MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

BRIEFING

Insolvency Law – proposed changes to policy settings in response to COVID-19

Date:	27 March 2020	**Priority:**	High
Security classification:	**In Confidence**	**Tracking number:**	2831 19-20

Action sought		
	Action sought	**Deadline**
Hon Kris Faafoi Minister of Commerce and Consumer Affairs	**Agree** to the recommendations.	30 March 2020

Contact for telephone discussion (if required)			
Name	**Position**	**Telephone**	**1st contact**
Susan Hall	Manager, Corporate Governance and Intellectual Property Policy	*9(2)(a)*	✓
Geoff Connor	Principal Policy Advisor		
Natan Karon	Senior Policy Advisor		

The following departments/agencies have been consulted (if required)
The Treasury and Crown Law

Minister's office to complete:

- ☐ Approved
- ☐ Noted
- ☐ Seen
- ☐ See Minister's Notes
- ☐ Declined
- ☐ Needs change
- ☐ Overtaken by Events
- ☐ Withdrawn

Comments:

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Purpose

- To provide advice on policy settings within the insolvency system and recommendations on proposed changes to those settings to address the impact of COVID-19
- To recommend various legislative changes that will require an Act of Parliament and cannot be implemented under the Epidemic Preparedness Act 2006

Executive summary

1. We have been considering the impact of COVID-19 across the suite of corporate governance statutes that MBIE administers. We have also consulted with the Institute of Directors and insolvency experts.

2. We consider that the key objectives are to:

   a. substantially increase the likelihood that profitable businesses will survive the current crisis, with resulting medium or long term benefits to shareholders, employees, suppliers, customers and creditors

   b. ease stress in the current circumstances among directors, officers and managers across a wide range of entity forms, including incorporated societies and other not-for-profit entities, many of which are managed by volunteers

   c. achieve these outcomes in a way that does not cause longer term harm to the New Zealand economy.

3. This briefing recommends:

   a. the addition of a COVID-19-specific safe harbour to the directors' duty which states that a director must not agree to the company incurring an obligation unless the director believes on reasonable grounds that the company will be able to perform the obligation when it is required to do so.

   b. adding a temporary compromise regime to the Companies Act 1993 that would allow for entities to be placed in hibernation, subject to agreement by a majority of their creditors.

   c. advancing changes to the voidable transactions regime under the Companies Act because the changes will substantially reduce the risks for ordinary unsecured creditors that payments they received before a liquidation commenced will be voidable.

   d. against a blanket exemption of directors from liability because it will allow directors to run up large amounts of debt without any consequences. We consider this proposal

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risks longer term harm to economy.

e. temporarily relaxing statutory deadlines relating to such matters as holding AGMs, filing documents with the Companies Office and appointing auditors.

f. providing for a possible delay to implementing the licensing regime under the Insolvency Practitioners Regulation Act 2019, which is due to come into force on 17 June 2020. Chartered Accountants Australia and New Zealand (CAANZ) and the Registrar of Companies continue to target that start date. However, it would be prudent to legislate to provide scope for delay, given that there are risks that key people will no longer be available to continue working on this.

4. These changes will require legislation. We are working with MBIE Legal, PCO and the All of Government response to identify an appropriate legislative vehicle. It appears that few, if any of these changes could be made under the Epidemic Preparedness Act 2006.

5. Officials are also considering temporary changes to:

a. the level of indebtedness required to liquidate a business or bankrupt an individual from $1,000 to, say, $10,000;

b. extend the time for compliance with a statutory demand;

c. introduce a new offence where a business, in bad faith, refuses to pay a creditor.

6. We will provide you with further advice on these changes and a draft Cabinet Paper as soon as possible.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a **Note** that the Australian Government has announced a number of temporary changes to insolvency law settings in response to COVID-19, including exempting directors from personal liability, for six months, for breaching a duty to not trade while insolvent.

Noted

b **Note** that the nature of the duties on New Zealand directors when a company is of doubtful solvency means that directors must act in the best interests of the company and creditors, and only continue to trade if there are reasonable grounds to believe they will be able to perform obligations undertaken when required to do so.

Noted

c **Note** that while there is no equivalent specific duty on directors to not trade while insolvent in New Zealand, many New Zealand directors believe there is and this appears to be causing concern amongst directors and risk-averse behaviour, including the risk that directors will close down normally profitable business might that be able to survive the COVID-19 crisis.

