a maximum of 25 per cent. of the trading volume of such securities on the Stock Exchange in the immediately preceding calendar month. This restriction will be abolished with effect from 31 March 2004. However, under a new rule to be added to the Listing Rules on 31 March 2004, a company shall not repurchase shares on the Stock Exchange if the purchase

price is higher by 5 per cent. or more than the average closing market price for the five preceding trading days. The Listing Rules also prohibit a company from repurchasing its own securities on the Stock Exchange if the repurchase would result in the number of that company's listed securities which are in the hands of the public falling below the relevant prescribed minimum percentage as required by the Listing Rules.

*(d) Status of repurchased securities*

The Listing Rules provide that the listing of all repurchased securities is automatically cancelled and that the certificates for those securities must be cancelled and destroyed. The aggregate of the authorised share capital shall remain unchanged.

*(e) Suspension of repurchases*

The Listing Rules prohibit any repurchase of securities at any time after a price sensitive development has occurred or has been the subject of a decision until such time as the price sensitive information is made publicly available. Under the current Listing Rules, a company (other than an investment company listed pursuant to the provisions of Chapter 21 of the Listing Rules) may not repurchase securities on the Stock Exchange, unless the circumstances are exceptional, during the period of one month immediately preceding either the preliminary announcement of the company's annual results or the publication of the company's interim report. After the Listing Rules have been amended on 31 March 2004, a company may not repurchase securities on the Stock Exchange, unless the circumstances are exceptional, during the period of one month immediately preceding the earlier of (i) the date of the board meeting for the approval of the company's results for any year, half-year, quarterly or any other interim period and (ii) the deadline for the company to publish an announcement of its results for any year or half-year under the Listing Rules, or quarterly or any other interim period, and ending on the date of the results announcement. In addition, the Stock Exchange (or in the case of HKEx, the SFC) reserves the right to prohibit repurchases of securities on the Stock Exchange if a company has committed a breach of the Listing Rules.

*(f) Reporting requirements*

Under the Listing Rules, repurchases of securities on the Stock Exchange or otherwise must be reported to the Stock Exchange (in the case of HKEx, the SFC and the Stock Exchange) by not later than 9:00 a.m. (Hong Kong time) on the following business day. In addition, a company's annual report is required to disclose details regarding repurchases of securities made during the year including the number of securities repurchased each month, the repurchase price for each such securities or the highest and lowest price paid for each repurchase where relevant, and the aggregate price paid for such purchases and the reasons of the directors of the company for making such repurchases.

A company shall procure that any broker appointed by the company to effect the repurchase of securities shall disclose to the Stock Exchange (or in the case of HKEx, the SFC) such information with respect to repurchases made on behalf of that company as the Stock Exchange (or in the case of HKEx, the SFC) may request.

(g) *Connected parties*

The Listing Rules prohibit a company from knowingly repurchasing securities on the Stock Exchange from a “connected person”, that is, a director, chief executive or substantial shareholder of the company or any of its subsidiaries or their respective associates (as defined in the Listing Rules) and a connected person is prohibited from knowingly selling his securities in the company back to the company. No connected person (as defined in the Listing Rules) has notified HKEx that he has a present intention to sell Shares to HKEx, or has undertaken not to do so, if the Repurchase Mandate is exercised.

## 2. SHARE CAPITAL

As at the Latest Practicable Date, the issued share capital of HKEx comprised 1,049,454,846 Shares. Subject to the passing of the ordinary resolution approving the Repurchase Mandate and on the basis that no further Shares are issued or repurchased following the Latest Practicable Date and up to the date of AGM, exercise in full of the Repurchase Mandate could accordingly result in up to 104,945,484 Shares being repurchased by HKEx during the period from 31 March 2004, the date of AGM up to (i) the conclusion of the next annual general meeting of HKEx, (ii) the expiration of the period within which the next annual general meeting of HKEx is required by law to be held, or (iii) the passing of an ordinary resolution by the Shareholders in general meeting of HKEx revoking or varying the Repurchase Mandate, whichever occurs first.

