

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: 812 OF 2001

IN THE MATTER OF BENEFUN INTERNATIONAL HOLDINGS LIMITED  
AND IN THE MATTER OF THE COMPANIES LAW (2001 SECOND REVISION) ✓



PETITION



**TO: The Grand Court of the Cayman Islands**

**THE PETITION of Benefun International Holdings Limited c/o Maples and Calder, P.O. Box 309GT, Ugland House, George Town, Grand Cayman, Cayman Islands shows that:**

1. The object of this Petition is to seek an order of the Court pursuant to section 15 of the Companies Law (2001 Second Revision) (the "Companies Law") confirming a reduction of the capital of Benefun International Holdings Limited (the "Company").
2. The Company was incorporated on 16th January, 1997 as a company limited by shares.
3. The registered office is and has at all times since 16th January, 1997 been situate at the offices of Maples and Calder, Ugland House, P.O. Box 309GT, George Town, Grand Cayman, Cayman Islands. However, the principal place of business of the Company is at 18th Floor, Yue Thai Commercial Building, 128-129 Connaught Road Central, Hong Kong.
4. The Company is an investment holding company with its operating subsidiaries (hereinafter collectively referred to as the "Group") principally engaged in manufacturing, retailing and distribution of apparel.
5. The Company is not carrying on any trading activities.
6. The Company was incorporated and registered with an authorised share capital of HK\$60,000,000, comprising 600,000,000 ordinary shares of par value HK\$0.10

each. By a resolution passed on 17th December, 1999, the share capital of the Company was increased to HK\$100,000,000 divided into 1,000,000,000 shares of HK\$0.10 each. Of these, 801,929,000 shares have been issued and are fully paid. The shares of the Company (the “Shares”) are listed on The Stock Exchange of Hong Kong Limited (the “HK Stock Exchange”) and the Singapore Exchange Limited.

7. For the years ended 30th June, 2001, 30th June, 2000, 30th June, 1999 and 30th June, 1998 the Company recorded audited consolidated losses of HK\$26,364,000, HK\$18,391,000, HK\$31,160,000 and HK\$140,014,000 respectively before taxation (approximately US\$3,380,000, US\$2,358,000, US\$3,995,000 and US\$17,951,000 respectively). Consequently, part of the paid up capital of the Company has been lost and is no longer represented by available assets.
8. Since September 2001 the Shares have frequently been trading on the HK Stock Exchange at prices below their nominal value of HK\$0.10 each. The directors of the Company (the “Directors”) believe that, if in the future they deem it appropriate to raise capital by issuing new Shares in order to attract potential investors, the Company must be able to offer for subscription new Shares at an issue price comparable to the market price, subject to market conditions. Because the market price is currently less than the nominal value of the existing Shares, the Company would have to resort to the costly and time-consuming statutory procedure prescribed under section 35 of the Companies Law for issuing shares at a discount whenever it wishes to issue new Shares, unless the nominal value of the Shares is reduced.
9. The Directors are of the view that part of the paid-up capital of the Company should be cancelled by means of a reduction of the Company’s ordinary share capital from HK\$0.10 per Share to HK\$0.01 per Share in the manner set out in the special resolution passed at the Extraordinary General Meeting of the Company held on 20th December, 2001, as reproduced in paragraph 13 below, in order to bring the paid-up capital more into line with the net assets of the Company. The proposed reduction of the nominal value of the Shares would enable the Company to issue

new Shares above its nominal value (as reduced) in the future, if the Directors consider this appropriate.

10. Subject to the provisions of the Articles of Association of the Company, the Company has power to redeem or re-purchase any or all of its issued Shares and to sub-divide or consolidate its Shares or any of them and to issue all or any part of its capital whether original, redeemed, increased or reduced, with or without any preference, priority or special privilege or subject to any postponement of rights or to any conditions or restrictions whatsoever, and so that, unless the conditions of issue otherwise expressly provide, every issue of Shares, whether stated to be Ordinary, Preference or otherwise, is subject to the powers of the Company as stated in the Memorandum of Association.
11. The objects for which the Company was established are unrestricted and the Company has full power and authority to carry out any object not prohibited by any law as provided by section 7(4) of the Companies Law. The Company also has and is capable of exercising all the functions of a natural person of full capacity irrespective of any question of corporate benefit as provided by section 27(2) of the Companies Law.
12. The Articles of Association of the Company provide, inter alia, as follows:

“63. (a) *The Company may from time to time by ordinary resolution:-*

*(i) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares. On any consolidation of fully paid shares and division into shares of larger amount, the Board may settle any difficulty which may arise as it thinks expedient and in particular (but without prejudice to the generality of the foregoing) may as between the holders of shares to be consolidated determine which particular shares are to be consolidated into each consolidated share, and if it shall happen that any person shall become entitled to fractions of a consolidated share or shares, such fractions may be sold by some person appointed by the Board for that purpose and the person so appointed may transfer the shares so sold to the purchaser thereof and the validity of such transfer shall not be questioned, and so that the net proceeds of such sale (after deduction of the expenses of such sale) may either be distributed among the persons who would otherwise be entitled to a fraction*