Noted

d **Agree in principle** to seek Cabinet approval to introduce:

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i. a COVID-19 safe harbour in relation to the directors' duty relating to not having reasonable grounds that the company will be able to perform obligations undertaken when required to do so.

Agree/Disagree

ii. a modified compromise regime that will provide for businesses to go into hibernation (see paragraphs 21 to 23).

Agree / Disagree

iii. temporary delay of certain statutory requirements within the corporate governance system, to provide certainty for businesses around their statutory obligations while their ability to comply is impacted by COVID-19.

Agree / Disagree

iv. temporary increases to:

1. the level of indebtedness required to liquidate a business or bankrupt an individual
2. the time for compliance with a statutory demand.

Agree / Disagree

e **Note** that, to deter businesses from hoarding cash and refusing to pay their creditors, we are also considering whether there should be an offence where a business, in bad faith, refuses to pay a creditor where it has the funds to do so

Noted

f **Agree** to prioritise the introduction of changes, previously agreed by Cabinet, to the voidable transactions regime.

Agree / Disagree

g **Agree** not to exempt directors from personal liability in connection with the two insolvency-related duties in the Companies Act.

Agree / Disagree

h **Note** that the Insolvency Practitioners Regulation Act 2019 and the Insolvency Practitioners Regulation (Amendments) Act 2019 are due to come into force on 17 June 2020 and that the transitional regime for the Insolvency Practitioners Regulation Act 2019 and the Insolvency Practitioners Regulation (Amendments) is reliant on at least one industry body being accredited by the Registrar of Companies before 17 June 2020.

Noted

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i **Note** that MBIE registry staff and Chartered Accountants Australia and New Zealand are still aiming to achieve the 17 June 2020 deadline, but it would be prudent to amend the commencement date in the two relevant Acts to provide some leeway.

Noted

j **Note** that we will provide you with a draft Cabinet paper and further advice on these matters as soon as possible.

Noted

k **Note** that officials are available to discuss this briefing from their homes using Zoom.

Noted

l **Agree** to forward a copy of this briefing to the Minister of Finance.

Agree / disagree

Redact signature - privacy

9(2)(a)

Susan Hall
Manager, Corporate Governance and Intellectual Property Policy

27 March 2020

Hon Kris Faafoi
Minister of Commerce and Consumer Affairs

..... / ...... / ......

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Background

7. As a result of the impacts of COVID-19, otherwise profitable and viable companies are facing a real risk of becoming insolvent in the coming weeks or months because of the disruption to their businesses. This is particularly so in relation to SMEs.

8. The Australian Government has recently announced the following of temporary changes to insolvency law settings in response to COVID-19:

   a. Removing directors from any personal liability for trading while insolvent for the next six months.

   b. A temporary increase in the threshold at which creditors can issue a statutory demand on a company from $2,000 to $20,000, along with providing more time for companies to respond to statutory demands they receive.

   c. A temporary increase in the threshold for a creditor to initiate bankruptcy proceedings, an increase in the time period for debtors to respond to a bankruptcy notice, and extending the period of protection a debtor receives after making a declaration of intention to present a debtor's petition.

   d. Providing the Treasurer with the temporary ability to set aside business compliance requirements imposed by the Corporations Act 2001 to deal with unforeseen events that arise as a result of the Coronavirus health crisis.

9. A number of stakeholders have contacted MBIE asking whether the New Zealand Government intends to make similar changes, particularly in relation to item (a): personal liability for insolvent trading. The Institute of Directors wrote to you and the Prime Minister on 23 March 2020 urging the New Zealand Government to make the same personal liability relief to that announced in Australia, subject to reasonable limitations where an organisation may be trading while insolvent due to the impact of COVID-19.

10. We have consulted with the Institute of Directors who indicate they are seeing high levels of concern amongst directors about the impact of their duties in relation to insolvency and the potential for risk averse behaviour, including the early closing of companies which may be able to continue trading; and the resignation of some directors.

11. Our aim with the proposals in this briefing is to strike a balance between providing comfort and greater certainty to directors and creditors during this time, while not advancing changes that may have a longer term negative impact on the New Zealand economy.

12. Further consideration and consultation is required to work up the detail of these proposals in a way that will minimise the chance of unforeseen and undesirable consequences. We will provide you with that detail and a draft Cabinet paper as soon as possible.

