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Singapore
Restructuring & Insolvency

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This country-specific Q&A provides an overview of restructuring & insolvency laws and regulations applicable in Singapore.

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Singapore: Restructuring & Insolvency

1. What forms of security can be granted over immovable and movable property? What formalities are required and what is the impact if such formalities are not complied with?

Singapore adopts the common law forms of security interests. Mortgages and charges (both fixed and floating) are the most common types of security, while pledges and liens are less common. Each type of security requires different legal formalities. Where a charge or mortgage has been created by a company, it must be registered with the Accounting and Corporate Regulatory Authority in Singapore. Failure to register will result in the security becoming void against the liquidator and other creditors upon liquidation. In addition, officers of a company who fail to comply with the registration requirements may be fined.

Mortgages

Mortgages (both legal and equitable) are typically used to secure immovable property. Mortgages must be created by deed, and most comply with the formalities in the Land Titles Act 1993, which requires (among other things) a mortgage over immovable property to be registered with the Singapore Land Authority.

Charges

Charges are often used to secure chattel (e.g. plant and machinery), as well as choses in action (e.g. streams of income). A charge by itself does not transfer a legal or equitable interest in the charged property, although it is not uncommon for a fixed charge to be fortified by a legal or equitable assignment.

Whether a charge is construed as a fixed or floating charge will depend on the terms of the debenture – where a chargor has the power to dispose of the charged assets without the chargee's consent, a charge will be found to be a floating charge notwithstanding any labels to the contrary.

Pledges

A pledge is created when a debtor transfers possession of goods owned by him to the creditor until payment for the debt. While there are no formalities for the creation of a pledge at common law, pledges with pawnbrokers are regulated by the Pawnbrokers Act 2015.

Liens

A lien is a right to retain possession of a property until full payment is made by a debtor. A lien may arise from the application of the common law, contract, or certain provisions in the Sale of Goods Act 1979.

2. What practical issues do secured creditors face in enforcing their security package (e.g. timing issues, requirement for court involvement) in out-of-court and/or insolvency proceedings?

The ability of a security-holder to realise their security is governed by the terms of document creating the security. Debentures often provide the security-holder the right to appoint a receiver, which can be done without court involvement.

A creditor's ability to obtain vacant possession or to exercise its power of sale under a mortgage is regulated by the Land Titles Act 1993 and Conveyancing and Law of Property Act 1886. A mortgagee is also under a duty to make reasonable efforts to obtain the true market value of the mortgaged property at the date on which he wishes to sell it.

It is possible for a distressed debtor to obtain a moratorium preventing secured creditors from enforcing their security – either by obtaining an automatic moratorium in support of a scheme, or by filing an application for judicial management. In such a scenario, a secured creditor would need leave of court to enforce its security, or (in a judicial management scenario) with the consent of the judicial manager.

Floating charge holders should also note that judicial managers have the power to dispose of any assets subject to a charge that was created as a floating charge. If a floating charge holder wishes to protect its security, it should take steps to contest the appointment of a judicial manager.

3. What restructuring and rescue procedures are available in the jurisdiction, what are the entry

requirements and how is a restructuring plan approved and implemented? Does management continue to operate the business and / or is the debtor subject to supervision? What roles do the court and other stakeholders play?

A company may apply to Court to summon a meeting of creditors to approve a scheme of arrangement between a company and its creditors or a class of its creditors. In order for a scheme to be approved, more than 50% of creditors (or a class of creditors) comprising 75% in value must agree to the proposed scheme.

Pursuant to Section 71 of the Insolvency, Restructuring and Dissolution Act 2018 ("**IRDA**"), a company may also apply to Court for approval of a pre-packaged scheme, which dispenses with the need to hold a meeting of creditors. In order for such a scheme to be approved by the Court, the Court must be satisfied that had a meeting of creditors been summoned, each relevant class of creditors would have approved the scheme.

Under a scheme, control of the company remains with management, although financial advisors are usually appointed to assist with negotiations and to give effect to the terms of the scheme.