*or fractions of a consolidated share or shares rateably in accordance with their rights and interests or may be paid to the Company for the Company's benefit;*

*(ii) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled subject to the provisions of the Law; and*

*(iii) sub-divide its shares or any of them into shares of smaller amount than is fixed by the Memorandum of Association of the Company, subject nevertheless to the provisions of the Law, and so that the resolution whereby any share is sub-divided may determine that, as between the holders of the shares resulting from such sub-division, one or more of the shares may have any such preferred or other special rights, over, or may have such deferred rights or be subject to any such restrictions as compared with the others as the Company has power to attach to unissued or new shares.*

*(b) The Company may by special resolution reduce its share capital, any capital redemption reserve or any share premium account in any manner authorised and subject to any conditions prescribed by Law."*

13. The reduction of capital was effected by a special resolution of the Company passed on 20th December, 2001 as follows:

#### **SPECIAL RESOLUTION**

1. **"THAT**

*(a) the authorised capital of the Company be reduced from HK\$100,000,000 divided into 1,000,000,000 ordinary shares of HK\$0.10 each to HK\$10,000,000 divided into 1,000,000,000 ordinary shares of HK\$0.01 each and that such reduction be effected by cancelling paid up capital to the extent of HK\$0.09 upon each of the 801,929,000 ordinary shares in issue as at 26 October 2001 (being the date of this notice) and any further ordinary shares which may be issued prior to the date on which the petition for the*

*confirmation of the reduction herein is heard by the Grand Court of the Cayman Islands and by reducing the nominal value of all the issued and unissued ordinary shares in the capital of the Company from HK\$0.10 to HK\$0.01 per ordinary share; and*

- (b) *subject to and forthwith upon such reduction of capital taking effect, the authorised capital of the Company be increased to its former amount of HK\$100,000,000 by the creation of an additional 9,000,000,000 ordinary shares of HK\$0.01 each.”*

### **ORDINARY RESOLUTIONS**

2. *"THAT, subject to and forthwith upon the proposed reduction of capital referred to in the Special Resolution contained in the notice convening this meeting taking effect:*
- a) *the general mandate granted to the directors of the Company to exercise the powers of the Company to allot, issue and deal with ordinary shares of HK\$0.10 each of the Company pursuant to ordinary resolution No. 2 passed at the extraordinary general meeting of the Company held on 22 December 2000 be and is hereby revoked but without prejudice to the exercise of the powers by the directors of the Company pursuant to such mandate prior to the date on which this resolution becomes effective;*
- b) *subject to paragraph (d) below, the exercise by the directors of the Company during the Relevant Period (as defined in paragraph (e) below) of all the powers of the Company to allot, issue and deal with additional ordinary shares of HK\$0.01 each in the capital of the Company and to make or grant, whether conditionally or unconditionally, offers, agreements and options (including warrants, bonds, debentures, notes and any securities which carry rights to subscribe for or are convertible into the ordinary shares of the Company) which will or may require the exercise of such powers be and are hereby generally and unconditionally approved;*
- c) *the approval in paragraph (b) above shall authorise the directors of the Company during the Relevant Period (as defined in paragraph (e) below) to*

*make or grant, whether conditionally or unconditionally, offers, agreements and options (including warrants, bonds, debentures, notes and any securities which carry rights to subscribe for or are convertible into the ordinary shares of the Company) which will or may require the exercise of such powers after the end of the Relevant Period;*

- d) *the aggregate nominal amount of the share capital of the Company to be allotted, issued and dealt with or agreed conditionally or unconditionally to be allotted and issued by the directors of the Company (whether pursuant to an option or otherwise) pursuant to the mandate in paragraph (b) above, otherwise than pursuant to (i) a Rights Issue (as defined in paragraph (e) below); (ii) an issue of shares upon the exercise of rights of subscription or conversion under the terms of any warrants of the Company or any securities which are convertible into shares of the Company; (iii) an issue of shares as scrip dividends pursuant to the articles of association of the Company from time to time; or (iv) an issue of shares of the Company under any option scheme or similar arrangement for the grant or issue to the employees of the Company and/or any of its subsidiaries of the ordinary shares of the Company, or rights to acquire the shares of the Company, shall not exceed 20 per cent. of the aggregate nominal amount of the issued share capital of the Company as at the date of the passing of this resolution and the mandate granted under paragraph (b) above shall be limited accordingly; and*
- e) *for the purpose of this resolution:*

*“Relevant Period” means the period from the passing of this resolution until whichever is the earliest of:*

- (1) the conclusion of the next annual general meeting of the Company;*
- (2) the expiration of the period within which the next annual general meeting of the Company is required by law or the articles of association of the Company to be held; and*

- (3) *the date on which the authority given under this resolution is revoked or varied by an ordinary resolution of the shareholders of the Company in general meeting; and*

