

- 7. Alteration of Authorised Share Capital 63**
Increase of Authorised Capital. Consolidation of Shares. Subdivision of Shares. Classification/Reclassification of Shares. Cancellation of Unissued Shares.
- 8. Company Meetings 71**
Types of Company Meetings. Requisites for a Valid Meeting. Board Meetings. General Meetings—For All Types of Companies. Shareholders' Resolution in Writing. General Meetings for Listed Companies. Adjournment of Meetings. Postponement of Meetings.
- 9. Company Directors 79**
Shadow Directors. Number of Directors. Qualifications. Appointment of Directors. Resignation of Directors. Removal of Directors. Vacation of Office by Other Means. Continuing Directors. Alternate/Substitute Directors. Vacation of Office of Alternate Directors. Reserve Director. Managing Director. Independent Non-executive Directors. Retirement of Directors in an Annual General Meeting. Loans to Directors. Loans to Directors and Connected Persons of Relevant Companies. Remuneration. Compensation for Loss of Office. Directors' Statutory Duties under the Ordinance. Directors' Duties under the *Listing Rules*. Directors' Duties on Disclosure of Interests in Securities under Part XV of the *Securities and Futures Ordinance*. Directors' Duties to Avoid Insider Dealing under Part XIV of the *Securities and Futures Ordinance*. Director's Duties under the *Hong Kong Code on Takeovers and Mergers*.
- 10. Company Secretary 101**
Duties. Qualifications. Dual Capacity. Appointment to and Vacation of Office.
- 11. Auditors 103**
Qualifications. Appointment. Resignation. Removal and Section 132 Procedure.
- 12. Change of Company's Name, Objects Clauses, Articles of Association, and Registered Office 108**
Change of Company Name and Name Swaps. Alteration of Objects Clauses. Alteration of Articles of Association. Change of Registered Office.
- 13. Bank Accounts 115**
Open a Bank Account. Change the Bank Signatories. Close a Bank Account.
- 14. Seals 118**
Common Seal. Securities Seal. Official/Branch Seal.
- 15. Transfer of Shares 120**
Forms of Restriction on Share Transfers. Procedures. Section 45 — Relief for Intra-group Transfer/Sale of Shares. Nominee Shareholders.
- 16. Transmission of Shares 126**
On the Death of a Member. By Operation of Law. Refusal to Register a Share Transfer by Transmission.
- 17. Share Certificates 129**
Issue of Share Certificates. Replacement of Lost Share Certificates.
- 18. Registration of Documents 135**
Power of Attorney. Death Certificate. Probate or Letters of Administration. Marriage Certificate. Certificate of Incorporation on Change of Name. Deed Poll. Court Order. Change of Address.
- 19. Loan Capital/Debentures 139**
Borrowing Power of a Company. Borrowing Power of Directors. Types of Secured Borrowings. Types of Debentures. Procedures. Provisions of Guarantee or Collateral Security for the Performance of Obligation by a Third Party.
- 20. Registration of Charges 147**
Charges Registrable under Section 80 of the Ordinance. Registration Procedures. Registration of Charges Existing on Property Acquired. Charges Created by Non-Hong Kong Companies. Extension of the Time for Registration and Rectification of the Register of Charges. Release of Charges.
- 21. Notifiable Transactions and Connected Transactions 152**
Definition of "Transaction". Publication of Announcement. Circular. Independent Shareholders' Approval. Percentage Ratios/Size Tests. Share Transaction. Discloseable Transaction. Major Transaction — Major Acquisition and Major Realisation/Disposal. Very Substantial Acquisition. Very Substantial Disposal/Realisation. Reverse Takeover. Connected Transactions. Continuing Connected Transactions. Definitions for Connected Transactions. Types of Connected Transactions. Exempted Connected Transactions. Connected Transactions or Continuing Connected Transactions (other than those involving financial assistance or granting of options) subject to Disclosure Requirements Only. Connected Transactions and Continuing Connected Transactions subject to both Disclosure and Independent Shareholders' Approval Requirements.