A company may also be placed under judicial management (either voluntarily, or upon the application of one its creditors), if it can be shown that the company is insolvent or is likely to become insolvent, and if can be shown that the making of the order would achieve one or more of the following purposes, namely:

1. the survival of the company, or the whole or part of its undertaking as a going concern;
2. the approval of a compromise or arrangement between the company and its creditors; or
3. the more advantageous realisation of the company´s assets than would occur in a winding up.

Upon the making of a judicial management order, all powers and duties imposed upon by the directors of the company are transferred to the judicial managers. That said, it is common for the directors to continue to work together with the judicial managers to assist in the rehabilitation of the company.

A judicial management order remains in force for 180 days from the date of the order, but the Court may on application of the judicial grant and extension subject to such terms as the Court may impose. This results in the Court taking a more involved role in judicial management, and will usually require the judicial manager to keep the Court regularly updated on the status of the judicial management.

The judicial managers are also required to summon a meeting of creditors to approve their proposal for the company (which requires a majority in number and value of the creditors), and if necessary, the creditors are entitled to form a committee of creditors to monitor the progress of the judicial management.

4. Can a debtor in restructuring proceedings obtain new financing and are any special priorities afforded to such financing (if available)?

A company in judicial management or which has proposed a scheme of arrangement may apply to Court for an order allowing a debt arising from rescue financing to be granted priority over all other preferential debts, or to permit the creation of a higher security interest over existing secured assets.

However, in order for such rescue financing to be approved by the Court, the company must show that it has made reasonable efforts to obtain less disruptive sources of financing.

5. Can a restructuring proceeding release claims against non-debtor parties (e.g. guarantees granted by parent entities, claims against directors of the debtor), and, if so, in what circumstances?

There is no automatic release of claims against nondebtor parties. However, it is fairly common for such provisions to be included as part of the terms of a scheme of arrangement

6. How do creditors organize themselves in these proceedings? Are advisory fees covered by the debtor and to what extent?

It is common (but not obligatory) for creditor committees to be formed in both liquidation and judicial management proceedings.

In a liquidation, the committee of inspection (consisting of both creditors and contributories) has the power to approve the liquidators' fees, and may authorise the liquidator to carry out the business of a company, pay out debts in full, or make a compromise with the company's creditors / debtors. The committee of inspection may

also authorise the liquidator to appoint a solicitor to assist him in their duties. The costs of these solicitors are usually paid out of the assets of the company.

In a judicial management, a committee of creditors may also be formed at the first meeting of creditors. The committee has the power to have the judicial manager attend before them and to furnish then with such information relating to the judicial management as they may require. In practice, a judicial manager is also likely to seek approval from the committee before making any major decisions in respect of the company.

In both liquidation and judicial management, members of the committee may also appoint their personal legal advisors, who may appear at committee meetings on their behalf. The costs of these legal advisors are borne by the creditors who appoint them.

7. What is the test for insolvency? Is there any obligation on directors or officers of the debtor to open insolvency proceedings upon the debtor becoming distressed or insolvent? Are there any consequences for failure to do so?

A company is deemed insolvent if it is unable to pay its debts. Generally speaking, a company is unable to pay its debts when its current liabilities exceed its current assets (the "balance sheet test"), such that it is unable to meet its debts as and when they fall due (the "cashflow test").

There is no strict statutory obligation for directors of a company to commence insolvency procedures upon the debtor becoming financially distressed. However, Section 239 of the IRDA essentially imposes a disincentive on directors running insolvent companies, by imposing criminal and civil liability on a director who knowingly incurs debts or other liabilities without reasonable prospect of meeting them in full.

Further, where a company is insolvent, there is a common law duty on the directors to run the company in the best interests of its creditors (as opposed to its shareholders). The more the company approaches insolvency, the more important creditors' interests become. Directors who fail to take creditors' interests into account may also be found personally liable for a breach of their duties, fraudulent trading, or other statutory offenses. It is not unusual for liquidators to look into the dealings of former directors, as it offers a potential avenue to obtain recovery for creditors.

