

**For discussion
on 8 April 2008**

**The Legislative Council
Panel on Financial Affairs**

**Proposal to Introduce Search Fees
for New Incorporation Forms for Local Companies**

Purpose

This paper aims to brief Members on the proposal to introduce new search fees for the new incorporation forms for local companies upon the commencement of the provisions in Schedule 2 to the Companies (Amendment) Ordinance 2004 (“Amendment Ordinance”) in relation to the implementation of such incorporation forms. Legislative amendments to Part V of the Eighth Schedule¹ to the Companies Ordinance (“the Ordinance”) (Cap. 32) will be required to implement the proposed new search fees.

Background

2. The Amendment Ordinance was enacted in July 2004 to implement, among other things, various proposals to modernise the company registration regime. Section 7 of Schedule 2 to the Amendment Ordinance, upon commencement², will introduce incorporation forms³ for a person to apply to the Registrar of Companies (“the Registrar”) for forming an incorporated company in Hong Kong. In gist, the introduction of incorporation forms aims to streamline the incorporation procedures. At present, in addition to submitting the Memorandum and Articles of Association (“M&A”) of the company, the following documents have to be

¹ The Eighth Schedule to the Ordinance sets out the fees payable to the Registrar and Part V sets out those fees for inspecting, obtaining documents and records kept by the Registrar, etc.

² The relevant sections in the Amendment Ordinance are planned to commence in the latter half of 2008 upon the completion of the necessary modifications to the Companies Registry’s information system. A date will be specified by the Secretary for Financial Services and the Treasury in the Gazette for the commencement of the sections.

³ There will be two incorporation forms for incorporating local companies: one for companies limited by shares (Form NC1) and another for companies other than those limited by shares (Form NC1G).

submitted at the time of incorporation or shortly afterwards (except for item (a) which must be submitted with the M&A):-

- (a) Statement of Compliance on Incorporation of a Company (Form NC1A);
- (b) Notification of First Secretary and Director (Form D1); and
- (c) Notification of Situation of Registered Office (Form R1).

The information contained in items (a) to (c) above will be covered by the incorporation forms.

3. To tie in with the introduction of the incorporation forms for incorporating local companies, there is a need to specify new fees in Part V of the Eighth Schedule to the Ordinance in relation to searches conducted with respect to the forms.

Proposed Search Fees

4. Considering that the new incorporation forms for local companies are comparable to the existing specified form on “Particulars of a Non-Hong Kong Company Registered in Hong Kong”⁴ (Form N1) in terms of contents and document size, we propose that the search fees for the new incorporation forms should be the same as those for Form N1 applicable to non-Hong Kong companies, as follows:-

	<u>Registered online users</u>	<u>Unregistered online users</u>	<u>On-site users</u>
For downloading an image record online	\$16	\$18	N/A
For online viewing of an image record	\$21	\$23	N/A
For obtaining a copy of an image record at the Companies Registry (“the Registry”)	N/A	N/A	\$30

⁴ Pursuant to sections 333(1) and 333(2) of the Companies Ordinance, any non-Hong Kong company that establishes a place of business in Hong Kong shall, within one month of the establishment of the place of business, apply to the Registrar for registration by delivering to the Registrar a specified form, i.e. Form N1, containing such particulars as the name and place of incorporation of the company and particulars of the director, secretary and authorised representative of the company.

5. The proposed fees are also set on the basis that customers on average would not pay more to the Registry than at present for obtaining similar information relating to a company. At present, a search of the particulars of a newly incorporated company generally involves separate searches of the documents listed in paragraph 2 above. The search fees for each of these documents as specified in Part V of the Eighth Schedule⁵ are:-

	<u>Registered online users</u>	<u>Unregistered online users</u>	<u>On-site users</u>
For downloading an image record online	\$9	\$10	N/A
For online viewing of an image record	\$12	\$13	N/A
For obtaining a copy of an image record at the Registry	N/A	N/A	\$20

As the incorporation forms will cover the information currently contained in three documents, the proposed search fees would be slightly cheaper for customers on average. For example, a registered online user now pays at least \$18 for information about the registered office, directors and company secretary of the company. In future, he or she would only need to pay \$16 to obtain the same information, among others, contained in the incorporation form.

Consultation

6. On 6 March 2008, the Registry consulted its Customer Liaison Group (CLG) comprising representatives of the Hong Kong Association of Banks, the Hong Kong Institute of Chartered Secretaries, the Hong Kong Institute of Certified Public Accountants, the Law Society of Hong Kong and some principal customers of the Registry. Members of the CLG generally considered that the proposed search fees for the new incorporation forms for local companies are fair and reasonable because currently a majority of their searches on information of a particular

⁵ The search fee for these documents are covered under the item “any other document” in Part V of the Eighth Schedule.

company would involve searching two to three individual forms. They therefore did not raise objection to the proposed search fees for the new incorporation forms.

Financial Implications

7. As the new incorporation forms, which contain comprehensive information/particulars in respect of a company, will save our customers from conducting separate searches on different forms for vital information relating to a newly incorporated company, we envisage that most of our customers will be paying less search fees in future. Notwithstanding this, we expect that the overall impact on the revenue of the Companies Registry Trading Fund will be immaterial.

Implementation

8. The proposal will be implemented by amending the Eighth Schedule to the Ordinance. Under section 360(3A) of the Ordinance, the Financial Secretary may amend the table of fees in the Eighth Schedule by order published in the Gazette. We aim to gazette and then table the order for the proposed new search fees at the Legislative Council in the second quarter of 2008. The proposed new search fees, together with the relevant provisions in the Amendment Ordinance, are planned to come into effect in the latter half of 2008 upon the completion of the necessary modifications to the Registry's information system.

Companies Registry
March 2008