



## OFFICIAL RECEIVER'S OFFICE

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3 March 2014

### OFFICIAL RECEIVER'S OFFICE CIRCULAR NO. 2/2014

#### **Pool Investment Scheme – Deposits under section 295 and Transfer of Funds under sections 202 and 285 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32)**

This circular serves to set out the existing operations of the Pool Investment Scheme (the Scheme) of the Official Receiver's Office (the ORO) and procedures for the transfer of funds between Liquidators/ Special Managers and the ORO's Companies Liquidation Account (CLA) under section 202 and section 285 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) ("Cap. 32") (formerly titled as the Companies Ordinance (Cap. 32) before 3 March 2014).

#### **Pool Investment Scheme**

2. Since March 1988, the Scheme has been operated by the ORO to invest funds in bank deposits under section 295 of Cap. 32. The Scheme is restricted to investment of cash balances ranging from HK\$100,000 to HK\$20 million per each estate (i.e. company in liquidation).
3. Where the cash balance standing to the credit of any estate is below HK\$100,000, the investment of such balances will continue to be made under section 294 of Cap. 32, i.e. under the name of the Official Receiver and all interest earned thereto will accrue to the Government of the Hong Kong Special Administrative Region.
4. Individual estates with cash balances in excess of HK\$100,000 have the following options:
  - (i) invest the entire amount on an individual estate basis, i.e. invest separately from the Scheme, and such investments will continue to be arranged according to instructions given by the liquidators concerned (for operational convenience, normally only amounts of over HK\$1 million will be accepted for separate investments); or
  - (ii) invest any amount from HK\$100,000 to HK\$20 million under the Scheme with the remaining amount being invested separately on an individual estate basis. Estate balances will be allowed to remain as part of the pool investment so long as the total amount, i.e. principal deposit and the interest thereon, does not

CORRESPONDENCE SHOULD BE ADDRESSED TO THE OFFICIAL RECEIVER AND NOT TO INDIVIDUAL OFFICERS.

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exceed HK\$21 million. When the principal amount invested in the Scheme together with the accrued interest thereon exceeds the HK\$21 million ceiling, the excess funds will be withdrawn from the Scheme and invested separately.

5. The basic mechanism of the Scheme is that funds of the various estates are pooled together and invested collectively. Funds belonging to individual estates, therefore, lose their unique identity once they join the Scheme. The fixed deposits are so arranged that, in general, one 12-months' deposit matures every week and at least one daily/weekly/monthly deposit matures every day to meet possible cash withdrawal requirements. The schedule can be rearranged when necessary.

6. Interest earned from all deposits in the Scheme is apportioned to the various estates in proportion to the respective daily balances of funds invested under the Scheme. Interest is credited to estate every day with all adjustments to estate balances being handled by the computer system.

7. The various advantages of the Scheme are summarised as follows:

- (i) most of the funds can be placed in relatively longer-term fixed deposits (mainly for 12 months) and, as a consequence, are able to earn higher interest rates;
- (ii) notwithstanding (i) above, ready cash is available at short notice to meet payment obligations and, as a result, the Scheme makes it easier for liquidators to meet urgent cash demands;
- (iii) it is not necessary to wait for deposit(s) of a particular estate to mature before funds become available for effecting payments, nor is it necessary for each estate to place funds on short-term deposit in anticipation of payment; and
- (iv) each estate is able to maximise its interest returns, particularly smaller estates, because it is expected that higher deposit interest rates would be offered by banks for placing a single larger amount of deposit than various smaller deposits.

8. Liquidators/Special Managers of estates wishing to participate in the Scheme or rearrange funds into the Scheme can make written request to the ORO (for the attention of the relevant Case Insolvency Officer), specifying the amount of investment. When funds are required from the Scheme, Liquidators/Special Managers are also requested to inform the ORO (for the attention of the relevant Case Insolvency Officer) by letter.

### **Transfer of Funds**

9. The followings set out the arrangements for the transfer of funds between Liquidators/Special Managers and the ORO's CLA under section 202 and section 285 of Cap. 32.

Transfers from Liquidators/Special Managers to CLA

10. Liquidators/Special Managers are requested to fax the following to the ORO (for the attention of the relevant Case Insolvency Officer) before the day of transfer:

- (i) a letter notifying staff of the ORO:
  - (a) winding-up no. and name of the company in liquidation;
  - (b) amount and nature of transfer;
  - (c) date of transfer; and
  - (d) investment instruction on the amount to be transferred (if applicable).
- (ii) the proof of transfer e.g. a copy of the letter of transfer etc. sent to bank.

11. The original of the letter should also be sent by post or by hand as usual. At the request of Liquidators/Special Managers, ORO Case Insolvency Officer will coordinate the acknowledge receipt of the payment upon confirmation with bank.

Transfers from CLA to Liquidators/Special Managers

12. Letters duly signed by the Liquidators/Special Managers should be faxed to the ORO (for the attention of the relevant Case Insolvency Officer) with the following details:

- (a) winding-up no. and name of the company in liquidation;
- (b) amount required and reason;
- (c) intended date of withdrawal;
- (d) bank name, account name and no. of the company in liquidation;
- (e) further investment actions in respect of any remaining funds held by the Official Receiver; and
- (f) fax no. of the Liquidator/Special Manager.

13. The original of the letter should also be sent to the ORO (for the attention of the relevant Case Insolvency Officer) as this will continue to be the official authorisation for effecting the transfer of funds to the Liquidators/Special Managers. The ORO will in turn issue a letter of transfer to the ORO's CLA bank and fax a copy to the Liquidators/Special Managers.

14. The ORO pledges to process written fund withdrawal requests by the due dates, provided the following specified notification periods are followed. In order to allow sufficient time for the ORO to arrange the transfer without the need to uplift a fixed deposit

prematurely, liquidators/special managers should observe the following timetable:

Type of Investment	Number of working days* for processing withdrawal request upon receiving the request and after Case Insolvency Officer has given the approval for withdrawal
(a) <u>Pool Investment Scheme</u> amount to be withdrawn below HK\$10 million	3 working days
amount to be withdrawn from HK\$10 million to less than HK\$15 million	5 working days
amount to be withdrawn of HK\$15 million or above	10 working days
(b) Funds invested separately on an individual estate basis	2 working days before maturity of fixed deposit
* Excluding Saturdays	

15. Official Receiver's Office Circular Memorandum No. 3/99 dated 31 August 1999 is cancelled and is superseded by this circular with immediate effect.

  
( Ms Teresa Wong )  
Official Receiver

To all insolvency practitioners  
via (1) The Hong Kong Institute of Certified Public Accountants  
(2) The Hong Kong Institute of Chartered Secretaries  
(3) The Law Society of Hong Kong