



OECD  OCDE



Forum for Asian Insolvency Reform (FAIR)

MAXIMISING VALUE OF NON- PERFORMING ASSETS

AGENDA

*Seoul, Korea
10 - 11 November 2003*

*held at
The Korea Federation of Banks Building
4-1, 1-Ga, Myong-Dong, Chung-Gu*

**In partnership with
The Government of Japan**

Hosted by:

The Ministry of Finance and Economy (MOFE)

Financial Supervisory Commission (FSC)

With assistance provided by:

Korea Development Institute (KDI)

Korea Asset Management Corp (KAMCO)

Background

The OECD has been active in insolvency reform since 1993. Weak insolvency systems have been identified as one of the key shortcomings of the investment climate in Asian markets. At the November 1999 meeting on Insolvency Systems in Asia, the OECD was urged to continue promoting policy dialogue in the region. As a result, the OECD, in co-operation with APEC, AusAID, ADB and the government of Japan established the Forum for Asian Insolvency Reform (FAIR) to discuss and exchange experience on insolvency reform in the Asian Region.

Efficient, predictable and transparent insolvency procedures are of key importance for reallocation of productive resources in the corporate sector, for investor confidence and forward looking corporate restructuring. By providing a platform for sustained policy-dialogue, FAIR contributes to keeping insolvency at the heart of reform efforts in the region.

Purpose of the FAIR

The FAIR aims at:

- Assisting the development of an Asian agenda for insolvency reform;
- Building a regional policy constituency and commitment to reforms;
- Disseminating regional experiences and comparative progress reviews, in order to increase the understanding for viable policy options;
- Monitoring progress and helping to keep insolvency, restructuring and the related legal changes at the heart of reform efforts.

In close co-operation with international and regional partners, FAIR is organised around annual meetings that facilitate and deepen the dialogue on insolvency reform in the region. In addition to a continuous in-depth dialogue on specific aspects of insolvency reform, FAIR also undertakes informal peer country reviews of reform implementation. The shared goal of FAIR is to make sound policy conclusions and recommendations and to ground them in the situation and circumstances of each country of the region. The FAIR also facilitates identification of country-specific technical-assistance needs, which could then be addressed by bilateral donors or multilateral institutions.

Each FAIR meeting is accompanied by substantive background documentation, which is subsequently published. The first FAIR meeting, was held in Indonesia in 2001 and focused on Insolvency Reforms in Asia: An Assessment of the Implementation Process and the Role of the Judiciary. The second FAIR meeting, which was held in Thailand in December 2002, focused on Informal Workouts and reviewed the reform process in Thailand.

FAIR III

The third meeting of FAIR is planned for 10-11 November 2003 in Seoul, in co-operation with the Ministry of Economy and Finance, the Financial Supervisory Commission and the Korea Development Institute. It is organised with the support of the World Bank, the Asian Development Bank and the Government of Japan. Participants will examine the policy issues and techniques related to value maximisation of distressed assets and non-performing loans. The meeting will attempt to distill the

experience with new initiatives that have emerged since the beginning of the Asian financial crisis in the area of non-performing assets resolution and to assess whether they provide the right incentives for debtor and creditor discipline.

More specifically participants will discuss:

- Policy options for maximising value of distressed assets;
- Legal and institutional framework and its role for building effective incentives and ensuring the implementation of policy;
- Performance of Asian asset management companies in maximising value of distressed assets;
- Bulk sales of non-performing assets and securitisation techniques;
- Non-performing loans between companies;
- Developing the Asian market for non-performing assets and
- Korea's experience.

Organisation of the discussions

Presentations and discussions will take place within six sessions. In each session main speakers will make a presentation of about 15 minutes each, followed by discussants that will have a slot of maximum 10 minutes each. Speakers are invited to keep their presentations within the proposed time limitations in order to leave sufficient time for debate and general discussion.