## 3. REASONS FOR REPURCHASES

The Board believes that it is in the best interests of HKEx and the Shareholders to have a general authority from the Shareholders to enable HKEx to repurchase Shares in the market. Such repurchases may, depending on market conditions and funding arrangements at the time, lead to an enhancement of the net asset value of HKEx and/or its earnings per Share and will only be made when the Board believes that such repurchases will benefit HKEx and its Shareholders.

## 4. FUNDING OF REPURCHASES

In repurchasing securities, HKEx may only apply funds legally available for such purchase in accordance with its Memorandum and Articles of Association, the laws of Hong Kong and the Listing Rules. Repurchases pursuant to the Repurchase Mandate will be made out of funds of HKEx legally permitted to be utilised in this connection, including the funds of HKEx otherwise available for dividend or distribution or the proceeds of a fresh issue of shares made for such purpose. Any premium payable on a purchase over the par value of the Shares to be purchased must be provided for out of funds of HKEx otherwise available for dividend or distribution or out of sums standing to the credit of HKEx’s share premium account.



There might be a material adverse effect on the working capital or gearing position of HKEx group of companies, as compared with the position disclosed in the audited accounts contained in the annual report of HKEx for the year ended 31 December 2003, in the event that the Repurchase Mandate is exercised in full at any time. However, the Board does not propose to exercise the Repurchase Mandate to such an extent as would, in the circumstances, have a material adverse effect on the working capital requirements of HKEx group of companies or its gearing levels which, in the opinion of the Board, are from time to time appropriate for HKEx.

## **5. GENERAL**

None of the Directors nor, to the best of their knowledge, having made all reasonable enquiries, their respective associates (as defined in the Listing Rules), have any present intention, if the Repurchase Mandate is exercised, to sell any Shares to HKEx or its subsidiaries.

The Board has undertaken to the SFC that, so far as the same may be applicable, it will exercise the Repurchase Mandate only in accordance with the Listing Rules and the applicable laws of Hong Kong.

If as a result of a repurchase of Shares pursuant to the Repurchase Mandate, a Shareholder's proportionate interest in the voting rights of HKEx increases, such increase will be treated as an acquisition of voting rights for the purposes of the Takeover Code. Accordingly, a Shareholder or a group of Shareholders acting in concert (within the meaning under the Takeover Code), depending on the level of increase in the Shareholders' interest, could obtain or consolidate control of HKEx and thereby become obliged to make a mandatory offer in accordance with Rule 26 of the Takeover Code. Save as aforesaid, the Board is not aware of any consequences which would arise under the Takeover Code as a result of any repurchases of Shares pursuant to the Repurchase Mandate.

## **6. SHARE REPURCHASES MADE BY HKEx**

HKEx has not repurchased any Shares during the six months prior to the Latest Practicable Date (whether on the Stock Exchange or otherwise).

**7. SHARE PRICES**

During each of the previous twelve months preceding the Latest Practicable Date, the highest and lowest prices at which the Shares were traded on the Stock Exchange were as follows:

	<b>Share Prices (per share)</b>	
	<b>Highest</b> <i>(HK\$)</i>	<b>Lowest</b> <i>(HK\$)</i>
<b>2003</b>		
March	9.60	8.30
April	9.25	7.60
May	10.45	8.95
June	11.80	10.30
July	12.95	10.90
August	14.30	12.70
September	17.00	14.05
October	17.30	16.15
November	17.30	14.50
December	17.15	15.85
<b>2004</b>		
January	21.90	16.90
February	21.15	18.60

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## APPENDIX III      AMENDMENTS TO THE ARTICLES OF ASSOCIATION

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This appendix sets out the proposed amendments to the Articles of Association to reflect the legislative changes to the Companies Ordinance regarding the removal of a director by an ordinary resolution and to incorporate the changes that will be required under the revised Listing Rules. The proposed amendments to the Articles of Association have been marked up for ease of reference.

