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RIF Executive Committee (RIFEC) 2020

Despite the present circumstances, your **2020 RIFEC** has been working hard on providing updates and information, and arranging events, for RIF members (see below) since taking office. RIFEC currently comprises the following elected (e), council appointed (a) and co-opted (c) members:

- Terry Kan (Chairman)(Shinewing Specialist Advisory Services)(a)
- Kenneth Yeo (Deputy Chairman)(BDO)(e)
- Alan Au (Unicorn Corporate Secretarial)(a)
- Anita So (EY)(e)
- Chris Chin (PwC)(e)
- Daniel Chow (FTI Consulting)(e)
- David James Bennett (Grant Thornton)(e)
- Frank Yuen (Frank Recovery)(e)
- Galaxy Chan (Duff and Phelps)(e)
- Howard Lam (Latham & Watkins)(e)
- Kenny Tam (Kenny Tam & Co)(c)
- Lawrence Chan (Wilkinson & Grist)(c)
- Ludwig Ng (ONC Lawyers)(e)
- Ron Chan (Bank of China (Hong Kong))(a)
- Rosalie Lui (KPMG)(e)
- Tiffany Wong (Alvarez & Marsal)(c)

Guidance on “How to manage financial distress” issued by the RIFEC

Against the background of the difficult economic environment around the world brought about by the COVID-19 pandemic, the RIFEC discussed how to increase awareness of sources of information and advice, as well as possible pitfalls for companies and individuals facing financial distress. It was decided to produce a quick guidance, “How to manage financial distress”, which was published in March and posted on the website, in English and Chinese versions. A [press release](#) was issued and the story was covered by several news outlets. In addition, Institute President Johnson Kong gave an interview to Commercial Radio. The RIFEC hopes that this guidance can help businesses and individuals when dealing with financial difficulties by providing key information and advice to them.

To view the guidance, please visit:

http://app1.hkicpa.org.hk/correspondence/communication/2020/03-24/RIF_Advice.pdf (in English)

http://app1.hkicpa.org.hk/correspondence/communication/2020/03-24/RIF_Advice_c.pdf (in Chinese)

Review of limits on payments under the Protection of Wages in Insolvency Fund (“PWIF”)

The president issued a [letter](#) to Secretary for Labour and Welfare Dr. Law Chi Kwong, urging a review of the limits on payments for wages in arrears and wage in lieu of notice. The ceilings on these two categories of payment have not been reviewed for over 20 years and, in the current economic situation, where an increasing number of insolvencies seems inevitable, more employees are likely to have to rely on payments from the PWIF for outstanding entitlements.

Revised Liquidation and Insolvency Guidance Notes

The existing Insolvency Guidance Notes (see [Volume I of the Institute’s Members’ Handbook, Statements 1.600-1.603](#)) represented the first guidance issued by the Institute in this area of specialisation and the first coordinated good practice guidelines on insolvency issued in Hong Kong. As they were issued a number of years ago, some updating has been required to take account of e.g., changes in references arising from the introduction of the new Companies Ordinance (Cap. 622) and the retention of many of the provisions relating to corporate insolvency in what is now the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) (“CWUMPO”).

The RIFEC has updated and refined the guidance notes, now called Liquidation and Insolvency Guidance Notes (“LIGNs”). The scope remains the same as the existing guidance notes and covers the following:

[LIGN \(1\) – Scope](#)

[LIGN \(2\) – An insolvency practitioner’s investigation into the affairs of an insolvent company](#)

[LIGN \(3\) – Preparation of insolvency practitioner’s receipts and payments accounts](#)

[LIGN \(4\) – Disqualification of directors – statutory reports](#)

Insolvency practitioners should read the updated LIGNs, alongside the existing Section 500 of the Code of Ethics for Professional Accountants, i.e., the statement of [Professional Ethics in Liquidation and Insolvency](#). Together they aim to encourage the maintenance of high standards of practice within the insolvency sector.

