



公 司 註 冊 處
COMPANIES REGISTRY

**Guidance Note –
Good Practice on
Communication by Company
by Means of Website
Under Implied Consent Mechanism**

With effect from 17 April 2025

1. INTRODUCTION

1.1 Communication between a company and another person is governed by Part 18 of the Companies Ordinance (Cap. 622) (the “CO”). In addition to communication in hard copy or in electronic form, the CO also allows communication by companies by means of website.

1.2 To promote paperless corporate communication by means of website for companies, amendments to the CO and the Companies (Model Articles) Notice (Cap. 622H) have been introduced under the Companies (Amendment) Ordinance 2025 (the “Amendment Ordinance”) to:

- (i) provide for implied consent mechanism for companies disseminating corporate communication by means of website;
- (ii) obviate listed companies, which adopt the implied consent mechanism, from the need to send a separate notification to members or debenture holders whenever new corporate communication is uploaded on websites;
- (iii) obviate unlisted companies, which adopt the implied consent mechanism, from the above separate notification requirement if prior express consent is obtained individually from the relevant member or debenture holder;
- (iv) provide for the right of members and debenture holders to request for electronic copy of the document or information if disseminated by way of website; and
- (v) amend the model articles so as to facilitate new companies formed under the CO to adopt the implied consent mechanism.

The Amendment Ordinance will come into operation on 17 April 2025.

1.3 This Guidance Note is intended to provide general information and good practices on communication by a company to its members or debenture holders by means of website under the implied consent mechanism introduced by the Amendment Ordinance. Unless otherwise specified, any reference to a provision in this Guidance Note is a reference to a provision under the CO.

- 1.4 Any reference to “document” or “information” in this Guidance Note is a reference to document or information that is authorised or required by a provision of the CO or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) (an “applicable provision”) to be sent or supplied by a company.

- 1.5 This Guidance Note does not constitute legal advice and does not in any way amend or vary a company’s obligations under the relevant statutory requirements. In case of doubt, companies should seek legal advice as they see fit.

2. COMMUNICATION BY MEANS OF WEBSITE – CONSENT MECHANISMS BEFORE THE AMENDMENT ORDINANCE

- 2.1 Since 2010, relevant stipulations have been introduced under the CO to facilitate electronic communication by companies.
- 2.2 The statutory provision for communication by a company to another person by means of website is set out in section 833.
- 2.3 Under section 833, a company may communicate with another person (except by a member of the company to the company)¹ by making a document or information available on a website if, among others, that other person has expressly agreed or is to be regarded as having so agreed.
- 2.4 Expressly agreed means that other person has expressly agreed, generally or specifically, to receiving communication by means of website.
- 2.5 Regarded as having so agreed means the agreement is not expressly given by that other person but is deemed. Consent may be deemed if—
- (i) where the company’s members have resolved or the company’s articles contain a provision to the effect, that documents or information generally may be sent or supplied by the company to its members by means of website / the instrument creating the debenture contains a provision to the effect, or the equivalent debenture holders have resolved in accordance with the provisions of that instrument, that documents or information generally may be sent or supplied by the company to those holders by means of website,
 - (ii) that other person (a member or a debenture holder) has been individually requested by the company to agree to receiving communication by means of website, and
 - (iii) the request has stated clearly that the person is deemed to have agreed to receiving communication by means of website if one fails to respond within 28 days of the company’s request.

¹ See section 833(2).

3. COMMUNICATION BY MEANS OF WEBSITE UNDER IMPLIED CONSENT MECHANISM – STATUTORY PROVISIONS

A. Amendments to the CO

3.1 Under the Amendment Ordinance, a new implied consent mechanism is introduced under section 833A. Under the implied consent mechanism, there is no need to separately seek consent from members or debenture holders before communication by means of website may be made by a company for so long as (i) the articles of association of the company (the “articles”) contain/ the instrument creating the debenture (the “debenture instrument”) contains a provision to this effect or a debenture holders’ resolution provides to this effect, and (ii) a one-off notification is sent to the members or debenture holders.

3.2 A summary of the statutory provisions providing for the implied consent mechanism is set out below—

Implied Consent Mechanism

- (1) A document or information is sent or supplied by a company to a member or debenture holder for the purposes of an applicable provision by making it available on a website if—
- (a) that person is regarded as having agreed that the document or information may be so sent or supplied² and has not revoked the agreement³;
 - (b) the document or information is sent or supplied in a form which will enable the recipient to read and to retain a copy of the document or information⁴;
 - (c) if the company is an unlisted company, the company has sent a separate notification to that person informing the person:
 - (i) the presence of the document or information on the

² See section 833(3)(a)(i).

