

Restructuring & Insolvency

Product Fact Sheet

Product Summary

The worldwide economic crisis of 2008–9 has resulted in a growing number of companies becoming insolvent. A well-functioning insolvency system ensures that these companies retain as much of their value as possible, either by restructuring viable firms so that their underlying businesses can continue operating, or by liquidating the assets of unviable firms to allow creditors to recover as much as possible. In order to help client countries cope with the changed economic crisis, Investment Climate Advisory Services has established a technical assistance program for countries seeking to strengthen their corporate insolvency systems. The technical assistance program can support insolvency legislative or regulatory reform efforts by, among other things:



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- Establishing or strengthening the insolvency practitioner frameworks that are key to the proper functioning of a country's insolvency system;
- Designing or revising rules to facilitate informal workouts (out-of-court insolvency procedures), in order to ease the burden on formal court systems.
- Increasing the capacity of institutions that implement the insolvency framework.

This technical assistance complements the work of the World Bank's Insolvency and Creditor Rights ("ICR") Initiative¹, which in addition to providing technical assistance on key aspects of the credit environment, draws on the Bank's Principles for Effective Insolvency and Creditor Rights Systems to provide a comprehensive evaluation of ICR systems in a country through the Bank's Report on the Observance of Standards and Codes ("ROSC") program.

Description

The technical assistance provided by the Investment Climate Advisory Services can be customized to address the specific needs of any given country.

(1) *Reforming the enabling environment*

Depending on client needs, assistance in the regulatory reform process can include recommendations on legislative amendments. Specific deliverables of this workstream may include:

- Identifying and reviewing the existing legislative framework for out-of-court resolution and regulation of insolvency practitioners;
- Analyzing insolvency framework and procedures against the *Doing Business*² metrics;
- Providing written recommendations for amending key legislation.

¹ The Insolvency and Creditors Rights Initiative, anchored in the Legal Vice Presidency, is responsible for the implementation of the Bank's "standard setting" and diagnostic functions under the G-20 mandated International Financial Architecture Program. The international standards for the ICR area are available at (www.worldbank.org/gild).

² The *Doing Business* Report, a joint publication of the World Bank and the IFC, measures the strength of business regulation across 10 indicator areas. One of these indicators, "Closing a Business", is intended to measure the time and cost of insolvency procedures, as well as the recovery rate for creditors.

2) Developing and implementing the insolvency practitioner regulatory framework:

One of the main hindrances to a well-functioning insolvency system is the lack of capacity in the insolvency practitioner profession. Insolvency practitioners play a key role in restructuring and liquidation processes, as they often supervise or even take over the operations of companies going through the insolvency process. Capacity building can take place in countries with or without existing insolvency practitioner frameworks.

Technical assistance in this area consists of:

- Setting professional qualification standards;
- Introducing licensing regimes, including ethical guidelines and an examination system;
- Developing mechanisms to monitor insolvency practitioners and, if necessary, enforce penalties for the violation of professional standards;
- Drafting training manuals for practitioners.



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(3) Developing and implementing rules and guidelines for informal workouts:



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Some countries have adopted rules that make it easier for debtors with multiple creditors to restructure their debts out of court or to develop 'pre-pack' bankruptcy solutions (negotiated reorganization plans that are only brought to court for final approval). Informal workout mechanisms can be particularly important in countries whose court systems are already overburdened, or where reform of the existing legislative framework is expected to last over an extended period.

Technical assistance in this area may include:

- Defining a clear process for debtors and creditors to follow;
- Designing a toolkit to include standardized contracts and other documents used in workouts;
- Drafting suggested amendments to statutes and regulations;
- Building capacity within commercial banks and other institutions to effectively use out-of-court frameworks.

(4) Developing and implementing insolvency frameworks for Sole Proprietorships and Small to Medium-sized Enterprises (SMEs).

Many legal systems do not adequately provide for the resolution and restructuring of personal debts that arise as a result of business activity. In many countries, the inability to finally resolve such debts acts as a permanent barrier to re-entry into the market for entrepreneurs and acts as an obstacle to innovation and entrepreneurship.

Assistance in this area includes:

- Developing insolvency regimes that can respond to individual, business-related debts; and
- Developing fast-track insolvency proceedings, within existing laws, for medium-sized enterprises.