- 22. Securities and Futures Ordinance — Part XV Disclosure of Interests 177**
 Duty of Substantial Shareholders. Checklist for Initial Notification for Substantial Shareholders. Checklist for Subsequent Notification for Substantial Shareholders. Duty of Directors and Chief Executives. Checklist for Initial Notification by Directors and Chief Executives. Checklist for Subsequent Notification by Directors and Chief Executives. Computation of Percentage of Interest and Short Positions. Time and Manner of Notification. Definitions.
- 23. Dividends 196**
 Interim Dividends. Final Dividends.
- 24. Company Accounts, Directors' Reports, and Interim Reports 202**
 Company Accounts. Directors' Reports. Additional Information Required to be Disclosed in Company Accounts and Directors' Reports of Listed Companies. Adoption of Audited Accounts. Corporate Governance Disclosure in Annual Reports. Right to Receive Audited Accounts. Disposal of Company Accounts. Exemption from Full Disclosure in the Accounts of Certain Private Companies. Summary Financial Reports for Listed Companies. Contents of Accounts for Banking and Insurance Companies. Interim Reports. Quarterly Reports.
- 25. Annual General Meeting 219**
 Ordinary Business. Special Business. Holding of an Annual General Meeting. Annual Return.
- 26. Repurchase of Shares 230**
 Repurchase of Shares by Private Companies. Repurchase of Shares by Unlisted Public and Listed Companies. Rights of the Company and Minority Shareholders in Case of a Successful Buyout by Share Repurchase.
- 27. Reduction of Share Capital 243**
 Methods of Reduction of Capital. Procedures.
- 28. Schemes of Arrangement 248**
 Uses of a Scheme of Arrangement. Procedures.
- 29. Takeovers and Mergers 253**
 By Agreement with the Individual Members of the Company Being Acquired. By Offer. Rights of the Acquiring Company and Minority Shareholders of the Acquired Company in the Case of a Successful Takeover Offer.
- 30. Dissolution of a Company 259**
 Deregistration of Defunct Private Companies under Section 291AA of the Ordinance. Winding-up.
- 31. Non-Hong Kong Companies 276**
 Place of Business. Initial Registration. Certification of Documents. Translation of Documents. Subsequent Changes — Filing Requirements. Registration of Charges. Annual Obligations. Special Provision Regarding the Use of the Company's Name in Hong Kong. Liquidation. Cessation of Place of Business.
- 32. Liberian Companies 288**
 Articles of Incorporation. Bylaws. Share Capital. Shareholders' Meetings. Directors. Board Meetings. Officers. Resident Agent. Corporate Seal. Registered Office. Books of Accounts, Minutes and Register of Shareholders. Matters to be Attended to after Incorporation. Annual Registration Fee. Amendment of the Articles of Incorporation. Amendment of the Bylaws. Sale, Lease or Disposal of Corporate Assets. Mortgage or Pledge of Property. Re-domicile into Liberia. Dissolution.
- 33. Panamanian Companies 301**
 Articles of Incorporation and Bylaws. Shares. Shareholders and Shareholders' Meetings. Directors and Directors' Meetings. Officers. Resident Agent. Disclosure of Beneficial Ownership. Corporate Seal. Registered Address. Statutory Books. Matters to be Attended to after Incorporation. Annual Registration Fee. Registration Requirements. Amendment of the Articles of Incorporation. Amendment of the Bylaws. Registration of Charges. Change of Domicile. Dissolution.
- 34. British Virgin Islands Business Companies — Companies Limited by Shares 310**
 Types of Business Companies. Incorporation of Business Companies — Companies Limited by Shares. Memorandum and Articles of Association: Company Name, Corporate Capacity and Powers. Issue of Shares. Share Certificates. Shareholders. General Meetings. Directors. Officers. Directors'/Board Meetings. Registered Agent. Common Seal. Registered Office. Statutory Books. Matters to be Attended to after Incorporation. Annual Obligations. Registration of Charges and Priorities of Charges. Mortgages and Charges of Shares by Shareholders. Distribution and Dividend. Alteration of Memorandum and Articles of Association: Change of Company Name, Increase of Capital. Redemption, Repurchase and Acquisition of Shares. Share Transfer. Merger and Consolidation. Disposition of Assets. Forced Redemption of Minority Shares. Schemes of Arrangement. Change of Domicile/De-registration and Re-registration. Striking-off. Liquidation/Winding-up of a Solvent Company.