³ See section 833(3)(a)(ii).

⁴ See section 833(3)(b).

- website;
- (ii) if not available yet, the date on which it will be so available;
 - (iii) the address of the website;
 - (iv) where the document or information may be accessed on the website; and
 - (v) how to access the document or information⁵; and
- (d) the company has made the document or information available on the website throughout the period specified by the applicable provision; or where no period is specified, the period of 28 days from (i) the date of the separate notification; or (ii) where separate notification is not required, the date on which the document or information is first made available on the website⁶.

(2) If the person is a member of the company, subject to section 833B(2)⁷, the agreement under (1)(a) is implied if—

(a) the company's articles contain a provision to the effect that documents or information generally may be sent or supplied by the company to its members by making it available on a website⁸; and

(b) subject to section 833B(1)⁹, the company has individually sent a one-off notification to the person¹⁰.

(3) If the person is a debenture holder of the company, subject to section 833B(2)¹¹, the agreement under (1)(a) is implied

⁵ See section 833(3)(c).

⁶ See section 833(3)(d).

⁷ The person is not to be regarded as having agreed that the document or information may be sent or supplied by the company to the person by making it available on a website if, except where the one-off notification requirement does not apply, it is proved that the person has not received the one-off notification.

⁸ See section 833A(2)(a).

⁹ The separate notification requirement does not apply if: (i) communication to the person in hard copy form has previously been returned by the post office as undeliverable at the person's specified address for communication in hard copy form; and (ii) the company is unable to send the separate notification or the individual request to the person in electronic form because the person has not agreed to receive communication in electronic form or has not specified an electronic address for receipt of communication in electronic form (and, where the person is a company, is not regarded under the CO as having so agreed or specified).

¹⁰ See section 833A(2)(b).

¹¹ See footnote 7.

if—

- (a) the debenture instrument contains a provision to the effect, or the equivalent debenture holders (as defined by section 833(13)) have resolved in accordance with the provisions of that instrument, that documents or information generally may be sent or supplied by the company to those holders by making it available on a website¹²; and
- (b) subject to section 833B(1)¹³, the company has individually sent a one-off notification to the person¹⁴.

(4) The one-off notification under (2)(b) and 3(b) should cover the following matters¹⁵:

- (a) The on-going arrangements under which documents or information generally may be sent or supplied by the company by making them available on a website;
- (b) the address of the website;
- (c) the place on the website where those documents or information may be accessed;
- (d) how to access those documents or information;
- (e) a statement of—
 - (i) the person's right to request documents or information to be sent or supplied in electronic form under section 833C; and
 - (ii) the person's right to request documents or information to be sent or supplied in hard copy form under section 837; and
- (f) if agreement for communication in electronic form and/or electronic address for receipt of such communication have not been obtained or if agreement obtained has been revoked, an invitation to the person to provide such agreement and to specify such an address.

¹² See section 833A(4)(a).

¹³ See footnote 9.

¹⁴ See section 833A(4)(b).

¹⁵ See sections 833A(5), (6) and (7).

B. Amendments to the Companies (Model Articles) Notice (Cap. 622H)

3.3 Amendments to the Companies (Model Articles) Notice (Cap. 622H) are introduced under the Amendment Ordinance to ensure new companies formed under the CO adopting the model articles prescribed for the type of company to which it belongs would generally be entitled to adopt the implied consent mechanism for communication with members by means of website.

3.4 Specifically, the following articles are amended:

(a) Schedule 1 to Cap. 622H – Model articles for public companies limited by shares

Article 100(1)

(b) Schedule 2 to Cap. 622H – Model articles for private companies limited by shares

Article 80(1)

(c) Schedule 3 to Cap. 622H – Model articles for companies limited by guarantee

Article 54(1)

4. COMMUNICATION BY MEANS OF WEBSITE UNDER THE IMPLIED CONSENT MECHANISM – POINTS TO NOTE FOR COMPANIES

A. Choice of Consent Mechanism

4.1 Companies are **NOT** mandated to adopt the implied consent mechanism for communication by means of website. The introduction of the implied consent mechanism aims to further facilitate companies' communication with members and debenture holders by providing an additional mechanism for companies to adopt if they so wish.

4.2 Where a company wishes to communicate with its members or debenture holders by making a document or information available on a website, the company may assess its own situation and choose the consent mechanism which best suits its needs.

B. The Recipient

4.3 The implied consent mechanism is only applicable if the person to which the document or information be sent or supplied is a member or debenture holder of the company.