Analysis of insolvency law-related issues

Directors' duties

13. Unlike in Australia, there is no specific duty on New Zealand directors to not allow a company to trade while insolvent. When a New Zealand company is insolvent or of doubtful solvency, a director must act in the best interests of the company, and this extends to considering the interests of creditors. The relevant duties under the Companies Act 1993 in New Zealand are:

   a. Section 135 – A director must not agree to the business of the company being carried on in a manner likely to create a substantial risk of serious loss to the company's creditors

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b. Section 136 – A director must not allow the business incurring an obligation unless the director believes on reasonable grounds that the company will be able to perform the obligation when it is required to do so.

14. The New Zealand directors' duties involve principles-based tests. Directors of New Zealand businesses which are temporarily insolvent because they have been impacted by COVID-19, and are continuing to trade in the reasonable expectation that their business will recover, are not breaching their duties.

15. Nevertheless, there are two sets of problems in New Zealand:

a. There is a common misunderstanding of the duty among directors, with the potential for risk-averse behaviour.

b. The principles-based tests have become difficult to apply due to the major uncertainties about the impact of COVID-19 on individual businesses and how long those difficulties will last for.

16. In relation to the first issue, the Institute of Directors (the Institute) has told us that many directors believe that the law in New Zealand is the same as in Australia, i.e. there is a duty not to trade while insolvent. The Institute is very concerned that this will lead to the liquidation of large number of normally profitable businesses that have the potential to 'ride out the storm'. The Institute has also been told that directors of issuers are resigning due to the risks of personal liability.

17. The problem, in relation to the second issue is that it has become very difficult for New Zealand directors to know how to apply the two principles-based tests due to the uncertainties around how long it might take before business starts to return to normal. This is especially an issue in relation to s 136. If, for example, a company has no revenue at present, but the directors assess that it has enough liquid assets to absorb losses for eight weeks before business starts to pick up, should the directors incur an obligation today? The uncertainty of the present situation makes it difficult to know.

18. After talking to three insolvency experts, we are recommending the following changes to ameliorate these risks.

Recommendation #1 - modify the s136 duty

19. As noted earlier, s136 states that a director must not agree to the company incurring an obligation unless the director believes at the time on reasonable grounds that the company will be able to perform the obligation when it is required to do so.

20. We are proposing the addition of a safe harbour to provide directors with certainty about compliance with their directors' duties when considering whether or not a company should take on new obligations. This will deem entry into the obligation to be reasonable if the business was solvent before it was impacted by the effects of the spread of the COVID-19 pandemic, and there is a reasonable prospect that the business will be able to remedy its existing cash flow insolvency in the future. This is, in part, modelled on changes introduced in Germany. As noted we will report back on the detail of this as soon as possible.

Recommendation #2 – a modified compromise regime

21. We are recommending the enactment of a temporary regime which would provide for businesses to be placed in hibernation. The regime would:

a. provide for a moratorium on paying existing debts (for those making use of the regime)

b. be simple so that it can be enacted quickly

c. provide certainty to new creditors that they won't have to repay any money they receive so as to encourage businesses to continue transacting.

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22. The Companies Act doesn't provide this option at present, but the **voluntary administration (VA)** and **compromise** regimes between them have the key features that are needed:

   a. **VA** provides a moratorium that prevents creditors from exercising their rights for a certain time. However, it is unsuitable for two main reasons. First, control of the company is passed from the board to the administrator. Second, it could not be quickly or easily enacted by Parliament. It is a prescriptive regime that details the processes that must be followed, taking up 60 pages of the Companies Act.

   b. The **Compromise** regime is just four pages long. It provides for a company to continue operating by agreeing a compromise arrangement with its creditors. It can be proposed by the board, a receiver, a liquidator or, with the leave of a court, any creditor or shareholder. However, it does not fit with the current circumstances for two main reasons. First, it does not provide for a moratorium. Second, the company can be liquidated if the creditors reject the compromise proposal.

23. We are recommending a modified compromise regime that is simple and would include a time bound moratorium, and without the liquidation requirement in the event that creditors reject the proposal. It should have wide application to all forms of entity including entities that do not have legal personality (i.e. trusts and partnerships).

24. We do not favour modifying VA. There are very significant risks that a modified VA regime would be seriously flawed and ineffective if it were to be rushed through the House.