- 35. Bermuda Companies — Exempted Companies 342**
Types of Companies. Incorporation of Companies under the *Companies Act 1981*. Memorandum of Association: Company Name, Objects and Powers. Bye-laws. Share Capital, Share Premium, Contributed Surplus and Dividends. Shareholders and Shareholders' Meetings. Disclosure of Beneficial Ownership. Directors, Secretary, Officers and Resident Representatives. Directors and Directors' Meetings. Secretary and Officers. Resident Representative. Common Seal. Registered Office. Statutory Books. Matters to be Attended to after Incorporation. Subsequent Changes. Alteration of Objects Clauses and Powers. Change of Name. Amendment of Bye-laws. Alteration of Share Capital. Share Issues and Transfers. Reduction of Capital (including Share Premium). Repurchase of Shares. Registration of Charges. Release of Charges. Change of Registered Office. Closure of Register of Members. Issue of Prospectus. Annual Obligations for Exempted Companies. Change of Domicile/Discontinuance from Bermuda. Liquidation.
- 36. PRC Companies 366**
Types of Companies. Company Name and Objects. Limited Liability Companies. Joint Stock Limited Companies. Financial Statements and Auditors. Dividends and Reserve Funds. Subsequent Changes. Annual Requirements. Liquidation. Branch Office. Branch of Foreign Companies.
- 37. Listing of Securities on the Singapore Stock Exchange — Catalist Board 400**
Advantages and Disadvantages of Seeking a Catalist Listing on the Singapore Stock Exchange. Procedure for Seeking a Catalist Listing on the Singapore Stock Exchange. General Mandate to Issue of Shares and Convertible Securities. Share Buy-back. Notifiable Transactions. Interested Person Transactions. Sale of Property Units to Interested Persons and Directors' Relatives. Continuing Obligation. Annual Report. Interim Results. Quarterly Results. Announcement of Dividends. Announcement of Book Close Period.
- 38. Corporate Governance Matters 421**
Independent Non-executive Directors. Qualified Accountant. Audit Committee. Nomination Committee. Remuneration Committee. Code on Corporate Governance Practices. Corporate Governance Report. Disclosure of Price-sensitive Information by Listed Companies. Corporate Communications to Non-registered Holders of Securities. Disclosure of Specific Information. Directors' Service Contracts. Pre-emptive Rights and General Mandate. Minimum Public Holdings. Failure to Publish Timely Financial Information.

- 39. Listing of Securities on the Growth Enterprise Market/Second Board of the Stock Exchange 444**
Types of Securities. Qualification for Listing. Prospectus Requirements. Corporate Governance. Restrictions on Disposal of Securities on Controlling Shareholders. Issue of New Securities within Six Months of Listing. Continuing Obligations.
- 40. Cayman Islands Companies — Exempted Companies 451**
Types of Companies. Incorporation of Companies. Company Name, Objects and Powers, Articles of Association. Issue of Shares and Dividends. Shareholders and Shareholders' Meetings. Disclosure of Beneficial Ownership. Directors, Officers and Directors' Meetings. Common Seal. Registered Office. Statutory Books. Matters to be Attended to after Incorporation. Subsequent Changes. Alteration of Memorandum and Articles of Association. Change of Company Name. Alteration of Authorised Capital. Share Issues and Transfers. Reduction of Capital. Repurchase of Shares and Redemption of Shares. Annual Obligations for Exempted Companies. Change of Domicile/De-registration. Removal of Defunct Companies. Liquidation/Winding-up.

