



# Restructuring & Insolvency

in 45 jurisdictions worldwide

# 2014

Contributing editor: Bruce Leonard



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## QUICK REFERENCE TABLES

These tables are for quick reference only. They are not intended to provide exhaustive procedural guidelines, nor to be treated as a substitute for specific advice. The information in each table has been supplied by the authors of the relevant chapter.

<b>Australia</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Corporations Act 2001 (Cth).
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage (both equitable and legal).
	<b>Customary kinds of security devices on moveables</b>
	Security interest (charge, pledge, lien, etc) registered on the Personal Properties Securities Register.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	A moratorium on legal actions exists in both voluntary administration and liquidation. No such moratorium exists upon the commencement of a receivership.
	<b>Duties of the insolvency administrator</b>
	Insolvency practitioners have a number of duties including: <ul style="list-style-type: none"> <li>• to act with reasonable care and skill;</li> <li>• to act in good faith;</li> <li>• to act bona fide; and</li> <li>• to be independent;</li> </ul> Each insolvency administrator is also considered an officer of the company so must also comply with the duties of officers of the company (both statutory and at common law). Liquidators and administrators also considered fiduciaries and are held to a higher standard than receivers.
	<b>Set-off and post-filing credit</b>
	Available under section 553 of the Act. Operates automatically when there is a mutuality of transactions between the debtor and the creditor. Not available if the creditor knew of the debtor's insolvency.
	<b>Creditor claims and appeals</b>
	Proof of debts are filed in liquidation, administrations and schemes of arrangement. A similar process exists for all three. The insolvency practitioner maintains a high degree of discretion with respect to admitting (or rejecting) claims, and may require further information. Aggrieved creditors can seek recourse through the courts if a proof of debt is rejected. The courts have exhibited a reluctance to overturn decisions of independent insolvency practitioners.
	<b>Priority claims</b>
	Secured creditors have priority. Under section 556 of the Act certain other creditors are afforded a level of priority (including employees, providers of funding and the costs of the insolvency administrator).
	<b>Major kinds of voidable transactions</b>
<ul style="list-style-type: none"> <li>• Incommercial transactions;</li> <li>• unfair preferences;</li> <li>• unreasonable director-related transactions; and</li> <li>• unfair loans.</li> </ul>	
<b>Operating and financing during reorganisations</b>	
Financing permitted under all forms of Australian administration (voluntary administration, liquidation and receivership). Such financing is afforded a level of priority either under statute or existing security documents.	
<b>International cooperation and communication</b>	
Australia has adopted the UNCITRAL Model Law on Cross-Border Insolvency by implementing legislation called the Cross-Border Insolvency Act 2008 (Cth).	
<b>Liabilities of directors and officers</b>	
Directors and offices may be liable for insolvent trading (subject to both criminal and civil penalties). Consequences include civil penalty orders or orders requiring a director to compensate either the company or aggrieved creditors.	
<b>Pending legislation</b>	
None.	

<b>Austria</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Insolvency proceedings comprising bankruptcy proceedings, reorganisation proceedings and reorganisation proceedings with self-administration are governed by the Austrian Insolvency Code. The EU Insolvency Regulation will affect cross-border insolvencies.
	<b>Customary kinds of security devices on immoveables</b>
	The main type of security on immoveables is the mortgage.
	<b>Customary kinds of security devices on moveables</b>
	The possible security devices on moveables are the pledge or the transfer of title. For moveables other than rights, these devices are not very practical. Creditors, however, commonly make use of an assignment of receivables as security.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	There is a complete stay of proceedings on the commencement of insolvency proceedings. Secured creditors can still continue to enforce their rights.
	<b>Duties of the insolvency administrator</b>
	In bankruptcy the insolvency receiver takes control over the debtor's assets and effects the distribution of such assets. In reorganisation proceedings (without self-administration) the insolvency receiver takes control over the debtor's assets and reviews the reorganisation plan. In reorganisation proceedings with self-administration the reorganisation receiver supervises the debtor (who generally stays in control of its assets) and reviews the reorganisation plan.
	<b>Set-off and post-filing credit</b>
	Generally, creditors are entitled to exercise their rights of set-off in all types of insolvency proceedings. Claims that are to be compensated must have been compensatable at the opening of the bankruptcy proceedings. In insolvency proceedings an insolvency receiver is entitled to conclude credit agreements on behalf of the insolvent's estate.
	<b>Creditor claims and appeals</b>
	In insolvency proceedings, the creditor must file its claims with the court. If the claim is disputed, the creditor must commence (or continue) legal proceedings to establish its claim, if it had not obtained an enforceable judgment prior to the initiation of the insolvency proceedings.
	<b>Priority claims</b>
	Claims against the debtor that arise from the continuing of business activities or liquidation of the business during the insolvency proceedings are generally granted priority.
<b>Major kinds of voidable transactions</b>	
Under certain preconditions the debtor's transactions are voidable where they give preference to one creditor over others.	
<b>Operating and financing during reorganisations</b>	
In reorganisation proceedings the debtor can continue to operate if and to the extent ordered to do so by the receiver, or, in the case of reorganisation proceedings with self-administration subject to the receiver's supervision. Claims against the debtor arising from the continuation of business during the reorganisation proceedings are granted priority.	
<b>International cooperation and communication</b>	
Austrian law allows for cross-border cooperation in several ways and provides for information transfers to foreign receivers and the foreign receiver's right to submit proposals and statements relating to reorganisation plans and the liquidation or utilisation of assets located in Austria.	
<b>Liabilities of directors and officers</b>	
Directors can be personally liable for damage suffered due to the late filing of a petition. Managing directors may be personally liable for taxes and social security contributions.	
<b>Pending legislation</b>	
None.	

## QUICK REFERENCE TABLES

<b>Bahrain</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Law No. 11 of 1987 (the Bankruptcy Law), the Civil Code, the Companies Law and CBB and Financial Institutions Law.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages, pledges and assignments.
	<b>Customary kinds of security devices on moveables</b>
	Pledges, assignments and rights of retention.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Stay of proceedings will come into force upon commencement of any reorganisation proceedings or administration of any financial institution. Stay of proceedings also applicable in bankruptcy proceedings, but does not extend to secured creditors.
	<b>Duties of the insolvency administrator</b>
	To administer and preserve the debtors funds and act on its behalf in relation to transactions and report to the court.
	<b>Set-off and post-filing credit</b>
	Set-off is exercisable in bankruptcy proceedings if debts are interrelated. Post-credit filing is possible in certain circumstances to the extent necessary.
	<b>Creditor claims and appeals</b>
	Creditors are invited to submit claims upon commencement of insolvency proceedings. Appeals are available.
	<b>Priority claims</b>
	Generally, expenses of insolvency proceedings and taxes owed to government.
<b>Major kinds of voidable transactions</b>	
Transactions that increase financial obligations of debtor give unjustified preference to creditors. Transactions at undervalue, fraudulent or preferential in context of financial institutions.	
<b>Operating and financing during reorganisations</b>	
Possible provided it is in the course of business. Approval of court will be required otherwise.	
<b>International cooperation and communication</b>	
Generally, save for GCC countries, there are no international treaties in place to allow for cooperation between domestic and foreign courts.	
<b>Liabilities of directors and officers</b>	
Directors are liable for fraud and mismanagement. Directors of insolvent financial institutions are liable for carrying on licensed activity when the institution was insolvent.	
<b>Pending legislation</b>	
None that we are aware of.	

<b>Belgium</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcies: Law of 8 August 1997; Reorganisations: Law of 31 January 2009.
	<b>Customary kinds of security devices on immovables</b>
	Most important form of security is the mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Principal type of security is a pledge. Other types of security: floating charge, statutory lien, and retention of title.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Voluntary reorganisation: within 10 days of the debtor's request for the reorganisation, the court may grant a moratorium for a maximum of six months. During this moratorium period, no enforcement can take place in principle against the debtor's assets and no bankruptcy proceedings can be opened. Bankruptcy: All legal proceedings in relation to enforcement will be stayed.
	<b>Duties of the insolvency administrator</b>
	Reorganisation: in case the debtor's obvious and serious defaults are threatening the continuity of his business, every interested party can ask for the appointment of a court representative, whose responsibility will be to file, on behalf of the debtor, a request for a judicial reorganisation procedure and to take any necessary measure to preserve its continuity. Bankruptcy: the bankruptcy trustee's main duty is to liquidate the assets of the debtor to satisfy creditors' claims. The trustee will review creditors' claims and, if he or she disputes them, refer them to the court.
	<b>Set-off and post-filing credit</b>
	Creditors can in certain circumstances exercise their right of set-off provided it was agreed prior to the insolvency and provided further that it relates to mutual debts existing prior to the insolvency. Loans and credit granted after the commencement of liquidation proceedings will receive preferential treatment over other claims if they are considered administrative expenses.
	<b>Creditor claims and appeals</b>
	Bankruptcy: creditors must file their claim at court by the day mentioned in the bankruptcy declaration. If bankruptcy trustee disputes the claim, the court will decide. Decisions can be appealed. Judicial reorganisation: debtors must draw up a list containing all outstanding claims and send this to their creditors, within 14 days after the moratorium period is granted. This information will then be verified by each creditor. In case of disagreement between the creditor and the debtor, the court will resolve such dispute.
	<b>Priority claims</b>
Basic concept for priority rules is the difference between specific statutory liens and general statutory liens. The former will nearly always rank in priority to the latter.	
<b>Major kinds of voidable transactions</b>	
The main voidable transactions are transactions at an undervalue or security arrangements entered into during a 'suspect period' of a maximum of six months preceding a bankruptcy decision, as well as transactions entered into during such period with counterparties that were aware that the debtor was actually insolvent.	
<b>Operating and financing during reorganisations</b>	
The court will in principle allow the debtor to continue to operate the business during the moratorium period. All ongoing contracts will continue notwithstanding the judicial reorganisation.	
<b>Liabilities of directors and officers</b>	
In general, directors and officers are not liable for the company's debts. They may become liable if, as a result of their obvious default, not all of the company's debts can be paid in full.	
<b>Pending legislation</b>	
A new law governing security interests on moveables has been adopted. Its entry into force will be determined by Royal Decree, but it will enter into force at the latest by 1 December 2014.	

## QUICK REFERENCE TABLES

<b>Bermuda</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Companies Act 1981.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages, legal and equitable.
	<b>Customary kinds of security devices on moveables</b>
	Liens, pledges, chattel mortgages and retention of title clauses.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Upon making of a winding-up order or the appointment of provisional liquidator.
	<b>Duties of the insolvency administrator</b>
	Gathering in, preserving assets, adjudicating claims and paying pro rata distributions to admitted creditors.
	<b>Set-off and post-filing credit</b>
	A mandatory set-off.
	<b>Creditor claims and appeals</b>
	Upon a notice given to file claims and a 21-day appeal to court.
	<b>Priority claims</b>
	Taxes, workers compensation and employment claims.
	<b>Major kinds of voidable transactions</b>
Fraudulent conveyances within six years, voidable preferences within six months and floating charges if granted within one year of insolvency.	
<b>Operating and financing during reorganisations</b>	
With sanction of the court.	
<b>International cooperation and communication</b>	
Generally, good recognition and foreign liquidators.	
<b>Liabilities of directors and officers</b>	
Fraudulent trading and misfeasance (subject to limitations in by-laws).	
<b>Pending legislation</b>	
None.	

<b>Brazil</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Law No. 11,101/2005.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages and chattel mortgages.
	<b>Customary kinds of security devices on moveables</b>
	Pledges and chattel mortgages.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	180 days in judicial reorganisation, indefinitely in liquidations.
	<b>Duties of the insolvency administrator</b>
	Collection and disposal of assets, distribution of the proceeds of assets disposal among creditors, consolidation of the creditors' list, publishing accounts of the bankrupt estate and providing information requested by the court or by creditors. In a reorganisation proceeding, the judicial administrator only supervises the debtor's business.
	<b>Set-off and post-filing credit</b>
	Set-off is possible in bankruptcy. Post-filing credit is given extra priority.
	<b>Creditor claims and appeals</b>
	Creditors are given two opportunities to file proof of claims and are able to appeal of the decision.
	<b>Priority claims</b>
	Labour, secured and tax claims and in bankruptcy proceedings.
	<b>Major kinds of voidable transactions</b>
Fraudulent transactions and obligations free of charge.	
<b>Operating and financing during reorganisations</b>	
The debtor remains in possession and post-petition financing is allowed and given extra priority.	
<b>International cooperation and communication</b>	
No provisions under the Bankruptcy Law.	
<b>Liabilities of directors and officers</b>	
Liability in cases of fraud or acting recklessly, negligently or below the accepted standard of competence for a corporate director.	
<b>Pending legislation</b>	
Cross-border insolvency legislation.	

