



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

來函權號 YOUR REF : IB&W/3/1/1/1C(2015)  
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6 August 2015

Mr WONG Yan-yin, Paul  
Prin AS for Financial Services & the Treasury  
(Financial Services)6  
Financial Services and the Treasury Bureau  
15th Floor, Queensway Government Offices  
66 Queensway  
Hong Kong

Dear Mr WONG,

**Re: Bankruptcy (Amendment) Bill 2015**

Further to our letter dated 13 May 2015 and the meeting of the relevant Bills Committee on 7 July 2015, I would like to seek your response on the following drafting matters -

Proposed section 30AC of the Bankruptcy Ordinance (Cap. 6)

Under Clause 3 of the Bill, "relevant period" is defined to mean, in relation to a bankrupt, the relevant period mentioned in section 30A(1) of Cap. 6. Existing section 30A(1) reads, "[s]ubject to this section, a bankrupt is discharged from bankruptcy by the expiration of the relevant period under this section". Section 30A(2) further explains that "[t]he relevant period referred to in subsection (1) is as follows -

- (a) where a person has not previously been adjudged bankrupt, the period of 4 years;
- (b) where a person has been previously adjudged bankrupt, the period of 5 years,

beginning with *the commencement of the bankruptcy.*"

Proposed section 30AC(2)(a) which provides that a non-commencement order must specify that the relevant period for the bankrupt is treated as not commencing to run on the *date of the bankruptcy order*. The proposed section 30AC(2)(a) has not exactly adopted the formulation used in the existing section 30A(2). Please explain the reason(s) for using a different formulation in the proposed scheme.

Proposed Rule 89A of the Bankruptcy Rules (Cap. 6A)

Under the proposed Rule 89A(2)(c), "terms proposed to be complied with by the bankrupt for the relevant period to commence to run pursuant to section 30AC(4) of the Ordinance" is rendered as "建議的破產人須先予遵守有關期間才依據本條例第30AC(4)條開始計算的條款". Please consider putting a punctuation mark "、" after "建議的" to achieve readability of this sentence.

Proposed Form 82A in the Bankruptcy (Forms) Rules (Cap. 6B)

In the Chinese heading of Form 82A, please consider replacing "不開始令" by "命令" to tally with the English heading or amending the English heading accordingly to achieve the consistency between the Chinese and English texts.

Proposed Form 82B in Cap. 6B

The proposed Form 82B sets out the prescribed form of the notice to be filed with the Registrar of the High Court by the trustee in bankruptcy under proposed section 30AC(3). Please consider amending the references to "section 30AC" in Form 82B as "section 30AC(3)" for reader's easy reference.

Proposed amendments to the Bankruptcy (Fees and Percentages) Order (Cap. 6C)

Clause 15 of the Bill amends the Schedule to Cap. 6C by adding a proposed item 6A to its Table A. Please let us know what the expression "本條例第30AB條所指的要求" is referring to. In the Chinese text of section 30AB, "要求" appears in subsection (1) as well as subsection (1)(a) and refers to different matters, i.e. the application for a non-commencement order, and the requirement for the bankrupt to attend an initial interview and provide information. Also, it is noted that the relevant English text of proposed item 6A does not have a corresponding expression for "所指的要求". Please clarify.

I would appreciate if you would let me have your response in bilingual form at your earliest convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Clara TAM', written in a cursive style.

(Clara TAM)  
Assistant Legal Adviser

cc. DoJ (Attn: Mr Alan CHONG (By Fax: 2869 1302))