Recommendation #3 – changes to the voidable transactions regime

25. Last year Cabinet made policy decisions on a number of insolvency related matters [CAB-19-MIN-0491.01 refers]. These reforms were to be included in an upcoming Insolvency Law Reform Bill (**Bill**). That Bill holds a priority 5 in the 2020 legislation programme (instructions to be provided to Parliamentary Counsel within the year). We had been targeting releasing an exposure draft of the Bill in August 2020.

26. While many of the policy changes already agreed by Cabinet for inclusion in the Bill are technical, when viewed as a package, they have the potential to improve the overall effectiveness and efficiency of the insolvency system. Cabinet has also made decisions which would impact how losses are spread across the economy where a business becomes insolvent – by limiting the extent to which creditors are required to repay amounts they had received in good faith.

27. One of the more significant changes relates to the period of vulnerability in relation to voidable transactions. At present liquidators can seek to avoid transactions that took place up to two years before the liquidation commenced. Cabinet agreed to reduce this to six months where the debtor company and the creditor are unrelated parties. This change would provide obvious benefits for cash-strapped businesses.

28. In light of the large number of liquidations which are likely to result from the outbreak of COVID-19 and its impact on the economy we propose that the changes to the voidable transactions regime be made as a priority.

Recommendation #4 – potential changes relating to statutory demands

Increasing the time for compliance with a statutory demand

29. There are two deadlines relating to compliance with a statutory demand:

   a. 15 working days for payment. A court can extend this date, if application is made to set aside the demand. Courts routinely do so.

   b. 10 working days to set it aside. The courts have held that they have no discretion to extent this limit

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30. Our view is that both time limits should be extended. Australia has decided to temporarily increase the time the debtor has to respond from 21 days to 6 months. Our preliminary view is that this is too long. In the first instance, we suggest extending this to 3 months, but will confirm this as soon as possible after further consultation with experts.

Increasing the dollar thresholds for triggering liquidation or bankruptcy

31. In order for a creditor to be able to place a business into liquidation, or an individual into bankruptcy they need to be owed at least $1,000. This figure is intended, in part, to ensure that businesses and individuals are able to be held accountable for all of the debts that they owe and cannot ignore their small creditors. As a result of COVID-19 we anticipate that the level of indebtedness of both businesses and individuals will increase substantially over the coming months.

32. We are considering whether to increase the level of indebtedness required to liquidate a business or to bankrupt an individual to $10,000. This would reduce the pressure that creditors can place on businesses or individuals to repay smaller debts, and could allow those persons time to find a way to pay their debts or make use of government support as an alternative to liquidation or bankruptcy.

33. This would also reduce the risk that creditors might exercise their rights in an unreasonable way, as a result of the pressure placed on them by COVID-19.

34. There are two main arguments for not increasing the amount from $1,000.

35. First, there is a risk that this change could result in businesses and individuals incurring higher levels of debt than they otherwise would. This could harm other businesses and individuals' interests in the long run. The higher levels of debt mean that unsecured creditors will receive a lower dividend (i.e. fewer cents for every dollar they were owed) than they would otherwise have obtained.

36. Second, there is a risk that if such a change were to be reversed (i.e. returned to $1,000) there would be a spike of insolvencies as creditors rush to exercise their rights.

37. The main reason for increasing the amount from $1,000 to, say, $10,000 is that it is very common for statutory demands to be used as a debt collection tool and accordingly as the cost of issuing them is low they are used to attempt to recover small amounts as well as large amounts. While a lot of statutory demands are paid there are some creditors who carry on with liquidation proceedings despite the higher cost of this which could be $4-5,000 solely to intentionally harm a business or its directors and shareholders. Raising the minimum level to issue a statutory demand would help to eliminate this practice. Again, we will confirm the shape of this proposal as soon as possible after further consultation with experts.

Recommendation #5 – Targeted relief for businesses from corporate governance legislation

38. We are currently identifying statutory requirements within the corporate governance system which we may recommend be delayed, to provide certainty for businesses around their statutory obligations while their ability to comply is impacted by COVID-19. At this stage we are considering whether to advise you to:

    a. Extend deadlines for holding annual general meetings.

    b. Extend deadlines in relation to filing annual returns, appointing auditors and filing audited financial statements.

    c. Extend deadlines for the Companies Office to perform certain statutory functions.

