

**Bills Committee on  
Companies (Amendment) Bill 2002**

**List of follow-up actions arising from the discussion  
at the meeting on 6 November 2002**

- (1) To include in the review of cost implications on requisitionists the rationale behind the difference between sections 113 where the company pays for all reasonable costs, including the cost of circulation, printing and translation, and 115A where the requisitionist has to pay for the costs of circulation, printing and translation etc.
- (2) To provide a paper on “shadow director”. The paper should include -
  - (a) policy intent for extending the scope of “shadow director” to cover persons in accordance with whose directions or instructions the directors or a majority of the directors of the company are accustomed to act;
  - (b) impact of such a provision, particularly on de facto directors of family-owned companies, foreign investors, trustee companies, trustees and nominee directors of offshore companies registered in Hong Kong;
  - (c) why the Government says that a receiver or manager appointed by the secured creditor to manage the company’s property for repayment of the debts is not considered to be a “shadow director” because he acts in his “professional capacity”. For example, the secured creditor being the father of the director of the company appoints himself as the receiver will not be acting in his professional capacity. Some receivers or managers will only act through the directors, whether they will be considered “shadow director”;
  - (d) practicality of section 158 if no enforcement has ever been taken against non-compliance and if the whole point of a “shadow director” is that he does not wish to be known. Consideration should be given to enhancing public understanding on the need for a company to keep a register of its directors (including shadow directors) consequent upon the proposed expansion of the scope of “shadow director”;
  - (e) overseas experience in governing “shadow director”; and
  - (f) consideration of the above in the light of the provisions which require companies to disclose loans made to its “shadow directors”.
- (3) To consider keeping records of prosecution against negligence or fraud with reference to the offender’s occupation or position in a company.