8. What insolvency proceedings are available in the jurisdiction? Does management continue to operate the business and / or is the debtor subject to supervision? What roles do the court and other stakeholders play? How long does the process usually take to complete?

A company may be wound up either voluntarily, or under an order of the Court upon the application of one of its creditors or any of the other individuals identified at Section 124 of the IRDA. Upon the appointment of a liquidator, the former directors cease to have any control over the company, and usually play little part in the liquidation process. However, it should be noted that even after a company is placed in liquidation, Section 243 of the IRDA places a statutory obligation on the former directors and other officers to provide information and cooperate with the liquidators of a company.

Once the winding-up order has been made, the Court generally plays little part in the liquidation process and the liquidator is left to administer the liquidation. Instead, the actions of the liquidator are usually supervised by a committee of inspection consisting of creditors and contributories of the company. That said, the Court-appointed liquidator is an officer of the Court, and his actions thus remain subject to the scrutiny of the Court.

The length of a liquidation depends on many factors and is difficult to predict, especially if there are cross-border issues or if litigation is necessary to recover assets.

9. What form of stay or moratorium applies in insolvency proceedings against the continuation of legal proceedings or the enforcement of creditors' claims? Does that stay or moratorium have extraterritorial effect? In what circumstances may creditors benefit from any exceptions to such stay or moratorium?

Upon the commencement of a winding-up, no action or proceeding may be proceeded with or commenced against the company except by the leave of the Court.

If a winding-up application has been filed in Court, the company, any creditor or contributory, may also apply to Court to stay an ongoing action (or the Court may do so of its own accord).

A company proposing or intending to propose a scheme may apply to Court for a moratorium against, inter alia, all legal proceedings from continuing or commencing

against the company, the appointment of receivers, the realisation of any security over the property of the company, and the execution, distress, or other legal process against the company's property. Upon the making of such an application, the company will be entitled to an automatic interim 30-day moratorium (which may be extended by application to the Court).

Pursuant to the IRDA, a company applying for a moratorium in support of a scheme may also seek an order from the Court to have the moratorium bind all creditors outside of Singapore, as long as they are subject to the in-personam jurisdiction of the Singapore Courts. The Singapore Courts have also indicated that court-sanctioned insolvency officers may apply for a similar moratorium under the common law, although such an application has yet to be fully considered in Singapore.

Similarly, upon the filing of an application for judicial management, no steps may be taken to enforce any charge or security over the company's assets, and no other proceedings or legal process may be commenced or continued against the company. However, it should be noted that that the moratorium arising from a Judicial Management application is less flexible and more limited in scope than one filed in connection from a scheme of arrangement – for example, unlike a moratorium filed in support of a scheme, there is no option to extend protection to holding companies or subsidiaries.

A creditor affected by a moratorium may apply to Court for leave to continue or commence proceedings against the debtor company. In deciding whether to grant leave, a Court will weigh the interests of the creditor against the need to grant the debtor room to carry out an effective scheme or meet the aims of judicial management.

10. How do the creditors, and more generally any affected parties, proceed in such proceedings? What are the requirements and forms governing the adoption of any reorgnisation plan (if any)?

Creditors who are subject to a restructuring or reorganization regime implemented by the company will typically participate in the restructuring. For example, they will get to vote whether to approve a scheme of arrangement where is proposed, or to approve a statement of proposals in a judicial management.

Creditors in a liquidation will have to submit their claims in the form of a proof of debt, and have their proofs be adjudicated by the liquidator.

As mentioned above, a creditor affected by a moratorium may apply to Court for leave to continue or commence proceedings against the debtor company. In deciding whether to grant leave, a Court will weigh the interests of the creditor against the need to grant the debtor room to carry out an effective scheme or meet the aims of judicial management (in a restructuring scenario), or against whether the debts of an insolvent company can be dealt with more efficiently in a proof of debt adjudication (in a liquidation scenario).