<b>Canada</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy and Insolvency Act (BIA) (used for liquidations and smaller reorganisations) and Companies' Creditors Arrangement Act (CCAA) (used for larger commercial reorganisations). Insolvencies of banks, insurance companies and significant financial institutions are dealt with under the Federal Winding-up and Restructuring Act (WURA).
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages (liens or charges) that are registered on immoveable property in the public land registration office in the province where the immoveable is located.
	<b>Customary kinds of security devices on moveables</b>
	'Security interests' on moveables under personal property security legislation have replaced chattel mortgages, conditional sales (hire-purchase) agreements and assignments of book debts, although some of these terms are still used to describe their particular form of security interest.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Reorganisations: BIA stays against secured and unsecured creditors' claims are automatic on filing. Courts can lift the stays in cases of unfairness. CCAA stays are broader and are created by court order when CCAA protection is granted. Liquidations: stays of proceedings by unsecured creditors and limited stays of proceedings against secured creditors.
	<b>Duties of the insolvency administrator</b>
	Reorganisations: a 'proposal trustee' under the BIA and a 'monitor' under the CCAA are appointed in all cases and review the financial condition of the debtor, administer the claims-proving process and carry out distributions under the proposal (BIA) or plan (CCAA). Liquidations: a BIA bankruptcy trustee is vested with the debtor's unencumbered property, collects and disposes of assets, supervises the claims-proving process and distributes funds to creditors.
	<b>Set-off and post-filing credit</b>
	Rights of set-off are preserved in the BIA. They are restrained in CCAA reorganisations but are customarily recognised in CCAA plans. Netting is specifically preserved for eligible financial contracts in both the BIA and the CCAA. Post-commencement financing is authorised under the BIA and the CCAA, and the court may allow it to prime (ie, have priority over) existing security. Existing pre-filing secured claims continue to apply to the assets of a reorganising business. There is no general administrative expense priority in either the BIA or the CCAA although court orders occasionally permit it. Both the BIA and the CCAA permit suppliers to require COD or cash terms. Under the CCAA, the court may, on suitable terms, compel a critical supplier to continue to supply.
	<b>Creditor claims and appeals</b>
	Proofs of claim must be filed by both secured and unsecured creditors. Claims may be disallowed by the trustee (BIA) or monitor (CCAA). Disallowances can be appealed to the court within a limited time frame.
	<b>Priority claims</b>
	Governmental claims for statutory deductions from employees' wages are given priority over all other claims including secured claims on moveables (but not over charges on immoveables). New legislation provides for limited super-priority for employee wage arrears and unlimited super-priority for pension contribution arrears. Limited supplier reclamation rights are available for goods supplied shortly before bankruptcy, but are not very effective. There is no express administrative expense priority in reorganisations. Preferred claims include costs of administration and up to three months' rent for landlords.
<b>Major kinds of voidable transactions</b>	
Preferences (transactions made by the debtor with the intent of preferring some creditors over others) within three months of bankruptcy (for arm's-length creditors) or, (in the case of transactions with non-arm's length creditors) within 12 months of bankruptcy where the effect of the transaction is to prefer the creditor; transfers at undervalue (ie, for less than fair market value); unperfected security interests; dividends issued by insolvent debtor corporations and, under most provincial legislation, transactions that are intended to defeat creditors' claims.	
<b>Operating and financing during reorganisations</b>	
The debtor generally maintains management control subject to review by a proposal trustee (BIA) or a monitor (CCAA) and supervision by the court. The BIA and CCAA now provide for post-filing financing for reorganising debtors, similar to US debtor-in-possession financing, which may rank in priority over existing security.	
<b>Sale of assets</b>	
BIA: in liquidations, the trustee can sell assets with approval of the inspectors. In reorganisations, sales of assets out of the ordinary course of business require court approval. CCAA: court orders govern the sales of assets. Sales out of the ordinary course of business require court approval.	
<b>International cooperation and communication</b>	
Canada has adopted the general framework of the UNCITRAL Model Law and has applied it successfully in a large number of cross-border cases. Canadian courts have communicated with foreign courts in international cases for many years.	
<b>Liabilities of directors and officers</b>	
General corporate duty to act honestly and in good faith with fiduciary obligations to the company. Specific statutory liabilities for unpaid employees' wages, certain unremitted employee tax collections and dividends issued while insolvent. Numerous other corporate liabilities to governmental agencies can crystallise into personal liabilities of directors. There can be significant exposure to environmental liabilities.	
<b>Pending legislation</b>	
Several significant changes to the BIA and the CCAA became effective in September 2009.	



## QUICK REFERENCE TABLES

<b>Cayman Islands</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Part V Companies Law (2012 Revision). Reorganisations are mainly by way of scheme of arrangement.
	<b>Customary kinds of security devices on immoveables</b>
	The principal type is registered charge under the Registered Land Law (2004 Revision).
	<b>Customary kinds of security devices on moveables</b>
	The principal type of security device is a registered charge, the terms and enforcement of which are governed by the Registered Land Law (2004 Revision).
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Automatic stays of proceedings by unsecured creditors only occur where a company is wound up by or subject to the supervision of the court or where a provisional liquidator has been appointed. Prior to the order for winding up, stay is not automatic, but can be ordered by the court.
	<b>Duties of the insolvency administrator</b>
	Include filing and publishing requisite notices, getting in all assets of the company, settling claims made by creditors, declaring dividends and distributing surplus assets of the company.
	<b>Set-off and post-filing credit</b>
	Contractual set-off/netting is preserved by statute, which also provides for insolvency set-off where there are no contractual provisions. Credit obtained by liquidators takes priority ahead of preferential and unsecured creditors.
	<b>Creditor claims and appeals</b>
	Claims are submitted to liquidators in the form of a proof of debt. Appeals against rejection of proofs of debt are made to the Grand Court.
	<b>Priority claims</b>
	Include government taxes due within 12 months of liquidation, wages for services rendered to the company, and qualifying deposits at a licensed bank in liquidation.
	<b>Major kinds of voidable transactions</b>
Dispositions of property are made after the date of the winding-up petition are void, unless the court orders otherwise. Dealings with property within six months of winding up with a view to preferring any creditor over other creditors are voidable. Dispositions made within six years intending to defeat obligations to creditors and at an undervalue are voidable.	
<b>Operating and financing during reorganisations</b>	
No statutory restrictions on the manner in which the company can carry on business during a reorganisation, although the court may require restrictions before sanctioning reorganisation.	
<b>International cooperation and communication</b>	
Part XVII Companies Law (2012 Revision) and the Foreign Bankruptcy Proceedings (International Cooperation) Rules 2008. Foreign representatives in foreign bankruptcy proceedings can apply to court for recognition and ancillary orders.	
<b>Liabilities of directors and officers</b>	
Include misfeasance, breach of fiduciary duty or fraudulent trading for failure to wind up an insolvent company, and liability to account or paying compensation for a company's funds that have been misappropriated or retained. Directors and officers include shadow directors.	
<b>Pending legislation</b>	
None at present, although it is anticipated that there will be certain amendments to the Companies Law, for example, it is likely that the law will be changed so that court sanction will only be required for a liquidator to sell a company's assets to a connected party.	

<b>China</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Enterprise Bankruptcy Law of the PRC, effective 1 June 2007, and the Company Law of the PRC, effective 1 January 2006.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage of land-use rights and buildings, subject to mandatory registration with the local land or building authority.
	<b>Customary kinds of security devices on moveables</b>
	Mortgage of machinery, equipment, motor vehicles. Floating mortgages over inventory are now permitted. Pledge: commonly used over negotiable instruments, documents of title, IP rights and share or equity interests.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	All other civil proceedings are stayed once the court accepts a bankruptcy case.
	<b>Duties of the insolvency administrator</b>
	Deciding the internal management affairs of the debtor. Managing, distributing and disposing of the property and estate of the debtor. Representing the debtor in litigation, arbitration or other legal proceedings. Proposing the calling of creditors' meetings.
	<b>Set-off and post-filing credit</b>
	Generally set-off of mutual debts that have arisen prior to the acceptance of the bankruptcy petition is permitted. The bankruptcy administrator may borrow and give security over the debtor's assets. There is no stipulation for special priority for such loans.
	<b>Creditor claims and appeals</b>
	Creditor claims must generally be filed within the period stipulated by the court (ranging from 30 days to three months after the court has accepted the bankruptcy case). If the debtor or any creditor disagree with the list of claims prepared by the bankruptcy administrator, they can file a lawsuit with the same court that handles the bankruptcy case.
	<b>Priority claims</b>
	Collateral covered by a valid security interest is outside of the bankruptcy property. Bankruptcy proceedings costs and debts for the common benefit are the first to be paid out of the bankruptcy's property, followed by debts to employees, then social security premiums and taxes.
<b>Major kinds of voidable transactions</b>	
Transfer of property without consideration. Sale of assets below value. Granting of security to previously unsecured creditors. Discharge of immature obligations. Waiver of debtor's own claims. (If occurring within one year prior to the acceptance of the bankruptcy petition.)	
<b>Operating and financing during reorganisations</b>	
The administrator or the debtor (under the administrator's supervision) will manage the assets and operations of the debtor during the period of formulating the reorganisation plan. Once the reorganisation is passed, the debtor will implement the plan.	
<b>International cooperation and communication</b>	
China is not a party to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters or any other treaties on international insolvency. However, China has signed bilateral treaties on mutual judicial assistance in civil and commercial matters with more than 30 countries which makes the recognition and enforcement of the foreign bankruptcy decisions by the courts of the signatory countries possible. In practice, PRC people's courts have recognised foreign bankruptcy judgments based on bilateral judicial assistance treaties.	
<b>Liabilities of directors and officers</b>	
Other than in the course of a non-bankruptcy liquidation, directors or management are generally not obliged to cease trading or to petition for bankruptcy in any circumstances. If it can be shown that the bankruptcy of a company is the result of a breach of the fiduciary duties by the company's directors and management they will bear civil liability. In practice, however, the scope and level of any liability of directors and management in the context of bankruptcy are yet to be tested.	
<b>Pending legislation</b>	
The China Banking Regulatory Commission is reportedly working on bankruptcy provisions for banking institutions and the Supreme Court is currently working on the third judicial interpretation of the Enterprise Bankruptcy Law.	

## QUICK REFERENCE TABLES

<b>Croatia</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Bankruptcy Act. The Pre-bankruptcy Act. The Enforcement Act. The Companies Act. EU law.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage. Fiduciary transfer of ownership.
	<b>Customary kinds of security devices on moveables</b>
	Pledge. Retention of title. Assignment.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Initiation of bankruptcy/insolvency proceedings causes stay of most other proceedings.
	<b>Duties of the insolvency administrator</b>
	Manage bankruptcy estate. Prepare bankruptcy plan. Prepare the plan for financial restructuring. Sign the pre-bankruptcy settlement.
	<b>Set-off and post-filing credit</b>
	Set-off right established before bankruptcy proceedings. Set-off right established after bankruptcy proceedings.
	<b>Creditor claims and appeals</b>
	Creditors should file their claims in bankruptcy/pre-bankruptcy proceeding. Bankruptcy administrator and creditors may file appeals.
	<b>Priority claims</b>
	Bankruptcy proceeding expenses. Expenses of the bankruptcy estate. Segregation right. Pledge.
	<b>Major kinds of voidable transactions</b>
	Preferential treatment. Transactions that disturb settlements.
	<b>Operating and financing during reorganisations</b>
	Bankruptcy/pre-bankruptcy administrator or debtor manages business. Restructuring plan.
<b>International cooperation and communication</b>	
The Croatian bankruptcy law is internationally harmonised and recognises several types of international cooperation and communication.	
<b>Liabilities of directors and officers</b>	
Generally not liable. Breach of legal personality.	
<b>Pending legislation</b>	
Accession to EU. New Enforcement Act. Pre-bankruptcy Settlement Act.	

<b>CYPRUS</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy Law Cap 5 governs personal insolvency. Companies Law Cap 113 governs corporate reorganisation and liquidation.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Lien, pledge, floating charge, retention of title.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Reorganisations – no automatic stay. Compulsory liquidation – no action may be proceeded with or commenced except with the leave of the court. Voluntary liquidation – actions may be undertaken, but judgment cannot be enforced.
	<b>Duties of the insolvency administrator</b>
	Realisation and distribution of assets, including tracing of assets. Investigative duties.
	<b>Set-off and post-filing credit</b>
	Common law right of set-off. Some restrictions for sums owed to directors.
	<b>Creditor claims and appeals</b>
	Trustee in bankruptcy or liquidator calls for submission of claims. Trustee of liquidator may accept, reject or partially accept. Creditor may apply to the court to adjudicate disputes.
	<b>Priority claims</b>
	Costs of winding up. Preferential claims (amounts due to employees, local and national taxes). Debts secured by a floating charge.
	<b>Major kinds of voidable transactions</b>
	Preferences, charges not properly registered, floating charges granted less than 12 months before commencement of winding up.
	<b>Operating and financing during reorganisations</b>
	Law is silent on this.
<b>International cooperation and communication</b>	
The law provides for the recognition of foreign insolvency proceedings but as yet there has been no practical experience. Cyprus is not a party to the mutual assistance arrangements set out in section 426(4) and (5) of the UK Insolvency Act 1986.	
<b>Liabilities of directors and officers</b>	
Fraudulent trading only.	
<b>Pending legislation</b>	
None.	