### *Article 2 — Interpretation*

A new definition of “associate” will be added as follows:

“associate            has the same meaning as in the Rules Governing the Listing of Securities on the Stock Exchange;”

### *Article 70(1) — Voting and demand for poll*

The revised Listing Rules provide that any vote of shareholders taken at a general meeting to approve (i) connected transactions; (ii) transactions that are subject to independent shareholders’ approval pursuant to the Listing Rules; (iii) granting of options to a substantial shareholder or an independent non-executive director or any of their respective associates; and (iv) any other transaction in which a shareholder has a material interest and is therefore required to abstain from voting, must be taken on a poll. To reflect this new requirement, Article 70(1) will be amended as follows:

“(1) Subject to the rules prescribed by any Relevant Exchange from time to time, ~~At~~at every general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless (before or upon the declaration of the result of the show of hands) a poll be demanded by:

- (a) the chairman of the meeting; or
- (b) at least three members present in person or by proxy having the right to vote on the resolution; or
- (c) a member or members present in person or by proxy representing in aggregate not less than one-tenth of the total voting rights of all the members having the right to attend and vote at the meeting; or
- (d) a member or members present in person or by proxy holding shares conferring the right to attend and vote at the meeting on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right;

and a demand for a poll by a person as proxy for a member shall be as valid as if the demand were made by the member himself.”

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## APPENDIX III      AMENDMENTS TO THE ARTICLES OF ASSOCIATION

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### *Voting rights*

Under the revised Listing Rules, the articles of association of a listed company must provide that where any shareholder is subject to voting restrictions under the Listing Rules, any votes cast by or on behalf of such shareholder in contravention of such restriction shall not be counted. A new Article 79A will be added as follows:

#### **“79A.Voting restrictions under Listing Rules**

Where any member is, under the Rules Governing the Listing of Securities on the Stock Exchange, required to abstain from voting on any particular resolution or restricted to voting only for or only against any particular resolution, any votes cast by or on behalf of such member in contravention of such requirement or restriction shall not be counted.”

### *Article 90(2)(b) — Appointment of Directors and Public Interest Directors*

Article 90(2)(b) will be amended to specify the lodgment period for the nomination of directors by shareholders, which will commence no earlier than the day after the despatch of the notice of the meeting appointed for such election and end no later than 7 days prior to the date of such meeting, as follows:

“(b) ~~not less than seven nor more than twenty eight clear days before~~not earlier than the day after the despatch of the notice of the meeting and not later than 7 days prior to the date appointed for the meeting there has been given to the Secretary, by a member (other than the person to be proposed) entitled to vote at the meeting, notice of his intention to propose a resolution for the appointment or reappointment of that person and a notice executed by that person of his willingness to be appointed or re-appointed, provided however that this provision shall not apply in respect of:

- (i) the first general meeting called to appoint Directors after the date on which these Articles become effective; and
- (ii) any general meeting at which a person is to be appointed a Director to fill any vacancy created by an Inaugural Elected Director prior to the expiration of his term in 2003.”

### *Article 94(1) — Removal of Directors and Article 95 — Vacation of office of Director*

Section 157B of the Companies Ordinance has been amended to provide that a director may be removed by an ordinary resolution instead of a special resolution notwithstanding any provision in a company’s constitution. To reflect this change and to make the requirement under the Articles of Association in line with the Companies Ordinance requirement, Articles 94(1) and 95(h) will be amended as follows:

#### Article 94

“(1) The Company may by ~~special~~ordinary resolution remove any Director (other than a Public Interest Director or the Chief Executive) before his period of office has expired notwithstanding anything in these Articles or in any agreement between him and the Company.”

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## APPENDIX III      AMENDMENTS TO THE ARTICLES OF ASSOCIATION

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### Article 95

“(h) in the case of a Director other than a Public Interest Director, if he is removed by ~~special~~ ordinary resolution of the Company in accordance with the Statutes.”