It is intended that the revised LIGNs will take effect in relation to members of the Institute who conduct insolvency work, [in July 2020](#). In the meanwhile, if you have any comments on them, please submit these by email to rif@hkicpa.org.hk by **Monday 22 June 2020**.

Notes for the meeting between the ORO and the RIFEC on 10 September 2019

The RIFEC held a technical/ liaison meeting with the Official Receiver’s Office (“ORO”) in September 2019 in which a number of administrative matters of common interest were discussed. Please refer to the previously circulated [notes of the meeting](#) for details.

ORO’s Circular No.1/2020 and letter regarding impact of COVID-19 pandemic

Following discussions at the meeting with RIFEC representatives, referred to above, the Official Receiver (“OR”) agreed to raise the ceiling on funds that may be held in a liquidation account without further authorisation by the OR, from HK\$15,000 to HK\$30,000. The ORO has since issued [Circular No. 1/2020](#), which took effect on 2 March 2020, superseding [Circular No. 7/2017](#).

The ORO also issued a [letter](#) on 14 April aimed at officeholders, which, among other things, advises on actions that should be taken where officeholders may face difficulty in complying with specified timelines or other requirements, due to the impact of the COVID-19 pandemic. The ORO is also encouraging provisional trustees and trustees to exercise their professional judgment in the use of flexibility in administering cases.

Meetings of creditors/ contributories under the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G)

The current measures under the above-referenced [Regulation](#) prohibit any group gathering of more than 8 persons in any public place during a specified period. Most recently the restrictions were extended from 22 May to 4 June 2020. However, group gatherings during certain types of meetings are generally exempted, under item 11 of Schedule 1, namely:

Group gathering during any of the following meetings at which no food or drink is served and, in the case of a group gathering of more than 50 persons, measures are in place for separating them in different rooms or partitioned areas, each accommodating not more than 50 persons—

- (a) *a meeting of a body that must be held within a specified period in order to comply with any Ordinance or other regulatory instrument that governs the operation of the body or its business;*
- (b) *a shareholders' meeting of a company listed on a recognised stock market (as defined by section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap. 571)) that is held in accordance with any Ordinance or other regulatory instrument that governs the operation of the company or its business*

There are requirements for certain resolutions to be passed at meetings of creditors and/ or contributories and it may be necessary or desirable for a physical meeting to be held in some cases. The same applies to meetings of committees of inspection (“COIs”). Therefore, RIFEC recently asked the position of the OR on whether such meetings are exempted.

The OR considers that item 11(a) of Schedule 1 of the Regulation will not cover all meetings of creditors or COIs, but it will cover those that are mandatory and must be held within a specific time under legislation; for example, meetings of creditors and contributories required to be held under section 194(1)(b) of CWUMPO and Rule 106 of Companies (Winding-Up) Rules (Cap. 32H). The OR, however, indicated that each situation would need to be considered by reference to the specific statutory requirements.

HKMA's Consultation Paper on Rules on Contractual Stays on Termination Rights in Financial Contracts for Authorised Institutions

The Hong Kong Monetary Authority (“HKMA”) issued a [consultation paper](#) on 22 January 2020 to seek views on proposed rules to be made under the Financial Institutions (Resolution) Ordinance (Cap. 628) on contractual stays on termination rights in financial contracts for authorised institutions.

The RIFEC issued a [submission](#) in response to the consultation on 20 March 2020.



Professional development and networking events

Before the outbreak of COVID-19, the RIF held a series of well-attended and popular events, including joint seminars with the Forensics Interest Group, on a range of topics, including recent developments in the life of a liquidation; corporate fraud enforcement work and lessons learnt; a regional insolvency and restructuring update; and antecedent transactions: onshore and offshore updates.

Due to the ongoing COVID-19 pandemic, the RIF has started to provide seminars by way of webinars/ e-seminars to continue to support the professional development needs of insolvency practitioners. The RIF's first-ever webinar, on asset tracing, from an insolvency perspective, was held on 24 April and was well received.

