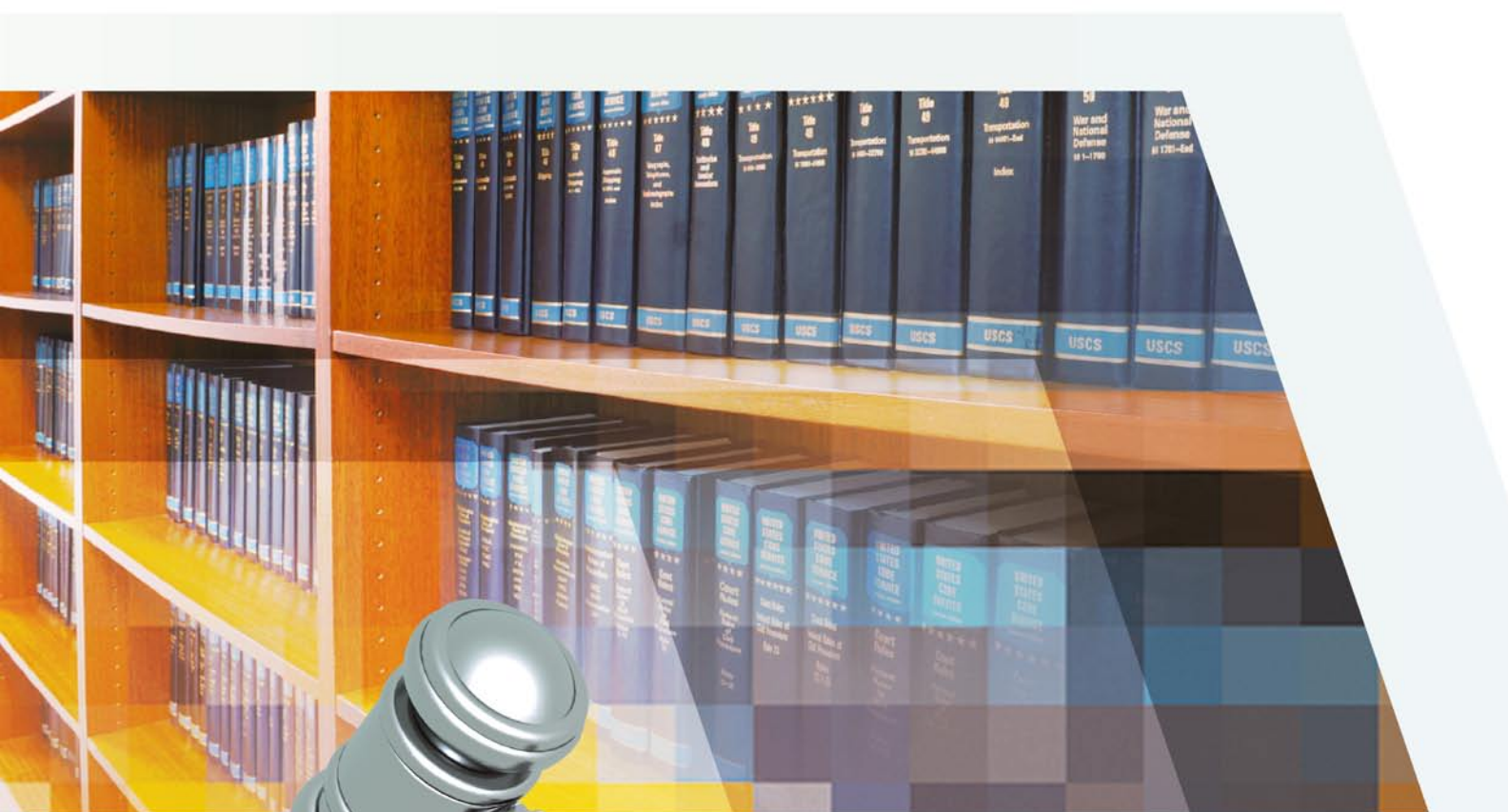


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遵從法規與執法

除了對不遵從法例規定者予以檢控外，本處在年內推行多項特定工作項目，以鼓勵有關人士履行《公司條例》所訂的提交文件存檔的責任。

自二零零八年十月起，本處向私人公司發出「提交文件通知書」，以鼓勵公司在本處提出檢控前提交周年申報表。在二零零九年三月，本處亦展開另一特別行動，向未有履行提交周年申報表責任的擔保有限公司（「擔保公司」）發出催辦通知書。由於有相當多數目的擔保公司是接受市民捐款的獲豁免繳稅慈善團體，因此必須確保擔保公司準時披露公司資料，尤其是周年申報表及隨附的帳目。

本地公司提交周年申報表的整體遵從比率很高。二零零九年的比率達89%。為進一步鼓勵公司遵從法規，本處於二零一零年三月發出超過66,000封催辦通知書，提醒欠交二零零九年的周年申報表的私人有限公司履行責任。

非香港公司提交周年申報表的遵從比率令人相當滿意。經過一連串推廣行動，加強公司認識和了解須遵從提交周年申報表的規定後，二零零九年錄得96%的遵從比率，較二零零八年高出9%，創下本處的一項紀錄。

Compliance And Enforcement

Other than prosecution for non-compliance, the Registry implemented a number of special projects during the year to encourage compliance with filing obligations under the Companies Ordinance.

Since October 2008, Notices to File have been issued to private companies to encourage the filing of annual returns before any prosecution action. In March 2009, the Registry also commenced a special exercise to send reminder letters to companies limited by guarantee ("guarantee companies") that were in default of their annual return filing obligation. It is particularly important to ensure the timely disclosure of the company information, particularly annual returns and accompanying accounts, of guarantee companies as a significant number of them are tax-exempt charities that receive donations from the public.

For local companies, the overall compliance rate in the filing of annual returns was high. In 2009, the rate reached 89 per cent. As a further step to encourage compliance, over 66,000 reminder letters were sent out in March 2010 to private limited companies that had failed to file their 2009 annual returns.

