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The Hong Kong Institute of Directors
FOUNDED 1997



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16 May 2018

Financial Services and the Treasury Bureau
(Financial Services Branch)
24/F, Central Government Offices,
2 Tim Mei Avenue,
Tamar, Hong Kong

Dear Sirs

**Latest proposals on specific issues relating to the
introduction of a statutory corporate rescue procedure
and insolvent trading provisions**

The Hong Kong Institute of Directors (“HKIoD”) is pleased to forward our response to the captioned paper.

HKIoD is Hong Kong’s premier body representing directors to foster the long-term success of companies through advocacy and standards-setting in corporate governance and professional development for directors. We are committed to contributing towards the formulation of public policies that are conducive to the advancement of Hong Kong’s international status.

In developing the response, we have consulted our members.

Should you require further information regarding our response, please do not hesitate to contact me on tel no. 2889 9986.

Thank you very much for your kind attention.

Yours sincerely

THE HONG KONG INSTITUTE OF DIRECTORS

Dr Carlye Tsui
Chief Executive Officer

Enc

cc: Mr Henry Lai, Chairman, HKIoD

Issued on: 16 May 2018

**Latest proposals on specific issues
relating to the
introduction of a statutory corporate rescue procedure
and insolvent trading provisions**

This is in response to the letter dated 12 April 2018 from the Financial Services and the Treasury Bureau on some latest proposals on specific issues relating to the introduction of a statutory corporate rescue procedure and insolvent trading provisions. The letter invited us to give views to several issues. Here, we limit our response to those issues pertaining to the statutory defence for insolvent trading provisions.

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The defence for insolvent trading provisions

Part J of the note attached to the April 2018 letter is on the statutory defence for insolvent trading provisions. We previously commented on the proposed statutory defence in our 3 August 2016 statement in response to the 10 June 2016 letter from the FSTB. On substance, we do not see material differences between the April 2018 and the June 2016 proposal. We stand by the views and comments in our 3 August 2016 statement.

The scope of the statutory defence

The April 2018 letter and its attached note was not so clear whether the Administration will indeed expand the scope of the statutory defence to also cover an “arrangement or compromise” under the Companies Ordinance or an informal workout. The Administration may want to clarify.

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