

**Bills Committee on Bankruptcy (Amendment) Bill 2004**

**Summary of submissions**  
(Position as at 14 December 2004)

Sixteen submissions

	<u>LC Paper No.</u>
Yip, Tse & Tang Solicitors (YTT)	CB(1)436/04-05(01)
Grant Thornton (GT)	CB(1)436/04-05(02)
The Chinese General Chamber of Commerce (CGCC)	CB(1)436/04-05(03)
Consumer Council (CC)	CB(1)436/04-05(04)
Hong Kong Monetary Authority (HKMA)	CB(1)436/04-05(05)
The Hong Kong Association of Banks (HKAB)	CB(1)436/04-05(06)
The Law Society of Hong Kong (LSHK)	CB(1)436/04-05(07)
The Standing Committee on Company Law Reform (SCCLR)	CB(1)436/04-05(08)
Joseph S C CHAN & Co. (Chan & Co.)	CB(1)436/04-05(09)
The Hong Kong Institute of Company Secretaries (HKICS)	CB(1)436/04-05(10)
The Association of Chartered Certified Accountants (ACCA)	CB(1)436/04-05(11)
The Hong Kong Association of Restricted Licence Banks and Deposit-taking Companies (DTCA)	CB(1)436/04-05(12)
The British Chamber of Commerce in Hong Kong (BCCHK)	CB(1)436/04-05(13)
Kenny Tam & Co (Tam & Co.)	CB(1)436/04-05(14)
The Society of Chinese Accountants and Auditors (SCAA)	CB(1)436/04-05(15)
Hong Kong Institute of Certified Public Accountants (HKICPA)	CB(1)456/04-05(01)

## Bills Committee on Bankruptcy (Amendment) Bill 2004

### Summary of views raised by organizations on the Bill

(Position as at 14 December 2004)

	Views of organizations on major issues of the Bill	Name of Organization
1	<i>General comments</i>	
1.1	Expresses support for the Bill.	CC HKAB Chan & Co. DTCA Tam & Co. SCAA
1.2	<ul style="list-style-type: none"> <li>● Supports the proposal of outsourcing summary bankruptcy cases to private-sector insolvency practitioners (PIPs) given the limitation of resources of the Official Receiver's Office (ORO).</li> <li>● Expresses concern on whether PIPs have adequate experience and expertise in handling bankruptcy cases, and whether ORO could perform its monitoring role effectively.</li> </ul>	YTT
1.3	<ul style="list-style-type: none"> <li>● Expresses full support for the Bill.</li> <li>● The proposal of outsourcing summary bankruptcy cases to PIPs without the need for convening creditors' meetings constitutes sensible and practical improvements to the administration of bankruptcies.</li> </ul>	HKICS
1.4	<ul style="list-style-type: none"> <li>● The outsourcing proposal is one of the feasible means to handle bankruptcy cases but may give rise to operational difficulties, such as the conflict of interests involved in a case where the appointed PIP and the bankrupt know each other, and the bankrupt's possible concern about the protection of personal data by the appointed PIP during the process of handling his case.</li> <li>● Suggests that a self-regulatory body be set up for supervision of the professional standards and integrity of PIPs.</li> </ul>	CGCC

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<ul style="list-style-type: none"> <li>● Supports that an expert group be set up by ORO for investigation of frauds relating to bankruptcies, and an appeal board for reviewing the decisions concerned.</li> <li>● The Administration should encourage creditors and the public to report on illegal acts of the bankrupt, e.g. by providing a hotline for the purpose.</li> </ul>	
1.5	<ul style="list-style-type: none"> <li>● Supports in principle the policy of contracting out government services to suitable qualified persons in the private sector, wherever possible and practicable. There should be an adequate framework and procedure, and the availability of an appropriate level of financial resources, to ensure that the persons with the skills necessary and experience are in a position to and are encouraged to take up the work.</li> <li>● Requests for the Administration's clarification on how the proposed arrangements for the outsourcing of bankruptcy cases will work in practice.</li> </ul>	HKICPA
1.6	Expresses no comment on the Bill	HKMA LSHK SCCLR BCCHK
2	<b><i>Scope of the outsourcing scheme (clause 3)</i></b>	
2.1	<p>Under the proposed new subsection (1A) of section 12 of the Bankruptcy Ordinance (BO), where the Official Receiver (OR) as the provisional trustee considers that the value of the property of the bankrupt is unlikely to exceed \$200,000, he may at any time appoint any person as provisional trustee in his place. It may be necessary to set out procedures and/or criteria to:</p> <ul style="list-style-type: none"> <li>● Allow ORO the flexibility not to have to treat all cases with assets of less than \$200,000 summary cases;</li> <li>● Ascertain how ORO forms a view that the assets are unlikely to have a value of more than \$200,000; and</li> <li>● Enable the Government/ORO to provide funding for PIPs to be appointed trustee (or agents of OR as</li> </ul>	GT