### *Article 101(7) to (10) — Power of Directors to hold offices of profit and to contract with Company*

Article 101(7) to (10) will be amended to provide that Directors shall not vote for transactions in which they or their associates have a material interest, as follows:

“(7) A Director shall also not vote (or be counted in the quorum at a meeting) in relation to any resolution relating to any contract or arrangement or other proposal in which he has an interest which (taken together with any interest of any ~~person connected with him~~ of his associates) is to his knowledge a material interest and, if he purports to do so, his vote shall not be counted, but this prohibition shall not apply and a Director may vote (and be counted in the quorum) in respect of any resolution concerning any one or more of the following matters:

- (a) the giving to him or any of his associates of any guarantee, indemnity or security in respect of money lent or obligations undertaken by him or any of them at the request of or for the benefit of the Company or any of its subsidiaries;
- (b) the giving to a third party of any guarantee, indemnity or security in respect of a debt or obligation of the Company or any of its subsidiaries for which he himself or any of his associates has assumed responsibility in whole or in part and whether alone or jointly under a guarantee or indemnity or by the giving of security;
- (c) where the Company or any of its subsidiaries is offering securities in which offer the Director or any of his associates is or may be entitled to participate as a holder of securities or in the underwriting or sub-underwriting of which ~~the Director~~ any of them is to participate;
- (d) any contract in which he or any of his associates is interested in the same manner as other holders of shares or debentures or other securities of the Company by virtue only of his or their interest in shares or debentures or other securities of the Company;
- (e) any contract concerning any other company (not being a company in which the Director and any of his associates in aggregate ~~owns~~ own 5 per cent. or more) in which he or any of his associates is interested directly or indirectly as an officer or shareholder;
- (f) any contract concerning the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to Directors, their associates and employees of the Company or of any of its subsidiaries and does not provide in respect of any Director or any of his associates as such any privilege or advantage not accorded to the employees to which the fund or scheme relates;

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## APPENDIX III            AMENDMENTS TO THE ARTICLES OF ASSOCIATION

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- (g) any contract for the benefit of employees of the Company or of any of its subsidiaries under which ~~he~~ the Director or any of his associates benefits in a similar manner to the employees and which does not accord to any Director or any of his associates as such any privilege or advantage not accorded to the employees to whom the contract relates; and
- (h) any contract for the purchase or maintenance for any Director or Directors of insurance against any liability.
- (8) A company shall be deemed to be one in which a Director and any of his associates in aggregate ~~owns~~ own 5 per cent. or more if and so long as (but only if and so long as) they are ~~he, together with any of his associates (as such term is defined in the Rules Governing the Listing of Securities on the Stock Exchange), is~~ (either directly or indirectly) the holder of or beneficially interested in 5 per cent. or more of any class of the equity share capital of that company (or of any third company through which ~~his~~ the interest of the Director or that of his associate is derived) or of the voting rights available to members of that company. For the purpose of this paragraph of this Article there shall be disregarded any shares held by the Director or any of his associates as bare or custodian trustee and in which he ~~has~~ and his associates have no beneficial interest, any shares comprised in a trust in which ~~his interest~~ the interest of him and his associates is in reversion or remainder if and so long as some other person is entitled to receive the income of the trust and any shares comprised in an authorised unit trust scheme in which he or any of his associates is interested only as a unit holder.
- (9) Where a company in which a Director and any of his associates in aggregate ~~owns~~ own 5 per cent. or more is materially interested in a contract, he also shall be deemed materially interested in that contract.
- (10) If any question arises at any meeting as to the materiality of an interest of a Director (other than the chairman of the meeting) and any of his associates or as to the entitlement of any Director (other than the chairman of the meeting) to vote and the question is not resolved by his voluntarily agreeing to abstain from voting, the question shall be referred to the chairman of the meeting and his ruling in relation to the Director concerned shall be final and conclusive except in a case where the nature or extent of the interest of the Director or any of his associates concerned, so far as known to him, has not been fairly disclosed. If any question shall arise in respect of the chairman of the meeting or any of his associates and is not resolved by his voluntarily agreeing to abstain from voting, the question shall be decided by a resolution of the Directors (for which purpose the chairman shall be counted in the quorum but shall not vote on the matter) and the resolution shall be final and conclusive except in a case where the nature or extent of the interest of the chairman or any of his associates, so far as known to him, has not been fairly disclosed.”