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RIF Executive Committee (RIFEC) 2022

Since taking office, your **2022 RIFEC** has continued to keep RIF members up to date with developments in the insolvency field and to arrange a series of events (see below). RIFEC 2022 currently comprises the following elected (e), council appointed (a) and co-opted (c) members:

- Kenneth YEO (Chairman)(BDO)(a)
- Daniel CHOW (Deputy Chairman)(FTI Consulting)(e)
- Alan AU (Unicorn Corporate Secretarial)(a)
- Annie CHAN (Annie Chan & Associates)(e)
- Ron CHAN (Bank of China (HK))(c)
- Jet CHU (Alvarez & Marsal)(e)
- Shaun FOLPP (Campbells)(e)
- Sunny HATHIRAMANI (Tanner De Witt)(e)
- Glen HO (Deloitte)(e)
- Eric LEE (CNCB (Hong Kong) Investment)(c)
- Rosalie LUI (KPMG)(e)
- Ludwig NG (ONC Lawyers)(e)
- Anita SO (EY)(e)
- Kenny TAM (Kenny Tam & Co)(e)
- Alexander TANG (Stephenson Harwood)(e)
- Denny TSE (Grant Thornton)(e)

Notes of the meeting between the Official Receiver's Office (ORO) and RIFEC on 10 December 2021

RIFEC representatives held a technical/ liaison meeting with the ORO in December 2021 (2021 Meeting). A number of administrative matters of common interest were discussed. Please refer to the [Notes of the meeting](#) for details.

We will keep RIF members posted of future meetings and any further updates. If members have any issues of general concern arising from the minutes or matters that they would like to include on the agenda of a future meeting, please let us know at rif@hkicpa.org.hk.

ORO's consultation on security requirements for appointment of liquidators and trustees in bankruptcy

The OR issued a [letter](#) to the Institute in September 2021, inviting the views of insolvency practitioners (IPs) on proposals for the security requirements for appointment of liquidators or trustees in bankruptcy. RIFEC submitted a [response](#) in October 2021, requesting the OR to consider relaxing the security requirements and making certain other suggestions.

These suggestions were discussed further in the 2021 Meeting. Following on from the discussion, the ORO issued a **letter** on 25 March seeking views on the OR's proposed basis for estimating the value of the realizable assets commonly found in bankruptcy and compulsory winding-up cases, in order to determine the required amount of security (in the form of a bond or bank guarantee) for officeholders.

RIFEC and its Technical Subcommittee submitted a **response** to the ORO in April. In general, RIFEC considered that the proposed basis of the estimated realizable assets (e.g. book values) would, in practice, be likely to overestimate the realizable value of the assets in many cases, and so also the level of security required. RIFEC hoped to achieve a more pragmatic and collaborative approach.

Implications of Temporary Unemployment Relief Scheme for (provisional) trustees under the Bankruptcy Ordinance (Cap.6)

The ORO issued a **letter** to the Institute for the attention of members who are IPs and appointment takers (ATs), acting as the joint and several provisional trustees/ trustees under the Bankruptcy Ordinance (Cap. 6).

The letter advises on factors that should be considered in determining whether or not it would be appropriate to lay claim to the one-off subsidy of HK\$10,000 received by an undischarged bankrupt from the government's Temporary Unemployment Relief Scheme, as after-acquired property. It reminds officeholders that they should not apply an across-the-board decision to all cases and should, in particular, take note of the provisions of section 43A(2) of Cap. 6 in relation to property necessary for satisfying the basic domestic needs of bankrupts and their families. Officeholders are encouraged to exercise their professional judgement and use flexibility and discretion when assessing these domestic needs and considering whether to lay claim to after-acquired property during the pandemic.

Review of "Panel A" Scheme Rules

The OR is currently reviewing the **"Panel A" Scheme Rules**, which was also discussed in the 2021 Meeting. Draft revised rules were sent to the Institute in April and RIFEC responded in May. Among the main changes proposed are more specific powers for the OR and the Panel A Admission Committee to deal with AT/ IP conduct issues. In this connection, there are also requirements under revised undertakings for Panel A firms, ATs or IPs to notify the OR about certain court findings or proceedings, or disciplinary proceedings, against the firm or individuals, within a certain timeframe. It is also proposed to dispense with the asset threshold of HK\$200,000 for classification as "non-summary cases" and provision is made for appointments to be made under a regulating order. It is made clear that certain eligibility requirements for admission to Panel A remain ongoing requirements. A number of other changes are proposed to improve clarity.

