

L/M to DD/CF 3/602/2001

28 August 2001

Miss Salumi CHAN
Clerk to Bills Committee on
Companies (Corporate Rescue) Bill
Legislative Council Secretariat
3rd Floor, Citibank Tower
3 Garden Road
Central
Hong Kong

Dear

Companies (Corporate Rescue) Bill

On behalf of the Labour Advisory Board (LAB), I would like to convey to you our views on the Companies (Corporate Rescue) Bill which was introduced into the Legislative Council in May 2001.

We understand that the legislative proposals to introduce the corporate rescue procedures were originally part of the Companies (Amendment) Bill 2000 which was first introduced into the Legislative Council on 19 January 2000. The procedures require, inter alia, that a company should have a trust account, the exclusive purpose of which is to provide funds to pay all debts and liabilities owed by the company to its employees and former employees before the commencement of the corporate rescue process. These procedures have in fact taken into account the views expressed by the LAB on how employees' outstanding entitlements should be settled if a financially troubled company initiated corporate rescue procedures.

The then Bills Committee was generally supportive of corporate rescue procedures. However, some Members of the Committee were concerned that the Bill did not provide a flexibility to allow employees to trade in their claims for say, shares of the company. Accordingly, in late 2000, the Financial Services Bureau (FSB) prepared a further consultation paper to seek the views of LAB on a proposal to build in such a flexibility.

At its meeting on 15 December 2000, the LAB thoroughly deliberated on the proposals. It considered that the proposed flexible arrangements would in fact impair the interests of employees concerned, reduce the level of protection accorded to them under existing labour legislation and, furthermore, impose additional liabilities on the Protection of Wages on Insolvency Fund. The LAB, therefore, held that the original proposals as embodied in the Companies (Amendment) Bill 2000 should be maintained, i.e. the companies concerned should clear or set aside funds for clearing all outstanding wages and other entitlements owed to employees before the corporate rescue procedures commence.

We are glad to note that the LAB's views have been taken into account. The LAB supports the present provisions and, in particular, the spirit and concept of a corporate rescue scheme that could help financially troubled companies to turn around and continue operation after clearing all outstanding wages and other entitlements owed to employees.

Yours sincerely,

(Mrs Pamela TAN)
Chairman
Labour Advisory Board