39. The key Acts in this regard are the Companies Act 1993, Limited Partnerships Act 2009 and Incorporated Societies Act 1908. We are also checking provisions in minor statutes, such as the Industrial and Provident Societies Act 1908. We will provide you with further advice once

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we have identified all of the obligations which we think should be deferred. That will include advice about a possible legislative vehicle for making the changes. We are working with the All of Government response to identify an appropriate legislative vehicle.

40. We have not yet contacted the Department of Internal Affairs (DIA), but will need to do so because incorporated societies that are also registered charities are required to submit annual returns to DIA Charities Services.

41. The Companies Office has been and will continue to remind businesses of their statutory obligations but is emphasising that it will not take enforcement action where entities are unable to comply as a result of the impacts of COVID-19.

Relief from personal liability – the Australian approach

42. We are recommending *against* exempting directors from personal liability from the ss135-136 duties due to two serious concerns.

43. First, providing a moratorium on directors' liability will create a serious risk that limited liability will be abused. The absence of any liability will allow directors to take advantage of the situation to the detriment of creditors, who will have no remedy. We are particularly concerned that it will encourage companies with good liquidity to hoard money for the six month period instead of paying their bills. We understand that this is already happening in the United Kingdom. Widespread practice to this effect could have a serious impact on the liquidity of an even broader range of businesses, and could result in a significant longer term impact to the New Zealand economy.

44. Second, it is essential for directors of companies that are insolvent with no realistic chance of recovery to appoint a liquidator. It is common, in these circumstances, for the size of the debt to balloon when those companies continue to trade. The existing insolvency settings in New Zealand recognise that continuing to trade in these circumstances is not in the interests of:

    a. the insolvent company's shareholders

    b. the company's unsecured creditors

    c. the employees of creditor companies that consequently fail because they were not paid what they were owed by their creditors.

New offence

45. One risk of the proposed safe harbour is that businesses may seek to hoard cash and refuse to pay their creditors even where they are able to do so. There would be significant flow on effects from this practice which could result in the freezing of commercial activity.

46. To counter this risk, we are considering whether there should be a temporary offence where a business, in bad faith, refuses to pay a creditor where it has the funds to do so. We will provide further advice on this as soon as possible.

Deferring the commencement of insolvency practitioner licensing

47. The Insolvency Practitioners Regulation Act 2019 (IPR Act) and the Insolvency Practitioners Regulation (Amendments) Act 2019 are both scheduled to come into force on 17 June 2020. Neither Act provides scope for changing that date. It is also essential that they come into force on the same date because there are intricate links between them.

48. The IPR Act creates a co-regulatory licensing regime under which:

    a. accredited bodies will be responsible for carrying out the frontline regulation of insolvency practitioners, including regulating entry and ongoing competence, and investigating complaints and taking disciplinary action where appropriate

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b. the Registrar of Companies will be responsible for oversight of the accredited bodies. Oversight includes accreditation of bodies, ongoing monitoring and reporting, and corrective action relating to the adequacy and effectiveness of the accredited bodies' regulatory systems and processes. The Registrar will also maintain a register of insolvency practitioners, which will be publicly searchable.

49. The licensing regime under the IPR Act is reliant on there being one or more accredited bodies in place before 17 June 2020. If an accredited body is unable to be appointed before that date insolvency practitioners will be unable to be appointed as liquidators, receivers, or administrators until such a body is appointed and they successfully apply to be licensed. This will mean that no new processes would be able to be commenced. This includes secured creditors not being able to enforce their rights by appointing a receiver. While an accredited body could be appointed after that date, there could be no retrospective application of that accreditation.

50. Officials have been working closely with Chartered Accountants Australia and New Zealand (**CAANZ**), the Restructuring, Insolvency and Turnaround Association of New Zealand (**RITANZ**) and CPA Australia, the three professional bodies which have indicated they will seek to become accredited (in the case of RITANZ, supporting CAANZ's accreditation). All have indicated that they are working hard to meet the IPR Act's current timeline and are committed to the policies and principles underlying the IPR Act. In particular, all three have noted the likely upturn in insolvency-related activity, and the importance of a professional, well-run insolvency profession in which the public can have trust and confidence.

51. The Registrar of Companies is also continuing work to implement the necessary technical, financial, legal and other considerations necessary to accredit the professional bodies and operationalise the IPR Act.