In its response, RIFEC sought to retain the HK\$200,000 threshold, on the basis that a minimum amount of estimated assets should still be the main criterion for allocating cases to Panel A, which was originally set up as mean of allocating more remunerative cases to private sector IPs. Meanwhile smaller cases, which may have limited or no assets, were originally to be contracted out through "Panel B", and now the tender scheme. On the matter of "fit and proper persons" requirements, while it is understood that the OR needs clear authority under the rules to address conduct issues, the response raises some questions and makes suggestions on the details of the proposed rule changes in this area. The RIFEC is also seeking additional clarification on certain areas of potential ambiguity.

We will keep RIF members informed of further developments.



Professional Development Events

The RIF has continued to hold a series of popular webinars on a range of topics. The recent event held on 22 April, *Corporate Misconduct and Fraud – SFC's Latest Enforcement Trends and Investigation Approaches*, presented by Mr. Kenneth Luk and Ms. Denise Yip, senior director and associate director, respectively, of the Enforcement Division of the Securities and Futures Commission, was well received.

Coming RIF events

Economic Outlook for 2022

At this event, Mr. Banny Lam, managing director and head of research, China Everbright Bank International Investment Corporate Limited, will share with us the following:-

- Economic outlook for 2022
- Progress of the global recovery
- Challenges for Mainland and Hong Kong in the near future

The event will be held on 25 May.

First Recognition Order under the Pilot Arrangement for Mutual Recognition and Assistance in Insolvency Proceedings between Hong Kong and the Mainland (Cooperation Mechanism)

Next month's RIF lunch webinar will be held on 28 June. At this event, Mr. Glen Ho and his colleagues from Deloitte China will provide a brief summary of the Cooperation Mechanism, and share their practical experience of the process, from preparing the application to the HKSAR Court to obtaining the first recognition order from the Mainland court. The event will be opened for enrolment soon.

Do you have a good idea for an event or a speaker? Please email rif@hkicpa.org.hk

Bond Defaults and Recovery in China

As some members may be aware, S&P Global Ratings ran an informative webinar on the above topic and have kindly let us distribute the [webinar replay](#) to RIF members. The webinar covered S&P's China bond default and recovery study. Key discussion points included:

- Have defaults peaked in China?
- Do the country's bankruptcy courts work?
- How much can offshore bond holders recover?
- How much can onshore bond holders recover?
- Do recovery rates differ by resolution means?
- What types of compensation can investors expect?

News and articles

- [Business expectations for the second quarter of 2022](#) issued by the Census and Statistics Department of the HKSAR Government

ONC Lawyers



- **Hong Kong Court refused to stay proceedings commenced by creditors in Hong Kong despite recognition of Mainland insolvency proceedings**
- **Scope of a bank's Quincecare duty: Does it extend to protect the customer's creditors?**

Stephenson Harwood

- **Cross border insolvency - more applications by Hong Kong liquidators to seek recognition and assistance in Mainland China**
- **Cross border insolvency - second application by Hong Kong liquidators to seek recognition and assistance in Mainland China**
- **What Happened to China's Real Estate Developers?** by Kroll
- 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 RIF Member Services Sub-committee welcomes RIF members and their firms to share their views on current insolvency and restructuring topics and issues. Contributions and suggestions can be sent by email to rif@hkicpa.org.hk



INSOL International updates

Hong Kong Hybrid Seminar 2022

- INSOL International have announced that they will be running their first ever hybrid event out of Hong Kong, in association with the Institute. Save the date for the INSOL Hong Kong Hybrid Seminar scheduled to be held on 28 October, at the Four Seasons Hotel. Further details to follow. Keep up to date with INSOL's **programme of events**.
- Please refer to **INSOL's website** for the latest news, as well as information about coming events and new publications

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@hkicpa.org.hk

Quick links:

- [The Institute's website](#)
- [RIF webpage](#)
- [Past issues of *The IP's Voice*](#)
- [ORO's website](#)
- [Linkedin page of HKICPA RIF](#)

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

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