The rate of compliance in filing annual returns for non-Hong Kong companies was most encouraging. Through a series of compliance programmes to promote awareness of and enhance compliance with the requirements for filing annual returns, a compliance rate of 96 per cent was recorded for 2009, which was 9 per cent higher than that for 2008 and a record rate for the Registry.

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本處亦已加強對違反《公司條例》其他非涉及提交文件罪行的執法，並會在日後繼續執行。過去一年，本處提出檢控的罪行包括在處長發出有關指示後未有更改公司的名稱、未有舉行周年大會、未有將公司名稱緊附於其處所外面、未有在單據上方註明公司名稱及其成立為法團的地方，以及就撤銷公司註冊的申請提供虛假資料。

本處會在適當情況下向香港警方尋求協助。二零一零年二月在警方的協助下，一間公司的前董事被檢控，並被法院根據《公司條例》第349條裁定在提交給本處的申報表內作出虛假陳述罪名成立。我們會繼續與警方攜手執法，針對向本處提供虛假陳述的公司。

公司法改革常務委員會

公司法改革常務委員會（常委會）是在一九八四年成立的非法定諮詢組織，負責定期檢討《公司條例》，以確保能配合本地營商環境不斷轉變的需要。公司註冊處為常委會提供秘書處服務，而常委會的現任主席為資深大律師余若海先生，SBS，JP。在二零零九至一零年度，常委會共召開三次會議，審議多項與公司法改革有關

The Registry has stepped up its enforcement effort in respect of non-filing offences under the Companies Ordinance and will continue to do so in the future. In the past year, it instituted prosecutions for failure to comply with the Registrar's directions to change names, failure to hold annual general meetings, failure to affix a company name on the outside of premises, failure to state a company's name and place of incorporation in its bill-heads and prosecuted the provision of false information in connection with an application for deregistration of a company.