4.4 For communication with other persons by means of website, their express consent should be obtained.

C. Pre-requisite for adopting the implied consent mechanism

4.5 If the person to which the document or information be sent or supplied is a member, the articles must contain a provision to the effect that documents or information generally may be sent or supplied by the company to its members by making them available on a website.

4.6 If the person to which the document or information be sent or supplied is a debenture holder, the debenture instrument must contain a provision to the effect, or the equivalent debenture holders must have resolved in accordance with the provisions of that instrument, that documents or information generally may be sent or supplied by the company to those holders by making them available on a website.

- 4.7 The aforesaid conditions are not satisfied if
- (a) the articles are/ the debenture instrument is silent on the mode of dissemination of documents or information; or
 - (b) the articles only contain/ the instrument creating the debenture only contains a provision to the effect that documents or information generally may be sent or supplied by the company in electronic form. Communication in electronic form (which is governed by section 831) is distinct from communication by means of website (which is governed by section 833).
- 4.8 As the requirements related to electronic communication by companies have been introduced into the CO since 2010, companies' articles may have already catered for communication by means of website. If so, no additional amendment to the articles of the companies may be necessary for the adoption of the implied consent mechanism for communication by means of website.
- 4.9 For those companies which have yet amended their articles but would like to adopt the implied consent mechanism for communication by means of website, they may consider amending their articles by making reference to the relevant provisions of the model articles as set out in paragraph 3.4 above.
- 4.10 In case any company is in doubt as to whether its articles would need to be amended before it can adopt the implied consent mechanism for communication by means of website, the company should consult its own legal adviser as it sees fit.
- D. Separate notification requirement for each corporate communication uploaded on the website (the "separate notification requirement")

For a listed company

- 4.11 If a company is a listed company, the separate notification requirement no longer applies since its members or debenture holders can receive instant notifications of information of the listed company by emails or mobile alerts through the News Alert service provided by The Hong Kong

Exchanges and Clearing Limited (“HKEX”). In other words, a listed company is obviated from sending a separate notification to shareholders or debenture holders whenever a new corporate communication is uploaded to its website.

For an unlisted company

4.12 If a company is an unlisted company, the separate notification requirement would continue to apply¹⁶ unless the company has obtained an express consent from its member or debenture holder for obviating this requirement.

E. Failure to communicate

4.13 While companies are free to decide which consent mechanism (i.e. express, deemed or implied consent mechanisms) to adopt for communication by means of website, companies are reminded to strictly follow the statutory requirements for the adoption of the respective consent mechanism.

4.14 If a company fails to comply with the relevant statutory requirements, any document or information purported to be sent or supplied by the company to its members or debenture holders by means of website would not be regarded as sent.

F. Web accessibility

4.15 Companies communicating with another person by means of website are recommended to enhance the accessibility of their webpages. It is of high importance for web contents to be also accessible to persons with disabilities in order not to deprive them of their legitimate right to receive the latest corporate information from the company and to make timely investment decisions.

4.16 Over the years, the Government has been actively promoting digital accessibility to facilitate persons with disabilities to access online information and services and enhance their user experience.

¹⁶ Subject to section 833B(1). See footnote 9.

- 4.17 Web accessibility requirements have been incorporated in the Guidelines on Dissemination of Information through Government Websites¹⁷ since 1999. All government websites except archive materials are required to validate to Web Content Accessibility Guidelines (WCAG) 2.0¹⁸ Level AA conformance from 2013 onwards and government bureaux/departments are advised to adopt WCAG 2.2 Level AA standard, where appropriate, when carrying out major revamp of websites or establishing new websites.
- 4.18 Companies communicating with another person by means of website are recommended to enhance the accessibility of their webpages to adopt WCAG 2.2 Level AA standard¹⁹ or above.
- 4.19 While WCAG 2.2 Level AAA provides the highest standard of accessibility, conformance to Level AAA may require substantial resources from companies under certain circumstances. To achieve the right balance, Level AA conformance would generally enable persons with disabilities to use a website.
- 4.20 Companies are, however, encouraged to incorporate Level AAA features to further enhance accessibility of their websites where practicable.

¹⁷ <https://www.gov.hk/en/about/accessibility/docs/disseminationsguidelines.pdf>.

¹⁸ Out of the need to support the creation of websites that work for persons with disabilities, the World Wide Web Consortium (W3C) developed the Web Content Accessibility Guidelines (WCAG) with a goal of providing a single shared standard for web content accessibility.

