



## **HKEx's Proposal to Amend its Articles of Association Law Society's Comments**

On 12 April 2010 Hong Kong Exchanges and Clearing Limited ("HKEx") announced, among others, a proposal to amend its Articles of Association (Articles) for shareholders' approval at the annual general meeting to be held on 22 April 2010.

The Law Society considers HKEx's stated position on this occasion to be quite untenable and sets a bad example in corporate governance practice for Hong Kong public companies, especially given HKEx's unique position in Hong Kong's financial and regulatory infrastructure.

The Law Society considers good corporate governance practice dictates that when there are dissenting directors the matter should not be decided before they are heard, and the use of written resolutions in these circumstances would be inappropriate. The reference to article 103 in HKEx's response is not convincing because a director's right to call for a meeting would not stop a written resolution from being passed by a simple majority before the dissenting directors are heard. This fact has been indirectly admitted by HKEx.

HKEX corporate governance is likely to be highly influential not just because of its role as a regulator but also because it is the sole operator of the Hong Kong stock market. This proposal would set a bad precedent.

**The Law Society of Hong Kong**  
Company and Financial Law Committee  
Securities Law Committee

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