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	trustee) to carry out detailed investigations for public interest and/or other reasons.	
2.2	<ul style="list-style-type: none"> <li>● It will be important for ORO to take reasonable steps to ensure adherence to the requirements of the proposed new subsection (1A) of section 12 of BO. Two suggestions:               <ul style="list-style-type: none"> <li>(a) Where ORO considers that the property of the bankrupt is unlikely to exceed \$200,000, it should support its view with reasons and confirm to the court that reasonable enquiries have been made beforehand; and</li> <li>(b) Where ORO is unable, on the basis of the information available or otherwise, to form a view as to the value of the bankrupt’s property, no appointment should be made under the provision.</li> </ul> </li> <li>● Requests for the Administration’s clarification on how bankruptcy cases with assets likely to be above \$200,000 will be handled once the Bill is implemented.</li> </ul>	HKICPA
2.3	<ul style="list-style-type: none"> <li>● Suggests that the scope of the outsourcing scheme be expanded to allow ORO to outsource bankruptcy cases where the value of the bankrupt’s property does not exceed \$500,000.</li> <li>● The above suggestion would enable ORO to focus on the administration of bankruptcy cases where the value of the bankrupt’s property exceeds \$500,000 and on the supervision and regulation of PIPs. The outsourcing scheme would then be more commercially viable and attractive to PIPs.</li> </ul>	Chan & Co
3	<b><i>Power of the Official Receiver to appoint provisional trustees and joint provisional trustees (clause 3)</i></b>	
3.1	Under the proposed new subsection (1B) of section 12 of BO, OR may appoint two or more persons as joint provisional trustees but “such an appointment must make provision as to the circumstances in which the provisional	GT