Appendices

1. Secretary's Checklist for Holding a Board Meeting 469
2. Secretary's Checklist for Holding an Annual General Meeting of a Listed Company 471
3. Special and Ordinary Resolutions 474
4. Sample Documents 476
5. List of Prescribed Forms (Hyperlinks and soft copy of prescribed forms on CD-ROM) 482

Index 490

16

Transmission of Shares

Transmission is the vesting of shares in a new holder other than by a share transfer. The shares will be vested in a new holder:

- (a) on the occurrence of death of the registered holder; or
- (b) by operation of law, eg bankruptcy, liquidation, or insanity of the registered holder.

The rules and regulations governing transmission of shares are set out in the Ordinance and the company's articles of association.

16.1 On the Death of a Member

The Ordinance provides that a transfer of the shares or other interests of a deceased member made by his personal representative, although the personal representative is not himself a member, shall be as valid as if he were. It also states that the production to a company of any document which is by law sufficient evidence of probate or letters of administration shall be accepted by the company as sufficient evidence of the grant.

If the Deceased Member Held Shares Solely

The legal personal representative of the deceased member, i.e. the executor or the administrator, must present to the company the relevant documents (either the probate or letters of administration) before he can deal with the shares of the deceased.

The executor or the administrator cannot be treated automatically as the holder of the shares, and the name of the deceased member must be allowed to

The executor or the administrator may deal with the shares of the deceased in the following manner:

- (a) If the executor or the administrator wishes to sell the shares, he must sign an instrument of transfer as transferor in his capacity as an executor or administrator of the deceased.
- (b) If he wishes to have the shares registered in his name, he may (if the articles of association permit) request the company to enter his name in the register of members by submitting to the company a letter of request. Alternatively, he can present to the company for registration a stamped instrument of transfer transferring the shares to his name. After his name is entered in the register of members, he will be treated as a member in his own right, e.g. he can exercise any voting right in the company's general meetings and be held responsible for any liability attaching to the shares.

If the Deceased Member Held Shares Jointly

In this case, the shares vest in the survivor or survivors of the joint holding.

The death certificate, probate, or letters of administration must be presented to the company as evidence of death. The name of the deceased member will then be deleted from the register of members, i.e. only the name(s) of the surviving member(s) will appear. However, most articles of association invariably provide that the estate of the deceased joint holder is not released from any liability remaining on the shares which had been jointly held by him with other persons.

16.2 By Operation of Law**Bankruptcy of a Member**

On becoming bankrupt, a member's shares vest in his trustee in bankruptcy. However, the trustee must prove to the company that he is entitled to deal with the bankrupt's shares by producing an office copy of the court order by which he was appointed and an authenticated copy of his signature.

After production of these documents to the company, the trustee can deal with the bankrupt's shares in the course of realising his property. He may elect to deal with the shares in the following manner:

- (a) He may transfer the shares to another person.
- (b) He may have the shares registered in his own name, where the articles of association permit or require him to do so. If, however, there is any liability on the shares, he is unlikely to do so as he would then become personally liable. Moreover, he would also lose his right to disclaim the shares.
- (c) He may disclaim the shares if they are partly paid and so long as he had not had them registered in his own name. In this case, the company will be entitled to

Liquidation of a Corporate Member

When a corporate member is wound up, the liquidator must produce evidence of his appointment before he becomes entitled to deal with the shares concerned. The evidence required depends on the mode of winding-up adopted:

(a) *Compulsory Liquidation*

The liquidator will be required to produce to the company the court order by which he was appointed, or a copy of the *Gazette* in which his appointment was advertised.

(b) *Voluntary Liquidation*

The liquidator must produce certified copies of the resolution for winding-up and authorising his appointment.

Insanity of a Member

On a member becoming insane, the Court may appoint a receiver to administer the affairs of the shareholder who is of unsound mind. On production of the relevant court order, the member's shares will vest in his receiver who can deal with the shares concerned in accordance with the authority given in the court order, e.g. transfer the shares or receive dividends due to the insane member.