<b>England &amp; Wales</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Principal legislation: Insolvency Act 1986. Subordinate legislation: Insolvency Rules 1986 Other relevant legislation: Company Directors Disqualification Act 1986 and Companies Acts 1985, 1989 and 2006; the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003/3226); the EC Insolvency Regulation; and the Cross-Border Insolvency Regulations 2006 affect cross-border insolvencies.
	<b>Customary kinds of security devices on immoveables</b>
	Principal type of security: legal mortgage (conveyance or assignment of the whole of the legal ownership). Other types of security: include equitable mortgage (transfer of beneficial interest only) and fixed charge.
	<b>Customary kinds of security devices on moveables</b>
	Principal types of security: mortgages, fixed charges, floating charges, pledges, liens.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Voluntary liquidations: No automatic moratorium on proceedings against company. Involuntary liquidations: Once order for liquidation has been made, no action can be started or proceeded against the company, without the leave of the court. Administration: Automatic moratorium on proceedings against company and enforcement of security. Reorganisations: No moratorium unless company also in administration. Potential 28-day moratorium for small companies putting a CVA together.
	<b>Duties of the insolvency administrator</b>
	Liquidation: Liquidator will realise and distribute assets. Administrator has the power to carry on the business of the company and sell its assets where likely to promote purposes of the administration. Administrator may also make distributions.
	<b>Set-off and post-filing credit</b>
	Legal and equitable set-off rules apply to administrations, receiverships and voluntary arrangements and are confined to money obligations between the insolvent company and the creditor. Statutory set-off operates in liquidations and applies to mutual dealings between a creditor and the company. Statutory set-off may also apply in administrations. A liquidator or administrator can raise money, secured on the company's assets. Such credit has priority over ordinary unsecured creditors only in respect of the new funds. New loans or security will not be capable of taking priority over pre-existing secured debt unless this is permitted under the terms of the pre-existing secured indebtedness. Expenses of the administration (or liquidation) will rank ahead of floating charges.
	<b>Creditor claims and appeals</b>
	Creditors submit claims to liquidator and administrator by way of 'proof of debt'. Time limits may be set before interim dividends paid. Creditor can appeal to court against a rejection of its proof within 21 days.
	<b>Priority claims</b>
	There are comparatively few types of preferential claims. The main ones are occupational pension schemes in respect of unpaid contributions and employees who are owed remuneration up to a set amount. The expenses of preserving and realising the assets, including the costs and expenses of the various office holders will also take priority over certain groups of creditors. In a reorganisation the order of priority will be a matter of negotiation between the parties.
	<b>Major kinds of voidable transactions</b>
	Transactions at an undervalue, preferences, certain floating charges granted in suspect period.
	<b>Operating and financing during reorganisations</b>
	In an administration the directors' powers cease (although they remain in office) and the administrator has the power to carry on the business of the company and to sell its assets. In a scheme and CVA the directors remain in control.
<b>International cooperation and communication</b>	
Section 426 of the Insolvency Act, the EC Regulation and the Cross-Border Insolvency Regulations work in parallel, together with common law principles of comity and universalism.	
<b>Liabilities of directors and officers</b>	
Misfeasance or breach of fiduciary or other duty, fraudulent trading, wrongful trading.	
<b>Pending legislation</b>	
<ul style="list-style-type: none"> <li>• New TUPE regulations are due to come into force in January 2014.</li> <li>• A new special administration regime for independent sector health-care providers is due to come into force in April 2014.</li> <li>• Amendments have recently been made to the Banking Act 2009 (by the Financial Services Act 2012) to extend the special resolution regime to systemically important firms other than deposit takers (group companies, investment firms and UK clearing houses). These changes have not yet come into force.</li> </ul>	

<b>Estonia</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Bankruptcy Act, the Reorganisation Act and the Debt Restructuring and Debt Protection Act.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages.
	<b>Customary kinds of security devices on moveables</b>
	Possessory pledge, registered security over moveables (for example, over a motor vehicle or aircraft), financial collateral, title retention and commercial pledge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Not allowed.
	<b>Duties of the insolvency administrator</b>
	To secure the rights and interest of the creditors and of the debtor and ensure a lawful bankruptcy procedure.
	<b>Set-off and post-filing credit</b>
	Set-off is allowed; obtaining a loan or credit is impossible.
	<b>Creditor claims and appeals</b>
	Claims must be filed within two months of the date when the bankruptcy notice was published; if the claim has been objected, the acceptance of the claim shall be decided by the court on the basis of the creditor's action.
	<b>Priority claims</b>
	Claims secured by a pledge.
<b>Major kinds of voidable transactions</b>	
Major kinds of voidable transactions include where: <ul style="list-style-type: none"> <li>• the debtor has granted property or sold it so cheaply that the transaction has the character of a gift;</li> <li>• the debtor has performed financial obligations, preferring certain creditors to others;</li> <li>• the debtor has placed certain creditors in a more favourable situation than others, providing securities at a later point; or</li> <li>• the debtor has distributed common property in a way that damages the creditors' interests.</li> </ul>	
<b>Operating and financing during reorganisations</b>	
According to the reorganisation plan.	
<b>International cooperation and communication</b>	
Allowed.	
<b>Liabilities of directors and officers</b>	
Both civil and criminal liability.	
<b>Pending legislation</b>	
None.	

## QUICK REFERENCE TABLES

<b>Finland</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy Act. Act on Administration of Companies. EU Insolvency Regulation. Act on Revocation of Transactions in Insolvency.
	<b>Customary kinds of security devices on immoveables</b>
	Real estate mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Pledge of specific moveable assets, floating charge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Yes.
	<b>Duties of the insolvency administrator</b>
	Duty of care and duty to act in the interests of the creditors.
	<b>Set-off and post-filing credit</b>
	Set-off generally available.
	<b>Creditor claims and appeals</b>
	Finnish insolvency legislation entails detailed procedures and deadlines for filing claims and appeals.
	<b>Priority claims</b>
	Secured creditors have priority claims.
	<b>Major kinds of voidable transactions</b>
	Transactions concluded during a suspect period, bad faith transactions between connected parties have extended suspect period.
<b>Operating and financing during reorganisations</b>	
The board and management remains in place, court appointed administrator to supervise/assist.	
<b>International cooperation and communication</b>	
As provided for by the EU Insolvency Regulation and the legislation implementing the Directive on the Reorganisation and Winding up of Credit Institutions and the Directive on the Reorganisation and Winding-up of Insurance Undertakings as well as the Nordic Bankruptcy Treaty.	
<b>Liabilities of directors and officers</b>	
No automatic liability. Agreement or special circumstances are required.	
<b>Pending legislation</b>	
Insolvency laws currently up to date, no major update pending.	

<b>France</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Law No. 2005-845 of 26 July 2005, codified at articles L610–1 et seq of the French Commercial Code, as amended in particular by the Banking and Financial Regulation Law of 22 October 2010. The EU Insolvency Regulation affects cross-border insolvencies.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage – entitles creditor to receive payment of its debts once insolvency proceedings have been concluded.
	<b>Customary kinds of security devices on moveables</b>
	Most common type of security: pledges. Other types of security: express contractual provisions relating to retention of title.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Insolvency proceedings/safeguard proceedings: during observation period all actions and proceedings will be stayed. Out-of-court work-out proceedings ( <i>mandat ad hoc</i> and conciliation): no stay of proceedings or payments of pre-petition debts.
	<b>Duties of the insolvency administrator</b>
	In out-of-court work-out proceedings ( <i>mandat ad hoc</i> and conciliation), an insolvency practitioner is appointed to help the debtor reach an amicable agreement with its creditors. In safeguard or reorganisation proceedings, the court-appointed judicial administrator will investigate the affairs of the debtor and make proposals for the continuation of its business.
	<b>Set-off and post-filing credit</b>
	In safeguard and insolvency proceedings: set-off generally prohibited unless mutual claims are connected. Post-filing credit available.
	<b>Creditor claims and appeals</b>
	Creditors must file claims in the safeguard or insolvency proceedings within two months of the official publication of the commencement of the proceedings (or four months for foreign creditors). If a claim is challenged, a case will be brought before the insolvency judge who decides whether to acknowledge or reject the claim.
	<b>Priority claims</b>
	Generally as follows: (i) salaries and sums due to employees for the last 60 days of work before the proceedings; (ii) insolvency expenses, (iii) new money priority for funding extended under formally approved conciliation agreement, (iv) claims secured over the debtor's assets, (v) claims arising after commencement of insolvency proceedings, and (vi) unsecured claims arising before the commencement of insolvency proceedings.
<b>Major kinds of voidable transactions</b>	
Acts void if they occur within suspect period (ie, up to 18 months prior to the judgment ordering the commencement of reorganisation or liquidation proceedings): voluntary disposals of assets (only when occurred without consideration); contracts that impose unduly onerous obligations on the debtor; payment of unexpired debts before they are due; certain unusual payments; mortgages and charges to guarantee previously incurred debts.	
<b>Operating and financing during reorganisations</b>	
Stay of proceedings; payment of debts incurred prior to the commencement of insolvency proceedings is forbidden; supervision of the business of the debtor while safeguard or reorganisation proceedings are ongoing.	
<b>International cooperation and communication</b>	
International cooperation and communication as provided in the EC insolvency regulation.	
<b>Liabilities of directors and officers</b>	
Directors and officers may be held liable for debts of company on their own personal assets if they are guilty of misconduct in the management of the company's business.	
<b>Pending legislation</b>	
None.	



<b>Germany</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The German Insolvency Act (with effect from 1 January 1999). The adopted EU Insolvency Regulation affects cross-border insolvencies.
	<b>Customary kinds of security devices on immoveables</b>
	<i>Hypothek</i> : charge on real property as security for payment of a certain sum that equals the secured personal debt. <i>Grundschild</i> : charge on real property for payment of a definite sum of money.
	<b>Customary kinds of security devices on moveables</b>
	Retention of title; fiduciary transfer of assets; fiduciary transfer of receivables; and chattel pledge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	For the duration of insolvency proceedings, claims cannot be enforced by individual insolvency creditors. The insolvency court may prohibit or suspend measures of execution against the debtor's assets for the period between the petition for the commencement of insolvency proceedings and the ruling on the petition.
	<b>Duties of the insolvency administrator</b>
	The administrator (in both liquidations and reorganisations) takes possession of and administers all assets that comprise the insolvency estate. The powers of the debtor pass to the administrator.
	<b>Set-off and post-filing credit</b>
	Generally, claims of or against the insolvency estate existing as of the date of the commencement of the insolvency proceedings may be set off against each other, provided that the set-off position has been created prior to the commencement. If a debt is to be incurred that would significantly burden the insolvency estate, the insolvency administrator shall obtain the consent of the creditors' assembly. Besides this, a reorganisation plan can give priority to creditors that grant loans or other credits to the debtor or a takeover company.
	<b>Creditor claims and appeals</b>
	Creditors must submit their claims to the administrator within a period set by the court between two weeks and three months from the date of the order commencing the insolvency procedure. If the claim is disputed by the administrator or another creditor, the creditor can issue a complaint.
	<b>Priority claims</b>
	No priority claims of insolvency creditors under the German Insolvency Act. Creditors with proprietary claims for the return of assets not belonging to the insolvency estate are not affected.
	<b>Major kinds of voidable transactions</b>
The administrator may set aside transactions that prefer one creditor over another or where there has been a fraudulent conveyance (sections 129–146 Insolvency Act). The repayment of shareholder loans made within the last year prior to the filing for the commencement of insolvency proceedings is avoidable.	
<b>Operating and financing during reorganisations</b>	
The right to manage and transfer the debtor's assets passes to the administrator upon commencement of the insolvency proceedings. The debtor may apply to court for self-management under a custodian's supervision.	
<b>International cooperation and communication</b>	
A German administrator shall share all relevant information and documentation with a foreign administrator in order to facilitate an effective and smooth process and the best possible satisfaction of creditors in the insolvency procedures. Although there is no specific statutory duty, German insolvency courts usually cooperate with foreign insolvency courts in order to avoid jurisdictional conflicts.	
<b>Liabilities of directors and officers</b>	
The managing directors of a German limited liability company and the members of the management board of a stock corporation may have a (personal) liability to third parties and the company itself. In particular, such liability may result from the delayed application for the opening of insolvency proceedings or an action which lead to a reduction of the (insolvency) estate.	
<b>Pending legislation</b>	
In August 2013, the German Federal Cabinet passed a draft bill that aims to facilitate the handling of group insolvencies.	

