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18 July 2002

Companies Registry External Circular No 2/2002

Prosecutions of Filing Offences under the Companies Ordinance

Companies Registry External Circular No 6/97 issued on 1 December 1997 announced, inter alia, a new prosecution policy which was implemented on 1 April 1998 regarding the directors of companies which fail to file annual returns in accordance with section 107 of the Companies Ordinance. In prosecuting company directors for breaches of section 107 and other reporting requirements under the Companies Ordinance, the Companies Registry implemented a procedure which involved the sending of a series of warning letters to approximately 75,000 defaulting companies each month and to each of their directors.

2. Whilst the compliance rate regarding the filing of annual returns has improved as a result of the prosecution policy announced by the above circular, the improvement achieved has been disproportionate to the time consuming procedures and level of resources involved. The Companies Registry has accordingly decided to review its prosecution policy procedures with a view to making them less labour intensive and to reduce the amount of paper and storage space required.

3. In addition to the obligation of all companies to prepare and file annual returns pursuant to section 107 of the Companies Ordinance, the Companies Ordinance contains many other summary and indictable offences, the majority of which are in respect of filing obligations. Reporting obligations are also imposed by the Ordinance on, inter-alia, liquidators, receivers and mortgagees. The Companies Registry also regularly prosecutes breaches of many of these offences and will continue to do so in the future in order to maintain the integrity of the information of the register.

4. In view of the above, with effect from 1 August 2002, the Companies Registry will no longer routinely issue warning letters to companies and their officers which fail to file their annual returns or to comply with other reporting obligations under the Companies Ordinance within the appropriate statutory time limit. The Companies Registry will continue to prosecute companies, regardless of classification, which are in breach of their filing obligations or which have filed relevant documents beyond the statutory time limit.

5. In particular, all **public** listed companies which fail to comply with their reporting obligations under the Companies Ordinance within the statutory time limit will be prosecuted without delay. A higher standard of corporate governance and compliance with the statutory reporting requirements is expected from such companies, given their particular status, in order to provide the general public with access to up-to-date corporate information.

6. Any enquiries concerning this circular may be directed to Ms Rosanna Cheung, Assistant Registry Manager (Customer Services) at telephone number 2867 4570.

G W E JONES
Registrar of Companies

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