11. How do creditors and other stakeholders rank on an insolvency of a debtor? Do any stakeholders enjoy particular priority (e.g. employees, pension liabilities, DIP financing)? Could the claims of any class of creditor be subordinated (e.g. recognition of subordination agreement)?

Secured creditors (aside from floating charge holders) rank outside the liquidation, and may realise their security notwithstanding the appointment of a liquidator. However, secured creditors who participate in the liquidation process by voting in respect of their secured debt are deemed to have forfeited their security.

Section 203 of the IRDA also provides that the following classes of debt have priority over all unsecured debts in the following order:

1. the costs and expenses of the winding up incurred by the Official Receiver and liquidator;
2. any other costs and expenses of the winding up;
3. the costs of the applicant of the winding up order;
4. wages and salaries of employees (up to a prescribed limit);
5. retrenchment benefits (up to a prescribed limit);
6. work injury compensation under the Work Injury Compensation Act 2019;
7. contributions to employee's superannuation or provident funds;
8. remuneration in respect of vacation leave; and
9. tax and goods and service tax.

In addition, items (1), (2), (3), (4), (5), (7) and (8) in the list above will be paid in priority over the claims of any floating charge holders. Where there are insufficient assets to satisfy any one class of debts, the debts within the same class are paid out on a *pari passu* basis.

Any residual assets of the company remaining after payment of all secured, preferred and unsecured creditors will be divided amongst the company's shareholders, first in accordance with the terms of their preference shares, and then equally amongst the ordinary shareholders.

12. Can a debtor's pre-insolvency transactions be challenged? If so, by whom, when and on what grounds? What is the effect of a successful challenge and how are the rights of third parties impacted?

Certain antecedent transactions may be unwound by a liquidator or judicial manager upon an application to Court:

1. A liquidator or a judicial manager has the power to set aside undervalue transactions that took place up to three years from the commencement of winding up or judicial management (as the case may be), if the transaction was carried out when the company was insolvent or became insolvent as a result. There is a presumption of insolvency if the transaction was carried out with a person who is connected with the company (otherwise than by reason only of being the company's employee).
2. The Court may also impugn a transaction intended to prefer one or some of a company's creditors over others, if the transaction (which is not a transaction at an undervalue) was carried out when the company was insolvent or became insolvent as a result, up to two years from the commencement of the winding up or judicial management (as the case may be). In all other cases of unfair preference, the relevant time would be one year from the commencement of the winding up or judicial management (as the case may be). There is a presumption of an intention to prefer if the counterparty to the transaction is a person who is connected with the company (otherwise than by reason only of being the company's employee).
3. The liquidator or judicial manager may also set aside a floating charge that has been created up to two years prior to the commencement of a winding up or judicial management, except to the amount of any cash paid to the company at the time of, or subsequent to, the creation of and in consideration for the charge, together with interest on that amount at the rate of 5 percent per annum.
4. Extortionate credit transactions may also be set aside if the terms of the agreement are exorbitant, unconscionable, or substantially unfair. Such transactions may be set aside or varied by the Court if they are entered into within a period of three years before the commencement of winding up or judicial management. Further, Section 130 of the IRDA provides that any disposition of a company's property made between the making of a winding up application and the making of the winding up order will be void, unless the Court orders otherwise.

13. How existing contracts are treated in restructuring and insolvency processes? Are the parties obliged to continue to perform their obligations? Will termination, retention of title and set-off provisions in these contracts remain enforceable? Is there any ability for either party to disclaim the contract?

Section 230 of the IRDA empowers a judicial manager or liquidator to disclaim any unprofitable contract, or any other property that is unsaleable, not readily saleable, or may give rise to a liability of the company to pay money or perform any other onerous act.

Upon liquidation, contractual rights of set-off are replaced by the insolvency set-off provisions. As for judicial management, case law has held that the contractual right of set off is not affected by the moratorium imposed by judicial management.

