

### 檢控

本處根據《公司條例》檢控不遞交文件罪行的程序有了重大改變。過往本處向不根據該條例在適當的法定期限內遞交周年申報表或履行其他申報責任的公司及其高級人員，例行發出催辦函或警告函。我們在二零零二年七月停止採用這個措施，因為其費時的程序及耗用的資源，與所提升的遞交文件比率相比，實在不成比例。此後本處只向不履行遞交文件責任或在法定期限過後才遞交有關文件的公司發出警告函。公司如不依照警告函的通知履行遞交文件責任，均會遭受檢控。在二零零二至零三年度，共有80.4%的公司訂明期限之內遞交周年申報表。二零零零至零一、二零零一至零二年度的遞交文件比率則分別為81.2%和78.1%。

本處年內收到282宗來自市民與其他政府部門、涉及違反《公司條例》的投訴。二零零零至零一、二零零一至零二年度則分別接獲206和198宗投訴。年內收到的投訴大多數是有關申請撤銷註冊的不營運私人公司提供虛假或誤導性資料、公司未有申報註冊辦事處座落地點、尚未遞交周年申報表及其他法定申報表、以及申報表載有過時或不準確的資料。

### Prosecutions

In July 2002, there was an important change in the Registry's procedure regarding the prosecutions of filing offences under the Companies Ordinance. The practice of routinely issuing reminder and warning letters to each company and their officers which failed to file annual returns or comply with other reporting obligations under the Companies Ordinance within the appropriate statutory time limit ceased as the improvement in compliance rate brought about by the practice had been disproportionate to the time consuming procedures and level of resources involved. Henceforth, the Registry only issues a warning letter to a company which has breached its filing obligations or which has filed relevant documents beyond the statutory time limit. Those companies not complying with their filing obligations according to our warning letters are prosecuted. In 2002-03, 80.4% of companies filed their annual returns within the prescribed time limit compared with compliance rates of 81.2% and 78.1% for 2000-01 and 2001-02 respectively.

During the year, the Registry received 282 complaints from members of the public and other government departments regarding alleged breaches of the Companies Ordinance, compared with 206 and 198 complaints received in the years 2000-01 and 2001-02 respectively. Most of the complaints received this year concerned false or misleading information relating to applications for deregistration of defunct private companies, failure to report the address of the registered office of the company, failure to file annual returns and other statutory returns, and outdated or inaccurate information contained in returns.



在二零零二至零三年度，本處向沒有履行《公司條例》規定責任的公司和董事總共發出275張傳票。二零零零至零一、二零零一至零二年度則分別發出261和170張傳票。上市公司被檢控的詳情以及法庭判處的罪行和罰款載於附錄D。

## 公司法改革常務委員會

公司法改革常務委員會是一個非法定的委員會，在一九八四年成立，現由上訴法庭副庭長出任主席，成員包括有關政府部門、監管機構、學術界、會計師、商人、公司秘書和律師的代表。秘書處服務由本處提供。委員會的主要職能是確保對《公司條例》定期進行檢討，以符合商界不斷轉變的需要。年內共召開六次會議，商討多項修訂《公司條例》的建議和繼續檢討企業管治。

有關該委員會的工作詳情，可參閱將於二零零三年底出版的《公司法改革常務委員會第19號年報》。

## 制定法例

### 《2002年公司(修訂)條例草案》

立法會在二零零二年七月成立法案委員會，詳細研究《2002年公司(修訂)條例草案》。該條例草案在二零零三年七月通過，旨在落實二零零零年二月發表的《公司法改革常務委員會報告——全面檢討公司條例》所載的第一階段建議，以及各項有關本處在二零零三年底／二零零四年初實行電腦化運作的法例規定。電腦化運作旨在配合「第一階段公司註冊處綜合資訊系統」的推行。

In 2002-03, a total of 275 summonses were issued against companies and their directors for failure to comply with their obligations under the Companies Ordinance, compared with 261 and 170 summonses issued in 2000-01 and 2001-02 respectively. Details of the listed companies prosecuted together with the offences and penalties imposed by the court are given in Appendix D.