16.3 Refusal to Register a Share Transfer by Transmission

If the directors refuse to register a transfer of shares to the personal representative or to the trustee in bankruptcy, etc, who becomes entitled to those shares by operation of law, the personal representative or the trustee, etc, is entitled to require the company to furnish a statement of the reasons for the refusal. If the company fails to furnish such a statement within 28 days after the request, the company is obliged to register the transfer subject only to any pre-emption rights in the company's articles of association.

Share Certificates

17.1 Issue of Share Certificates

Section 70 of the Ordinance provides that unless the company's conditions of issue otherwise provide, a company's share certificates must be ready for delivery to its members within two months after the date of allotment of shares.

In the case of a private company, share certificates must be issued to the transferees within two months after the lodgment of the transfer documents to the company. For a public company, share certificates must be issued within 10 business days after the lodgment of the transfer documents to the company. The *Listing Rules* provides that share certificates for listed companies must be issued within:

- (a) 10 business days after the allotment of shares
- (b) 10 business days after the date of expiration of any right of renunciation; or
- (c) 10 business days after the lodgement of the properly executed transfer documents or the relevant certificate.

Note: "Business days" means any days other than Saturdays, Sundays, and public holidays in Hong Kong.

If the share capital of a company consists of shares of different classes, every certificate issued by the company must specify:

- (a) the fact that the company's share capital is divided into different classes of shares
- (b) the nominal value of each class of shares
- (c) the voting rights attached to each class of shares; and

- (d) if the company's share capital includes ordinary shares with no voting rights, the descriptive title of the shares of that class shall include the words "non-voting", and these words must appear on the share certificate.

In the case of listed companies, the size, quality of paper, and information required to be shown on the share certificates are set out in Appendix 2 and Form CF023M—Definitive Document of Title of Equity Securities Checklist of the *Listing Rules*.

17.2 Replacement of Lost Share Certificates

Share certificates must be sealed by the company, thus giving prima facie evidence of the title of the members to the shares. The company's articles of association usually authorise directors to issue new share certificates to replace those which have been lost, defaced, or destroyed. However, such a power must be exercised with caution, as the company may incur liability to any person who suffers loss through such an issue.

Private Companies and Unlisted Public Companies

The procedure for replacing share certificates for private companies and unlisted public companies is set out below.

Procedure

1. A member whose share certificate has been lost, destroyed, or mislaid must submit the following to the company:
 - an application for the issue of a new certificate
 - a letter of indemnity and/or a bank guarantee; and
 - a fee covering the issue of a new certificate, if any.
2. Pass a board resolution to approve the cancellation of the lost certificate and the issue of a new certificate.

Sample Resolution

'There was tabled before the meeting a letter dated 1st September 2007 from Mr Peter Chan reporting that share certificate No 10 for 100 shares registered in his name has been mislaid and requesting that a new certificate for 10 shares be issued to him.

It was resolved that share certificate No 10 be cancelled and that a share certificate No 11 for 10 shares be issued to Mr Peter Chan.

It was further resolved that two Directors be authorised to sign and affix the Common Seal thereto.'

3. Record the cancellation and issue of the certificate in the register of members.
4. Issue a new certificate and notify the applicant that the new certificate is available for collection.

Listed Companies

Upon receiving an application (Form S1, see Appendix 5) for the replacement of a certificate which has been lost, destroyed, or mislaid, adequate precautions must be taken before a new certificate is issued, eg the register of members should be checked to ensure that no "stop notice" or court order has been received, etc.

The procedure to be followed depends on the latest value of the shares covered by the certificate (i.e. the value of the share calculated at the last recorded price paid for the share in the company of the same class, prior to the application, at the Stock Exchange) and whether the consent of the registered shareholder has been obtained if the applicant is not the registered shareholder. (Some buyers of listed shares prefer not to register as members of the company; therefore, the names of the sellers remain in the register of members.)