¹⁹ <https://www.w3.org/TR/WCAG22>

G. Cyber security and anti-deception measures

- 4.21 As there are risks associated with communication by means of website, companies should take appropriate precautions and anti-deception measures when disseminating corporate communication by means of website.
- 4.22 To step up combat actions against deception and increase public awareness of various kinds of scams, the Hong Kong Police Force (“HKPF”) set up the Anti-Deception Coordination Centre (“ADCC”)²⁰ under the Commercial Crime Bureau with a view to consolidating all the relevant efforts of HKPF in fighting and preventing the crime.
- 4.23 Companies are encouraged to visit the websites of ADCC (<https://www.adcc.gov.hk/en-hk/about-us.html>) and the CyberDefender²¹ (<https://cyberdefender.hk/en-us/about-us/>) for cyber security as well as the latest modus operandi of deception and scam alerts.

²⁰ The ADCC is set up by HKPF with a view to consolidating all the relevant efforts of HKPF in fighting and preventing the crime. The ADCC operates an all-day enquiry hotline, “Anti-Scam Helpline 18222”, to provide immediate consultation for the general public and enhance support to frontline units of HKPF in order to handle suspicious deception cases in a more effective manner.

²¹ CyberDefender is a project fully supported by the Cyber Security and Technology Crime Bureau of HKPF. It aims to provide the public with information about cyber security, information security and cybercrime. It also offers security advice and safety tips from a professional perspective.

5. CORPORATE COMMUNICATION BY MEANS OF WEBSITE – POINTS TO NOTE FOR MEMBERS OR DEBENTURE HOLDERS

A. Separate notification requirement

- 5.1 As the separate notification requirement no longer applies to listed companies, members and debenture holders of listed companies are strongly encouraged to subscribe for the News Alerts service²² provided by HKEX to receive instant notifications by emails or mobile alerts whenever the listed companies make updates to HKEX's website.
- 5.2 Since the News Alert service provided by HKEX is not available to unlisted companies, members or debenture holders of an unlisted company should note that once express consent is given to the unlisted company for obviating the separate notification requirement, they would no longer receive any notification from the company whenever new document or information is uploaded to the company's website. Members and debenture holders of an unlisted company would have to take their own initiative to visit the company's website from time to time to check if there is any latest update from the company.
- 5.3 Members and debenture holders of an unlisted company should therefore critically assess their own needs before giving consent for the obviation of the separate notification requirement.

B. Revocation of consent

- 5.4 Consent given or regarded as given by members or debenture holders may be revoked by a notice of revocation of not less than the period specified in section 822²³.
- 5.5 In the event that any member or debenture holder no longer wishes to receive documents or information by means of website, the member or debenture holder is reminded to follow the revocation procedures under the CO to ensure proper revocation of consent.

²² https://www.hkex.com.hk/eng/invest/user/login_e.aspx.

²³ See section 833(6).

5.6 Members and debenture holders are also encouraged to directly communicate with the company if there is any specific need or preference as to the mode of corporate communication.

C. Right to request for electronic copy of corporate communication

5.7 The Amendment Ordinance has introduced the right to request for an electronic copy of corporate communication. Section 833C provides that if a document or information is sent or supplied for the purposes of an applicable provision by making it available on a website, a member or debenture holder may request the company to send or supply the document or information in electronic form to a specified address.

5.8 The request for an electronic copy of corporate communication shall be made within 28 days after the date the document or information is regarded under section 833(12)(b) as having been received by the person²⁴.

5.9 The company must send or supply the document or information in electronic form to the person free of charge within 21 days (or within 7 days if the document or information requires an action to be taken by the person)²⁵ after the date of receiving the request.

5.10 For the avoidance of doubt, a member or debenture holder may continue to request for hard copy of document or information under section 837²⁶.

D. Awareness of scam and deception

5.11 Members and debenture holders are reminded to stay alert to the possible risks associated with companies' dissemination of corporate communication by means of website. They may visit the websites of ADCC (<https://www.adcc.gov.hk/en-hk/about-us.html>) and the CyberDefender (<https://cyberdefender.hk/en-us/about-us/>) for information security as well as the latest modus operandi of deception and scam alerts.

5.12 In case of doubt, clarification from the relevant company should be sought.

²⁴ Section 833C(2).

²⁵ Section 833C(3).

²⁶ Section 837 provides that if a document or information is sent or supplied for an applicable provision otherwise than in hard copy form, a member or debenture holder of a company may request the company to send or supply the document or information in hard copy form. The request shall be made within 28 days after the date of receiving from the company the document or information. The company must send or supply the document or information in hard copy form free of charge within 21 days (or within 7 days if the document or information requires an action to be taken by the person) after the date of receiving the request.