

Recommendations of the Committee to Strengthen Singapore as an International Centre for Debt Restructuring

I. Enhancing the Legal Framework for Restructurings

Processes and Procedures Specifically Tailored for Restructurings

Recommendation 1 Processes and procedures specifically tailored to promote quick, cost-efficient and certain restructurings should be developed.

Recommendation 2 Such processes and procedures should include the following specific aspects:

- (a) Provisions for the invocation of the Singapore court's jurisdiction over foreign corporate debtors;
- (b) Provisions concerning stays of creditor action which provide for: (i) the grant of automatic moratoriums in support of restructurings, and (ii) applications for injunctions which have *in personam* worldwide effect, and (iii) application for extension of moratoriums to related entities;
- (c) Provisions as to the disclosure of information required;
- (d) Provisions for the consolidation of related insolvency and restructuring proceedings before the same judge;
- (e) Provisions for increasing the recognition and enforcement of Singapore restructurings; and
- (f) Provisions for pre-packaged restructurings.

An Effective Court for Restructurings

Recommendation 3 Restructuring proceedings should be heard by a dedicated bench of judges.

Recommendation 4 This dedicated bench of judges should have relevant practical experience in managing insolvency and restructuring cases and a good reputation in this field.

Recommendation 5 International judges renowned for managing insolvency and restructuring cases can be appointed to the Singapore International Commercial Court. This would bring additional international judicial expertise to Singapore.

Recommendation 6 These judges should take a judge-led approach to managing restructuring cases.

Resolving Disputes in Insolvency and Restructuring through alternative dispute resolution methods

Recommendation 7 Where there are issues and disputes that may be more appropriately and efficiently resolved via alternative methods of dispute resolution such as mediation or arbitration, the judge should be empowered to encourage parties in the proceedings to consider mediation, arbitration or other appropriate alternative dispute resolution processes. As certain issues arising in a restructuring may not be arbitrable, some guidance can be given on the issues that can be referred to arbitration.

Recommendation 8 Local mediation and arbitral institutions, such as the Singapore International Arbitration Centre and Singapore International Mediation Centre, should develop and promulgate rules and protocols that cater specifically for insolvency related matters to attract potential users.

Recommendation 9 Steps should be taken to strengthen panels of mediation bodies and arbitral bodies to include expert mediators and arbitrators with experience in cross-border restructuring.

II. Creating a Restructuring Friendly Ecosystem

Increasing Availability of Rescue Financing

Recommendation 10 Allow super-priority liens in Singapore.

Recommendation 11 The granting of a super-priority lien should be subject to approval from the court as such liens will affect substantial property rights. Additionally, there should be sufficient safeguards to ensure that existing secured creditors are not unfairly prejudiced by a super-priority lien.

Recommendation 12 Distressed Debt Funds should be encouraged to establish a base in and operate out of Singapore.

Recommendation 13 Singapore offers a range of incentives that apply to rescue financing activity and greater promotion of relevant incentives can be undertaken to increase awareness.

Strengthening the insolvency profession in Singapore

Recommendation 14 Steps should be taken to strengthen the Singapore insolvency profession, in particular to ensure that insolvency professionals here have the depth and breadth of expertise necessary to handle complex global restructurings.

Recommendation 15 Multi-disciplinary teaching by the law, business and accountancy faculties of the local universities should be developed to build up the knowledge and expertise of the insolvency profession.

III. Addressing the Perception Gap

Recommendation 16 Efforts should be made to communicate the benefits of conducting a debt restructuring in Singapore to the wider international restructuring community.

Recommendation 17 Singapore-based professionals, judges and academics can undertake these efforts at international insolvency organisations, conferences and seminars or by providing thought leadership through research.