

Linklaters

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The Hong Kong Financial Services and
Treasury Bureau
Division 4, Financial Services Branch
Financial Services and the Treasury Bureau
15/F Queensway Government Offices
66 Queensway
Hong Kong

28 January 2010

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Dear Sirs,

We are pleased to submit this comment letter on behalf of CLS Bank International ("**CLS Bank**") in response to the Consultation Paper on the Review of Corporate Rescue Procedure Legislative Proposals (the "**Consultation Paper**") published by the Financial Services and the Treasury Bureau ("**FSTB**") in October 2009. CLS Bank greatly appreciates the opportunity to submit its comments regarding this important paper.

As you may be aware, CLS Bank is a special purpose bank organized under the laws of the United States of America and supervised by the Federal Reserve Bank of New York (the "**Federal Reserve**"). CLS Bank is the operator of the CLS System, which is a designated system for the purposes of the Clearing and Settlement Systems Ordinance (Cap. 584) (the "**CSSO**"). The CLS System is a global settlement system that offers its Members and their customers the ability to avoid settlement risk in the settlement of their foreign exchange transactions and has been designated under the CSSO on the basis that it is a clearing and settlement system whose proper functioning is material to the monetary and financial stability of Hong Kong as an international financial centre. The CLS System relies on the protection provided by the CSSO in order to (1) ensure finality of settlement of the Hong Kong dollar across its books as well as finality of funding for the Hong Kong dollar; and (2) enable CLS Bank to have Settlement Members with their head or home offices in Hong Kong.

CLS Bank currently settles an average of 630,000 payment instructions each day, with a gross value of over USD3.9 trillion, in 17 currencies. CLS Bank's peak daily value to date is USD10.3 trillion, and it has settled over 1.5 million payment instructions in one day. In addition to its designation under the CSSO, CLS Bank (and/or the CLS System) has been designated pursuant to finality legislation in the following jurisdictions: Australia, Canada, European Union, Israel, New Zealand, Singapore, South Africa and South Korea. As a result of the importance of the CLS System to the international financial community, pursuant to a "Protocol for the Cooperative Oversight Arrangement of CLS", CLS Bank regularly provides detailed

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information regarding the CLS System to the Senior Officials of the Central Banks for CLS Oversight, including all the Central Banks (such as the Hong Kong Monetary Authority) in jurisdictions where CLS Bank maintains a central bank account for purposes of settling the eligible currency of that jurisdiction.

In light of the important role that CLS Bank plays in the international financial markets, CLS Bank believes that it is important to ensure that the provisional supervision regime described in the Consultation Paper is enacted so that is expressly included, by its own terms, in the definition "law of insolvency" under Part 3 Division 1 of the CSSO, so that it will be absolutely clear that all of the CLS Bank International Rules ("Rules"), including the Rules relating to netting, unity account and the default arrangements of the CLS system after the insolvency of a Settlement Member, will be enforceable as a matter of Hong Kong law in the event a Hong Kong Settlement Member is ever subject to this regime in the future. CLS Bank also respectfully requests the government to take into account the effect of the proposals on the CSSO to ensure that the operation of the CSSO will not be affected as a result.

If you have any questions regarding CLS Bank's comments or need further information in considering our submission, we would be pleased to make ourselves available for a call, conference or meeting at your offices at a mutually convenient time and we would be most grateful if you would contact Chin-Chong Liew on (852) _____ or I-Ping Soong on (852) _____ in Hong Kong. We look forward to your feedback and continued discussions with you.

Thank you for your consideration.

Yours faithfully,



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