Section 440 of the IRDA also limits the application of certain ipso facto clauses that trigger by reason only that a company has commenced judicial management proceedings or a scheme of arrangement, or that the company is insolvent. Notably, this restriction only applies to contracts entered into on or after 30 July 2020.

14. What conditions apply to the sale of assets / the entire business in a restructuring or insolvency process? Does the purchaser acquire the assets “free and clear” of claims and liabilities? Can security be released without creditor consent? Is credit bidding permitted? Are pre-packaged sales possible?

A judicial manager may dispose of assets subject to a floating charge without the consent of the charge holder.

For all other types of charges, the Judicial Manager may apply to Court to dispose of the subject property as if it were not subject to the security.

There are no fixed conditions that apply to the sale of assets in a restructuring or insolvency process, although an insolvency practitioner may be challenged if he does not take reasonable efforts to obtain a fair value for the assets being disposed of. Typically, a buyer would require any assets purchased to be free from any encumbrances, although there may be circumstances where a buyer may be prepared to accept existing claims and liabilities as part of the purchase consideration.

There are no formal statutory processes for credit bidding, although it is an available option for insolvency practitioners to consider when deciding how to restructure a company's debt.

Pursuant to Section 71 of the IRDA, a company may also apply to Court for approval of a pre-packaged scheme, which dispenses with the need to hold a meeting of creditors. In order for such a scheme to be approved by the Court, the Court must be satisfied that had a meeting of creditors been summoned, each relevant class of creditors would have approved the scheme.

15. What duties and liabilities should directors and officers be mindful of when managing a distressed debtor? What are the consequences of breach of duty? Is there any scope for other parties (e.g. director, partner, shareholder, lender) to incur liability for the debts of an insolvent debtor and if so can they be covered by insurances?

As explained at Question 3 above, directors should be mindful of their duty to a company's creditors once a company is insolvent – a breach of this duty may result in personal liability being imposed.

In addition, directors should also be careful of the antecedent transactions described at Question 6 above – case law in Singapore has held that a director that permits such an antecedent transaction to be carried out is *prima facie* in breach of his duties. Directors should thus ensure that all transactions leading up to the insolvency of a company can be commercially justified. If there is a fair likelihood of a potential transaction being challenged, directors may wish to consider implementing the transaction through a scheme or judicial management instead. Further, where a transaction is at risk of falling foul of the wrongful trading provisions in the IRDA, Section 239(10) entitles an interested party to apply to Court to seek a declaration that a transaction or series of transaction does not constitute wrongful trading.

It is potentially possible that some D&O insurance policies may cover a directors' liability arising from the performance of his duties. That said, whether the policies will be engaged will depend on their terms.

16. Do restructuring or insolvency proceedings have the effect of releasing directors and other stakeholders from liability for previous actions and decisions? In which context could the liability of the directors be sought?

Neither restructuring nor insolvency proceedings will release directors and other stakeholders from liability for previous actions or decisions.

As mentioned above, a director may be held liable for breaches of his duties, for wrongful antecedent transactions, or wrongful trading. In the event that the judicial manager or liquidator finds that there is a good case, the judicial manager or liquidator may cause the company to institute legal proceedings against the errant director.

17. Will a local court recognise foreign restructuring or insolvency proceedings over a local debtor? What is the process and test for achieving such recognition? Does recognition depend on the COMI of the debtor and/or the governing law of the debt to be compromised? Has the UNCITRAL Model Law on Cross Border Insolvency or the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments been adopted or is it under consideration in your country?

Singapore has adopted the UNICITRAL Model Law on Cross Border Insolvency. In this regard, the Singapore Courts have expressed the view that the Model Law is meant to displace common law recognition of foreign insolvency proceedings. Thus, in cases where the Model Law is applicable, the Court are unlikely to allow common law recognition to be invoked as an alternative.

Under Article 15 of the Model Law, an application may be made to the High Court for the recognition of foreign insolvency proceedings. An application must be accompanied by:

1. a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;
2. a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
3. in the absence of evidence mentioned in subparagraphs (1) and (2), any other evidence acceptable to the Court of the existence of the foreign proceeding and of the appointment of the foreign representative.