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<p>trustees must act together and the circumstances in which one or more of them may act for the others”. There are two points of concern:</p> <ul style="list-style-type: none"> <li>● Given that appointments are usually on “joint and several” basis, it is not sure why the appointment of joint provisional trustees must make provision to the circumstances mentioned in the proposed new subsection (1B); and</li> <li>● Who will be in that position (and based on what) to spell out any such circumstances, for a case of assets of less than \$200,000?</li> </ul> <p><i>(Remarks: The same concern applies to the proposed new sections 80(1), 80(1A) and 81A(2) of BO (clauses 24 and 25). Please refer to items 11.1 and 12.1 below.)</i></p>	
4	<b><i>Power to appoint interim trustee (clause 4)</i></b>	
4.1	<p>Under section 13 of BO, the court may, if it is shown to be necessary for the protection of the estate, at any time after the presentation of a bankruptcy petition and before a bankruptcy order is made, appoint OR to be interim trustee. There are two points of concern:</p> <ul style="list-style-type: none"> <li>● A PIP should be able to be appointed as an interim trustee. Besides, as long as a creditor is prepared to provide the funding for this appointment, ORO should not insist on seeing evidence from the applicant/creditor that there are definitely assets worth more than \$200,000.</li> <li>● “Protection of the estate” should be extended to include protection of books and records of the potential bankrupt.</li> </ul>	GT
4.2	<ul style="list-style-type: none"> <li>● Section 13 of BO does not provide for any person other than OR to be appointed as interim trustee. This may be contrasted with the position under section 193(2) of the Companies Ordinance (Cap. 32) (CO), which provides that OR “or any other fit person” may be appointed as provisional liquidator. Two suggestions:</li> </ul>	HKICPA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<p>(a) To allow for the possibility of appointing PIPs as interim trustees under BO, the Bill should be amended to converge more closely with the equivalent provisions in CO, i.e. sections 193 and 194(1)(aa) of CO; and</p> <p>(b) A provision similar to Rule 28(3) of the Companies (Winding-up) Rules should also be incorporated into the Bankruptcy Rules to allow the interim trustee to be paid his remuneration out of the assets of the estate in the event that a bankruptcy order is not ultimately made.</p>	
5	<b><i>Statement of affairs (clause 8)</i></b>	
5.1	<ul style="list-style-type: none"> <li>● Under the proposed section 18(1) of BO, the bankrupt shall submit a statement of affairs to the trustee not more than 21 days after the day the bankruptcy order was made. However, in practice, a trustee may not have been appointed given that upon the making of the bankruptcy order, a provisional trustee is appointed, and there is then a lapse of up to 12 weeks before a trustee is appointed (Please refer to section 17A(1) of BO).</li> <li>● To address the inconsistencies mentioned above, suggests that section 18(1) of BO be amended to read, “the bankrupt shall submit ..... to the trustee or provisional trustee, as the case may be, not more than 21 days after the day the bankruptcy order was made”.</li> </ul> <p><i>(Remarks: HKICPA’s comments on clauses 8 and 9 should be read in light of its comments on clause 15.)</i></p>	HKICPA
6	<b><i>Public examination of bankrupt (clause 9)</i></b>	
6.1	<ul style="list-style-type: none"> <li>● To enable a provisional trustee to undertake his duties as soon as possible, section 19 of BO should be amended to allow a provisional trustee to undertake a public examination of the bankrupt.</li> <li>● In this connection, it is also suggested that the power</li> </ul>	HKICPA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<p>given to OR or trustee under section 64 of BO to inspect goods held by way of security should be made available to a provisional trustee.</p> <p><i>(Remarks: HKICPA's comments on clauses 8 and 9 should be read in light of its comments on clause 15.)</i></p>	
7	<b><i>Provisions where person other than Official Receiver is appointed trustee (clause 10)</i></b>	
7.1	Section 23 of BO should be amended to include provisional trustee.	ACCA
8	<b><i>Priority of costs and charges (clause 11)</i></b>	
8.1	<p>The priority of costs and charges set out in the proposed amendments to section 37(1) of BO gives little incentive to PIPs to take up bankruptcy cases. There are four points of concern:</p> <ul style="list-style-type: none"> <li>● It is not fair to pay everybody else in full first before paying the PIP who is often wholly responsible for the realization of the assets of the bankrupt.</li> <li>● It is not clear as to why ORO is entitled to charge fees and commissions on a percentage of realization basis where little work, if any, is done by ORO in the realization of the same.</li> <li>● The wording of the proposed section 37(1)(e) does not read well as the charges of any shorthand writer can hardly be related to “expenses properly incurred in preserving, getting in or realizing the assets of the bankrupt”.</li> <li>● On the proposed section 37(3), it is not clear why the shorthand writer appointed or authorized by OR should have any preference over others.</li> </ul>	GT
8.2	It appears that the remuneration of a provisional trustee may be included under either the proposed section 37(1)(a) or (h) of BO. To ensure clarity, the remuneration should be explicitly shown in the revised order of priority of costs	ACCA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	and charges.	
8.3	<ul style="list-style-type: none"> <li>● Under the existing section 37(1) of BO, the fees of OR acting as trustee is given a higher priority than the petitioner’s costs. However, under the proposed amendments to section 37(1), fees of PIPs acting as trustee is given a lower priority to the petitioner’s costs for similar duties previously performed by OR. The proposed priority of costs and charges will create a disincentive to PIPs to maximize realization of assets for the benefits of creditors.</li> <li>● While petitioner’s costs may not be an issue in the self-petitioned cases, it is possible that OR may contract out creditor-petitioned cases in future. It is necessary to address the above discrepancy. There are two suggestions:               <ul style="list-style-type: none"> <li>(a) To amend the proposed section 37(1) so that disbursements and fees of PIPs acting as trustee (i.e. proposed section 37(1)(f), (g) and (h)) will have higher priority than the petitioner’s costs (i.e. proposed section 37(1)(b)); and</li> <li>(b) To introduce in due course the amendments mentioned above to the order of priority in Rule 179 of the Companies (Winding-up) Rules so that the same arrangements in disbursements and fees of PIPs will apply to liquidation cases.</li> </ul> </li> </ul>	Tam & Co. SCAA
8.4	<ul style="list-style-type: none"> <li>● Suggests that consideration be given to elevating the priority of the trustee’s remuneration further up the scale to provide a greater incentive for the trustee to pursue claims.</li> <li>● Requests for the Administration’s clarification on the following two issues:               <ul style="list-style-type: none"> <li>(a) How much is likely to be made available to private sector trustees out of the petitioner’s deposit; and</li> <li>(b) Whether the costs incurred by the trustee in preserving and realizing assets should be regarded as “the expenses properly incurred in</li> </ul> </li> </ul>	HKICPA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<p>preserving, getting in or realizing any of the assets of the bankrupt” referred to in the beginning of the proposed section 37(1), which will be payable ahead of the priorities referred to in the proposed section 37(1)(a) to (i).</p> <ul style="list-style-type: none"> <li>● It would seem unnecessary to include the second part of the proposed section 37(1)(e), “except expenses properly incurred .....”, as it appears that the point is already covered by the proposed new subsection (3), when this is read in conjunction with the introductory part of subsection (1).</li> </ul>	
9	<b><i>Vesting and transfer of property (clause 15)</i></b>	
9.1	<p>The proposed new section 58(1A) of BO provides that “[o]n the appointment of a person other than the Official Receiver as provisional trustee, the property shall forthwith pass to and vest in the provisional trustee appointed”. There are two points of concern:</p> <ul style="list-style-type: none"> <li>● In the event that the provisional trustee does not eventually become the trustee, how then would the property become vested from the provisional trustee to the trustee?</li> <li>● Even if the provisional trustee becomes the trustee, what is the mechanism for vesting of property from the provisional trustee to the trustee?</li> </ul>	GT
9.2	<p>The proposed new section 58(1B) of BO provides that save in some specified sections of the Ordinance, the provisional trustee shall, unless the context otherwise requires, be regarded as the trustee for the purposes of this Ordinance. There are two points of concern:</p> <ul style="list-style-type: none"> <li>● It is possible that this provision would resolve the concerns raised above in relation to clauses 8 and 9, but it is not entirely clear from the drafting. If the provisional trustee may do anything that a trustee may do, other than in relation to those specified sections of the Ordinance, this may need to be stated more explicitly.</li> </ul>	HKICPA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<ul style="list-style-type: none"> <li>As drafted, the proposed provision is likely to create some uncertainty and debate. For example, it is unclear whether the provisional trustee should be regarded as the trustee in relation to the priority of payments under the proposed section 37(1)(h), or whether, in view of clause 27, the remuneration of the provisional trustee should be treated as “costs, charges and expenses incurred or authorized by the Official Receiver” under section 37(1)(a).</li> </ul>	
10	<b><i>Official name of trustee and provisional trustee (clause 23)</i></b>	
10.1	Under the proposed section 79(1) and (2) of BO, the official name of a provisional trustee (or a trustee) shall be “the provisional trustee (or the trustee) of the property of ..... a bankrupt”. The proposed provision may give the impression that the trustee does not (have powers to) deal with liabilities, creditors or general affairs of the bankrupt. Suggests that “trustee of the estate” be used instead.	GT
10.2	“Provisional trustee” is defined in clause 2 of the Bill as, inter alia, any person appointed as provisional trustee of the property of the bankrupt under section 12(1A) of BO. “Trustee” is defined in section 2 of BO as the “trustee in bankruptcy of a bankrupt’s estate”. For the sake of consistency, suggests that section 2 of BO be amended with wording similar to that proposed in clauses 2 and 23 of the Bill.	HKICPA
11	<b><i>Power to appoint joint or successive trustees and provisional trustees (clause 24)</i></b>	
11.1	Under the proposed new subsections (1) and (1A) of section 80 of BO, when two or more persons are appointed as provisional trustees (or trustees), the appointment shall state whether any act required or authorized to be done by a provisional trustee (or trustee) is to be done by all or any one or more of such persons. Please refer to the comments on section 12(1B) of BO mentioned in item 3.1 above.	GT

