

RIF – The IP’s Voice

Restructuring and Insolvency Faculty
Hong Kong Institute of CPAs

Issue no. 38 (February 2023)

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RIF Executive Committee (RIFEC) 2023

RIFEC 2023 will continue to keep RIF members up to date with developments in the insolvency field and to arrange a series of events (see below). RIFEC 2023 currently comprises the following elected (e) and council appointed (a) 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)
- Jet CHU (Alvarez & Marsal)(e)
- Shaun FOLPP (Campbells)(e)
- Sunny HATHIRAMANI (Tanner De Witt)(e)
- Glen HO (Deloitte)(e)
- Kenny LI (Kroll)(e) (new member)
- Rosalie LUI (KPMG)(e)
- Ludwig NG (ONC Lawyers)(e)
- Kenny TAM (Kenny Tam & Co)(e)
- Alexander TANG (Stephenson Harwood)(e)
- Denny TSE (Grant Thornton)(e)

Up to two more members may be co-opted by RIFEC.

Latest Update of the New Inspection Regime of the Companies Register

As previously advised, RIF wrote to the Companies Registry (CR) with a view to facilitating an efficient and streamlined application process, as far as possible, under the new public inspection regime, in particular for insolvency officeholders, who will often have to make multiple connected searches at the same time (the need for which may emerge only after they make the first search).

Questions raised by the RIF and the CR’s responses are provided [here](#). CR advised that for individual cases of complexity that require further clarification, insolvency practitioners (IPs) can contact Mr. Terence MOK, Assistant Registry Manager, CR, direct at 2867 1466/ terencemok@cr.gov.hk for assistance.

Official Receiver’s Office Circular No. 1/2022 - Abuse of Bankruptcy Process

The Official Receiver’s Office (ORO) has issued a [circular](#) for the attention of members who are IPs.

The circular advises that the Official Receiver (OR) has observed certain debtors presenting petitions for their own bankruptcy (self-petitions) who have no intention to seek a bankruptcy order from the court; rather,

the aim is to achieve a de facto moratorium to facilitate negotiation with their creditors. As indicated in judgements by the Companies Judge, the Hon. Madam Justice Linda Chan, it is not the function of a self-petition to allow a debtor to achieve a moratorium with creditors, or to compel creditors to reduce or waive interest, which might constitute misrepresentation and abuse of process.

IPs are reminded that any petitions presented that do not comply with the relevant requirements, or amount to an abuse of process, are liable to be dismissed by the court with costs ordered against the IP. In case there is any question regarding this circular, please contact Mr. Michael Cheung, Chief Insolvency Officer (Compliance and Regulatory Section), ORO, at 2867 2515/ mpcheung@oro.gov.hk.

Latest Update of Review of “Panel A” Scheme Rules

The RIFEC provided views on the draft revised “Panel A” Scheme Rules (Rules) at the invitation of the ORO, in May 2022. The ORO subsequently responded to the RIF’s comments in August, in general, agreeing to take on board the majority of the RIF’s suggestions. However, one issue that remained outstanding was whether to make specific reference to the expected asset threshold of HK\$200,000 as one of the criteria for allocating cases. The RIFEC considered that it is important, although the ORO noted that it had not always been mentioned explicitly in previous versions of the Rules.

After further exchanges, in December 2022, the ORO agreed to retain reference to the HK\$200,000 threshold in the revised Rules, which will be made available in due course. We will keep RIF members informed of further developments.



Professional Development Events

The RIF resumed holding some face-to-face live seminars in October 2022. Two recent face-to-face seminars, *Cross-border Insolvency in a Crossroads* and *Operational Restructuring in Action*, held on 31 October 2022 and 23 December 2022 respectively, were well received.

Coming RIF event

Piercing the Offshore Financial Centre Veil: Accessing Information about BVI and Cayman Companies

In this seminar, the speakers from Forbes Hare (Hong Kong) LLP will explain what information is available with respect to British Virgin Islands (BVI) and Cayman Islands (Cayman) companies, and how to gain access to it. They will also discuss some of the uses to which the information can be put in subsequent asset recovery and enforcement proceedings. The **event** will be held on 28 February.

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

RIF Annual Cocktail 2022

With the support of the RIFEC and our sponsors, Alvarez and Marsal, BDO, Campbells and Tanner De Witt, the RIF Annual Cocktail in 2022 was held successfully at the China Club on 27 October 2022. Around 130 participants joined the event, including government officials, regulators, other guests and RIF members. Guest of honour, Madam Justice Chan gave a brief address on a cross-border insolvency theme. Click [here](#) for photos taken at the event.



News and articles

- **Business expectations for the first quarter of 2023** issued by the Census and Statistics Department of the HKSAR Government
- **Hong Kong Court of Appeal considers the effect of exclusive jurisdiction clause on bankruptcy proceedings** by Herbert Smith Freehills
- **Creditor Duty – the position after the Supreme Court decision in BTI v Sequana and Others** by Hogan Lovells
- **The new orientation: The first restructuring officers appointed in Cayman in Re Oriente Group** by Harneys
- **ONC Corporate Disputes and Insolvency Quarterly - December 2022 Issue** by ONC Lawyers
- **China property crisis: Beijing drafts 21-point plan to aid developers with financing, debt extensions** by South China Morning Post
- **Increase in number of UK businesses in “significant” financial distress** at TRI Strategy

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 Panel invites RIF members 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 hosted their first ever hybrid event in Hong Kong, in association with the Institute, at the Four Seasons Hotel on 28 October. Further details are provided on **INSOL's website** where you can keep up to date with INSOL's current **programme of events**.

About town

Do you have news or personnel updates that may be of interest to other RIF members, or have you just set up a new firm in the insolvency field? Please email rif@hkicpa.org.hk, so we can share the news with fellow IPs.

Quick links:

- [The Institute's website](#)
- [RIF webpage](#)
- [ORO's website](#)
- [Linkedin page of HKICPA RIF](#)

Contact us

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

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

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