An application must also contain a statement identifying all foreign proceedings and proceedings under Singapore insolvency law in respect of the debtor that are known to the foreign representative, and should also provide English translations of all documents provided in support of the application.

However, applicants should take note that the public policy exception under Article 6 has been modified, such that the threshold for rejecting an application is lower than that of other Model Law adopters – thus in Singapore, recognition may be denied on public policy grounds, even if recognition may not be manifestly contrary to public policy. For example, a Court may refuse an application if it was made in breach of an injunction obtained in Singapore, or may only grant limited recognition to the foreign representative only for the purposes of applying to set aside or appeal against the injunction.

In determining a company's centre of main interests ("**COMI**") under the Model Law, the Singapore Courts will consider objective factors ascertainable by third parties (with a focus on creditors and potential creditors) and will also consider how likely a creditor is likely to weigh particular factors in his mind. As the analysis requires a consideration of factors relevant to the creditor's understanding, the court's focus is on actual facts on the ground rather than on technical legal structures. The court's inquiry in this regard is broad-ranging, looking at the company's activities in and connections to a particular locale, and is not limited to the "nerve-centre" test adopted in the United States.

The Singapore Courts have also ruled that the date for determining a company's COMI is the date that the application for recognition is filed – this is similar to the position taken in the United States, and unlike that of England (which is the date of the commencement of foreign insolvency proceedings) and Australia (which is the date of the hearing of the recognition application).

At present, Singapore has yet to recognise the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments ("**MLIRJ**").

Singapore is also a founding member of the Judicial Insolvency Network, which aims to promote greater cooperation amongst insolvency judges, and to develop best practices for cross border insolvencies. As part of this initiative, the Judicial Insolvency Network is exploring the possibility of having insolvency hearings live-streamed across multiple jurisdictions to allow greater cooperation between insolvency courts.

18. For EU countries only: Have there been any challenges to the recognition of English proceedings in your jurisdiction following the Brexit implementation date? If yes, please provide details.

N/A

19. Can debtors incorporated elsewhere enter into restructuring or insolvency proceedings in the jurisdiction? What are the eligibility requirements? Are there any restrictions? Which country does your jurisdiction have the most cross-border problems with?

A foreign company with a "substantial connection" to Singapore may apply for a scheme, judicial management, or be wound up by the Court. In determining whether a company has a "substantial connection" the Court will look at various factors, including whether a company (i) has it centre of main interests in Singapore; (ii) caries on business in Singapore; (iii) has substantial assets in Singapore; (iv) has chosen Singapore law to govern a transaction; or (v) has submitted to the jurisdiction of the Court.

20. How are groups of companies treated on the restructuring or insolvency of one or more members of that group? Is there scope for cooperation between office holders? For EU countries only: Have there been any changes in the consideration granted to groups of companies following the transposition of Directive 2019/1023?

The companies within a group are still treated as individual legal entities, and must still file separate

restructuring or insolvency applications.

On a practical level, the Singapore Courts will usually assign a single judge to hear all applications relating to the same group of companies, and applications involving different companies within the same restructuring efforts are usually heard together. Further, the one of the factors that the Court will look at in deciding whether to approve the appointment of an insolvency practitioner is whether duplicate costs can be avoided. It is thus common for the same insolvency practitioner to be appointed in respect of multiple companies in the same group.

In addition, where a company proposing a scheme of arrangement has obtained a moratorium, related companies are entitled to apply to Court to obtain similar protection.

21. Is your country considering adoption of the UNCITRAL Model Law on Enterprise Group Insolvency?

Singapore has yet to announce whether it will adopt the UNCITRAL Model Law on Enterprise Group Insolvency.