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12	<b><i>Vacancy in office of provisional trustee (clause 25)</i></b>	
12.1	<p>Under the proposed new section 81A(2) of BO, the power of OR to appoint a person to fill a vacancy in the office of a provisional trustee may be exercised without a creditors’ meeting and it includes power to appoint two or more persons as joint provisional trustees but “such an appointment must make provision as to the circumstances in which the provisional trustees must act together and the circumstances in which one or more of them may act for the others”. There are two points of concern:</p> <ul style="list-style-type: none"> <li>● It is not clear why there is a reference to the exercising of the OR’s power “without a creditors’ meeting”; and</li> <li>● Same concern as that on section 12(1B) of BO (item 3.1 above).</li> </ul>	GT
13	<b><i>Remuneration for PIPs (clause 27)</i></b>	
13.1	<ul style="list-style-type: none"> <li>● Expresses concern over the high level of fees charged by PIPs, and considers that ORO should play an active role in supervising the level of fees charged by PIPs.</li> <li>● Welcomes the introduction of the proposed new section 85A of BO to provide that the remuneration of PIPs shall be fixed and approved by ORO, and that creditors can apply to ORO for a review of PIP’s remuneration.</li> </ul>	CC
13.2	<ul style="list-style-type: none"> <li>● In the proposed new section 85A(1) of BO, it should be made clear as to whether the “scale of fees” as fixed by OR will be fixed on a case-by-case basis, or will be applied across the board for all cases at the relevant time.</li> <li>● It appears that the (provisional) trustee himself does not have any capacity to apply to the court to have his fee basis and/or remuneration reviewed. This would not appear to be fair.</li> </ul>	GT
13.3	<ul style="list-style-type: none"> <li>● The wording in the proposed new section 85A(1) of BO, which appears to be based on that in section 196</li> </ul>	HKICPA

