



Bills Committee on Companies (Amendment) Bill 2010 and
Business Registration (Amendment) Bill 2010

Comments on “Multiple Statutory Derivative Actions”

The Law Society supports in principle the amendment of the statutory derivative action provisions to allow for multiple derivative actions. The proposed amendments in the Companies (Amendment) Bill seem sensible in that they offer no change to the existing provisions, but merely extend the power to bring a derivative action to members of "related companies", which include: a subsidiary, holding company or a sister company of the corporation against which misfeasance has been committed.

We note the commentary in paragraphs 7, 8 and 9 in FSTB's response (CB(1)1453/09-10(08)) on the reasons for extending the definition of "related company" to subsidiaries and sister companies, and this seems justified. The need for the leave of the court will prevent the progression of claims which have no justifiable grounds. Furthermore, it is consistent with the provisions in other common law jurisdictions (with the notable exception of the UK).

The Law Society of Hong Kong
Securities Law Committee
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