22. Are there any proposed or upcoming changes to the restructuring / insolvency regime in your country?

Singapore has recently made considerable changes to its insolvency regime over the last few years, starting with the 2017 amendments to the Companies Act, which have carried over and expanded in the IRDA. The Ministry of Law is also currently undertaking a root and branch study of the judicial management regime in Singapore, with a view to further enhancing the regime.

23. Is your jurisdiction debtor or creditor friendly and was it always the case?

Traditionally, Singapore has been seen as a creditor-friendly jurisdiction. However, the 2017 amendments to the local insolvency regime have introduced a number of debtor-friendly provisions, which appear to emulate certain features of the Chapter 11 regime in the United States. However, various comments leading up to the enactment of the 2017 amendments have suggested that the 2017 amendments are not meant to serve as a wholesale adoption of the Chapter 11 regime. As a result, there is some uncertainty as to what extent certain other peripheral procedures in a Chapter 11 regime may apply in Singapore. One example of this is the provision of information to creditor groups in a restructuring – it remains to be seen whether the Singapore Courts may adopt a less aggressive approach to the giving of information as compared to Chapter 11 counterparts.

Some of the new provisions introduced by the 2017 amendments (which have carried over into the IRDA) include:

1. A debtor can apply to Court to obtain approval for rescue financing with super-priority over all other creditors.
2. An automatic 30-day moratorium against creditor action upon the filing for an application by the debtor company.
3. The ability to cram down dissenting classes of creditors in schemes of arrangement.
4. A relaxation of the test of judicial management – previously, a company had to be actually insolvent before a judicial manager could be appointed. Now, an applicant only needs to show that a company is likely to become insolvent.

The IRDA has also introduced additional protections to debtors. These include the ability for a debtor place itself in judicial management outside of court, as well as new restrictions on ipso facto clauses in contracts, with the aim of preventing contracts from being terminated or modified simply by virtue of a company being insolvent or commencing restructuring proceedings.

24. Do sociopolitical factors give additional influence to certain stakeholders in restructurings or insolvencies in the jurisdiction (e.g. pressure around employees or pensions)? What role does the State play in relation to a distressed business (e.g. availability of state support)?

While direct state intervention in an individual insolvency is rare, there has been a recent push by both the legislature and the judiciary to establish Singapore as global insolvency hub. This has led to significant amendments to the insolvency regime in Singapore to provide greater flexibility and options for companies in distress.

More recently, over the COVID-19 pandemic, there was significant legislative intervention by the Singapore government. Among other things, the Singapore government introduced new legislation to impose temporary moratoria against the recovery of certain

debts, as well as a simplified insolvency regime to avail smaller companies of a cheaper and more streamlined form of liquidation. This signaled a strong push by the Singapore government to facilitate restructuring efforts, and to make the liquidation process more efficient. The simplified insolvency regime has been continued beyond the COVID-19 pandemic and has been extended to 2026.

25. What are the greatest barriers to efficient and effective restructurings and insolvencies in the jurisdiction? Are there any proposals for reform to counter any such barriers?

Unfortunately, debtors seldom commence restructuring efforts until it is far too late, leaving little resources for the insolvency practitioner to implement an effective restructuring. It is also not unusual to see failing companies pillaged by errant directors prior to the commencement of insolvency proceedings. However, recovering these assets can be a challenge, are the debtor typically has insufficient funds to commence litigation to reverse these transactions or to mount a claim against the former directors.

Both the legislature and the judiciary have acknowledged these challenges, and have lowered the barriers to obtaining rescue financing as well as litigation funding for companies in liquidation.

Additionally, with regard to cross-border restructuring and insolvencies, Singapore has enacted the UNCITRAL Model Law on Cross-Border Insolvency and there has been an increasing number of cases before the Singapore courts seeking cross-border recognition. However, there are significant impediments to coordinating the insolvencies of cross border companies in the same group as there is no mechanism for seamless restructuring of enterprise groups across jurisdictions. That said, section 65 of the IRDA represents a significant inroad in this area as do the JIN Guidelines by allowing more significant protections for related companies as well as better coordination across jurisdictions.

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