*“Rights Issue” means an offer of the shares of the Company open for a period fixed by the directors of the Company to the holders of the shares of the Company whose names appear on the register of members of the Company on a fixed record date in proportion to their then holdings of such shares at that date (subject to such exclusions or other arrangements as the directors of the Company may deem necessary or expedient in relation to fractional entitlements or having regard to any restrictions or obligations under the laws of, or the requirements of any recognized regulatory body or any stock exchange in, any territory applicable to the Company).”*

3. *“THAT, subject to and forthwith upon the proposed reduction of capital referred to in the Special Resolution contained in the notice convening this meeting taking effect:*
- (a) *the general mandate granted to the directors of the Company to exercise the powers of the Company to repurchase ordinary shares of HK\$0.10 each of the Company pursuant to ordinary resolution No. 1 passed at the extraordinary general meeting of the Company held on 22 December 2000 be and is hereby revoked but without prejudice to the exercise of the powers by the directors of the Company pursuant to such mandate prior to the date on which this resolution becomes effective;*
- (b) *subject to paragraph (c) below, the exercise by the directors of the Company during the Relevant Period (as defined in paragraph (d) below) of all the powers of the Company to repurchase ordinary shares of HK\$0.01 each in the capital of the Company on The Stock Exchange of Hong Kong Limited (the “Stock Exchange”) or on any other stock exchange on which the shares of the Company may be listed and recognised by the Securities and Futures Commission of Hong Kong and the Stock Exchange for this purpose, subject to and in accordance with all applicable laws and the requirements of the Rules Governing the Listing of Securities on the Stock Exchange or of any other stock exchange as amended from time to time, be and is hereby generally and unconditionally approved;*

- (c) *the aggregate nominal amount of the shares the Company which the directors of the Company is authorised to repurchase pursuant to the approval in paragraph (b) above shall not exceed 10 per cent. of the aggregate nominal amount of the issued share capital of the Company as at the date of passing this resolution, and the said approval shall be limited accordingly; and*
- (d) *for the purpose of this resolution:*

*“Relevant Period” means the period from the passing of this resolution until whichever is the earliest of:*

- (1) the conclusion of the next annual general meeting of the Company;*
- (2) the expiration of the period within which the next annual general meeting of the Company is required by law or the articles of association of the Company to be held; and*
- (3) the date on which the authority given under this resolution is revoked or varied by an ordinary resolution of the shareholders of the Company in general meeting.”*

4. *“THAT, subject to the passing of resolutions No.2 and 3 set out in the notice convening this meeting, the general mandate granted to the directors of the Company to allot, issue and deal with additional shares pursuant to resolution No.2 set out in the notice convening this meeting be and is hereby extended by the addition thereto of an amount representing the aggregate nominal amount of shares in the capital of the Company repurchased by the Company under the authority granted pursuant to resolution No.3 set out in the notice convening this meeting, provided that such amount of shares so repurchased shall not exceed 10 per cent. of the aggregate nominal amount of the issued share capital of the Company as at the date of passing the said resolution.”*

14. The form of Minute proposed to be registered is as follows:

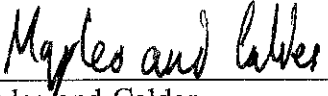
*“The capital of **BENEFUN INTERNATIONAL HOLDINGS LIMITED** (the "Company") was by virtue of a special resolution and with sanction of an Order of the Grand Court dated [ ] 2002 reduced from HK\$100,000,000 divided into 1,000,000,000 ordinary shares of HK\$0.10 each to HK\$10,000,000 divided into 1,000,000,000 ordinary shares of HK\$0.01 each. At the date of the registration of this Minute ([ ] 2002), 801,929,000 of the shares have been*

*issued and are deemed to be fully paid up. The special resolution of the Company has been passed to the effect that on the said reduction of capital taking effect the authorized capital of the Company be increased to its original amount of HK\$100,000,000 by the creation of an additional 9,000,000,000 ordinary shares of HK\$0.01 each of which 801,929,000 are issued.*

*The capital of the Company is accordingly on the date of the registration of this Minute HK\$100,000,000 divided into 10,000,000,000 ordinary shares of HK\$0.01 each of which 801,929,000 ordinary shares have been issued and are fully paid or credited as fully paid and the remainder are unissued. ”*

15. The interests of the Company's creditors are not adversely affected by the proposed reduction of share capital. As a matter of prudence the Company intends to seek directions from the Court for the purpose of notifying its creditors in respect of the hearing of this petition by way of advertisement as the Court shall think fit.

DATED this 20th day of December, 2001

  
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 Maples and Calder

NOTE: It is not intended to serve this Petition on anyone.

#### ENDORSEMENT

This Petition has been presented to the Grand Court of the Cayman Islands on the 20th day of December, 2001 will be heard at the Grand Court of the Cayman Islands on the \_\_\_\_\_ day of \_\_\_\_\_ 2002 at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon (or as soon thereafter as the Petition can be heard).

This Petition was presented by Maples and Calder, Ugland House, P.O. Box 309GT, George Town, Grand Cayman, attorneys at law for the petitioner.