Procedure

Where the Latest Value of the Certificate is HK\$20,000 or below and the Applicant is the Registered Shareholder

1. Request the applicant to complete and sign a Form S1.
2. On receipt of Form S1, duly completed, forward to the Stock Exchange a copy of the notice in the prescribed form (Form S2, see Appendix 5) regarding the company's intention to cancel the original certificate and to issue a new certificate and request an authorised officer thereof to certify to the company in writing that such a copy is being exhibited in accordance with s 71A(5) of the Ordinance, i.e. for one month.
3. Publish a notice in the prescribed form (Form S2) in one English and one Chinese newspaper (see p8) for one day, advertising the company's intention to cancel the original certificate and to issue a new share certificate.
4. If no claims are lodged within one month after the publication of the notice, prepare the new share certificate and submit the same to the board of directors for approval, i.e. board resolutions should be passed to approve the cancellation of the lost certificate and the issue of a new certificate.
5. Record the cancellation and issue of the new certificate in the register of

6. Notify the applicant that the new certificate is available for collection.
7. Within 14 days after the issue of the new certificate, publish a notice in the prescribed form (Form S4, see Appendix 5) in the *Gazette* regarding the cancellation and issue of the certificate and deliver a soft copy of the same to the Stock Exchange.
8. Post the Form S4 on the company's website.

Note: The cost of advertising the loss of a share certificate and the scrip fee for the new certificate will be for the account of the applicant. From the date of receipt of the cheque and the statutory declaration, it will take around 10 weeks to complete the above procedure.

Procedure

Where the Latest Value of the Certificates is More than HK\$20,000 and the Applicant is the Registered Shareholder

1. Request the applicant to complete and sign a Form S1.
2. On receipt of the Form S1, duly completed, forward to the Stock Exchange a copy of the notice in the prescribed form (Form S3, see Appendix 5) regarding the company's intention to cancel the original certificate and to issue a new certificate and request an authorised officer thereof to certify to the company in writing that such a copy is being exhibited in accordance with s 71A(5) of the Ordinance, i.e. for three months.
3. Publish a notice in the prescribed form (Form S3) in the *Gazette* once in each of three consecutive months, advertising the company's intention to cancel the original certificate and to issue a new certificate.
4. If no claims are lodged within three months from the first date of publication of the notice, prepare the new share certificate and submit the same to the board of directors for approval.
5. Record the cancellation and issue of the certificate in the register of members.
6. Notify the applicant that the new certificate is available for collection.
7. Within 14 days after the issue of the new share certificate, publish a notice in the prescribed form (Form S4) in the *Gazette* regarding the cancellation of the original certificate and the issue of a new certificate and deliver a copy of the same to the Stock Exchange.

Note: The cost of advertising the loss of a share certificate and the scrip fee for a new certificate will be for the account of the applicant. From the date of receipt of the cheque and the statutory declaration, it will take about 20 weeks to complete the above procedure.

Procedure

Where the Applicant is Not the Registered Shareholder and Does Not Have the Consent of the Registered Shareholder to the Claim

1. Furnish the applicant with a Form S1 together with an instrument of transfer, and request the applicant to complete the same in every detail and return them to the company.
2. On receipt of the Form S1 and the instrument of transfer, duly completed and signed as transferee, forward to the Stock Exchange a copy of the notice in the prescribed form (Form S3) regarding the company's intention to cancel the original certificate and to issue a new certificate and request an authorised officer thereof to certify to the company in writing that such a copy is being exhibited in accordance with s 71A(5) of the Ordinance, i.e. for three months.
3. Serve a copy of Form S3 on the registered shareholder at his last address appearing in the register of members.
4. If no claims are lodged within three months after the service of the notice, publish a notice in the prescribed form (Form S3) in the *Gazette* in each of three consecutive months, advertising the company's intention to cancel the original certificate and to issue a new certificate.
5. If no claims are lodged within three months from the first date of publication of the notice, arrange for the completion of the instrument of transfer in respect of the relevant shares referred to in (2) above on behalf of the registered holder by a nominee (e.g. a director of the company) and present the same to the Stamp Office for adjudication.
6. Prepare the new share certificate and submit the same to the board of directors for approval.
7. Record the cancellation and issue of the certificate in the register of members.
8. Notify the applicant that the new share certificate is available for collection.