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	<p>of CO, is too open-ended and could create uncertainty. In fact, similar ambiguity in CO and the Companies (Winding-up) Rules and their application has given rise to uncertainty. Requests the Administration's clarification on the following two areas:</p> <p>(a) How will the proposed new section 85A(1) operate?</p> <p>(b) What bases of remuneration could be applied and under what circumstances?</p> <ul style="list-style-type: none"> <li>● Under the proposed new section 85A(2) of BO, if one-fourth in number or value of the creditors apply to OR or OR is of the opinion that the remuneration of the provisional trustee or first trustee should be reviewed, OR may apply to the court and thereupon the court may confirm, increase or reduce such remuneration. Suggests that the grounds on which the court may confirm, increase or reduce the remuneration be specified in the provision.</li> <li>● Requests clarification on the source of the wording of the proposed new section 85A.</li> </ul>	
13.4	Suggests that contingency fee arrangement (or conditional fee arrangement) be introduced as the basis of PIPs' remuneration. Under the proposal, if a PIP succeeds in recovering more assets of the bankrupt's estate, he will be rewarded by additional payment. The proposal will motivate the PIPs to adopt a more proactive attitude in the recovery of assets.	Chan & Co
13.5	As the term "first trustee" does not appear in section 112A of BO, clarification should be made regarding the reference to "first trustee constituted under section 112A" in the proposed new section 85A(1)(b).	ACCA
14	<b><i>Qualification and performance of PIPs (clauses 27 and 35)</i></b>	
14.1	Expresses concern on whether PIPs have adequate experience and expertise in handling bankruptcy cases. In implementing the outsourcing proposal, the Administration should provide adequate training to PIPs and monitor their	YTT

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	performance so as to ensure that they perform their duties and responsibilities in an effective manner.	
14.2	<p>Hopes that the following provisions will ensure a high standard of professionalism amongst PIPs serving as trustees:</p> <ul style="list-style-type: none"> <li>● Under the proposed section 85A(4) of BO (clause 27), the appointed PIP is prohibited from accepting any gift or benefit (except his remuneration) from any persons in connection with the handling of a bankruptcy case; and from making any arrangement for giving up any part of his remuneration to any of such persons.</li> <li>● Under the amended section 96 of BO (clause 35), creditors may apply to the court for removing a PIP from the office of trustee on grounds of misconduct, needlessly protracting of trusteeship, or in the interests of the creditors concerned.</li> </ul>	CC
14.3	<ul style="list-style-type: none"> <li>● Suggests that the Bill should contain provisions similar to sections 394 to 398 of the UK Insolvency Act 1968 on - <ul style="list-style-type: none"> <li>(a) selection criteria for appointing PIPs to handle bankruptcy cases;</li> <li>(b) procedures for handling complaints against PIPs; and</li> <li>(c) supervision of PIP's performance.</li> </ul> </li> <li>● Alternatively, section 84 of BO should be amended to include provisions similar to section 168C to T of the Companies Ordinance to enable the court to make orders disqualifying a person from acting as a liquidator of a company.</li> </ul>	HKAB
14.4	Suggests that provisions on qualification criteria for provisional trustees/trustees be included in the Bill. The criteria may include expertise in handling bankruptcy cases, no conflict of interests with the bankrupt, etc.	ACCA
15	<b><i>Duties of trustee as regards the bankrupt's estate (clause 28)</i></b>	
15.1	<ul style="list-style-type: none"> <li>● Under the proposed new section 86B(1)(a) of BO, as regards the estate of a bankrupt, it shall be the duty of</li> </ul>	GT