<b>Greece</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Law 3588/2007, as amended. Law 3858/2010. The EIR on cross-border insolvencies.
	<b>Customary kinds of security devices on immoveables</b>
	Prenotation of mortgage. Mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Pledge. Notional pledge. Floating charge. Retention or fiduciary transfer of ownership. Third-party structure.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	<b>Recovery</b> Preliminary or interim moratorium until issuance of the judgment initiating the recovery procedure or until ratification of the recovery agreement. Upon the voluntary plan's ratification by the court, it is binding on all parties (both plan signatories and all others – 'cram-down' effect).
	<b>Pre-bankruptcy special liquidation</b> Preliminary or interim moratorium until issuance of the judgment appointing the liquidator. Moratorium until conclusion of the liquidation.
	<b>Reorganisation plan/liquidations</b> Preliminary or interim moratorium until the grant of the order with regard to the declaration of bankruptcy. An automatic stay is imposed on all unsecured and general preferential creditors' enforcement claims. The imposition of a stay on secured creditors depends on whether underlying assets are essential to the business, or if there will be a package sale of all assets.
	<b>Duties of the insolvency administrator</b>
	Conduct of the management of corporate affairs. Reporting duties. Settlements. Litigating on behalf of the debtor. Verification of creditors' claims. Appreciation of the offers and awarding of the auction to the bidder. Possible order with regard to the repetition of the auction. Conclusion of the agreement pursuant to which the assets are assigned to the bidder. Distributions.
	<b>Set-off and post-filing credit</b>
	Creditors have the set-off right provided that their claim fell due prior to the declaration of bankruptcy. The claims that arise from post-plan ratification financing are ranked ahead of any other pre-existing claim (applies both to voluntary (recovery) agreements and reorganisation (bankruptcy) plans).
	<b>Creditor claims and appeals</b>
	Announcement of creditors' claims within three months after the declaration of bankruptcy. The judicial decision that admits or rejects a creditor's claim is subject to an appeal.
	<b>Priority claims</b>
	Post-filing credit (under recovery and reorganisation proceedings). Claims of unpaid wages that arose two years before the declaration of bankruptcy, termination compensation and lawyers' claims. Public authorities' tax claims. Social security services' claims that date back 24 months prior to the declaration of bankruptcy.
	<b>Major kinds of voidable transactions</b>
	Void transactions, provided that they occurred during the suspect period: <ul style="list-style-type: none"> <li>• donations and gratuitous acts;</li> <li>• payments of debts that did not fall due;</li> <li>• payments of due debts that were not made in cash; and</li> <li>• security over the debtor's estate for pre-existing debts.</li> </ul> Fraudulent acts made by the debtor during the last five years prior to the declaration of bankruptcy are also void. A voidable transaction is any bilateral contract transaction that occurred during the suspect period provided that the debtor's counterparty did not act in good faith.
<b>Operating and financing during reorganisations</b>	
Debtor-in-possession for voluntary pre-bankruptcy recovery proceedings. Practitioner-in-possession regime for bankruptcy reorganisation plans but debtor-in-possession (jointly with insolvency administrator) is envisaged as a possibility (but not tested in practice) if it can be shown to be in the interests of business preservation.	
<b>International cooperation and communication</b>	
Law 3858/2010 adopting UNCITRAL Model Law. The EIR on cross-border insolvencies.	
<b>Liabilities of directors and officers</b>	
The general partner of the general and limited partnership: personally liable for corporate debts. Directors and officers of a limited liability company and a <i>société anonyme</i> : in principle, no liability. Exceptions: <ul style="list-style-type: none"> <li>• personal liability in the event of: delay with regard to the filing of the bankruptcy petition; or fraudulent act or gross negligence; and</li> <li>• personal and joint liability with regard to the payment of corporate taxes (Law 2238/1994 article 115 applies).</li> </ul>	
<b>Pending legislation</b>	
A possible amendment to the law governing debt settlement for indebted non-merchant individuals is being deliberations on by the Ministry of Development.	

## QUICK REFERENCE TABLES

<b>Hong Kong</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Companies Ordinance, Bankruptcy Ordinance, subsidiary legislation.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages and charges.
	<b>Customary kinds of security devices on moveables</b>
	Mortgages. Charges (fixed and floating). Pledges. Liens. Quasi-security (eg, set-off and retention of title arrangements).
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Discretionary stay with court leave of legal actions and enforcement procedures after petition presented. Absolute stay absent court leave when provisional liquidator appointed or winding-up order made. No statutory stay in reorganisations.
	<b>Duties of the insolvency administrator</b>
	Duties of a liquidator: <ul style="list-style-type: none"> <li>• to receive statement of affairs;</li> <li>• to adjudicate on creditors' claims;</li> <li>• to collect and preserve debtor's assets; and</li> <li>• to realise the debtor's assets and to distribute dividends to creditors.</li> </ul> Duties of a receiver: <ul style="list-style-type: none"> <li>• to realise secured assets for charge holder; and</li> <li>• to return surplus assets to company.</li> </ul>
	<b>Set-off and post-filing credit</b>
	Generally there is automatic set-off of mutual credits, mutual debts and other mutual dealings.
	<b>Creditor claims and appeals</b>
	Creditors file proof of debts with liquidator. Rejections can be appealed to the High Court.
	<b>Priority claims</b>
	Costs and expense of the insolvency proceedings. Creditors secured by a fixed charge. Preferential creditors (eg, employees, Hong Kong government). Creditors secured by a floating charge. Unsecured creditors.
	<b>Major kinds of voidable transactions</b>
Unfair preferences, fraudulent dispositions/conveyance and invalid floating charges. Currently, no transaction-at-an-undervalue provisions.	
<b>Operating and financing during reorganisations</b>	
Currently no statutory reorganisation procedure. Directors remain in control until a provisional liquidator or liquidator is appointed to the company. No special financing regime during reorganisation.	
<b>International cooperation and communication</b>	
Principles based on comity have evolved to guide the practical coordination of Hong Kong and foreign proceedings.	
<b>Liabilities of directors and officers</b>	
Fraudulent trading. Misfeasance. Falsification or destruction of books and records. Disqualification of directors.	
<b>Pending legislation</b>	
Major review of Companies Ordinance over the next few years. Likely to introduce transaction-at-an-undervalue provisions. Proposed court-supervised reorganisation and insolvent trading legislation on hold indefinitely.	

<b>Hungary</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages; option to purchase; redemption right; assumption.
	<b>Customary kinds of security devices on moveables</b>
	Same as on immoveables, plus, pledge and security deposit.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Moratoria: claims cannot be enforced. Liquidation: lawsuits and non-litigious proceedings commenced before the opening can continue, but execution proceedings must be terminated.
	<b>Duties of the insolvency administrator</b>
	Comprehensive information, reporting and organisational activities, acts as executive officer in liquidation procedures.
	<b>Set-off and post-filing credit</b>
	Moratoria: no set-off against the debtor. Liquidation: only if the claim was registered by the liquidation administrator as recognised, and was not assigned after the opening of liquidation proceedings. Post-filing credit: possible in both proceedings, but primarily serves the purposes of bankruptcy proceedings.
	<b>Creditor claims and appeals</b>
	Submission required within set time limits, complaints possible in bankruptcy procedure, the court automatically reviews disputable claims in liquidation procedures.
	<b>Priority claims</b>
	In liquidation proceedings, some claims enjoy privileged status and can be satisfied upon maturity. Secured creditors also enjoy privileged status.
<b>Major kinds of voidable transactions</b>	
Transactions relating to the satisfaction of claims despite prohibition and pre-bankruptcy transactions intended to deplete the debtor's assets to the detriment of the creditors' interests are voidable in relation to bankruptcy proceedings. Transactions that were concluded within certain set periods and intended to deceive the creditor or to decrease the debtor's assets in transactions without remuneration or to give preference and privileges are voidable in relation to liquidation proceedings.	
<b>Operating and financing during reorganisations</b>	
Under the supervision and with the authorisation of the bankruptcy administrator.	
<b>International cooperation and communication</b>	
EU Insolvency Regulation is applicable.	
<b>Liabilities of directors and officers</b>	
Creditors' interests should be a priority, various legal titles stipulated for the establishment of liability and ensuing financial compensation.	
<b>Pending legislation</b>	
None.	

<b>Iceland</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy, reorganisations and liquidations are essentially governed by the Icelandic Bankruptcy Act of 1991, as amended.
	<b>Customary kinds of security devices on immovables</b>
	Mortgage (non-possessory charge), created by a deed of mortgage issued by the mortgagor.
	<b>Customary kinds of security devices on moveables</b>
	Mortgage (non-possessory charge) and a possessory charge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Except as concerns financial undertakings in cessation of payments, reorganisations and liquidations do not entail a general stay of legal proceedings. Ongoing legal proceedings continue during reorganisations and bankruptcy estates assume the rights of obligations of a litigating bankrupt entity. New proceedings cannot be started against bankruptcy estates, whereas claims are filed within the claim filing period according to the Bankruptcy Act. Under recent legislation, legal action cannot be initiated against financial undertakings enjoying a cessation of payments protection.
	<b>Duties of the insolvency administrator</b>
	Safeguard the interests of all creditors. Ensure that all assets are collected, liquidated and paid out to creditors in accordance with the priority rules of the Bankruptcy Act.
	<b>Set-off and post-filing credit</b>
	Set-off permitted if a creditor acquired claim its at least three months prior to the bankruptcy reference day, did not acquire its claim for the sole purpose of set-off and did not know of the insolvency. Post-filing credits rarely occur in bankruptcies. The debtor in cessation of payments may incur secured and unsecured debts, subject to the assistant's consent. Such credits rank with priority if the debtor is subsequently declared bankrupt.
	<b>Creditor claims and appeals</b>
	Two months' claim filing period. Administrator's rejection of claim subject to appeal to District Court and ultimately to the Supreme Court.
	<b>Priority claims</b>
	Main priority claims are for delivery of assets belonging to a third party, priority cost incurred by the estate in the liquidation process, secured claims and priority claims such as salary and pension fund contributions.
	<b>Major kinds of voidable transactions</b>
Transactions at an undervalue; payment of debts during the suspect period if the payment: <ul style="list-style-type: none"> <li>• is unusual, eg, if the debt was paid in other than cash;</li> <li>• is made before the due date without any reasonable explanation; or</li> <li>• resulted in the insolvent party not being able to pay his debts at a due date; security granted during suspect period for pre-existing debt.</li> </ul>	
<b>Operating and financing during reorganisations</b>	
In the case of cessation of payments, the debtor retains control of its assets and can continue operations, subject to the approval of the assistant of all material decisions. Provided such approval is given, the debtor may incur secured and unsecured debts and enter ordinary transactions.	
<b>International cooperation and communication</b>	
Iceland is party to only one convention on international cooperation with the Scandinavian countries (Denmark, Finland, Norway and Sweden). Iceland has not signed or ratified the UNCITRAL Model Law on Cross-Border Insolvency.	
<b>Liabilities of directors and officers</b>	
Officers and directors are, in general, not liable for obligations owed by their companies. However, should the directors of an insolvent company fail to file for bankruptcy when obligated to do so, they may be held liable for the losses specifically caused to the company's creditors as a consequence of such failure. The tax authorities may impose personal liability for unpaid taxes, pension fund contributions and VAT if the management has failed to pay such debts.	
<b>Pending legislation</b>	
Currently there is no pending legislation in this area, but there is a recently enacted change to the Bankruptcy Act: parliament passed a bill in October 2011 amending the Act on Financial Undertakings to provide that the jurisdiction for avoidance actions brought in relation to the administration of the estates of an Icelandic financial undertaking shall be Iceland. By this amendment the legislator aims to move to Iceland jurisdiction in all avoidance actions brought by defunct Icelandic banks against defendants domiciled abroad, since earlier this year the Supreme Court had dismissed such an action on the basis of a lack of venue in Iceland for such foreign defendants.	

