

**Bills Committee on Companies (Winding Up and Miscellaneous Provisions)
(Amendment) Bill 2015**

**List of follow-up actions arising from the discussion
at the meeting on 16 February 2016**

Clauses 98 and 106 – sections 278A and 297B on exemption from liability in offering inducement to affect appointment as a provisional liquidator or liquidator and the receiver or manager of the property of a wound-up company respectively

1. The proposed amended section 278A and the new section 297B of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) ("CWUMPO") prohibit the offering of inducements to affect the appointment as a provisional liquidator or liquidator and the receiver or manager respectively. Carve-out provisions for the accounting profession are provided in the proposed sections 278A(2) and 297B(2). Some members have enquired about the rationale and operation of the exemption in practice. The Administration is requested to:
 - (a) explain the purposes and operation of the carve-out provisions for the accounting profession; and
 - (b) provide the Administration's responses to the views of the accounting profession raised on the above subject during the public consultation in 2013.

Clause 129 – rule 39 on preparation of statement of affairs and affidavit of concurrence

2. The proposed amended rule 39(6) of the Companies (Winding-up) Rules (Cap. 32 sub. leg. H) ("CWUR") provides for the persons the Official Receiver, provisional liquidator or liquidator may hold interviews with for the purpose of investigating the wound-up company's affairs. Members noted that the directors and the company secretary of the wound-up company are explicitly stated in rule 39(6)(a) and (b). The Administration is requested to:
 - (a) consider some members' suggestion that the financial controller and the auditor of the wound-up company should be stipulated in the provision given their important roles in the company's affairs; and
 - (b) explain the sanctions against parties failing to attend the interviews.

Protection for holders of the convertible securities of a wound-up company

3. Holders of the convertible securities of a company (who are creditors) may become the shareholders of the company (who are debtors) ("securities holders") during the winding-up of the company. Some members are concerned about the protection for securities holders, in particular those who may be deceived by the company in making the conversion, and whether the Bill has included provisions to void the conversion concerned. The Administration is requested to respond to the above concerns and explore possible measures to protect the interests of securities holders.

Drafting issues

Clause 169 – the amended rule 179(2) of CWUR

4. The Administration is requested to consider a member's suggestion that the phrase "考慮和准許" ("considered and allowed" in the English text) should be changed to "准許" ("allowed" in the English text) to make the provisions more concise.

Clause 173 – forms in Appendix of CWUR

5. Members noted that the reference of the year "19..." in some of the forms in the Appendix of CWUR will be amended to "20..." under the Bill. The Administration has agreed to consider members' view that the reference of the year "19..." should be updated to "20..." in all forms in the Appendix of CWUR for maintaining consistency in the forms.