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<p>the trustee to raise money in any case where in the interests of the creditors it appears necessary so to do. In fact, this is more a “power” than a “duty”.</p> <ul style="list-style-type: none"> <li>● Under the proposed new section 86B(1)(f) of BO, it shall be the duty of the trustee to assist the bankrupt in preparing his statement of affairs (SoA) in case the bankrupt has no solicitor acting for him and is unable properly to prepare it himself. This “duty” will very likely be abused by the bankrupt as a basis of taking a laid-back position and requiring the trustee to prepare SoA from no or little information or incomplete books and records. This “duty” should be abolished. Instead, this may be included as a power of the trustee if circumstance really requires it to be exercised.</li> </ul>	
15.2	<ul style="list-style-type: none"> <li>● The provision in the proposed new section 86B(1)(a) of BO is more a “power” than a “duty”.</li> <li>● The provision in the proposed new section 86B(1)(f) is not a “duty” of the liquidator under the corresponding provisions of CO, and could be onerous, given the lack of available resources in most bankruptcy cases.</li> <li>● The application of the proposed new section 86B(1) should be extended to provisional trustee.</li> <li>● Requests clarification on the source of, and the reason for introducing, the wording of the proposed new section 86B.</li> </ul>	HKICPA
15.3	<p>As the duty of a trustee in respect of security has been dealt with under section 23 of BO, clarification should be made on whether the reference to “securities” in the proposed new section 86B(2) has the same meaning as that under section 23. To ensure clarity, the trustee’s duty in respect of security should be referred to in the same provision.</p>	ACCA
16	<b><i>Trustee to provide statements of accounts (clause 30)</i></b>	
16.1	<p>Suggests that section 88 of BO be amended to include a provision similar to that in the proposed new subsection (4A) of section 19, empowering the trustee to require a creditor to pay a deposit as a pre-condition for taking the</p>	HKICPA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	action requested (clause 9).	
17	<b><i>Annual statement of proceedings (clause 31)</i></b>	
17.1	The wording of clause 31 suggests that the format of accounts (Form 150) should follow the requirements of section 89 of BO. Suggests that the format of accounts be reviewed so as to simplify them to facilitate compilation and to make them more meaningful to creditors. This would also apply to Form 137, produced by the trustee in his application for release.	HKICPA
18	<b><i>Payment of moneys into banks (clause 32)</i></b>	
18.1	Under section 91(2) of BO, if a trustee at any time retains for more than 10 days a sum exceeding \$2,000, he is required to explain the retention to the satisfaction of the Official Receiver (OR) or he may be removed from his office by OR. Given that it is difficult to comply with this requirement, the limit should be raised and the provision should be amended accordingly.	ACCA
19	<b><i>Application of Ordinance to small bankruptcies (clause 42)</i></b>	
19.1	The order of sequence of subsections under section 112A should be tidied up.	ACCA
20	<b><i>Other suggestions related to the Bill</i></b>	
20.1	<b><u>Allowance and taxation of costs</u></b> Under section 86(3) of BO, all bills and charges of the persons employed by the trustee shall be taxed. Under Rule 149A of the Bankruptcy Rules, the fees and charges within the prescribed scale may be paid without taxation in the case of small bankruptcy under section 112A. There are two points of concerns:  <ul style="list-style-type: none"> <li>● Under Rule 176 of the Companies (Winding-up) Rules, taxation is not required for the said expenses under \$3,000. Suggests that a similar provision be included in BO or the Bankruptcy Rules and the limit</li> </ul>	Tam & Co. SCAA

	<b>Views of organizations on major issues of the Bill</b>	<b>Name of Organization</b>
	<p>be increased to \$5,000.</p> <ul style="list-style-type: none"> <li>● Details of the prescribed scale referred to in Rule 149A of the Bankruptcy Rules are not clear.</li> </ul>	
20.2	<p><b><u>Trustee's account</u></b>            Rule 191 of the Bankruptcy Rules requires the trustee to submit an account to ORO every six months. The accounts are to be certified and verified pursuant to Form 146 of the Bankruptcy (Forms) Rules. The requirement for the trustee to verify the account by way of Affidavit before a solicitor or other qualified person increases the administrative cost with no apparent benefits. Suggests to amend such requirement in line with a similar provision in Rule 162 of the Companies (Winding-up) Rules that the account shall be certified correct in writing by the trustee himself.</p>	Tam & Co. SCAA
20.3	<p><b><u>Unfair preferences</u></b>            There are deficiencies in the provisions dealing with unfair preferences under BO (e.g. sections 50 and 51B). Suggests that consideration be given to reviewing and strengthening the unfair preference provisions.</p>	HKICPA