9. Within 14 days after the issue of the new share certificate, publish a notice in the prescribed form (Form S4) in the *Gazette* regarding the cancellation of the original certificate and the issue of a new certificate and deliver a copy of the same to the Stock Exchange.
10. Post the Form S4 on the company's website.

Note: The cost of advertising the loss of a share certificate and the scrip fee for a new certificate will be for the account of the applicant. From the date of receipt of the cheque, the instrument of transfer, and the statutory declaration, it will take about eight months to complete the above procedure.

18

Registration of Documents

Besides transfer documents and applications for the issue of replacement certificates, the following are frequently presented to a company or its share registrar for registration:

- power of attorney
- death certificate
- probate or letter of administration
- marriage certificate
- certificate of incorporation on change of name
- deed poll
- court order; and
- card/letter regarding change of address.

Before these documents are registered and alterations are made in the company's register of members, care must be exercised and the procedures set out below should be followed.

18.1 Power of Attorney

Power of attorney (PA) is an authorisation in writing under seal, given by the registered shareholder (the donor) to some other person or company, enabling them to act in his place. The authorisation may be general ("for all actions") or specific ("to deal only with share transactions"). In addition, it may be valid for a specific period of time or without any time limit, which means it remains valid until revoked.

The procedure set out below is generally applicable.

Procedure

- the register of members and the signature of the donor to ensure that the donor is a member of the company and that his signature corresponds with his specimen signature kept by the company
 - whether the PA is still in force (For example, if the PA is valid only for a specific period of time, check that the time period has not expired. If it is valid without any time limit, check that it has not been revoked. In case of doubt, a statutory declaration of non-revocation should be submitted by the attorney.)
 - whether the attorney has the authority to deal with share transactions as prescribed in the PA; and
 - whether the PA has been sealed.
2. Impress the PA with the company's chop as evidence that it has been registered by the company.
 3. Request the attorney to complete and sign a specimen signature card.
 4. Make a photocopy of the PA for the company's records before returning the original PA to the attorney.
 5. Record the appointment of the attorney in the register of members.
 6. Update the register of important documents or the register of powers of attorney, if any.

18.2 Death Certificate

Most articles of association provide that the death of a joint shareholder results in the whole interest in the joint holding passing to the survivor(s). The company or its share registrar therefore requires that the shareholder's death certificate must be presented to the company before it will arrange for the account name to be changed to reflect only that of the survivor(s). Disputes which may occur between the estate of the deceased shareholder (whose name has been removed) and the survivor(s) of the joint account are private and do not concern the company because all members are bound by the company's articles of association.

On receipt, a photocopy of the death certificate must be made before the original is returned to the sender together with the share certificate (duly endorsed). The name of the deceased member will be deleted from the register of members. At the same time, the company's register of important documents, if any, should be updated.

18.3 Probate or Letters of Administration

The purpose of the following documents is to confirm and authorise the executor or the administrator to deal with the estate of the deceased shareholder:

- (a) probate — where the deceased has left a will and appointed executors; or
- (b) letters of administration — where the deceased died intestate (without making a will) and, to enable the estate to be dealt with, an administrator is appointed.

A copy of either of the above documents duly sealed by the Court of Probate must be presented to the company. From the information contained therein, the names of the duly appointed executors or administrators and their addresses will be entered in the register of members. The name of the deceased shareholder is not removed from the register of members because he remains a shareholder until the executors or administrators either transfer the shares from his name to themselves or to the beneficiaries under the will of the deceased or liquidate the holding for the benefit of the estate. At the same time, the company's register of important documents or register of probate and letters of administration, if any, should be updated.