Next RIF event

Recent developments on cross-border insolvency assistance, schemes of arrangement and the interaction between arbitration and insolvency

Join the coming [lunch webinar on 1 June](#), at which our distinguished speaker, Mr. Look-Chan Ho, barrister of Des Voeux Chambers, will talk on the recent developments of cross-border insolvency assistance, schemes of arrangement and the interaction between arbitration and insolvency, making reference to actual case studies.

RIF Cocktail 2019

In the days before social distancing was heard of, around 140 members and guests attended the annual cocktail reception, one of the RIF's more lively networking events, which was held at the Hong Kong Bankers Club on 17 October 2019. The INSOL president, vice president, and new regional head of Asia, among other prominent guests, and a good number of RIF members joined the cocktail. Guest of honour, the Honourable Mr. Justice Jonathan Harris, gave a brief address. Click [here](#) for photos taken at the event. RIFEC is tentatively discussing plans for the 2020 cocktail, which we still hope to be able to hold later in the year. We are monitoring the situation. Watch this space for further announcements.

Have an idea for an event or a speaker? Please email rif@hkipa.org.hk

News and articles

- [Business expectations for second quarter of 2020](#) from the Census and Statistics Department
- [COVID-19 SPECIAL: For companies on the brink of insolvency, what directors should and should not do to avoid personal liability](#) by ONC Lawyers
- [D&O insurance: changes to UK Insolvency Law in response to COVID-19](#) by CMS Law-Now
- [UK Government introduces corporate and insolvency bill](#) from Gov.UK
- [COVID-19 Insolvency: APAC Guide to Directors' Duties and Insolvent Trading](#) by Clyde & Co
- [Singapore Court of Appeal introduces a lower standard of review for debtors defending a disputed debt that is subject to an arbitration agreement](#) by Herbert Smith Freehills
- [Is minority discount applicable for a minority shareholding in a non-quasi-partnership company? Valuable lights shed by Singapore Court](#) by ONC Lawyers
- [Guide to super priority rescue financing in Singapore](#) by DHC Capital
- [COVID-19 – top China court puts restructuring to the fore in key corporate insolvency rulings](#) by Hogan Lovells
- Regular, international, insolvency news is available on the [Global Insolvency](#) website, provided by the American Bankruptcy Institute. Sign up for daily alerts.

(N.B. Inclusion of the above articles should not be taken as implying endorsement by the Institute of any views contained in the articles, or of any businesses or products that may be advertised in, or alongside, them)





Members share their experience

The Editorial Sub-committee welcomes RIF members and their firms to share their views on current insolvency and restructuring topics and issues.



INSOL International updates

- INSOL and the World Bank Group have issued a compilation of global information on measures adopted to support distressed businesses in the COVID-19 crisis recently. Please refer to <https://email.insol.org/4WAM-BSQV-19L6YI-900WF-1/c.aspx> for details.
- INSOL has initiated a series of “Quick Takes” webinars, the first of which, held on 5 May 2020, looked at [the response to COVID-19 in Australia and Singapore](#). Another webinar held on 19 May looked at [the response in Germany and Spain](#).
- Photographs and videos, as well as information about coming events and new publications, can be found on [INSOL's website](#).

Government support via the Anti-Epidemic Fund

- The Hong Kong SAR Government has launched three rounds of measures to assist affected industries and the public via anti-epidemic fund, For details, please refer to <https://www.coronavirus.gov.hk/eng/anti-epidemic-fund.html>

Do you have news or personnel updates that may be of interest to RIF members, or have you just set up a new firm in the insolvency field? Please email rif@hkcipa.org.hk

Quick links:

- [The Institute's website](#)
- [RIF webpage](#)
- [Past issues of *The IP's Voice*](#)
- [INSOL International](#)

Contact us

Technical assistance on this transmission: Contact the IT support team at 2287 7800 or itsupport@hkcipa.org.hk

Enquiries about the newsletter: Email rif@hkcipa.org.hk

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