52. All relevant bodies were confident of meeting the IPR Act's timeframes in normal circumstances. They remain cautiously optimistic of meeting those timeframes in the current circumstances but acknowledge that there is no time contingency if, for example, key people were to become unavailable due to illness or family circumstances. There is also a risk that the Companies Office will not be able to thoroughly consider the application before the relevant deadline if key staff were unavailable or committed to other more urgent projects.

53. CAANZ's accreditation is particularly important. The IPR Act provides for a transitional regime for existing members of CAANZ's voluntary registration scheme. If CAANZ were not accredited by the statutory deadline (whether due to delays in making an application for accreditation, or a delay in processing that application in accreditation), there would be significant disruption to insolvency practice in New Zealand from June. In light of the potential economic situation in the second half of 2020, we anticipate that demand for insolvency services will significantly increase.

54. We consider that there is therefore a prudence-related argument for amending the two Acts to allow for a delay. Although the professional bodies and the Registrar will work towards accreditation as soon as possible, the power to delay implementation would provide a safety valve should external circumstances cause delays. We will provide you with further advice about this issue next week.

Risks of a lengthy delay to implementation of the insolvency practitioners regime

55. One of the main goals of the IPR Act is to introduce rigorous competence, honesty and integrity criteria in relation to obtaining and retaining a licence. This is intended to address the problems associated with a small but significant number of insolvency practitioners who do not meet the standards of competence, honesty or professionalism expected of them.

56. If the implementation of the IPR Act is delayed:

a. Those practitioners who would not have been able to obtain a licence under the IPR Act will be able to continue to take new insolvency engagements, to the possible

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detriment of creditors' interests.

b. Debtors and creditors will not have the benefit of independent oversight of the conduct of insolvency practitioners by an independent body, and ultimately by the Registrar of Companies.

57. It is clear that these concerns are substantially outweighed by the harm that would be caused to the New Zealand economy if the statutory corporate insolvency processes were to be frozen.

Process for delaying the implementation of the insolvency practitioners regime

58. Again, we will work to identify an appropriate statutory vehicle for this change.

Alignment with other Government support for businesses and creditors

59. As you are aware, policy changes relating to support for businesses are developing at pace. We are doing everything we can to work with other key agencies to ensure alignment between these proposals and work happening elsewhere.

Consultation

60. We consulted with the Treasury.

61. We have started consulting with PCO about the legislative changes proposed in this briefing.

62. We have not yet consulted with the Department of Internal Affairs, but plan to do so shortly. We will need to ensure that what is proposed in relation to statutory deadlines for incorporated societies is compatible with any relief for deadlines under the Charities Act 2005.

63. We also consulted with an insolvency practitioner and two insolvency lawyers whom we know and trust. The modified compromise regime was developed in the course of two long conversations with them.

64. Crown Law has provided advice about the issue of directors' duties.

Communications and risks

65. We consider that the key objectives are:

a. to substantially increase the likelihood that profitable businesses will survive the current crisis, with resulting medium or long term benefits to shareholders, employees, suppliers, customers and creditors

b. to ease stress among directors, officers and managers across a wide range of entity forms, including incorporated societies and other not-for-profit entities, many of which are managed by volunteers who have more important things to worry about right now.

66. We consider that this can be best achieved:

a. by way of education programmes

b. by taking a coordinated approach across government agencies that have an interest in these matters. We also plan to coordinate communications on these issues across the all-of-government response to COVID-19. We will aim, in particular, to align messaging where it relates to the business community and the economic policy response.

c. by obtaining early Cabinet decisions about providing relief in relation to statutory

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deadlines, publicising those decisions and finding a legislative vehicle to rapidly implement the changes.

67. It will be essential, for business confidence reasons, for Ministers to issue a media release about the modified compromise regime and the relief around statutory deadlines as soon as the Government has agreed to make the changes. The media release should also provide information around the likely timing for the legislation.

68. Policy officials are also working with the Companies Office and the Institute of Directors to find other ways of communicating with New Zealand businesses, including guidance about directors' duties, the modified compromise regime and the relief being provided on statutory deadlines.

69. While we have held discussions with the Institute of Directors, we have not informed them of the shape of these proposals. We anticipate they will be supportive of them but may want them to go further. We will report back on their feedback and whether any adjustments should be made to these proposals in our next briefing.

Next steps

70. We intend to provide you with fuller advice and a timeline on all these matters early next week.

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