India	<b>Applicable insolvency law, reorganisations: liquidations</b>
	<ul style="list-style-type: none"> <li>• The Presidency Towns Insolvency Act, 1909.</li> <li>• The Provincial Insolvency Act, 1920.</li> <li>• The Companies Act, 1956.</li> <li>• The Sick Industrial Companies (Special Provisions) Act, 1985.</li> <li>• The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.</li> <li>• Revised Guidelines on Corporate Debt Restructuring (CDR) Mechanism issued by the RBI.</li> </ul>
	<b>Customary kinds of security devices on immoveables</b>
	Simple mortgage; mortgage by conditional sale; usufructuary mortgage; English mortgage; mortgage by deposit of title deeds; anomalous mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Bailment; pledge; hypothecation; charge (fixed or floating); lien; assignment of receivables or actionable claims.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Any new or pending suit or legal proceeding may be initiated or continued only with the leave of the insolvency court (under the PTIA and PIA), the high court (under the Companies Act) and the BIFR (under SICA). Under the CDR scheme, the debtor and creditors commit themselves not to take recourse to any other legal action during the 'standstill period', which is mutually agreed upon.
	<b>Duties of the insolvency administrator</b>
	<ul style="list-style-type: none"> <li>• The liquidator, appointed pursuant to a resolution, must immediately summon a meeting of the company's creditors and lay before the meeting a statement of the assets and liabilities of the company, if the liquidator opines that the company will not be able to pay its debts in full.</li> <li>• If the voluntary winding up continues for more than one year, the liquidator must call a general meeting of the members of the company at the end of the first year, from the commencement of winding up, and at the end of each successive year, and must lay before the general meeting on account of his acts and dealings and the conduct of winding up, together with a statement containing information regarding the status and position of the liquidation.</li> <li>• Once the affairs of the company are wound up, the liquidator must prepare an account of the winding up, showing how it has been conducted and detailing the disposition of the company's property and must call a general meeting of the members of the company for the purpose of laying the account before it.</li> </ul>
	<b>Set-off and post-filing credit</b>
	<p>Set-off:</p> <ul style="list-style-type: none"> <li>• Under the PTIA and PIA, in the case of mutual dealings between an insolvent and a creditor, the sum due from one party may be set off against any sum due from the other party, and the balance of the account shall be claimed and paid to the party entitled to such payment.</li> <li>• Under the Companies Act, set-off is applied to all mutual and commensurable claims between a company and its creditors at the commencement of winding-up proceedings against the company.</li> </ul> <p>Post-filing credit:</p> <ul style="list-style-type: none"> <li>• Under the PTIA and PIA – An insolvent may not obtain credit, equivalent to or more than 50 rupees without informing the creditor that he is an insolvent.</li> <li>• Under the Companies Act – The security of secured creditors is afforded priority over all other dues owed to a company, provided that such security is subject to a pari passu charge in favour of the company's workmen dues.</li> <li>• Under the SICA and CDR – Financial assistance may be provided by banks and financial institutions by way of loans, advances, guarantees, reliefs, concessions or sacrifices.</li> </ul>
	<b>Creditor claims and appeals</b>
	Under the Companies Act, the liquidator may fix a certain day for the creditors to prove their debts or claims and to establish any title of priority. The liquidator shall examine every proof and may also call upon the creditor to investigate him in person after which, the liquidator will admit or reject the proof in whole. If a creditor is dissatisfied with the decision, he may appeal to the high court within 21 days from the date of service of notice.
	<b>Priority claims</b>
	<p>In proceedings against an individual debtor, debts due to the government or any local authority and employee claims for salary, have priority over any other claims.</p> <ul style="list-style-type: none"> <li>• Companies Act – the claims of secured creditors and workmen have first priority in a winding up.</li> <li>• CDR scheme – lenders providing additional finance have a preferential claim.</li> </ul>
	<b>Major kinds of voidable transactions</b>
<p>In the context of winding up:</p> <ul style="list-style-type: none"> <li>• any transfer of company's property by way of a creditor's fraud, made within six months before the presentation of the petition;</li> <li>• any transfer by the company of its property otherwise than in the ordinary course of business or in favour of a bona fide purchaser in good faith and for valuable consideration within one year before the presentation of the petition;</li> <li>• any transfer or assignment by a company of all its property to trustees for the benefit of all its creditors;</li> <li>• if a floating charge is created within 12 months of the presentation of the petition and the company is henceforth, not proved solvent; and</li> <li>• any transfer of the company's shares or assets or any attachment, distress or execution put in force against the estate of effects of the company, without the leave of the high court after the presentation of the petition.</li> </ul>	
<b>Operating and financing during reorganisations</b>	
The operating agency appointed by the BIFR, draws up the scheme of reorganisation. The scheme is sanctioned by the BIFR, after receiving suggestions from the sick company, operating agency and any shareholders, creditors or employees of the company. Under the CDR system, the CDR-empowered group examines the viability of the scheme with reference to the company. Providers of additional finance (existing or new) shall have a preferential claim.	
<b>International cooperation and communication</b>	
No positive legal obligations on Indian courts have been imposed, to engage with or coordinate proceedings pertaining to transnational insolvency with courts in other countries. UNCITRAL Model Law on Cross-Border Insolvency has not yet been adopted in India.	
<b>Liabilities of directors and officers</b>	
Past and present officers of a company that is being wound up, or is subsequently about to be wound up, who are guilty of fraud or misfeasance in relation to the company or of any breach of their duty to the company; do not deliver up to the liquidator all the moveable and immoveable properties and books and papers of the company that are in their custody or under their control and that they are required by law to deliver up; make any material omission in any statement relating to the affairs of the company; are privy to the making of false entries in any book or paper relating to the property or affairs of the company; conceal or fraudulently remove any part of the property of the company over the value of 100 rupees; prevent the production of any book or paper affecting or relating to the property or affairs of the company; or attempt to account for any part of the property of the company by fictitious losses or expenses, are in default and may be liable for punishment by way of imprisonment or monetary penalty or both.	
<b>Pending legislation</b>	
<ul style="list-style-type: none"> <li>• SICA (Special Provisions) Repeal Act, 2003.</li> </ul>	

<b>Italy</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Civil Code. The Insolvency Act 1942. The Legislative Decree governing the extraordinary administration. Provisions set out by Law-Decree No. 83/2012 (converted into Law No. 134/2012), which introduced important amendments to the insolvency proceedings (the Development Decree). The Law governing the extraordinary administration of large enterprises. Several provisions of the Banking Law that apply where banks and financial intermediaries are subject to compulsory administrative liquidation. The EU Insolvency Regulation which affects cross-border insolvencies.
	<b>Customary kinds of security devices on immoveables</b>
	Loans mainly secured by way of mortgage: legal, judicial and conventional. Some types of immoveables are subject to specific regimes.
	<b>Customary kinds of security devices on moveables</b>
	The main type of security is a pledge, which is constituted by delivering the physical asset or the document conferring exclusive power to dispose of such asset to the creditor.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Involuntary liquidation: Foreclosure proceedings commenced by creditors are suspended. Voluntary and involuntary reorganisations: Foreclosure proceedings commenced by creditors are suspended.
	<b>Duties of the insolvency administrator</b>
	Insolvency: The insolvency administrator will notify the creditors of the insolvency order and will notify those creditors whose claims have been partially admitted or rejected. Reorganisation procedures: The commissioner will supervise the day-to-day running of the entity.
	<b>Set-off and post-filing credit</b>
	Article 56 of the Insolvency Act provides for a particular form of legal set-off within bankruptcy proceedings. If it takes place prior to the commencement of bankruptcy it cannot be revoked or avoided.
	<b>Creditor claims and appeals</b>
	Claims normally to be lodged within two months after the declaration of insolvency is made. Outcome of hearing of all the claims may be challenged by any creditors whose claims have not been recognised or have been partially recognised within 30 days.
	<b>Priority claims</b>
	These rank ahead of secured claims: <ul style="list-style-type: none"> <li>• preferential claims (general or special) over moveable property;</li> <li>• preferential claims (general or special) over immovable property.</li> </ul>
	<b>Major kinds of voidable transactions</b>
The relevant rules are set out in articles 64–70 of the Insolvency Act. Any gratuitous transaction that was completed two years prior to the insolvency order may be set aside. The transactions executed and payments made by the insolvent debtor declared bankrupt during a certain 'suspect period' may be subject to a clawback action.	
<b>Operating and financing during reorganisations</b>	
Compositions and judicial moratoria: trading allowed only to the extent necessary to complete particular transactions. Extraordinary administration and extraordinary administration of large enterprises: ministerial decree may allow the company to continue its business.	
<b>International cooperation and communication</b>	
There has been little use of the instruments of cooperation envisaged by Regulation No. 1346/2000. Italian operators in the sector maintain that simpler, more informal types of contact and exchanges of information are needed. As regard to the recognition of judgments declaring insolvency issued in another member state, Italian case law reveals a generalised application of such principle.	
<b>Liabilities of directors and officers</b>	
May be liable to the company, the company's creditors and to third parties under rules established by the Civil Code. In addition, under the Insolvency Act, directors and de facto officers may be charged with criminal liability for fraudulent bankruptcy, simple bankruptcy and illicit borrowing of loans.	
<b>Pending legislation</b>	
Legislation based on the UNCITRAL Model Law on Cross-Border Insolvency is still pending.	

<b>Japan</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Liquidation type procedures: <ul style="list-style-type: none"> <li>• Bankruptcy Law – natural and legal persons;</li> <li>• Companies Act (special liquidations) – joint-stock corporations.</li> </ul> Reorganisation type procedures: <ul style="list-style-type: none"> <li>• Civil Rehabilitation Law – natural and legal persons;</li> <li>• Corporate Reorganisation Law – joint-stock corporations.</li> </ul>
	<b>Customary kinds of security devices on immovables</b>
	Mortgage – debtor retains possession. Pledge – creditor possesses collateral. Security by way of transfer – debtor maintains possession for creditor. Preferential right – creditors secured by operation of law.
	<b>Customary kinds of security devices on moveables</b>
	Pledge – creditor possesses collateral. Possessory lien – creditor possesses collateral. Security by way of transfer – debtor maintains possession for creditor. Preferential right – creditors secured by operation of law. Reservation of ownership – seller retains ownership.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	A court order for commencement of bankruptcy or reorganisation stays civil suits and compulsory executions or other executions of creditor's rights, except most foreclosures by secured creditors (under the corporate reorganisation procedure, however, foreclosures by secured creditors are also prohibited). Under a certain liquidation (special liquidation): compulsory executions or other executions of unsecured rights will be stayed; and the court may take measures to preserve the assets of the debtor company or other measures such as prohibition of updating the shareholders' register.
	<b>Duties of the insolvency administrator</b>
	Draft a rehabilitation or reorganisation plan and submit it to the court (under the civil rehabilitation and the corporate reorganisation procedure). Sell assets of the debtor and make distribution to the creditors (under the bankruptcy procedure). Represent the debtor when a lawsuit is filed regarding the assets of the debtor.
	<b>Set-off and post-filing credit</b>
	Subject to certain exceptions, if a creditor owes a debt to a debtor at the time of the commencement of the relevant insolvency procedure, the creditor may set off that debt against its claim owed by the debtor until the completion of the procedure (bankruptcy procedure and special liquidation procedure) or the expiration of the claim filing period (in a civil rehabilitation procedure and corporate reorganisation procedure). A debtor and a trustee-in-bankruptcy or an administrator, on behalf of the debtor, can borrow money with the approval of the court (which may not be required in a civil rehabilitation procedure and a corporate reorganisation procedure).
	<b>Creditor claims and appeals</b>
	Except in special liquidation procedures the court decides and publicly announces the period for filing claims, during which creditors must file their claims against the debtor with the court to be able to participate in the proceedings. If a creditor's claim is disputed by the debtor, the trustee-in-bankruptcy, the administrator or any other creditor, the creditor may initial legal action against the person objecting to the claim. If no objection has arisen with respect to a claim at a creditors' meeting or within the claim examination period, the amount and priority of the claim will be finalised. In relation to a special liquidation procedure, creditors must submit their claims to a liquidator but there is no specific provision regarding how to submit a claim, which claims will be disallowed or what action the creditor should take to challenge a disallowance.
	<b>Priority claims</b>
	Generally, secured creditors have first priority, but, in some reorganisations 'common benefit' claims (taxes, wages, expenses, etc) have priority over secured creditors.
<b>Major kinds of voidable transactions</b>	
Any acts of the debtor (excluding the creating of securities or dissolving of debts) that were taken with the knowledge that such action would jeopardise the interests of the creditors. Any acts of the debtor (excluding the creating of securities or dissolving of debts) that would jeopardise the interests of the creditors conducted after suspension of payments or the filing of a petition for commencement of bankruptcy procedures. Dispositions of debtor's assets in exchange for cash that may actually enable the debtor to jeopardise the interests of the creditors by hiding cash or disposing cash for free. Any acts of the debtor (limited to creating securities or dissolving debts) conducted after the debtor became unable to pay its debts or after the filing for a petition for the commencement of insolvency procedures. Any acts of the debtor (limited to creating securities or dissolving debts) that are not included in the scope of the debtor's obligation in terms of the act itself or the time of the performance of the act, that were conducted within 30 days before the debtor became unable to pay its debts.	
<b>Operating and financing during reorganisations</b>	
Generally, the administrator operates business. The debtor may operate business under the civil rehabilitation procedure. Court approval may be required for: <ul style="list-style-type: none"> <li>• disposition and assumption of any assets;</li> <li>• borrowing;</li> <li>• filing a lawsuit;</li> <li>• any other acts specified by the court.</li> </ul>	
<b>International cooperation and communication</b>	
Under the ARAFIP a foreign administrator may file a request to the Japanese court to recognise the foreign proceedings and take necessary measures including the foreclosure of assets and appointment of a domestic administrator in Japan. The Bankruptcy Law, the Civil Rehabilitation Law and the Corporate Reorganisation Law also address the cooperation between domestic administrators and foreign administrators in cross-border insolvency and restructurings.	
<b>Liabilities of directors and officers</b>	
If a corporation causes damage to a third party due to the wilful misconduct or gross negligence of its director, that director will be liable to the third party. Also if a director or officer of a debtor enters into a transaction with a third party and does not inform that third party that the debtor is insolvent or is likely to become insolvent and the third party suffers damage as a result of a subsequent insolvency, the director or officer can be punished on the basis that he or she has committed fraud under the Criminal Code. Furthermore, in bankruptcy, civil rehabilitation and corporate reorganisation procedures, certain actions of a debtor's director that jeopardise the interests of the debtor's creditors (eg, hiding or destroying any assets of the debtor or amending, hiding or destroying financial records of the debtor) will be punished.	
<b>Pending legislation</b>	
None.	