## Standing Committee on Company Law Reform

The SCCLR is a non-statutory committee established in 1984. It is chaired by a Vice President of the Court of Appeal and its membership comprises representatives of relevant Government departments, regulators, academics, accountants, businessmen, company secretaries and lawyers. Its secretariat is provided by the Companies Registry. The principal function of the SCCLR is to ensure that the Companies Ordinance is reviewed regularly to meet the changing needs of the business community. During the year, the SCCLR met six times to consider a wide range of proposals to amend the Companies Ordinance and to continue with the Corporate Governance Review.

Full details of the SCCLR's work can be found in the Committee's 19th Annual Report to be issued at the end of 2003.

## Legislation

### *Companies (Amendment) Bill 2002*

The Legislative Council formed a Bills Committee in July 2002 to study the Companies (Amendment) Bill 2002 in detail. The Bill, which was enacted in July 2003, implements Phase I of the recommendations contained in the SCCLR's Report on the Overall Review of the Companies Ordinance which was issued in February 2000 and the various legislative requirements in connection with the computerisation of the Registry to be effected under Phase I of ICRIS at the end of 2003/early 2004.

### 《2003年公司(修訂)條例草案》

《2003年公司(修訂)條例草案》(前稱《2002年公司(修訂)(第2號)條例草案》)在二零零三年六月提交立法會。該條例草案載有多項改革《公司條例》的重要建議，均是源於「公司法改革常務委員會」對公司條例的全面檢討、企業管治檢討、以及證券及期貨事務監察委員會對招股章程法例的檢討。下述各項建議較為重要：—

- 就全面檢討有關海外公司的《公司條例》第XI部、以及條例內影響這些公司的其他條文所提出的各項建議。
- 落實策略性改革計劃的其餘建議，當中大多數是關於電子方式辦理公司註冊成立。
- 就製備公司的集團帳目，將「附屬公司」的定義與國際會計標準所賦予的定義一致。
- 改善招股章程制度，促進市場發展。
- 各項加強保護股東的建議，例如引入法定衍生訴訟和擴大不公平損害補救方法。

### 其他立法建議

除上文所述外，另一套立法建議正在草擬階段。這些建議包括有關更新《放債人條例》、《有限責任合夥條例》及《註冊受託人法團條例》的措施。所需的條文是有關本處全面電腦化運作，配合策略性改革計劃施行，亦與保障根據這些條例備存的公司登記冊所載的個人資料有關。

### *Companies (Amendment) Bill 2003*

The Companies (Amendment) Bill 2003 (formerly the Companies (Amendment) (No. 2) Bill 2002) was introduced into the Legislative Council in June 2003. This bill contains a number of major proposals to reform the Companies Ordinance which have emerged from the SCCLR's Overall Review of the Companies Ordinance, the Corporate Governance Review and the Securities and Futures Commission's review of prospectus legislation. The more important items are as follows: —

- Proposals arising from a complete review of Part XI of the Companies Ordinance regarding oversea companies and other provisions in the Ordinance which affect such companies.
- Remaining items related to the implementation of the SCP largely concerned with electronic incorporation.
- Proposals to align the definition of 'subsidiary' for the purposes of preparing group accounts with International Accounting Standards.
- Proposals to improve the prospectus regime to facilitate market development.
- Proposals to enhance shareholder protection such as the introduction of a statutory derivative action and expanding the unfair prejudice remedy.

### *Other legislative proposals*

In addition to the above, another set of legislative proposals are at the drafting stage. These include measures to update the Money Lenders, Limited Partnerships and Registered Trustees Incorporation Ordinances, which are required in connection with the full computerization of the Registry under the SCP and the protection of personal data in the public registers kept under those ordinances.