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財經事務及庫務局
財經事務科
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FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
THE TREASURY BUREAU
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本函檔號 OUR REF.: ORO/4/2C(2020) Pt.2
來函檔號 YOUR REF.: CB4/PAC/R74

1 June 2020
(By Email)

Mr Anthony Chu
Clerk to Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr Chu,

Public Accounts Committee
Consideration of Chapter 6 of the Director of Audit's Report No. 74
Management of insolvency services

Thank you for your letter dated 22 May 2020 regarding the Public Accounts Committee's consideration of Chapter 6 of the Director of Audit's Report No. 74. We herewith provide you the English response of the Secretary for Financial Services and the Treasury to the matters set out in Part (II) of the Appendix of your letter at Annex for the time being. We understand that the questions in Chinese will reach us shortly.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Te Chi-wang', written over a light grey circular stamp or watermark.

(Te Chi-wang)

for Secretary for Financial Services and the Treasury

c.c. Official Receiver (fax no.: 2869 0423)
Director of Audit (fax no.: 2583 9063)

**Public Accounts Committee (“PAC”)
Director of Audit’s Report No. 74
Chapter 6 Management of insolvency services**

**Responses of the Secretary for Financial Services and the Treasury
 (“SFST”) to matters set out in Part (II) of the Appendix
 to the letter of 22 May 2020 from the Clerk to PAC**

Part 4: Way forward

- 20) According to paragraph 4.6, in October 2015, when introducing the Companies (Winding Up and Miscellaneous Provisions) (Amendment) Bill 2015 into Legislative Council (“LegCo”), the Financial Services and the Treasury Bureau (“FSTB”) stated in the LegCo Brief that detailed proposals to introduce a new statutory corporate rescue procedure and insolvent trading provisions were being developed and the target was to introduce the relevant bill into LegCo in 2017-2018. However, up to January 2020, the relevant bill had not yet been introduced into LegCo. According to paragraph 4.13(a), the Government planned to finalize the bill for introduction into LegCo in the first half of the 2020-2021 legislative session. What were the latest developments?

SFST’s Response

The Government has been working on the legislative proposals to introduce a statutory corporate rescue procedure and insolvent trading provisions and preparing the bill in parallel with an iterative process of engagement with various groups of stakeholders. The drafting of the bill is now in an advanced stage. Given the complexity and technicalities of the bill, as well as the concerns expressed by various stakeholders in previous exercises, the Government is going to further engage stakeholders and discuss with them specific areas of concern in the next few months with a view to finalising the bill for introduction into LegCo in the 2020-21 legislative session.

- 21) **According to paragraph 4.9 and 4.13, FSTB and Official Receiver's Office (“ORO”) had not carried out the substantive legislative procedures on the introduction of domestic legislation relating to cross-border insolvency. Had FSTB and/or ORO formed any dedicated teams responsible for studying cross-border insolvency legislation? Had FSTB and ORO started relevant research or legislative drafting work in partnership with the Department of Justice?**

SFST and the OR’s Response

In FSTB, there is a division responsible for the policy and legislation relating to corporate insolvency. In the ORO, there is a dedicated team of lawyers dealing with legislative work. The two teams are jointly studying the feasibility of domestic legislation of cross-border insolvency (“CBI”), including engaging a consultant to identify the necessary modifications in adopting the UNCITRAL Model Law for domestic CBI legislation with regard to the relevant local circumstances. After studying the views of the consultant and stakeholders, FSTB and the ORO will consider how to take forward the domestic CBI legislation in consultation with relevant parties including the Department of Justice.

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