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**Submission by Tricor Services Limited****Companies (Amendment) Bill 2010 and  
Business Registration (Amendment) Bill 2010**

The Companies (Amendment) Bill 2010 (Companies Bill) and Business Registration (Amendment) Bill 2010 (BR Bill) contain amendments, inter alia, relating respectively to electronic incorporation and filing of documents and to providing for simultaneous business registration applications and the issue of business registration certificates by electronic means.

The stated objects of these proposed amendments are to enable the implementation of Phase II of the Integrated Companies Registry Information System (ICRIS II) by the Companies Registry, which will enable online applications for company registration and filing of company documents.

We write to submit our views on the Companies Bill and BR Bill as follows.

**Companies (Amendment) Bill 2010****Part 2 - Amendments Relating to Company Formation**

While we support and welcome the launch of ICRIS II in enhancing convenience and efficiency by providing a one-stop service for company registration and business registration, we, as a member of the Trust and Company Service Provider (TCSP) sector, however are concerned about the apparent inconsistency between the too simple and open process proposed under the ICRIS II and the Government's anti-money laundering (AML) and combating the financing of terrorism initiatives and efforts.

In an effort to offer greater convenience to users through ICRIS II, due care must be exercised so that the processes proposed under the Companies Bill should not operate to frustrate or counteract the efforts exerted by lawyers, accountants and TCSPs in fulfilling their role as gatekeepers and promoters of customer due diligence as recommended by the Financial Action Task Force on Money Laundering (FATF).

We are concerned that there are no prescribed means and methods whereby the authenticity of documents submitted through electronic means for company registration, including foreign passports and the certificate of incorporation of foreign corporations acting as corporate founder of Hong Kong companies, can be verified. The Companies Registry does not have records of overseas companies acting as corporate founders, including information of their directors/secretary unless they have a place of business in Hong Kong and are registered under Part XI of the Companies Ordinance. Neither will information about the identity of individual beneficial owner(s) of corporate founder and whether the corporate founder is in good standing

in its place of incorporation be sought, unless there is a specific request to seek for such documentary evidence before the business relationship is created. This raises the concern that money launderers and terrorists may exploit this and use a foreign company as founder to hide their identity. The risks so posed to Hong Kong's reputation need not be further stressed.

The endeavour to expedite the incorporation of Hong Kong companies via electronic incorporation within a day serves no real meaningful purpose to sincere overseas investors. They are still required to meet the stringent customer due diligence requirements laid down by the FATF and the Hong Kong Monetary Authority in respect of setting up accounts with financial institutions for new Hong Kong companies. As gatekeeper and promoter of good customer due diligence, we cannot but be concerned about such ineffectual expediency.

We would like to emphasize the Government's need to be prudent in the design of ICRIS II and the need to address market practitioners' concerns so as not to upset the Government's overall strategy in maintaining Hong Kong as a leading international financial centre.

#### Part 3 - Amendments Relating Company Name

We are in support of the proposed amendments to strengthen the company name registration process and enhance enforcement against "shadow companies" by empowering the Registrar of Companies to replace a company's name by its registration number if it fails to comply with the Registrar's direction to change its name. We believe such measures would address concerns about companies adopting names closely resembling those of trademarks/brand names so much so as to confuse or mislead the public.

#### Part 4 - Amendments Relating to Statutory Derivative Actions

We reserve our comments on the proposed amendments pending the outcome of the Draft Companies Bill – First Phase Consultation.

#### Parts 5 and 6 - Amendments Relating to Electronic Communications

We have no objections to the amendments to enable electronic communications by listed companies with the Registrar and with parties other than the Registrar in order to be in line with the requirements of the Main Board Listing Rules of the Hong Kong Exchanges and Clearing Limited.

In regard to Clause 23 on authorized persons, we would like to suggest that guidelines on the qualifications and eligibility of third party intermediaries acting as authorized persons be provided so as to be in line with the Government's AML initiatives.

#### Part 7 - Amendments Relating to Paperless Holding and Transfer of Shares or Debentures

Pending the outcome of the consultation paper on a proposed operational model for implementing a paperless market, we recommend that the proposed amendments be deferred.

**Business Registration (Amendment) Bill 2010**

In general, we have no objection to the proposed technical amendments to provide for simultaneous business registration application on incorporation of a Hong Kong company to enhance the ease of doing business in Hong Kong, provided all the concerns detailed above in relation to the proposed amendments under the Companies Bill are properly addressed.

17 March 2010