The Registry enlists the assistance of the Hong Kong Police in appropriate cases. In February 2010, with the assistance of the police, a former director of a company was prosecuted and was convicted of an offence under section 349 of the Companies Ordinance for making a false statement in a return filed with the Registry. We will continue our enforcement efforts against the provision of false statements in collaboration with the Police.

Standing Committee On Company Law Reform

The Standing Committee on Company Law Reform (SCCLR) is a non-statutory advisory body formed in 1984 to review the Companies Ordinance on a regular basis to ensure that it meets with the changing needs of the local business environment. The Registry provides secretarial support to the SCCLR, which is currently chaired by Mr Benjamin Yu, SC, SBS, JP. During 2009-10, the SCCLR held three meetings and considered a number of proposals relating to company law reform. In addition, five papers on various

的建議。此外，常委會委員曾傳閱五份文件，審議所載述的多項修訂和重寫《公司條例》的建議。

常委會將在二零一零年下半年出版第26號年報，闡述二零零九至一零年度的工作。常委會二零零九至一零年度的成員名單載於附錄D。

制定法例 《2010年公司（修訂）條例草案》

《2010年公司（修訂）條例草案》於二零一零年一月二十二日刊登憲報，並於二零一零年二月三日提交立法會。提交條例草案旨在修訂《公司條例》的相關條文，以便：

- (i) 提供以電子方式成立公司，以及一站式公司註冊及商業登記服務；
- (ii) 實施以電子方式提交公司文件存檔；
- (iii) 加快公司名稱審批程序，並賦予公司註冊處處長新的權力，以加強對濫用公司名稱註冊制度情況執法，包括處長可根據法院的命令，指示公司更改其侵權名稱，以及在有關公司不遵從指示時，以公司的註冊編號取代其名稱；

proposals to amend and rewrite the Companies Ordinance were circulated to SCCLR members for consideration.

The SCCLR will publish its 26th Annual Report on its work in 2009-10 in the latter half of 2010. A list of SCCLR members for 2009-10 is in Appendix D.

Legislation Companies (Amendment) Bill 2010

The Companies (Amendment) Bill 2010 (“the Bill”) was gazetted on 22 January 2010 and introduced into the Legislative Council on 3 February 2010. The Bill was introduced to amend relevant provisions of the Companies Ordinance with a view to:

- (i) providing for the electronic incorporation of companies and a one-stop service for electronic company incorporation and business registration;
- (ii) enabling the electronic filing of company documents;
- (iii) expediting the company name approval process and giving the Registrar of Companies new powers to enhance enforcement against abuses of the company name registration system, including acting upon a court order to direct a company to change its infringing name and substituting that name with the company’s registration number if it fails to comply with the Registrar’s direction;

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(iv) 利便公司以電子方式及透過網站與其成員通訊；

(v) 擴大法定衍生訴訟的適用範圍，准許有關連公司的成員代表該公司展開或介入法定衍生訴訟；及

(vi) 為採用無紙化持股和進行股份及債權證轉讓的實施消除障礙。

條例草案於二零一零年七月七日獲得通過。預計修訂條例有關條文將於二零一一年年初開始生效，以配合「公司註冊處綜合資訊系統」完成必需的系統提升工程後推出以電子方式成立公司和提供一站式公司註冊及商業登記服務。

重寫《公司條例》

隨着由財經事務及庫務局和公司註冊處人員組成的公司條例草案專責小組成立，重寫《公司條例》的工作已於二零零六年年中展開。

重寫條例工作規模龐大，因此分兩個階段進行。第一階段處理那些影響超過830,000間現存公司運作的《公司條例》核心條文，而第二階段處理《公司條例》中關於清盤及無力償債的條文，這些條文主要由破產管理署管理。

(iv) facilitating companies to communicate with their members through electronic means and websites;

(v) expanding the scope of statutory derivative action by allowing a member of a related company to commence or intervene in a statutory derivative action on behalf of the company; and

(vi) removing obstacles to the introduction of paperless holding and transfer of shares and debentures.

