

Companies Registration and Insolvency Administration

COMPANIES REGISTRATION

Companies Registry: The administration of the registration of companies in Hong Kong dates back to 1865 when the first Companies Ordinance was enacted. A Companies Registry was established pursuant to the provisions of the Companies Ordinance 1865 and was administered by the Registrar of the Supreme Court. In 1949, the functions of the Companies Registry were transferred from the Supreme Court to the Registrar General's Department. On May 1, 1993, the Companies Registry (the Registry) was eventually established as an independent government department with the Companies Registry Trading Fund established on August 1, 1993.

The Registry is a government department which operates on a trading fund basis; meaning that it is required to fund all its expenditure out of the revenue received. The Registrar of Companies (the Registrar) is the General Manager of the Companies Registry Trading Fund. The trading fund's annual report, containing the Director of Audit's report on the accounts, is tabled in the Legislative Council each year.

The Registry is mainly responsible for administering and enforcing the provisions of the Companies Ordinance and related legislation. Its primary functions include the registration of local and non-Hong Kong companies (i.e. companies incorporated outside Hong Kong which have established a place of business in Hong Kong); the registration of statutory returns and documents required by the various ordinances administered by the Registry; the provision of services for members of the public to inspect and obtain company information held on the various statutory registers; the deregistration of defunct solvent companies; and advising the Government on policy, regulatory and legislative issues regarding company law, related legislation and corporate governance. Since March 1, 2018, the Registry has acted as the licensing authority for trust and company service providers.

Company Registration Services: Registration of companies can be applied online at the Registry's e-Service Portal (www.e-services.cr.gov.hk) or by hard copy form. The time required for online registration of a new local company is less than one hour. It takes four working days for applications delivered in hard copy form. For non-Hong Kong companies which have established a place of business in Hong Kong, the application for registration should be made within one month after the establishment of the place of business in Hong Kong and the time required for registration is nine working days.

The Registry and the Inland Revenue Department

(IRD) have jointly implemented the one-stop company and business registration service. Any person who applies for incorporation of a local company or registration of a non-Hong Kong company under the Companies Ordinance will be deemed to have made a business registration application to the IRD at the same time. Under the one-stop service, applicants are only required to lodge one single application for both company and business registration. The Registrar will issue the Business Registration Certificate on behalf of the Commissioner of Inland Revenue, together with the Certificate of Incorporation or Certificate of Registration in one go.

As at March 31, 2024, there were 1 431 947 local companies on the Companies Register (the Register) comprising 1 413 761 private, 982 public and 17 204 guarantee companies. As at March 31, 2024, 14 932 non-Hong Kong companies from 83 countries / regions were registered. From April 1, 2023 to March 31, 2024, a total of 2 913 998 documents were received for registration, of which the most common were annual returns and forms notifying changes of the address of registered office, directors and company secretaries.

Company Search Services: Members of the public can conduct searches on the current data of registered companies and digitised images of all registered documents kept in the Register at the Registry's e-Service Portal. Customers visiting the office of the Registry can also use the facilities at the e-Services Centre on 13th Floor of the Queensway Government Offices to access the e-Filing and e-Search Services. Searches on five computerised indices can be conducted in either English or Chinese: The *company names index* helps one with the incorporation of new companies or changing company names; the *document index* is a record of all documents companies delivered to the Registry for registration; the *directors' index* provides a list of all the directorships held by the directors and reserve directors of registered companies; the *register of disqualification orders* provides a record of all persons disqualified by the court to act as company directors or other office bearers, and the *register of charges* provides a list of the registered charges of a company and basic information on each charge.

Information available on the Registry's comprehensive computerised database includes basic company information such as the incorporation date and whether it is live or subject to winding up procedures together with additional information such as registered office address (for local companies), address of principal place of business in Hong Kong and particulars of authorized representatives (for registered non-Hong Kong companies), share capital

structure, information of shareholder(s) (for local companies limited by shares, if any), particulars of current director(s) and reserve director (if any), particulars of company secretary, particulars of receiver(s) and manager(s) and liquidator(s) (if any), and a charges indicator.