18.4 Marriage Certificate

When a shareholder whose name has been legally changed by marriage wishes to have the change reflected in the register of members, the relevant marriage certificate must be presented to the company or to its share registrar for registration. On receipt, a photocopy of the certificate should be made before the original is returned to the shareholder together with the share certificate in the shareholder's name before marriage (duly endorsed). Alternatively, the share certificate should be cancelled and a new share certificate in the shareholder's new name issued. Subsequently, the register of members should be amended to reflect such a change. At the same time, the company's register of important documents, if any, should be updated.

18.5 Certificate of Incorporation on Change of Name

When a corporate member has changed its name, a certificate of incorporation on change of name or a certified copy together with the relevant share certificate should be presented to the company or to its share registrar for registration. On receipt, a photocopy of the certificate should be made before the original (duly endorsed) is returned. The share certificate should be duly endorsed, or a new share certificate in the corporate members' new name should be issued. Subsequently, the company's register of members should be amended to reflect

18.6 Deed Poll

A person may change his or her name by a deed poll. On receipt, a photocopy of the same should be made before the original (duly endorsed) is returned to the sender. The share certificate should be duly endorsed, or a new share certificate in the new name of the shareholder should be issued. Subsequently, the company's register of members should be amended to reflect such a change. At the same time, the company's register of important documents, if any, should be updated.

18.7 Court Order

Court orders include:

- (a) stop orders, which stop transactions on a specified account pending a legal action being heard and decided by the Court
- (b) orders for rectification of the register of members
- (c) bankruptcy orders; and
- (d) protection orders (in case of insanity of a member).

Great care must be taken in dealing with all court orders, particularly the first two of the above, because when issued and lodged with the company or its share registrar they are legally binding and the provisions of the order must be followed precisely. Court orders not only stop transactions on the named shareholder's account, but also often extend to the withholding of dividend payments and the issuing of bonus shares until the Court resolves the matter in dispute.

Once the matter for which the order has been issued has been resolved by the Court, the company or its share registrar will be formally notified by the solicitors, etc, for the parties concerned of the Court's instructions.

On receipt of a court order, a photocopy of the same should be made before the original (duly endorsed) is returned to the sender. Subsequently, the register of members should be amended to record the receipt of such a court order and its contents. At the same time, the company's register of important documents or register of court orders, if any, should be updated.

18.8 Change of Address

Changing a shareholder's address in the register of members is a matter of considerable importance. A company or its share registrar will only accept the instruction when it is signed by the shareholder, his banker, or a solicitor. Unsigned documents, such as change of address cards, are not acceptable, and the company or its share registrar should notify the shareholder that only a properly signed instruction will be accepted and processed.

On receipt of a signed instruction, the signature thereon should be checked to ensure that the signatory is a member of the company and that his signature corresponds with his specimen signature kept by the company.

19

Loan Capital/Debentures

Besides issuing shares, a company may raise funds to provide working capital and to finance further expansion, etc, by borrowing or by issuing debentures.

A debenture is a document used by a company to evidence a loan. The Ordinance does not define the term "debenture", but s 2 of the Ordinance provides that debentures include debenture stock, bonds, and any other securities of a company whether or not they constitute a charge on the assets of the company.

Debenture interests and the redemption of debentures are not conditional on the company making a profit and are payable by the company on the due date as stated in the terms of issue of the debenture. Debenture holders are the creditors of the company; hence, unless otherwise provided in the debenture or the debenture trust deed, they have no right to attend and vote at meetings of the company.

19.1 Borrowing Power of a Company

Before a company can raise funds by borrowing or by issuing debentures, reference should be made to its memorandum and articles of association to ascertain the following:

- (a) whether the company has the power to borrow and to give security for loans
- (b) whether the borrowing will exceed the borrowing power of the company and of its directors; and
- (c) whether the borrowing is for a purpose authorised in its objects clauses.