During the last session, a panel composed of session chairs will present brief conclusions from the sessions (about 5 minutes each) highlighting the key priorities for maximising value of distressed assets in Asia. Participants will also provide conclusions and recommendations for reforms relevant to the Korean case. Options for future work of FAIR will also be discussed.

Day 1 – Monday 10th November 2003

Registration and Welcome

08:30 – 09:00 Registration

09:00 – 09:30 Welcoming remarks

- **Mr. Gwang-Lim Kim**, Vice Minister of Economy and Finance
- **Mr. Dong-Gull Lee**, Vice Chairman, Financial Supervisory Commission, Korea

Opening remarks

- **Mr. Robert Ley**, Counsellor, Directorate for Financial, Fiscal and Enterprise Affairs, OECD
- **Mr. Gordon Johnson**, Lead Counsel, Forum for Insolvency and Risk Management, the World Bank

SESSION I: Trends in Addressing Distressed Assets and Vehicles for Maximising Value in Asia: An Efficiency Perspective

09:30 – 11:00 Chair: **Professor Young Ki Lee**, KDI School of Public Policy and Management

- **Overview of Legal and Institutional Trends in Asia in Addressing Distressed Assets and Vehicles for Maximising Value**, **Mr. Lampros Vassiliou**, Lead OECD Consultant, Head of Corporate Insolvency & Restructuring-Asia, Allens Arthur Robinson / Siam Premier

Panel Discussion:

- **Mr. Salman Ali Shaikh** and **Mr. Feisal Naqvi**, Banking Law Reform Committee, Pakistan
- **Professor Weiguo Wang**, China University of Politics and Law
- **Mr. Bacelius Ruru**, Chairman and **Mr. Samuel Tobing**, Chief Operating Officer, Jakarta Initiative Task Force, Indonesia
- **Professor Christina Liu**, Member of the Legislative Yuan, Chinese Taipei

General Discussion

This section will serve as an introduction to the discussion on maximising value of distressed assets in Asia. Participants will survey the legislative and institutional/policy changes that have taken place in Asia since FAIR II and will assess their potential impact on value maximisation of distressed assets.

Together with current reform efforts, participants will discuss factors, which shape insolvency proceedings in Asia, such as cultural values, legal tradition, ownership structures of banks and companies. They will examine their impact on insolvency policies implemented until now and will identify fundamental challenges to address. The discussion will also focus on which interests are maximised, according to the characteristics of formal and informal credit-recovery proceedings and will examine the related efficiency concerns.

11:00 – 11:15 *Coffee break*

SESSION II: The Role of Policy and the Framework for Policy Implementation

11:15 – 13:00 **Chair: Mr. Gordon Johnson**, Lead Counsel, Forum for Insolvency and Risk Management (FIRM), World Bank

- International Comparison of the Legal Framework of NPA and Normalization Issues, **Mr. Jae Ryong Jeong**, former KAMCO president
- A Regional Perspective of Policy Goals and Priorities - **Ms. Jenny Clift**, Legal Officer, United Nations Committee on International Trade Law (UNCITRAL)
- Informal Workouts as a Means for Addressing Legal Shortcomings, **Mr. Thierry Bosly**, White & Case; Universities of Louvain and Paris I

Panel Discussion:

- **Ms. Sherri Chuang**, Senior Auditor Ministry of Finance, Chinese Taipei
- Honourable **Mr. Justice Mannohan Sarin**, Judge, Delhi High Court, India
- **Mr. Tumnong Dasri**, Director, Bank of Thailand
- **Mr. Terry Bond**, Consultant, Bond Associates International Limited and consultant to RSM and Insol, United Kingdom

This session will provide a policy perspective on the main issues at hand and will further focus on the main priorities for insolvency reforms in the region. Participants will discuss approaches for getting policy implemented, based on the experience of Asian and non-Asian economies. The discussion will also revolve around the legal framework and the role of central banks, ministries of finance, deposit insurances systems, Asset Management Companies and public or private sector institutions, which play a pivotal role in implementing policy with respect to distressed assets in Asia. Presentations will ideally focus on the new initiatives underway, the problems which they target and an assessment of their capacity to solve them. Finally, participants will attempt to identify current challenges and the measures to be put in place in order to address them.