To enhance protection of sensitive personal information, while keeping up the transparency and usefulness of the Register, a new inspection regime of the Register under the Companies Ordinance has been implemented in three phases from August 2021 through end-2023. Under the new inspection regime, correspondence addresses instead of usual residential addresses (URAs) of directors and partial identification numbers (IDNs) instead of full IDNs of directors, company secretaries and other relevant persons would be made available on the Register for public inspection. The URAs and full IDNs would only be accessible by specified persons including public officers, public bodies, solicitors, accountants, banks, as well as financial institutions and designated non-financial businesses and professions regulated under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO), such as securities companies, insurance companies, money service operators, estate agents, trusts or company service provider licensees, etc, for the conduct of statutory procedures, law enforcement, and customer due diligence for financial and business transactions.

With the full implementation of Unique Business Identifier (UBI) on December 27, 2023 whereby the Business Registration Number (BRN) assigned by the IRD replaced the company registration number (CR No.) as the key number for searching and identifying a company or entity, a quick search function is provided through the e-Search Services under the e-Services Portal to facilitate members of the public to look up the corresponding BRN of companies or entities incorporated or registered before the implementation of UBI by their CR No. and vice versa.

Companies Ordinance: In mid-2006, the Government embarked on a comprehensive rewrite of the Companies Ordinance with a view to enhancing Hong Kong's status as an international commercial and financial centre and its competitiveness. The objectives of the exercise are to enhance corporate governance, facilitate business, ensure better regulation and modernise the law. The new Companies Ordinance (CO) came into operation on March 3, 2014. A number of amendments were made to the CO over the years with a view to incorporate new developments and further facilitate business in Hong Kong.

The Companies (Amendment) Ordinance 2023 came into operation on April 28, 2023, providing flexibility for companies to hold general meetings in various manner. The amended Companies Ordinance expressly enables companies to hold fully virtual or hybrid general meetings, in lieu of at physical locations and provides flexibility for companies to conduct corporate affairs smoothly and effectively having regard to their own circumstances and needs.

Licensing Regime for Trust or Company Service

Providers: The licensing regime is introduced under the AMLO. Under the licensing regime, trust or company service providers (TCSPs) are required to apply for a licence from the Registrar and satisfy a "fit-and-proper" test before they can provide trust or company services as a business in Hong Kong. TCSP licensees are required to comply with the statutory customer due diligence and record-keeping requirements as set out in Schedule 2 to the AMLO.

Service Enhancement and Future Development: The Registry has implemented an Integrated Companies Registry Information System (ICRIS) in phases since 2005 to fully computerise its core business activities and enable electronic delivery of services. Since its launch in 2005, the ICRIS has been the mission-critical information system of the Registry. Over the years, the ICRIS has been enhanced from time to time to cater for legislative and procedural changes and to provide a wide range of electronic services, including registration of companies, registration of statutory returns and public search services, etc.

To remain responsive to evolving business needs and meet public expectations for more stable, secured and efficient services, the Registry launched its revamped ICRIS on December 27, 2023 together with the e-Services Portal, which is a single integrated online platform that allows users to access all electronic services of the Registry, such as electronic document submission and search services, by a single logon to the e-Services Portal with desktop and mobile hand-held devices with different screen sizes round the clock anytime and anywhere.

Going forward, the Registry will continue to implement enhancements to the ICRIS to support new initiatives of the Registry or the Government and remain steadfast in its vision to achieve world-wide recognition as an excellent Registry giving the community a quality service. The Registry will also continue to strengthen Hong Kong's competitiveness and position as an international financial centre by maintaining a high standard of corporate governance and strong regulatory frameworks.

INSOLVENCY ADMINISTRATION

The Official Receiver's Office: The Official Receiver's Office, headed by the Official Receiver (OR), was established on June 1, 1992 to take over the powers and perform the duties of the Insolvency Division of the then Registrar General's Department. The OR, when appointed by the court or creditors, will act as liquidator of companies ordered to be wound-up by the court under the Companies (Winding Up and Miscellaneous Provisions) Ordinance or as trustee-in-bankruptcy of individuals or partnerships declared bankrupt by the court under the Bankruptcy Ordinance.

The Official Receiver's Office consists of four divisions, namely, the Case Management Division, the Legal Services Division, the Financial Services Division and the Departmental Administration Division. The Case Management Division is staffed by insolvency grade officers who are responsible for the realisation and distribution of assets,

monitoring the conduct of outside liquidators and trustees, and

administration of the ordinances relating to winding-up and bankruptcy. The Legal Services Division is staffed by qualified legal officers who handle civil litigation, provide internal general legal advisory services, investigate and prosecute insolvency offenders, and apply for the disqualification of directors of insolvent companies. The Financial Services Division is staffed by treasury and accounting grade officers who perform financial and accounting investigations into insolvency cases, conduct statutory audits of accounts and manage and invest insolvency monies. The Departmental Administration Division is staffed by Executive Officers, Official Languages Officers and clerical grade staff who provide general administration services to facilitate smooth functioning of the department.

