

To the Chairman,
Bills Committee on Companies (Amendment) Bill 2004

Dear Ms Eu,

Thank you for inviting me to comment on the Companies (Amendment) Bill 2004. Having reviewed the Bill, the Legislative Council Brief and the report of the Legal Service Division dated 12-Oct-04, I hereby submit as follows:

1. I have no objection to the approach taken in the Bill, which is to align the law with Hong Kong Accounting Standards, which in turn are rapidly converging with International Accounting Standards and I believe will soon be identical. This convergence is very important because it allows investors and analysts to compare accounts of companies from different jurisdictions without time-consuming adjustments for differences in accounting standards. It also reduces the accounting costs of multi-national groups by avoiding the need to produce accounts under one system for a foreign subsidiary and then adjust them for another system in the group accounts. While some companies in each market may find that a particular standard creates inconvenience, the greater good is served by having a common standard, and amendments to those standards should be made by international consensus.

2. While writing, I wish to note that it would be better in the long-run to remove any areas of overlap or repetition between the HKASs and the Law (particularly within Schedule 10 of the Companies Ordinance) so that there is less need to keep them "synchronised" as the accounting standards evolve, as indeed you are now doing. This will reduce costs and free up resources of both the Executive and Legislative branches of Government. There are certainly more pressing needs for legislative resources, such as the introduction of class action rights and contingent legal fees so that investors can actually use some of the theoretical legal remedies at their disposal, and thereby start to defend their investments and supplement the enforcement efforts of regulators.

The areas of overlap between Law and HKASs can be replaced in the law with a statutory obligation to conform to HKASs (subject to the true and fair

override). The Legislature should retain the powers to require (through the Companies Ordinance) accounting disclosures which goes beyond HKASs, so long as the additional disclosure is not inconsistent with HKASs.

For the record, I am a member of the SFC's Public Shareholders Group, Takeovers and Mergers Panel and Takeover Appeals Committee, and an elected director of Hong Kong Exchanges and Clearing Limited. These opinions are my own. Unless you require further clarification of the above, I do not propose to attend the Bills Committee meeting on 16-Dec-04, but would be pleased to do so if you require.

This submission is digitally signed.

Regards

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