



ASIAN BUSINESS LAW INSTITUTE



News Release

Guide on the treatment of insolvent Micro and Small Enterprises (MSEs) in Asia to benefit policymakers, businesses and professional advisors

The resource can enable an effective and efficient insolvency regime for MSEs in Asia

SINGAPORE, 10 May 2022 — The Asian Business Law Institute (**ABLI**) and the International Insolvency Institute (**III**) today released the Guide on the Treatment of Insolvent Micro and Small Enterprises in Asia (**Guide**).

Designed for policymakers as well as businesses and their advisors, the Guide is drafted by Assistant Professor of Law Aurelio Gurrea-Martinez of the Singapore Management University with valuable input and contribution from academics, policymakers and practitioners across the Asia-Pacific, including those from Australia, Brunei, Cambodia, China, Hong Kong Special Administrative Region of China, India, Indonesia, Japan, Malaysia, Singapore, South Korea, Thailand and Vietnam. The Guide also benefits from III's global reach of internationally renowned experts from countries such as Canada, Germany, Italy, the Netherlands, United Kingdom and United States who graciously shared their insights and expertise. International organisations like INSOL International, the United Nations Commission on International Trade Law and the World Bank were also consulted during the almost year-long drafting process.

“MSEs lie at the heart of a healthy economy, and are key drivers of employment, economic growth and development. The health of the sector contributes to both the economic and social wellbeing of a nation’s population,” said Mr John Martin, President of the III. “But, as the pandemic has demonstrated, good leadership and management of a small or micro business may not be sufficient to insulate it from the many and varied challenges of modern commercial life. It is essential that there is a framework to deal with financial distress in the MSE sector. I am delighted that III has again partnered with the Asian Business Law Institute to prepare and now publish a set of principles for designing and embedding a robust and effective legal and institutional framework that will benefit all jurisdictions in Asia.”



ASIAN BUSINESS LAW INSTITUTE



A UNIQUELY ASIAN GUIDE

MSEs represent the vast majority of businesses in all jurisdictions in Asia. In most Southeast Asian countries, MSEs account for more than 96% of the total number of firms.¹ Despite their economic relevance and the importance of the insolvency process, most Asian jurisdictions do not yet have insolvency frameworks that are suitable for MSEs. The pandemic has laid bare the vulnerability of these businesses and accentuated the urgency of having in place a suitable framework to approach the insolvency of MSEs.

“ABLI continues its partnership with the III on the critical task of detailing principles to promote convergence of the rules on corporate restructuring and insolvency in Asia,” said Mr Rama Tiwari, Chief Executive of the Singapore Academy of Law, ABLI's parent organisation. “Given the indispensable role played by MSEs in promoting economic development and creating employment opportunities in Asia, it is timely for the Guide to zero in on MSE insolvency and with principles that will hopefully contribute to more effective treatment of insolvent MSEs in Asia.”

The Guide identifies five key principles for more immediate adoption by jurisdictions as building blocks of a well-functioning MSE insolvency framework (**Key Principles**), and six aspirational principles that should ideally be considered and adopted by jurisdictions over the longer term to provide MSEs with a more comprehensive legal and institutional environment to deal with financial distress (**Aspirational Principles**). This tiered approach, unique among all current literature, is designed by considering the extreme diversity of institutional development of Asian jurisdictions and with the hope of assisting policymakers better digest the recommendations made in this Guide.

The Guide is available for download at <https://payhip.com/b/bkW12>.

ABLI and III will continue their important collaboration to streamline the rules of insolvency and restructuring across Asia by commencing work on an upcoming guide that focuses on out-of-court workouts in Asia.

These efforts are part of ABLI's mission to provide practical guidance on, and promote convergence of, business laws in Asia.

¹ Michael T Schaper, "The Missing (Small) Businesses of Southeast Asia" (2020) 79 ISEAS Yusof Ishak Institute 5.



