

# Asian Corporate Insolvency

Reform:

## The Need for the Development of Effective Insolvency Infrastructures



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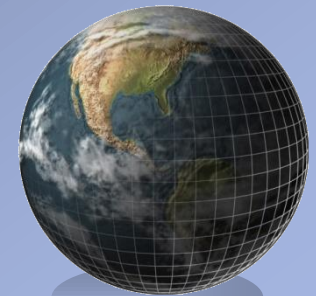
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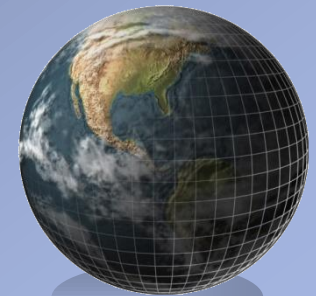
# Positive Developments Arising from Post-1997 Reforms

1. Insolvency laws throughout Asia have been improved and modernized, leading to a dramatic improvement in the efficiency and sophistication of the insolvency procedures.
2. Much of the insolvency law reform in Asia has been positively influenced by the promulgation by the multi-lateral organizations of their principles and guidelines -- the most significant example is the trend towards developing legal regimes with an emphasis on the rescue and rehabilitation of viable corporate businesses.
3. Many jurisdictions implemented bank-centred, out-of-court workout procedures, based on the London Approach, which have proved valuable in facilitating the rescue and rehabilitation of viable corporate business.



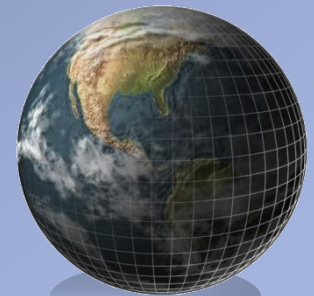
# Positive Developments Arising from Post-1997 Reforms II

4. Many jurisdictions with systemic problems in the financial sector established AMCs to assist with the disposal of NPLs and/or the reorganization of many of the banks' corporate debtors.
5. Several jurisdictions improved the competency, quality, and flexibility of the judiciary in handling insolvency cases.
6. Many jurisdictions improved the competency and quality of insolvency professionals.
7. Most Asian jurisdictions improved their risk management mechanisms and procedures.
8. Some jurisdictions began to take steps to foster co-operation in cross-border insolvency cases.



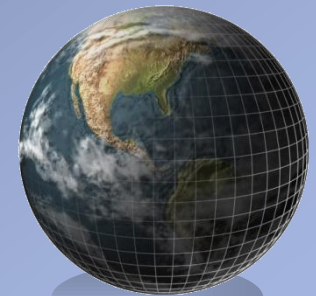
# Supporting Factors and Necessary Conditions

- Where insolvency is the rule rather than the exception, to provide creative solutions outside the traditional insolvency law legal framework.
- To ensure that market-based mechanisms for fairly valuing assets and supplying capital and generally accepted accounting standards are being used.
- To ensure that there are efficient means of debt collection and security enforcement outside of bankruptcy and that effective corporate governance procedure are in place.
- To root out corruption, fraud, and nepotism.



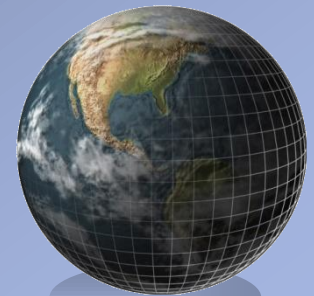
# Recommendations for Reform

1. To narrow the serious implementation gap between insolvency legislation and practice.
2. To complete the insolvency law reform process, with a particular focus on determining whether liquidation procedures need to be bolstered and enacting supporting rules and regulations.
3. To take further steps to facilitate the continued development of a corporate rescue culture applicable to both formal court-centred restructurings and out-of-court workouts.
4. To further improve banking systems, strengthen the financial structure of SOEs, and achieve greater efficiencies in the disposal and/or restructuring of bad loans.



## Recommendations for Reform II

5. To improve the quality and efficiency of commercial and insolvency judges and of insolvency professionals.
6. To do a better job of disseminating and publicizing insolvency legislation and judicial decisions.
7. To further improve risk management mechanisms and procedures.
8. To take further steps to foster co-operation in cross-border insolvency cases.



# Law Reform Areas

- Adoption of a modified debtor-in-possession approach.
- Development of post-petition financing mechanisms.
- Establishment of realistic payment standards for insolvency administrators in no- and low-asset cases.
- Focus on out-bound transactions in designing frameworks for cross-border insolvency cooperation.