Insolvency Services: Once a bankruptcy order is made by the court against an individual or a winding-up order is made against a company, the OR becomes the provisional trustee of the bankrupt's property or the provisional liquidator of the company respectively. For estates with estimated assets of not more than \$200,000 which represent the vast majority of insolvency cases, the OR may apply to the court for a summary procedure order and will become the trustee or the liquidator of the estates. For non-summary cases, a meeting of creditors and also of contributories (in case of compulsory winding-up) will be held to decide who will be appointed as trustee or liquidator. The OR charges her fees on the amount of assets realised and distributed to creditors, and also on the amount of funds invested. In 2022/2023, there were 6 261 bankruptcy orders and 324 winding-up orders made by the court.

The OR operates two contracting-out schemes for administration of bankruptcy or compulsory winding-up cases. The first scheme is for contracting out through a tender system debtor petition summary bankruptcy cases with estimated assets of not more than \$200,000. The other scheme is for contracting out also through a tender system summary compulsory winding-up cases with estimated realisable assets of not more than \$200,000.

The OR also takes proceedings under Part IVA of the Companies (Winding Up and Miscellaneous Provisions) Ordinance to apply to court for orders against directors of insolvent companies with unfit conduct to disqualify them from being the director of a company. In 2022/2023, a total of 16 disqualification orders were issued by the court.

Efficiency Improvement and Future Development: The Official Receiver's Office has pledged to provide in Hong Kong a high quality insolvency service on par with international standards. The objectives are to keep Hong Kong to the forefront as a major international financial centre and to ensure that the best possible services are provided to the public in an open and accountable manner in accordance with the performance standards and targets set.

Booklets containing the performance pledges of the Official Receiver's Office and information on bankruptcy, compulsory winding-up of companies and Individual Voluntary Arrangement are available to the public free of charge. There is also a Services Advisory Committee, comprising

representatives of major users of the department's services. Its main function is to provide customer input and suggest improvements to the department's services.

The Official Receiver's Office utilises two major computer systems to assist in its management and data handling. The first is the Insolvency Estates Funds and Accounting System, which provides facility for case management activities and the accounting of estate funds and funds management through the production of enhanced reports and the fast retrieval of financial information; and the other is the Official Receiver's Office Management Information System (ORMIS) which provides accurate and timely insolvency statistics and supports a bilingual public search facility. Since October 2002, on-line search for bankruptcy and compulsory winding-up information can be conducted over the Internet 24 hours a day. The Official Receiver's Office also developed a sub-system in ORMIS for handling the workflow of in-house bankruptcy cases, and launched a pilot business intelligence system for provision of an effective tool to retrieve information and compile reports, statistics and statistical diagrams for business use.

The Official Receiver's Office has continued to enhance its electronic services provided to the public. In 2022/2023, the Official Receiver's Office rolled out a new electronic service to send email reminder to applicants who have booked attestation services for better user experience, and adopted the Faster Payment System as an additional payment means for online services. The Official Receiver's Office is also developing an Electronic Submission System to accept submissions of documents in electronic form and to conduct transaction electronically with a view to enhancing its public services and overall efficiency.

Improvement of Insolvency Law: The Government has conducted a comprehensive review of the corporate insolvency provisions under the Companies (Winding Up and Miscellaneous Provisions) Ordinance and the Companies (Winding Up and Miscellaneous Provisions) (Amendment) Ordinance 2016 came into operation in February 2017. The amendment ordinance aims to increase protection of creditors, streamline the winding-up process and strengthen regulation under the winding-up regime. The Government has also amended the Bankruptcy Ordinance and Companies (Winding up and Miscellaneous Provisions) Ordinance to implement an Electronic Submission System for the Official Receiver's Office, and streamlined the publication requirements for various notices and facilitated the sending of proxies by electronic means. The Bankruptcy and Companies Legislation (Miscellaneous Amendments) Ordinance 2023 commences its operation by parts. Provisions on Phase 1 of the Electronic Submission System and the publication provisions came into operation in December 2023.