



CHARTERED
SECRETARIES
特許秘書

The Hong Kong Institute of Chartered Secretaries

Submission:

Companies (Amendment) Bill 2018

4 June 2018

By Email Only: bc_07_17@legco.gov.hk

Clerk to Bills Committee on Companies (Amendment) Bill 2018

Legislative Council Secretariat

Legislative Council Complex

1 Legislative Council Road

Central

Hong Kong

Dear Sirs

Re: Companies (Amendment) Bill 2018

About HKICS

The Hong Kong Institute of Chartered Secretaries (HKICS) is an independent professional institute representing Chartered Secretaries as governance professionals in Hong Kong and Mainland China with over 5,800 members and 3,200 students. HKICS originates from The Institute of Chartered Secretaries and Administrators (ICSA) in the United Kingdom with 9 divisions and over 30,000 members and 10,000 students internationally. HKICS is also a Founder Member of Corporate Secretaries International Association Limited (CSIA), an international organisation comprising 14 national member organisations to promote good governance globally.

Companies Ordinance Rewrite

HKICS is of the view that the Companies Ordinance rewrite exercise which took a number of years to finalise was a success, and gratitude is expressed to the Financial Services and the Treasury Bureau, the Companies Registry and the Standing Committee on Company Law Reform for their efforts relating to the commencement, implementation, and continual review of the new Companies Ordinance (Cap. 622), including the current proposed legislative amendments.

Support for the Bill

HKICS welcomes the Companies (Amendment) Bill 2018, which was published in the Gazette on 6th April 2018 and introduced into the Legislative Council for first reading on 25th April 2018. After coming into operation for four years, HKICS submits that it is the appropriate time for updating the new Companies Ordinance by improving its clarity and operation through the Companies (Amendment) Bill 2018. Subject to the points of clarification set out below, HKICS supports the proposed amendments under the Companies (Amendment) Bill 2018, which aim to further facilitate business in Hong Kong by expanding the scope for simplified reporting, updating the accounting-related provisions to reflect the latest accounting standards, and streamlining and clarifying provisions to facilitate compliance.

Points of Clarification

(1) Overseas incorporated companies which are listed on the Hong Kong Stock Exchange are required under paragraph 28(2) of Appendix 16 to the Hong Kong Listing Rules to comply with section 390 of the Companies Ordinance, except for the requirement under section 390(3)(b) to disclose the names of the directors of subsidiaries. Will each of these companies be required to comply with the new requirements under the new subsections 390(4) to 390(7) to provide the names of the directors of subsidiaries on the company's website or by making them available for shareholders' inspection at the company's registered office (or principal place of business in Hong Kong)?

(2) The requirements to disclose the names of directors of subsidiaries of a company in the company's directors' report (under subsection 390(3)(b) of the Companies Ordinance) or on the company's website or by keeping a list for shareholders' inspection (under the proposed subsections 390(4) to 390(7) of the Companies Ordinance) were not in the old Companies Ordinance of Hong Kong and are also not in the company laws of other common law jurisdictions, e.g. the United Kingdom and the Cayman Islands. Where do the requirements originate from? What are the specific needs for applying the burdensome requirements (which could be the case for large corporate groups as acknowledged by the Financial Services and the Treasury Bureau in LC Paper No. CB(1)401/17-18(06) submitted for discussion at the meeting of the Legislative Council Panel on Financial Affairs held on 5th January 2018) on Hong Kong incorporated companies and, to the extent required under the Hong Kong Listing Rules, overseas incorporated companies listed in Hong Kong?

International Best Practice/Competitiveness

Given the evolving international business environment, it is imperative that Hong Kong's company law follows international best practices in order to enhance Hong Kong's international competitiveness as a place of doing business. It will therefore be desirable for the Companies Ordinance to be further amended from time to time, to include international best practices, to streamline compliance, and to facilitate the use of new technologies in the many aspects and processes prescribed under the Companies Ordinance. In this connection, HKICS intends to continue a dialogue with regulators and to contribute practical proposals from the governance perspective and also to facilitate the ease of doing business for Hong Kong as an international financial centre.

Should you have any questions, please feel free to contact Samantha Suen FCIS FCS(PE), Chief Executive, HKICS or Mohan Datwani FCIS FCS(PE), Senior Director, and Head of Technical and Research, HKICS at 2881 6177 or research@hkics.org.hk.

Yours faithfully,



David Fu FCIS FCS(PE)

President

The Hong Kong Institute of Chartered Secretaries