## QUICK REFERENCE TABLES

<b>Korea</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Debtor Rehabilitation and Bankruptcy Act.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages in general. Trust for the purpose of security ( <i>dambo-shintak</i> ) for project financing for real estate development projects. <i>Jeonse-kwon</i> for lease agreements.
	<b>Customary kinds of security devices on moveables</b>
	Lien ( <i>jil-kwon</i> ) and transfer of ownership for the purposes of security ( <i>yangdo-dambo-kwon</i> ) for stocks and bonds. Title retentions for lease agreements.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Proceedings stayed upon commencement of an insolvency proceeding.
	<b>Duties of the insolvency administrator</b>
	Administrators and trustees have the rights and duties to manage businesses and maintain or dispose assets of the debtors. Administrators and trustees have a fiduciary duty.
	<b>Set-off and post-filing credit</b>
	Set-off: allowed but restrictions apply. Post-filing credit: can be obtained a loan upon the court's permission.
	<b>Creditor claims and appeals</b>
	Filing claims: during the claim reporting period (filing before final distribution allowed in bankruptcy). Objection and appeal: creditor may file a motion for the admission of the rejected claim, which can be appealed.
	<b>Priority claims</b>
	Administrative expense claims. Tax claims.
	<b>Major kinds of voidable transactions</b>
	<ul style="list-style-type: none"> <li>• An act disposing properties at low prices;</li> <li>• an act extinguishing debt;</li> <li>• an act of providing security for an existing debt; and</li> <li>• a gratuitous act.</li> </ul>
	<b>Operating and financing during reorganisations</b>
	A debtor (the administrator) may carry on its business, but prior court permission is required for certain important actions.
<b>International cooperation and communication</b>	
Korean courts cooperate with foreign proceedings and foreign courts in cases where insolvency proceedings are commenced in multiple countries.	
<b>Liabilities of directors and officers</b>	
In general, corporate officers and directors are not personally liable for the claims against the debtor company.	
<b>Pending legislation</b>	
The government plans to submit a bill amending the DRBA to adopt an automatic stay.	

<b>Lithuania</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Law on Enterprise Bankruptcy. Law on Restructuring of Enterprises. Civil Code. Law on Companies. Law on Personal Enterprises. Law on Commercial Partnerships.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Pledge, pledge of goods in stock that are in circulation, retention of title.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Upon decision of the court to institute bankruptcy proceedings, all pending cases involving property claims against the debtor are transferred to the court that has instituted the bankruptcy proceedings. Stays of execution proceedings under writs of execution are applied in bankruptcy and restructuring proceedings.
	<b>Duties of the insolvency administrator</b>
	The duties of the administrator are aimed at protecting the interests of creditors and the entity during the bankruptcy proceedings, and include management of the entity and implementation of the court rulings as well as decisions of the meeting or committee of creditors during bankruptcy proceedings.
	<b>Set-off and post-filing credit</b>
	Set-off is prohibited both in bankruptcy and restructuring, except (i) tax overpayment; (ii) claims of the depositor or the investor who is concurrently the bankrupt bank's borrower subject to certain conditions; and (ii) set-off under the Lithuanian Law on Banks and Law on Financial Collateral Arrangements. Post-filing credits are possible in bankruptcy and restructuring.
	<b>Creditor claims and appeals</b>
	Creditors may file their claims to the administrator within the time limits set by the court. The court must approve the claims. Court rulings on creditors' claims are subject to appeal.
	<b>Priority claims</b>
	Priority: (i) secured claims; (ii) claims related to employment and agricultural production purchased for processing; and (iii) claims related to duties owed to the state.
	<b>Major kinds of voidable transactions</b>
	Transactions that contradict objects of the entity or could cause the entity's inability to settle with the creditors.
	<b>Operating and financing during reorganisations</b>
	Entity's operation and financing is implemented in accordance with the restructuring plan, which must provide measures to ensure long-term solvency of the entity.
<b>International cooperation and communication</b>	
Pursuant to the EU Insolvency Regulation, if by the liquidation of assets in the secondary proceedings it is possible to meet all claims allowed under those proceedings, the liquidator appointed in those proceedings shall immediately transfer any assets remaining to the liquidator in the main proceedings.	
<b>Liabilities of directors and officers</b>	
Civil, administrative (including restriction to hold an office of manager), and criminal liabilities (fine and imprisonment).	
<b>Pending legislation</b>	
<b>Law on Insolvency of Natural Persons</b> The Law on Insolvency of Natural Persons (LINP) came into force on 1 March 2013. The objective of the LINP is to help individuals facing financial difficulties to restore their solvency by releasing them from their liabilities for a settled period. The key aspects of the LINP are as follows: <ul style="list-style-type: none"> <li>• an individual becomes insolvent when the person's debt obligations exceed 25 minimum monthly wages for which payment has become due;</li> <li>• insolvency proceedings may be initiated by the insolvent individual;</li> <li>• bankruptcy administrators will be appointed to initiate bankruptcy proceedings;</li> <li>• the period of satisfaction of creditor's claims will last no longer than five years; and</li> <li>• bankruptcy proceedings shall be conducted in court.</li> </ul> Moreover, some amendments to the Law on Enterprise Bankruptcy are anticipated. The main objective hereof is the adoption of measures to deal with fraudulent bankruptcy.	

## QUICK REFERENCE TABLES

<b>Mauritius</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Provisions in the Insolvency Act 2009.
	<b>Customary kinds of security devices on immoveables</b>
	Security devices addressed in the Mauritian Civil Code.
	<b>Customary kinds of security devices on moveables</b>
	Security devices addressed in the Mauritian Civil Code.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Provisions in the Insolvency Act 2009.
	<b>Duties of the insolvency administrator</b>
	Section 222 of the Insolvency Act 2009.
	<b>Set-off and post-filing credit</b>
	Provisions in the Mauritian Civil Code and the Insolvency Act 2009.
	<b>Creditor claims and appeals</b>
	Statutory provision. This cannot be modified by the court.
	<b>Priority claims</b>
	Similar to creditor claims and appeals.
	<b>Major kinds of voidable transactions</b>
Provisions in the Insolvency Act 2009.	
<b>Operating and financing during reorganisations</b>	
Termed as 'administration' under Mauritian law.	
<b>International cooperation and communication</b>	
Ninth schedule of the the Insolvency Act 2009. Cross-border insolvency.	
<b>Liabilities of directors and officers</b>	
Provisions in the Companies Act 2001.	
<b>Pending legislation</b>	
Not applicable.	

<b>Mexico</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy Law (LCM).
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage, industrial mortgage and guarantee trust.
	<b>Customary kinds of security devices on moveables</b>
	Ordinary pledge, pledge with debtor's holding pledge possession, bonding guarantee (surety bond) guarantee trust, aval (joint and several personal guarantee on a negotiable instrument), joint and several obligation and personal guarantee.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Executions, attachments and seizures are stayed. Pre-filing legal actions against debtor are not joined and shall be prosecuted until the final judgment when they shall be recognised in amount and preference. Enforcement of legal actions against the debtor or estate assets does not stay reorganisation or liquidation. In general, reorganisation and liquidation proceedings may not be stayed.
	<b>Duties of the insolvency administrator</b>
	In reorganisation, while a debtor is in possession, a conciliator is in charge of creating and formalising a plan. The insolvency administrator is in charge of collecting and selling the assets for creditors' payment.
	<b>Set-off and post-filing credit</b>
	Set-off is allowed. In conciliation (reorganisation) secured or unsecured loans may be executed upon the conciliator's decision and in bankruptcy (liquidation) by the trustee's decision, with the previous opinion of administrators and court approval.
	<b>Creditor claims and appeals</b>
	All claims should be filed within 20 working days as of the publication of the insolvency adjudication. Claims may be filed thereafter but no later than the time allowed for the appeal against recognition, rankings and preferred claims. Creditors may appeal this judgment. The following may be appealed: judgment of declaration of <i>concurso mercantil</i> (insolvency adjudication), reorganisation plan approval, bankruptcy adjudication and <i>concurso mercantil</i> termination. All other insolvency court orders may be challenged, by revocation remedy, and are decided by the same insolvency court.
	<b>Priority claims</b>
	Post-filing financing, estate administration costs and contracts for the ordinary management and administration of the estate as an ongoing concern, labour credits, tax credits, and secured claims have priority against estate assets.
	<b>Major kinds of voidable transactions</b>
Gratuitous acts (donations), fraudulent asset conveyances, encumbrances, liens, preferences and payments executed as of the suspect period.	
<b>Operating and financing during reorganisations</b>	
All ordinary business acts are allowed, including contracting, financing, collateralisation, substitutions of collateral and transfers of assets not necessary for ordinary business. Other acts outside ordinary business need court approval.	
<b>International cooperation and communication</b>	
LCM incorporates generally in chapter 12 of the UNCITRAL Model Law on Cross Border Insolvency. Mexican courts welcome insolvency cooperation and court-to-court communication as well as recognition and enforcement of foreign insolvency proceedings. If a debtor has an establishment in Mexico, for recognition of foreign insolvency proceedings a full <i>concurso mercantil</i> must be pursued. If a debtor lacks an establishment in Mexico, recognition and enforcement of foreign insolvency proceedings may be granted after a summary proceeding.	
<b>Liabilities of directors and officers</b>	
Tax, labour, civil and criminal personal liability for the unlawful management and administration of the enterprise. Any new administration must report any wrongdoing uncovered, otherwise it will be liable.	
<b>Pending legislation</b>	
The LCM insolvency statute for merchants and traders, as well as state insolvency regulations for non-merchants (consumers and individuals), has dramatically failed. The LCM needs major amendments to update it to a 21st-century insolvency system. Such amendments are now progressing through federal congress, hoping to redress some of the worst features that have been highlighted by recent experience. A new law on banking liquidation is also in the process of being enacted.	

## QUICK REFERENCE TABLES

<b>Netherlands</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy Act. There are special provisions in the Financial Supervision Act for financial institutions.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages.
	<b>Customary kinds of security devices on moveables</b>
	Pledges.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	In bankruptcy: stay of proceedings with respect to claims against the bankrupt. No enforcement of unsecured claims. In suspension of payment: enforcement measures of unsecured non-preferential claims can be stopped.
	<b>Duties of the insolvency administrator</b>
	In bankruptcy: to manage and liquidate the assets. In suspension of payments: to manage the assets jointly with the managing board.
	<b>Set-off and post-filing credit</b>
	Both in bankruptcy and suspension of payments, but not automatic. There is no legal basis for post-filing credit: in practice a post-filing credit is granted and treated as a super senior estate claim.
	<b>Creditor claims and appeals</b>
	In bankruptcy: claims are submitted to the trustee and can be disputed by the trustee and the other creditors in a claims allowance meeting. In suspension of payments creditors will have to file their claims if a reorganisation plan is submitted by the debtor.
	<b>Priority claims</b>
	The most important priorities: <ul style="list-style-type: none"> <li>• claims arising after the commencement of the insolvency proceedings;</li> <li>• tax claims, security premiums; and</li> <li>• wages and pension claims.</li> </ul>
	<b>Major kinds of voidable transactions</b>
The trustee in bankruptcy may void transactions against consideration which have been entered into without obligation to do so if the act was detrimental to the creditors and both the debtor and the other party at that time knew or should have known it to be detrimental to the creditors.	
<b>Operating and financing during reorganisations</b>	
Since post-petition debts have priority it may be easier to attain fresh money during the insolvency proceedings. Both in bankruptcy and in a suspension of payment the business may be continued.	
<b>International cooperation and communication</b>	
The EU Insolvency Regulation provides an obligation for cooperation and information exchange between liquidators. Cooperation and communication is not dealt with explicitly in the Dutch Bankruptcy Code. In practice coordination or cooperation does occur and cross-border insolvency agreements (protocols) have been used.	
<b>Liabilities of directors and officers</b>	
Managing directors may be liable to the trustee in bankruptcy for mismanagement. They may also be liable to the tax authorities, the social security institutions and the pension funds.	
<b>Pending legislation</b>	
None.	

