

## **Overview: Companies (Winding Up and Miscellaneous Provisions) (Amendment) Bill 2015**

### **I. Background**

- (1) The Government launched a public consultation on the legislative proposals in 2013 after conducting a comprehensive review of the relevant provisions in the Companies (Winding Up and Miscellaneous Provisions) Ordinance. The consultation conclusions were published in 2014.
- (2) The Bill aims to improve and modernize Hong Kong's winding up regime. The policy objectives of the Bill are to increase protection of creditors, streamline the winding up process and further enhance the integrity of the winding up process.
- (3) In parallel, the Government is developing detailed proposals in introducing a new statutory corporate rescue procedure and insolvent trading provisions for Hong Kong. The Government's target is to introduce the relevant amendment bill into the Legislative Council in 2017/18.

### **II. Key features of the Bill**

- (1) Increasing protection for investors —
  - e.g. the court may set aside transactions at an undervalue entered into by a company within five years before the commencement of its winding-up, where the company received no consideration or a consideration which is significantly less than the value of the subject of the transaction at the relevant time. This will increase the pool of property of an insolvent company which would be available for distribution to its creditors (including employees, suppliers and contractors)
- (2) Further enhancing the integrity of the winding-up process —
  - e.g. a new disclosure requirement for prospective provisional liquidators and prospective liquidators to disclose specified relationships between him/her and their immediate family members and the company being wound up. This will enhance transparency of the appointment process and will ensure that relevant parties make appointment decisions in an informed manner
  - e.g. aggrieved parties may apply to the court for an order to enforce liabilities arising from the liquidator's misfeasance or breach of duty or trust, notwithstanding that the liquidator has obtained a court order releasing him/her as liquidator after completion of the relevant winding-up case
- (3) there will be more court-free procedures which will save time and costs for administering winding-up cases.