



Dear Assignment / News / Business Section Editor

Hong Kong CPAs say global financial crisis highlights the urgency of adopting corporate rescue measures

Proposals include protection from creditor action, partial payments for employees

(Hong Kong, 9 February 2010) – The Hong Kong Institute of CPAs submitted to the government corporate rescue proposals for a more flexible grace period for troubled companies to deal with their creditors and partial upfront payments to employees to boost the chances for a turnaround.

The Institute is going along with the government's recommended minimum grace period, known as a moratorium, of 45 days, which would put Hong Kong's on par with regional peers – 40 days in Australia and 60 days in Singapore. However, the Institute says the government's proposed maximum grace period of 12 months should have the flexibility to be extended for very complex cases, with the agreement of creditors and the court's approval.

The Institute is proposing partial upfront payment to employees, reasoning that realistically, troubled companies can't compensate workers in full before a rescue proposal has been put in place. The remainder of any entitlements would have to be paid off within 12 months of a proposal taking effect. The Institute also recommends that other sources of funding for employee payment be explored, in particular the Protection of Wages on Insolvency Fund, on the basis that, if a company could not be saved, it would be wound up with employees claiming from the PWIF.

"The global financial crisis has highlighted a need for Hong Kong to introduce practical corporate rescue procedures to nurse companies back to health or to return assets to creditors," says Johnson Kong, chair of the Institute's restructuring and insolvency faculty. "An extended moratorium and practical funding arrangements for employees' entitlements will benefit all parties in the long run, by increasing the likelihood of companies, or their major assets being saved, and giving employees greater certainty. It would also put Hong Kong on par with its peers."

Protecting the "company doctor"

The Institute agrees with the government's recommendations that, in the absence of licensing for insolvency practitioners, certified public accountants and solicitors with suitable experience should be the main parties to act as provisional supervisors, and be the decision-makers in charge of the corporate rescue process. According to the Institute, one major hurdle would be the burden of personal liability on provisional supervisors because excessive liability could discourage insolvency specialists from taking on difficult corporate rescue assignments.

“We need to make sure that those who engage in the extremely challenging task of saving companies do not end up being held solely responsible when it doesn’t work out,” explains Kong. “Sometimes with the best will and skill in the world the patient doesn’t pull through. You cannot hold the doctor responsible when he is not at fault.”

Timing is of the essence

The government proposals concerning insolvent trading are aimed at encouraging directors to seek rescue in the early stages of financial problems. The Institute sees this as vital in the overall statutory framework for company rescue. In its proposal, the Institute adds that early intervention makes a successful rescue more feasible and reduces the risk of bringing down other businesses such as trading partners.

According to Kong, “As the financial crisis demonstrated, timing is crucial in the survival of certain companies. If some of them had acted earlier, they might still be around today.”

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Note to editor

About the Hong Kong Institute of CPAs

The Hong Kong Institute of CPAs is the only body authorized by law to register and grant practising certificates to Certified Public Accountants in Hong Kong. The Institute has more than 29,000 members and 13,000 registered students. Members of the Institute are entitled to the description *certified public accountant* and to the designatory letters *CPA*.

The Hong Kong Institute of CPAs evolved from the Hong Kong Society of Accountants, which was established on 1 January 1973.

The Institute operates under the Professional Accountants Ordinance and works in the public interest. The Institute has wide-ranging responsibilities, including assuring the quality of entry into the profession through its postgraduate Qualification Programme and promulgating financial reporting, auditing and ethical standards in Hong Kong. The Institute has responsibility for regulating and promoting efficient accounting practices in Hong Kong to safeguard its leadership as an international financial centre.

The Hong Kong Institute of CPAs is a member of The Global Accounting Alliance - an alliance of the world’s leading professional accountancy bodies, which was formed in 2005. The GAA promotes quality services, collaborates on important international issues and works with national regulators, governments and stakeholders.

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