

CLIENT UPDATE 2016 JULY



RESTRUCTURING & INSOLVENCY

Singapore Bankruptcy Amendment Act Comes Into Force

Introduction

In July 2015, the Singapore Parliament passed the Bankruptcy Amendment Bill, which set the stage for the reform and updating of the bankruptcy regime. The imposition of these changes has been greatly anticipated, and the Bankruptcy (Amendment) Act 2015 will now come into force on 1 August 2016.

In this Update, we highlight the key elements of the new bankruptcy regime, as well as what these changes mean in practice.

Global Changes

Just as the financial realities within a country continue to change, the bankruptcy and insolvency practice must evolve accordingly. This is true of Singapore's bankruptcy regime and is also reflected in the recent bankruptcy developments across numerous jurisdictions.

India recently reformed its bankruptcy and insolvency regime earlier in May 2016. The Bankruptcy and Insolvency Code was established to create a single piece of legislation which consolidates the insolvency and bankruptcy process for all debtors. This aims to reduce the inefficiencies of the current system and improve the debt recovery rate. To read our earlier Update on this new regime, please click [here](#).

In the UK, amendments were made to the bankruptcy system in 2015, whereby the debt threshold for a bankruptcy petition was significantly increased. The bankruptcy law in Ireland was also updated at the beginning of the year, bringing the system more in line with that of the UK and reducing the period of bankruptcy. These changes may be all the more significant in light of the recent Brexit developments and its impact on the financial world.

Countries in the region have also been updating and reforming their corporate insolvency processes, including Hong Kong, Thailand, and Australia.

Amendments in Singapore

The changes to the Singapore bankruptcy regime are significant, and impact quite a few aspects of the bankruptcy resolution process. Some of the more pertinent amendments are highlighted below.

Debt Threshold – The minimum debt for initiating bankruptcy proceedings has increased from S\$10,000 to S\$15,000.

This is consistent with the global trend towards increasing the debt threshold for bankruptcy, taking into consideration the effects of inflation. While access to bankruptcy proceedings will be restricted by the increased threshold, it is anticipated that the increase in the threshold on its own is not likely to cause any major impact or significant difficulty in the debt recovery process engaged by creditors.

Discharge Framework – The new regime introduces a framework with clear exit points and time frames for discharge. The timelines for discharge differ according to whether the bankrupt is a first-time bankrupt (between 3 to 7 years) or a repeat bankrupt (between 5 to 9 years).

This new framework seeks to provide greater certainty in bankruptcy resolution, and to facilitate rehabilitation and debt repayment on the part of the bankrupt. Bankruptcy can sometimes be a long-drawn process from which recovery is an imposing task. With more fixed time and monetary markers,

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bankrupts are better able to form a repayment plan, and creditors are accordingly more likely to obtain recovery on their debts.

Bankruptcy Records - Bankrupts who pay their Target Contribution in full will have their name and particulars removed from the register after 5 years. This provides an incentive to a bankrupt to fully comply with his obligation to make the Target Contributions.

Proof of Debt – There is a four month deadline for the filing of proofs of debt. Creditors must ensure compliance with the deadline, or else be able to provide an adequate reason for the delay. If a creditor does not meet the deadline, the creditor may be excluded from the benefit of any distributions made from the bankrupt's estate.

Expedited Process – Creditors may be able to avail themselves of an expedited bankruptcy application in circumstances where the debtor's property is at risk of diminishment.

Private Trustees – Large corporate institutional creditors are required to nominate a private trustee to administer a bankruptcy when bringing a bankruptcy application. This move aims to reduce the burden on the Official Assignee since it was found that most bankruptcy applications are initiated by institutional lenders. The trustee is still accountable to the Official Assignee, and must submit an annual report of the status of the bankruptcy, including repayment progress and asset status.

Subsidiary Legislation – Relevant subsidiary legislation have also been amended, including the Bankruptcy Rules, the Bankruptcy (Costs) Rules and the Bankruptcy (Fees) Rules. Among other things, the deposit payable to the Official Assignee in respect of bankruptcy proceedings has increased from S\$1,600 to S\$1,850. In addition, the costs associated with the commencement of bankruptcy proceedings payable to the creditor who obtained the bankruptcy order have been significantly increased from S\$700 to S\$1,200.

Concluding Words

Creditors – particularly institutional lenders – should apprise themselves of the features of the new bankruptcy regime. Internal policy and procedure regarding debt recovery should also be adjusted to accommodate the changes.

For further queries, please contact our team below.

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ASEAN Economic Community Portal

With the launch of the ASEAN Economic Community (“AEC”) in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch “Business in ASEAN”, a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN’s business landscape. Of particular interest to businesses is the “Ask a Question” feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at <http://www.businessinasean.com/>.

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