The Bills was passed on 7 July 2010. It is expected that relevant provisions of the Bill will come into effect in early 2011 to tie in with the launch of the one-stop service for electronic company incorporation and business registration upon completion of the necessary enhancements to our Integrated Companies Registry Information System.

Rewrite of the Companies Ordinance

The rewrite of the Companies Ordinance commenced in mid-2006, following the establishment of a dedicated Companies Bill Team comprising officers of the Financial Services and the Treasury Bureau and the Companies Registry.

In view of the extensive nature of the rewrite, the entire exercise has been divided into two phases. Phase I covers the core provisions under the Companies Ordinance that affect the daily operation of over 830,000 live companies. Phase II will cover the winding-up and other insolvency-related provisions that are mainly administered by the Official Receiver's Office.

在重寫條例期間，公司條例草案專責小組曾徵詢負責就《公司條例》的不同範疇協助制訂修訂建議和推薦方案的四個諮詢小組的專業意見，並且曾考慮在二零零二年三月成立的政府和香港會計師公會檢討《公司條例》會計及審計條文聯合工作小組，以及公司法改革常務委員會所提出的推薦方案。自二零零七年以來，當局進行了三輪公眾諮詢。當局透過這些諮詢把富爭議性的課題加以整理，然後進行深入的辯論。

重寫條例工作所得出各項建議的主要目的是加強董事的問責性、提高透明度及加強公司的資料披露、加強核數師的權利、確保規管更為妥善、加強對股東的保障、方便營商和使法例現代化。重寫《公司條例》的一些主要建議載於附錄E。

公司條例草案專責小組在二零零九至一零年度全速工作。鑑於《公司條例草案》擬稿的篇幅及所牽涉的複雜課題，有關草案的諮詢分兩期進行。

第一期公眾諮詢由二零零九年十二月至二零一零年三月進行，涵蓋《公司條例草案》約一半篇幅，主要處理企業管治事宜。第二期公眾諮詢已於五月七日展開，亦為期三個月，涵蓋資本保存制度和帳目及審計條文等較技術性的課題。

In the process, expert advice and input were sought from four Advisory Groups specifically set up to assist in formulating amendment proposals and recommendations in various areas of company law. Recommendations from the Joint Working Group of the Government and the Hong Kong Institute of Certified Public Accountants, which was established in March 2002 to review the accounting and auditing provisions of the Companies Ordinance, and the SCCLR, were also considered. Three rounds of public consultation have been conducted since 2007. Through these consultations, controversial issues have been distilled and thoroughly debated.

The proposals in the rewrite mainly aim to strengthen the accountability of directors, enhance the transparency and disclosure of company information, strengthen auditors' rights, ensure better regulations, foster shareholder protection, facilitate business and modernise the law. Some of the major proposals are summarised in Appendix E.

The Companies Bill Team worked at full pace in 2009-10. In view of the length of the Companies Bill and the complex issues involved, the consultation on the draft Bill was held in two phases.

The first phase of public consultation, which was conducted from December 2009 to March 2010, covered approximately half of the Companies Bill, mainly dealing with corporate governance matters. The second phase of public consultation commenced on 7 May for another three months and covered more technical issues such as the capital maintenance regime and accounting and auditing provisions.

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公司條例草案擬稿涵蓋共954條條文。除了實質條文之外，還會包括過渡性條文及經諮詢政府決策局及部門後草擬的有關其他條例的相應修訂。當局的目標是在今年年底向立法會提交《公司條例草案》審議。

A total of 954 sections are included in the draft Bill. Apart from the substantive provisions, transitional provisions and consequential amendments to other ordinances have to be provided for in consultation with government bureaux and departments. The Administration aims to introduce the Companies Bill into the Legislative Council by the end of this year.