

**Bills Committee
on Companies (Corporate Rescue) Bill**

**The Administration's Comments on the
Further Submissions provided by Five Organisations**

In response to the Bills Committee's requests, five organisations have provided further submissions on the Companies (Corporate Rescue) Bill.

Submission of 7 November 2001 from the Consumer Council

2. We do not consider it appropriate to prohibit a company in provisional supervision from issuing pre-paid coupons, nor to require the trust account arrangement to cover payment towards such coupons. In view of the Consumer Council's concern, we will consider if the company should be required to indicate clearly in every document, invoice and receipt issued by the company that it is in provisional supervision.

Submission of 7 November 2001 from CCIF Corporate Advisory Services Ltd

3. We note CCIF's comments on the trust account requirement. On the trust account requirement, we have submitted a new proposal to the Bills Committee. We also note CCIF's comments on the insolvent trading provisions. On these provisions, we have submitted a paper to the Bills Committee, setting out the target group of the provisions and the experience of Australia and the United Kingdom in the implementation of similar provisions.

Submission of 8 November 2001 from PricewaterhouseCoopers

4. The comments in this submission, which are similar to PricewaterhouseCoopers' previous comments, are mainly related to the trust account requirement. As mentioned in paragraph 3 above, we have submitted a new proposal on the trust account requirement to the Bills Committee.

Submission of 9 November 2001 from Hong Kong Society of Accountants

5. The comments in this submission are mostly related to the trust account requirement. As mentioned in paragraph 3 above, we have submitted a new proposal on the trust account requirement to the Bills Committee.

Submission of 12 November 2001 from Hong Kong Association of Banks

6. We consider it appropriate for the Companies (Corporate Rescue) Bill to deal with the treatment of employees' entitlements. We are not in favour of addressing the same in a separate piece of dedicated legislation, as suggested by the Hong Kong Association of Banks (HKAB). On the HKAB's comments relating to the trust account requirement, as mentioned in paragraph 3 above, we have submitted a new proposal on the trust account requirement to the Bills Committee.

7. As regards the HKAB's comments on the protection of rights of secured creditors under the Bill, we wish to reiterate that the Bill already provides that the rights of all secured creditors may not be affected by the voluntary arrangement except with their consent. If a proposal is not acceptable to a secured creditor, he may choose to opt out of the voluntary arrangement and rely on his own security. Moreover, the major secured creditor of a company may object to the provisional supervision of the company within 7 days from the date of commencement of the provisional supervision. If we were to allow the major secured creditor to act under powers conferred by the security immediately on the appointment of the provisional supervisor, this would defeat the purpose of initiating the provisional supervision. On the question of long-standing and well understood rights referred to by the HKAB, our view is that they need not be specifically stated in the Bill unless the Bill intends to change those rights (which is not the case).

**Financial Services Bureau
3 December 2001**

D:\data\general\cr bc comments on further submissions.doc