13:00 – 14:30 *Lunch*

SESSION III: Asset Management Companies (AMCs) in Asia: Experiences and Current Challenges

14:30 - 16:00 **Chair: Mr. Lampros Vassiliou**, Lead OECD Consultant, Allens Arthur Robinson/Siam Premier

- The Industrial Revitalization Corporation of Japan: Strategy and Techniques, **Mr. Shinjiro Takagi**, Chairman, Industrial Revitalization Commission, Japan

Panel Discussion :

- **Mr. Jianzhong Hu**, China Great Wall Asset Management Corporation
- **Mr. Shariffuddin Khalid**, General Manager, Pengurusan Danaharta Nasional BHD, Malaysia
- **Mr. Yong-Ho Oh**, Executive Director, KAMCO
- **Mr. William P. Mako**, Senior Analyst, Corporate Restructuring, Private Sector Development Department, World Bank

The discussion will focus on the objectives, the methods for buying, managing and selling non-performing assets, and on the performance of AMCs and other resolution bodies and

vehicles in Asia. By comparing the performance of the various AMCs and specialised resolution bodies in Asia, this session will focus on the main ingredients for successful disposition of assets.

Participants will also examine the role of professionals and the capacity of the legal and institutional system to allow for innovative techniques to be introduced. Special attention should be paid to challenges, incentives and new trends.

16:00 – 16:30 *Coffee break*

SESSION IV: Non-Performing Loans Between Companies

16:30 – 18:00 **Chair: Ms. Jenny Clift**, Legal Officer, United Nations Committee on International Trade Law

- Advantages of Inter-Firm Credit in Dealing with Non-Performing Assets, **Mr. Paolo Santella**, OECD Consultant seconded from Banca d'Italia
- Trade Credit in Japan: Relationship with Bank Credit, **Dr. Ichiro Uesugi**, Fellow, Research Institute of Economy, Trade and Industry, Japan.

Panel Discussion:

- The Specificities of Trade Credit in Korea, **Dr. Joon-Kyung Kim**, Director of Research, Planning and Co-ordination, Korea Development Institute (KDI)
- The Point of View of Trade Credit Insurers, **Mr. Matthew Ellerton**, Euler Hermes Credit Underwriters (HK) Ltd., Hong Kong
- The Specificities of Trade Credit in India, **Mr. K.D. Zacharias**, Legal Advisor, Reserve Bank of India

Recent research has shown that the volume of inter-firm (trade) credit is significant and on some instances, it might be comparable to the volume of banking credit. This session will examine the effects of the Asian crisis on inter-firm loans and its impact on policy. Participants will focus on the advantages of trade creditors in monitoring debtors compared to banks, particularly in countries with less efficient insolvency proceedings.

Empirical research will illustrate specific inter-firm transactions and creditors' practices in the region. Panel presentations will analyse the impact of the Asian economic crisis on inter-firm credit and the volume of non-performing assets. They will also look into the framework for trade credit in selected Asian countries and will examine the banking and inter-firm relations within industrial and financial conglomerates.

Welcome Dinner

18:30 Hosted by KAMCO at the Bankers Club, Korean Federation of Banks Building.