<b>Nigeria</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Companies and Allied Matters Act, Laws of the Federation of Nigeria (LFN) 2004. Winding-up Rules pursuant to the Companies and Allied Matters Act 1990. Land Use Act, LFN 2004. Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree No. 18 of 1994, LFN 2004. Mortgage Institutions Act, LFN 2004. Nigerian Deposit Insurance Corporation Act, LFN 2004. The Assets Management Act of Nigeria 2010, promulgated on 23 June 2010 (applicable to Banks in Nigeria). Bankruptcy Act, as amended by Decree No. 109 of 1992, LFN 2004. Bankruptcy Rules made pursuant to the Bankruptcy Act 2004, Federal High Court Act, LFN 2004.
	<b>Customary kinds of security devices on immoveables</b>
	Legal and equitable mortgages.
	<b>Customary kinds of security devices on moveables</b>
	Fixed or floating charge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Section 412–413 CAMA, to the effect that where a winding-up petition has been presented and an action or other proceeding against a company is instituted or pending in any court, the company or any creditor or contributory may, before the making of the winding-up order, apply to the court concerned for an order staying proceedings; and the court concerned may, with or without imposing terms, stay or restrain proceedings, or if it thinks fit, refer the case to the court hearing the winding-up petition.
	<b>Duties of the insolvency administrator</b>
	Usually the debenture simply provides that the receivers shall have all the powers as provided by law. Section 393(i) and schedule 11 of CAMA provide very wide powers for the receiver, to the effect that he shall subject to the rights of prior encumbrances, take possession of and protect the property, receive the rents and profits and discharge all outgoing in respect thereof and realise the security for the benefit of those on whose behalf he is appointed and, where he is appointed manager, he has the power to carry on the business. Equity, however, recognises duties of good faith and duties of care.
	<b>Set-off and post-filing credit</b>
	If the receiver is the agent of company he will be bound by the ordinary rules of set-off. However, under the law in Nigeria he acts as agent of the debenture holder and will therefore be in the position of an assignee of the company's debts (where debts are charged by the debenture).
	<b>Creditor claims and appeals</b>
	The Federal High Court is vested with exclusive jurisdiction to handle claims on insolvency and bankruptcy matters. Appeals may be made to the Court of Appeal and then from there to the Supreme Court of Nigeria.
	<b>Priority claims</b>
	With respect to the payment of debts, the following creditors of the company would be paid in the following order of priority stated in section 494 CAMA: <ul style="list-style-type: none"> <li>• preferential creditors;</li> <li>• fixed charge holders;</li> <li>• floating charge holders;</li> <li>• unsecured creditors;</li> <li>• shareholders; and</li> <li>• reservation of title.</li> </ul>
<b>Major kinds of voidable transactions</b>	
Transactions on the assets of the company that have been transferred at undervalue out of the company, the result of the annulment is a reversal of the sale.	
<b>Operating and financing during reorganisations</b>	
Financing could be by way of convertible notes, debenture bonds and shares.	
<b>Liabilities of directors and officers</b>	
Directors may be sued in a compulsory liquidation by the court-appointed liquidator for misconduct in the management of the affairs of the company, particularly the misapplication or squandering of assets that could otherwise be used to repay creditors.	
<b>Pending legislation</b>	
The bill for the Insolvency Act is before the National Assembly of Nigeria (the legislative arm of government).	

## QUICK REFERENCE TABLES

<b>Peru</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Law No. 27809.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgages and trusts.
	<b>Customary kinds of security devices on moveables</b>
	Pledges and trusts.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Yes. With the publication of the debtor's insolvency in the Official Gazette (bar date). Available in all insolvency proceedings regulated by the Insolvency Law.
	<b>Duties of the insolvency administrator</b>
	Not specified.
	<b>Set-off and post-filing credit</b>
	Set-off is banned from the bar date and during the avoidance period.
	<b>Creditor claims and appeals</b>
	Creditors must file their proofs of claims before INDECOPI within 30 business day from the bar date. Appeals are available.
	<b>Priority claims</b>
	Labour claims (included pension claims), alimony claims (applicable only when the insolvent is an individual); secured claims (including attachments and seizures), tax claims and non-secured claims.
	<b>Major kinds of voidable transactions</b>
None.	
<b>Operating and financing during reorganisations</b>	
No priority is given by the Insolvency Law. Creditors can establish certain priorities through the reorganisation plan.	
<b>International cooperation and communication</b>	
None.	
<b>Liabilities of directors and officers</b>	
Applicable for acts against the law, the bylaws or acts of fraud, gross negligence or those resulting from the abuse of their faculties. Directors are joint and severally liable with the companies before the tax authorities when tax debts are not paid due to manager's gross negligence, fraudulent acts with the intent to cause harm or abuse of powers.	
<b>Pending legislation</b>	
An amendment project was published by INDECOPI, however, it has not yet been discussed or presented to Congress.	

<b>Philippines</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Republic Act No. 10142 (Financial Rehabilitation and Insolvency Act 2010).
	<b>Customary kinds of security devices on immoveables</b>
	Real estate mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Chattel mortgage. Pledge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	In rehabilitation proceedings, the following are suspended: <ul style="list-style-type: none"> <li>• all actions, in court or otherwise, for the enforcement of claims against the debtor;</li> <li>• all actions to enforce any judgment, attachment or other provisional remedies against the debtor.</li> </ul> In liquidation proceedings, no separate action for the collection of an unsecured claim is allowed after the issuance of the liquidation order.
	<b>Duties of the insolvency administrator</b>
	The rehabilitation receiver shall have the principal duty of preserving and maximising the value of the assets of the debtor during the rehabilitation proceedings, determining the viability of the rehabilitation of the debtor, preparing and recommending a rehabilitation plan to the court, and implementing the approved rehabilitation plan. The liquidator shall have the principal duty of preserving and maximising the value and recovering the assets of the debtor, with the end of liquidating them and discharging to the extent possible all the claims against the debtor.
	<b>Set-off and post-filing credit</b>
	<b>Set-off</b> In liquidations, a debt shall be offset against another debt to the concurrent amount if the insolvent debtor and a creditor are mutually debtor and creditor of each other. The liquidation proceedings shall only include the balance, if any, of the set-off. In court-supervised rehabilitation, it appears that the right of set-off may be exercised only prior to the commencement of the rehabilitation proceedings.
	<b>Post-filing credits</b> In liquidations, there is no specific provision in the FRIA permitting or prohibiting the debtor from obtaining secured or unsecured loans or credit. However, sections 113 (on effects of the liquidation order) and 119 (on the powers, duties and responsibilities of the liquidator) of the FRIA appear to imply that a debtor in liquidation may not obtain such loans or credit. In rehabilitation, a debtor may, with the approval of the court and upon the recommendation of the rehabilitation receiver, perform the following acts in order to enhance its rehabilitation: <ul style="list-style-type: none"> <li>• enter into credit arrangements;</li> <li>• enter into credit arrangements secured by mortgages of its unencumbered property or secondary mortgages of encumbered property with the approval of senior secured parties; or</li> <li>• incur other obligations as may be essential to rehabilitation.</li> </ul>
	<b>Creditor claims and appeals</b>
	Filing of application for recognition of creditor claims with the rehabilitation receiver or liquidator (period: 20 days from appointment of receiver or liquidator). Filing of opposition to creditor claims by interested parties (period: 30 days from expiry of the period to file claims). Allowance or disallowance by rehabilitation receiver or liquidator. Once a claim is disallowed, the concerned creditor may appeal to the court.
	<b>Priority claims</b>
	Special preferred credits. Ordinary preferred credits.
	<b>Major kinds of voidable transactions</b>
	The following are disputably presumed to be rescissible transactions if the transaction: <ul style="list-style-type: none"> <li>• provides unreasonably inadequate consideration to the debtor and is executed within 90 days prior to the commencement date of the rehabilitation or liquidation;</li> <li>• involves an accelerated payment of a claim to a creditor within 90 days prior to the commencement date of the rehabilitation or liquidation;</li> <li>• provides security or additional security executed within 90 days prior to the commencement date of the rehabilitation or liquidation;</li> <li>• involves creditors, where a creditor obtained, or received the benefit of, more than its pro rata share in the assets of the debtor, executed at a time when the debtor was insolvent; or</li> <li>• is intended to defeat, delay or hinder the ability of the creditors to collect claims where the effect of the transaction is to put assets of the debtor beyond the reach of creditors or to otherwise prejudice the interests of creditors.</li> </ul>
	<b>Operating and financing during reorganisations</b>
	The debtor may use or dispose of funds or property in the ordinary course of business or, if necessary, to finance the administrative expenses of the rehabilitation proceedings. Management of the debtor shall remain with the existing management subject to the applicable laws and agreements, if any, on the election or appointment of directors, managers or managing partners. Under certain circumstances, the court may, upon motion of any interested party, appoint and direct the rehabilitation receiver or a management committee to assume the powers of management of the debtor.
<b>International cooperation and communication</b>	
International cooperation and communication is not prohibited.	
<b>Liabilities of directors and officers</b>	
Directors and officers of a debtor shall be liable if they, having notice of the commencement of the proceedings, or having reason to believe that proceedings are about to be commenced, or in contemplation of the proceedings, wilfully commit the following acts: <ul style="list-style-type: none"> <li>• dispose or cause to be disposed of any property of the debtor other than in the ordinary course of business or authorise or approve any transaction in fraud of creditors or in a manner grossly disadvantageous to the debtor and/or creditors; or</li> <li>• conceal, or authorise or approve the concealment, from the creditors, or embezzle or misappropriate, any property of the debtor.</li> </ul>	
<b>Pending legislation</b>	
None.	



## QUICK REFERENCE TABLES

<b>Poland</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Bankruptcy and Rehabilitation Act, as well as other legislation such as company law, labour law and bankruptcy law.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Civil pledge and registered pledge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Generally, all court proceedings are suspended.
	<b>Duties of the insolvency administrator</b>
	In liquidation proceedings the trustee's main duty is to liquidate the company; in arrangement proceedings the administrator is primarily responsible for taking any actions associated with the continuing management of the debtor's business and maintaining the condition of the bankruptcy estate.
	<b>Set-off and post-filing credit</b>
	Permissible under certain conditions.
	<b>Creditor claims and appeals</b>
	Creditors are required to lodge their claims within a specific time limit, in writing. They may file objections concerning the acknowledgment or non-acknowledgment of their claims.
	<b>Priority claims</b>
	Mainly claims under agreements concluded by the debtor before declaring bankruptcy, whose fulfilment has been requested by the trustee, claims arising from actions taken by the trustee or administrator, claims under employment contracts and social benefits.
	<b>Major kinds of voidable transactions</b>
Certain transactions related to the disposal of the debtor's assets prior to filing for bankruptcy.	
<b>Operating and financing during reorganisations</b>	
In arrangement bankruptcy business may be carried on after bankruptcy is declared. Generally, in a liquidation bankruptcy, the debtor's business may not be conducted for longer than three months after bankruptcy is declared.	
<b>International cooperation and communication</b>	
EC Regulation No. 1346/2000; UNCITRAL Model Law has been adopted.	
<b>Liabilities of directors and officers</b>	
Civil, penal and liabilities under the General Tax Regulations.	
<b>Pending legislation</b>	
New draft of the Insolvency Law released in July 2013.	

<b>Russia</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Civil Code; Federal Law on Insolvency (Bankruptcy); Federal Law on Insolvency (Bankruptcy) of Credit Organisations; Federal Law on Financial Restoration of Agricultural Commodity Produces; Federal Law No. 229-FZ on Enforcement Proceedings.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage (subject to state registration).
	<b>Customary kinds of security devices on moveables</b>
	Pledge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	In general, upon commencement of bankruptcy proceedings, no claims against the debtor's assets may be enforced.
	<b>Duties of the insolvency administrator</b>
	Supervision: To identify creditors, prepare a report on the debtor's financial status and convene the first creditors' meeting. Financial restoration: To monitor performance of the debtor's obligations in accordance with a plan and payment schedule. External administration: To prepare a reorganisation plan, to deal with the debtor's assets to restore its solvency. Bankruptcy proceedings: To evaluate all assets of the debtor and sell them separately or as an entire business to satisfy the creditors' claims.
	<b>Set-off and post-filing credit</b>
	Generally, set-off is permitted provided that it does not affect the priority of claim satisfaction and does not entail preferential claim satisfaction. The debtor is not prevented from obtaining loans or credits. Claims that arise from such loans and credits outrank all other claims.
	<b>Creditor claims and appeals</b>
	Creditors are allowed to submit their claims at any time during the bankruptcy proceedings. All claims must be confirmed by a judgment or an arbitral award.
	<b>Priority claims</b>
	Generally as follows: personal injury and some related claims; employee's and copyright-fees claims; and all other claims including (claims by secured creditors that, however, may in some cases prevail over first and second-ranking creditors). Distributions to creditors may be made at any stage of the bankruptcy proceedings.
	<b>Major kinds of voidable transactions</b>
In general, any transactions concluded by the debtor in violation of the Federal Law on Insolvency (Bankruptcy) may be set aside. Major kinds of voidable transactions are: transactions concluded within a particular time period that negatively affected the debtor's financial position or the economic interests of creditors (other than those who have entered into such voidable transactions).	
<b>Operating and financing during reorganisations</b>	
During supervision or financial restoration, a bankruptcy manager supervises the debtor's management and limits its authority. In external administration or bankruptcy proceedings a bankruptcy manager replaces the debtor's management. Any shareholder or participant of an insolvent company or any third party can, at any time before the end of bankruptcy proceedings, offer to pay all of the company's debts to prevent its ultimate liquidation.	
<b>International cooperation and communication</b>	
Currently, foreign court decisions on insolvency (bankruptcy) are recognised in Russia based on the principle of reciprocity, and there are no relevant international treaties which set out other principles/rules in this respect. Apart from the above, Russian bankruptcy legislation does not provide any specific rules in respect of cross-border cooperation between domestic and foreign courts and domestic and foreign insolvency administrators in cross-border insolvencies and restructurings.	
<b>Liabilities of directors and officers</b>	
Criminal/administrative liability: fictitious or intentional bankruptcy. Civil liability (for the company's debts): causing the company's bankruptcy or failure to file a bankruptcy petition when necessary.	
<b>Pending legislation</b>	
Despite the fact that some amendments to the bankruptcy laws with respect to cross-boarder insolvencies, insolvencies of corporate groups etc. are still expected, it is not possible to predict when they are finally introduced.	

