



OFFICIAL RECEIVER'S OFFICE

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來函請註明本署檔號

IN REPLY PLEASE QUOTE THIS REF: T11/10 -MTSC/CR

來函檔號 YOUR REF:

電話 TEL. NO.: 2867 2515

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- (1) The Hong Kong Institute of Certified Public Accountants
- (2) The Hong Kong Institute of Chartered Secretaries
- (3) The Law Society of Hong Kong

14 April 2020

**Provisional Trustees/Trustees under the Bankruptcy Ordinance
and
Provisional Liquidators/Liquidators under the
Companies (Winding Up and Miscellaneous Provisions) Ordinance**

COVID-19 Pandemic

The Official Receiver's Office is conscious that the current situation may impact on the work of the insolvency sector.

Your members who are insolvency practitioners and appointment takers as the joint and several provisional trustees/trustees under the Bankruptcy Ordinance ("Cap. 6") and/or as joint and several provisional liquidators/liquidators under the Companies (Winding Up and Miscellaneous Provisions) Ordinance ("Cap. 32) are bound to administer the relevant insolvency cases as per the statutory requirements under Cap. 6 and Cap. 32 respectively. Many of such requirements have specified timelines which must be met. Should any insolvency practitioner encounter any difficulty in complying with any of the requirements or meeting the specified timelines as a result of the ongoing pandemic, they should be advised to properly document the same for record and take the necessary follow-up actions as soon as practicable. They should also take all reasonable steps to progress case administration in the longer term and ensure stakeholders' financial interests are not prejudiced. For difficulties relating to the requirements imposed by the Official Receiver's Office, the insolvency practitioners should inform this office as soon as possible. The Official Receiver's Office will consider the circumstances of the relevant case and will explore what can be done to help ensure their timely compliance in a pragmatic manner.

At the same time, given the impact of the COVID-19 pandemic, the insolvency practitioners are also encouraged to exercise their professional judgment in using as much flexibility as possible to administer their cases as joint and several provisional trustees/trustees especially during this difficult time. In the context of bankruptcy cases, these may include but not limited to :-

- (i) deferring and/or relaxing certain deadlines or obligations of bankruptcy (e.g. documentary or evidence requirements on the bankrupts in the course of the case administration) within their discretion;
- (ii) assessing the income and expenditure of the bankrupts and their family and determining the amount of financial contribution to be paid by the bankrupt to the bankruptcy estate flexibly, particularly where income has dropped as a result of the current situation, and exercising sensible discretion when considering to lay claim for after-acquired property; and.
- (iii) in due course, when considering what constitutes unsatisfactory conduct for objection to automatic discharge, taking into account additional hardship resulting directly from the current pandemic situation.

To align with the Government's latest policy to achieve social distancing with a view to reducing the risk of the spread of the COVID-19 virus in the community, it is advisable for all insolvency practitioners to implement suitable targeted measures to reduce social contact when administering the insolvency cases under their purview. For the Official Receiver's Office, members of the public who need to attend meetings of creditors and/or contributories have been recommended to lodge their proxy by way of facsimile transmission and avoid attending the meeting in person unless it is absolutely necessary. The insolvency practitioners may consider following similar measures when convening the meetings of creditors and/or contributories. Further, where any meeting is expected to involve a large number of creditors, the insolvency practitioners may consider the appropriateness of utilizing the Regulating Order procedure as set out in Section 100A of Cap. 6 or Section 227A of Cap. 32.

Please circulate this letter to your members who are insolvency practitioners for their attention. Should there be any query on this letter, please contact the undersigned on 2867 2515.

Yours faithfully,

Signed

(Michael T S Cheung)
for Official Receiver