Welcoming Remarks by **Mr. Yong Kyoon Shin**, Executive Vice President of KAMCO

Day 2 – Tuesday 11th November 2003

SESSION V: Developing the Asian Markets for Non-Performing Assets

09:00 – 10:30

Chair: Mr. Paul Kirk, Managing Director, Global Leader Business Recovery Services, PriceWaterhouse Coopers, USA

Presentations:

- Performance and Resolution of Non-Performing Assets: the Importance of Hard Evidence, **Mr. Pierpaolo Grippa**, Banca di Italia
- India's experience, **Mr. S. Khasnobis**, President and COO, Asset Restructuring Company, India
- Techniques for Financial and Operational Restructuring and their Role in Developing the Market for Non-Performing Assets in Asia, **Mr. David Kidd**, Allen & Overy

Discussant:

- **Mr. Aswani Puri**, Executive Director - Corporate Finance and Recovery Services, PriceWaterhouse Coopers, India
- **Mr. Sumant Batra**, Director, INSOL, India

This session will examine the performance and resolution of non-performing assets in Asia, the experience of creditors and debtors, the risks arising from restructuring practices and the importance of specific techniques for financial and operational restructuring in the region.

Furthermore, the importance of hard evidence in assessing the performance of Asian markets will be illustrated by a presentation on the Italian experience with credit recovery, based on a unique systematic study of length of procedures, percentages of credits recovered, characteristics and costs of recovery procedures. A discussion of the recent Indian experience with acquiring non-performing assets at their present market value will illustrate a relatively innovative incentive scheme provided to companies and an alternative solution for asset management. Finally, an overview of structuring options and alternatives for non-performing assets resolution emerging in the international market place will serve to draw conclusions on their relevance to the development of the Asian market of non-performing assets.

10:30 – 11:00

Coffee break

SESSION VI: Korea's Experience

11:00 – 12:30

Chair: Ms. Clare Wee, Senior Counsel, Asian Development Bank

Presentations (to be confirmed):

- Korea's Experience in Securitisation and NPA Disposition, **Mr. Yong – Kyoon Shin**, Executive Vice President, KAMCO
- Mergers and Acquisitions of Distressed Companies, **Mr. Yong-Sook Choi**, Korea Development Institute (KDI)
- Corporate Restructuring Vehicles and Private Equity Funds, **Dr. Hyung Tae Kim**, Vice President, Korea Research Institute

- Financial and Corporate Restructuring in Korea, **Mr. Seung-Beom Koh**, Director, Non-Bank Financial Institutions Supervision Policy Division, Financial Supervisory Commission, Korea

Discussant:

- **Mr. Stijn Claessens**, Professor, Amsterdam University, the Netherlands

The objective is to distill lessons of Korea's experience for the benefit of other countries. This session will focus on the main characteristics of the Korean insolvency system and recent legal and institutional changes, such as: the implementation of the 2001 Corporate Restructuring Promotion Act, progress with integration of the different types of insolvency procedures, which exist in Korea and with providing a framework for cross-boarder insolvency. The discussion will further focus on the experience with corporate restructuring in Korea, the role of KAMCO and some cases of Korean corporate workouts.

12:30 – 14:30

Lunch

SESSION VII: Insolvency Law Reform in Korea

14:30 – 16:00

Chair: **Mr. Terry Halliday**, American Bar Foundation and Northwestern University

Presentation:

- Setting Insolvency Rules: A Course of Understanding and Persuading, **Prof. Soogeun Oh**, Ewha Womans University
- Issues Concerning Insolvency Reforms in East Asia, **Mr Terry Halliday**, American Bar Foundation, USA

Panel Discussion:

- **Mr. Salman Ali Shaikh**, Consultant, Pakistan
- **Mr. Pairoj Vongvipanond**, Associate Professor, Institute of Social and Economic Studies, Dhurakij Pundit University, Thailand
- **Mr. Sumant Batra**, Director, INSOL, India

16:00 – 16:30

Coffee break

Concluding Remarks

16:30 – 17:30

- **Chair: Mr. Robert Ley**, Counsellor, Directorate for Financial, Fiscal and Enterprise Affairs, OECD

Summary of discussions by chair persons
 Conclusions and recommendations relevant to Korea's experience
 Open discussion on options for future work of FAIR