ASIAN BUSINESS LAW INSTITUTE



Appendix:

Key Principles

Key Principle 1: Promote Out-of-Court Restructuring for Viable MSEs

Key Principle 2: Implement a Simplified Insolvency Process for MSEs

Key Principle 3: Provide a Discharge of Debts for Honest but Unfortunate Entrepreneurs

Key Principle 4: Reduce the Stigma of Insolvency Proceedings

Key Principle 5: Build up Training and Institutional Capacity

Aspirational Principles

Aspirational Principle 1: Implement Hybrid Procedures

Aspirational Principle 2: Grant Tax Incentives for Debt Restructurings

Aspirational Principle 3: Promote Mediation and Other Forms of Alternative Dispute Resolution

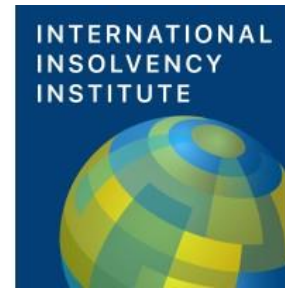
Aspirational Principle 4: Involve Public Creditors in Restructurings

Aspirational Principle 5: Promote Litigation Funding

Aspirational Principle 6: Create a Public Agency for Managing Simplified Processes for MSEs



ASIAN BUSINESS LAW INSTITUTE



Media Contacts

Shari A. Bedker, CPA
Administrative Director
International Insolvency Institute
Tel: +1 434-939-6003
sbedker@iiiglobal.org

Ashutosh Ravikrishnan
Manager, Corporate Communications
Singapore Academy of Law
Tel: + 65 8498 -7507
ashutosh_ravikrishnan@sal.org.sg

About the International Insolvency Institute

The International Insolvency Institute (III) is a non-profit, limited-membership organisation dedicated to advancing and promoting insolvency as a respected discipline in the international field. Its primary objectives include improving international co-operation in the insolvency area and achieving greater co-ordination among nations in multinational business reorganisations and restructurings, with membership drawn from the most senior and respected insolvency practitioners, judges and academics in the world and it has valuable liaisons with many of the most senior regulatory and administrative professionals in the insolvency field.

III, due to its exceptional membership, its international leadership, and its resources, plays a valuable and highly significant role in the international insolvency field. It has achieved a worldwide reputation and is developing into a catalyst for improvement and change in the international insolvency area that has few, if any, equals.

More information can be found at <https://www.iiiglobal.org/>.

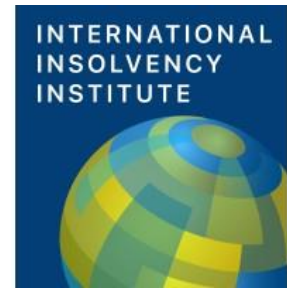
About the Asian Business Law Institute

Launched in January 2016, the Asian Business Law Institute (ABLI), a subsidiary of the Singapore Academy of Law, is a permanent think tank based in Singapore that initiates, conducts and facilitates research with a view to providing practical guidance in the field of Asian legal development and promoting the convergence of Asian business laws. Its mission is to remove unnecessary or undesirable differences between Asian legal systems that pose obstacles to free and seamless trade. ABLI's long-term strategic direction in accordance with its aims is set by its Board of Governors chaired by The Honourable the Chief Justice Sundaresh Menon of the Supreme Court of Singapore. The Board comprises representatives from Australia, China, India and Singapore and other internationally renowned legal experts.

More information can be found at <https://abli.asia/>.



ASIAN BUSINESS LAW INSTITUTE
About the Singapore Academy of Law



SAL's mission is to enable future-ready, trusted legal professionals. The statutory body works with members and stakeholders to set new precedents of excellence in Singapore law through developing legal thought leadership, world class legal technology infrastructure and legal solutions to support our members. Our mandates are to build up the intellectual capital of the legal profession by enhancing legal knowledge, raise the international profile of Singapore as a legal hub and improve the standards and efficiency of legal practice through continuing professional development and the use of technology. As a body established by statute, SAL also undertakes statutory functions such as stakeholding services and appointment of Senior Counsel, Commissioners for Oaths and Notaries Public.

For more information, please visit www.sal.org.sg.