<b>Scotland</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	<ul style="list-style-type: none"> <li>• Insolvency Acts 1986, 1994, 2000;</li> <li>• the Insolvency (Scotland) Rules 1986;</li> <li>• Company Directors Disqualification Act 1986;</li> <li>• Companies Acts 1985, 1989, 2006;</li> <li>• Enterprise Act 2002; and</li> <li>• Bankruptcy and Diligence (Scotland) Act 2007.</li> </ul>
	<b>Customary kinds of security devices on immoveables</b>
	The principal type of security device that is taken on immovable (real) property is the standard security which requires to be registered with both the Land Registry and the Register of Companies.
	<b>Customary kinds of security devices on moveables</b>
	Floating charge (which needs to be registered), pledge, lien, hypothec, assignation in security (which needs to be registered).
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Liquidation – no action or proceedings without leave of the court. Administration – no action or proceedings without leave of the court or administrators. Informal reorganisations – by agreement of the creditors.
	<b>Duties of the insolvency administrator</b>
	Liquidator will realise the assets and distribute the proceeds to the creditors in accordance with the statutory ranking. Receiver will usually trade the business with a view to selling at the best price, then distribute to the preferential and secured creditors passing any surplus to a liquidator. Administrator will attempt to rescue the company as a going concern or sell the business and assets. He or she has the power to carry on the business.
	<b>Set-off and post-filing credit</b>
	Set-off changes on insolvency where there is a 'balancing of accounts in bankruptcy' so creditors are not prejudiced by the stricter rules which otherwise apply in solvent circumstances. A liquidator, receiver and administrator have the power to raise money on the security of the assets. Priority will depend upon the extent and ranking of the security. An administrator is likely to trade the business so will incur credit for supplies and orders which have priority as an expense of the administration.
	<b>Creditor claims and appeals</b>
	Claims and evidence in support must be lodged with the liquidator in the prescribed form. Appeal against rejection is to the court within two weeks.
	<b>Priority claims</b>
The order of ranking of claims is: <ul style="list-style-type: none"> <li>• fixed security;</li> <li>• creditors who have effectually executed diligence;</li> <li>• receivership or administration expenses and costs;</li> <li>• preferential creditors;</li> <li>• floating charge creditors;</li> <li>• liquidation expenses and costs;</li> <li>• unsecured creditors;</li> <li>• interest; and</li> <li>• postponed debts.</li> </ul>	
<b>Major kinds of voidable transactions</b>	
Gratuitous alienation; unfair preference; extortionate credit transactions; avoidance of certain floating charges.	
<b>Operating and financing during reorganisations</b>	
An administrator has power to carry on the business of the company, borrow money, take security and sell the assets. In an informal reorganisation the company and the creditors agree operating arrangements usually through a standstill agreement.	
<b>International cooperation and communication</b>	
<ul style="list-style-type: none"> <li>• Council Regulation (EC) 1346/2000 on Insolvency Proceedings, 2000;</li> <li>• Cross-Border Insolvency Regulations 2006; and</li> <li>• European Communication and Cooperation Guidelines for Cross-border Insolvency 2007.</li> </ul>	
<b>Liabilities of directors and officers</b>	
Misfeasance or breach of fiduciary duty; fraudulent trading; wrongful trading; reuse of a prohibited name; criminal liability for a number of offences; and disqualification in certain circumstances.	
<b>Pending legislation</b>	
Certain sections of the B&D(S) Act 2007.	

<b>Singapore</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Companies Act (the Act).
	<b>Customary kinds of security devices on immoveables</b>
	Legal and equitable mortgages.
	<b>Customary kinds of security devices on moveables</b>
	Fixed and floating charges.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Winding up: automatic stay of all proceedings. Court may grant leave if required on balance of convenience and demands of justice. Judicial management: automatic stay of all proceedings. Court may grant leave based on balance of interests of applicant and other creditors.
	<b>Duties of the insolvency administrator</b>
	Submit preliminary report to official receiver as to capital, assets and liabilities. Every six months, lodge account of receipts and payments, and statement of position of the winding up. Call for, receive and assess proofs of debt. Liquidate assets for distribution to creditors.
	<b>Set-off and post-filing credit</b>
	Winding up: set-off of mutual debts, liabilities and dealings. Judicial management: contractual set-off permitted.
	<b>Creditor claims and appeals</b>
	Proof of debt to be filed three months after winding-up order. Notice for filing of proofs to be made at least 14 days in advance. All claims including present, future, certain, contingent, ascertained, or unliquidated may be presented. Appeals may be made to the court.
	<b>Priority claims</b>
	<ul style="list-style-type: none"> <li>• Costs and expenses of the winding up;</li> <li>• wages and salaries of employees up to a maximum of five months' salary or S\$7,500 (whichever is less);</li> <li>• retrenchment benefits and ex gratia payments under the Act up to a maximum of S\$7,500;</li> <li>• compensation to an employee for injuries suffered in the course of employment under the Work Injury Compensation Act;</li> <li>• remuneration in respect of holiday leave;</li> <li>• taxes; and</li> <li>• gratuity and retrenchment benefits under the Employment Act.</li> </ul>
	<b>Major kinds of voidable transactions</b>
	Unfair preferences occurring within two years before the presentation of a winding-up petition. Transactions at an undervalue occurring within five years before the presentation of a winding-up petition. A floating charge on the undertaking or property of a company created within six months of the commencement of the winding up unless the company is solvent immediately after the creation of the charge.
<b>Operating and financing during reorganisations</b>	
Out of the assets of the company.	
<b>International cooperation and communication</b>	
No cross-border insolvency protocols or other arrangements to coordinate proceedings with courts in other countries. When a foreign company goes into liquidation in its place of incorporation or origin, a liquidator for Singapore will be appointed by the court. He may only recover and realise the assets of the foreign company in Singapore and must pay the net amount recovered and realised to the foreign liquidator after paying any debts and satisfying any liabilities incurred in Singapore by the foreign company.	
<b>Liabilities of directors and officers</b>	
May be held personally liable if breach of directors' fiduciary duties to the company, wrongful trading, and fraudulent trading or misfeasance.	
<b>Pending legislation</b>	
None.	

<b>Slovenia</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act (ZFPPIPP).
	<b>Customary kinds of security devices on immoveables</b>
	The principal type of security on immovable (real) property is a mortgage. Establishment of a mortgage demands a written pledge agreement and the irrevocable land registry permission, issued by the mortgagor, to register such mortgage with the land registry, and the signature of the mortgagor must be notarised. If, however, real estate is not registered with the land registry, a special procedure shall apply to establish a valid mortgage on such real estate. A pledge agreement must be concluded in a form of a notarial deed and deposited with the notary public to prevent further pledges on the same real estate. Notarial deed must be published in the official gazette of Slovenia.
	<b>Customary kinds of security devices on moveables</b>
	The principal type of security on moveable property is a pledge over moveable property, where two types of such pledge are regulated, namely possessory pledges and non-possessory pledges.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	After an insolvency proceeding has been initiated, issuing an order on execution or securing against the insolvent debtor is not permitted, except under conditions specified by the law.
	<b>Duties of the insolvency administrator</b>
	In insolvency proceedings, the main duties of administrator are conducting the operations of the insolvent debtor according to the needs of the procedure, and representing the debtor:
	<ul style="list-style-type: none"> <li>• in procedural and other legal actions relating to testing claims, to rights to separate settlement and exclusion rights;</li> <li>• in procedural and other acts in relation to challenging the legal actions of the insolvent debtor;</li> <li>• in legal transactions and other acts necessary for the realisation of the bankruptcy estate;</li> <li>• in realisation of the right to dispose of the claim and other rights acquired by an insolvent debtor as legal consequences of the initiation of bankruptcy proceedings; and</li> <li>• in other legal transactions that the insolvent debtor may carry out in accordance with valid legislation.</li> </ul>
	<b>Set-off and post-filing credit</b>
	Set-off takes place automatically upon the initiation of an insolvency proceeding of a debtor. The creditors cannot be deprived of the right to set-off. Claims acquired after the initiation of an insolvency procedure cannot be offset or netted against a counterparty's claim acquired before the initiation of the procedure.
	<b>Creditor claims and appeals</b>
	Deadlines for submitting a claim in insolvency proceedings are different in compulsory settlement procedures and bankruptcy procedures. In compulsory settlement proceedings, a creditor shall lodge a claim against an insolvent debtor within one month of the publication of the notice of initiation of such proceedings. In bankruptcy proceedings, however, a creditor shall lodge a claim against an insolvent debtor within three months of the publication of the notice of initiation of such proceedings. A creditor may file an objection to the basic list of tested claims within the 15 days of the publication of such list if one of its claims lodged in due time is missing from the list, or if data on such claim are not correct. Creditors may also challenge claims.
	<b>Priority claims</b>
Priority claims are claims arising from employment relationships and claims related to them (tax claims relating to employment relationships). Other claims that are considered to be priority claims due to their status are claims of creditors that have any right on debtor's assets such as a mortgage or lien, as well as claims of creditors that have an exclusion right.	
<b>Major kinds of voidable transactions</b>	
Transactions are voidable if carried out in the challenge period resulting in the decrease in the net value of assets of the debtor in bankruptcy, so as to lower payments to other creditors for their claims than had the transaction not been carried out, or if a person for the benefit of whom the act has been executed has acquired more favourable payment conditions for a claim against the debtor in bankruptcy, provided that the creditor knew of the debtor's insolvency (this is presumed if transactions are carried out three months prior to the initiation of the bankruptcy proceedings).	
<b>Operating and financing during reorganisations</b>	
After the instituting of reorganisation (ie, compulsory settlement) proceedings, the debtor's operations are limited only to the performance of regular operations associated with the performance of his activity, and to the settlement of its liabilities from such operations. After instituting such proceedings, the debtor may not dispose of its assets, except to the extent necessary for performing regular operations; raise loans or credits; give guarantees or sureties for a bill of exchange; or perform operations or other acts resulting in the unequal treatment of creditors. After compulsory settlement proceedings are initiated, the debtor may, in addition to the regular operations, if obtaining a prior consent from the court: sell the assets it does not need in its operations if the sale of such assets is included in the financial restructuring plan as a financial restructuring measure; and raise loans and credits, but only in the maximum amount of liquid assets necessary for financing the regular operation and for covering the costs of compulsory settlement proceedings.	
<b>International cooperation and communication</b>	
The domestic court and domestic administrator shall in the matters referred to the fullest extent possible with foreign courts and foreign administrators directly or through a domestic administrator. The domestic court and a domestic administrator shall be entitled to:	
<ul style="list-style-type: none"> <li>• exchange information directly with the foreign court or foreign administrator;</li> <li>• request information or legal assistance directly from the foreign court or foreign administrator; and</li> <li>• provide information or carry out legal acts.</li> </ul>	
<b>Liabilities of directors and officers</b>	
The management shall act with the diligence expected of the corporate finance profession, thus endeavouring to ensure that the company is at all times liquid and solvent; otherwise, they will be jointly and severally liable for any damages resulting from violations of their obligations.	
<b>Pending legislation</b>	
None.	

<b>South Africa</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Insolvency Act 24 of 1936. The Companies Act 61 of 1973. The Companies Act 71 of 2008.
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage bond.
	<b>Customary kinds of security devices on moveables</b>
	Special and general notarial bonds, pledges, cessions of book debts (receivables), mortgages over ships and aircraft, reservation of ownership (title).
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Compromise: no moratorium until voted for by sufficient majority of creditors and compromise sanctioned by court following meetings of creditors. Business rescue: moratorium from date resolution for business rescue filed or court application filed. Liquidation: Stay of proceedings either the date of registration by the registrar of a special resolution for winding up or the date of issue of court application for involuntary winding up by registrar of court.
	<b>Duties of the insolvency administrator</b>
	Liquidation: Take possession and control of assets, continue trading in short term, sell business and assets, either as going concern or piecemeal, recover debts, investigate creditors' claims, prepare a liquidation and distribution account and pay claims. Business rescue: the practitioner supervises the board of directors, runs business, and prepares business plan for voting by creditors.
	<b>Set-off and post-filing credit</b>
	If debtor liquidated within six months of set-off, the liquidator may, with the approval of the master, disregard set-off if he can show that set-off was not in the ordinary course of business. In a business rescue, set-off operates as usual. Liquidators may incur credit, as a cost of administration. If the company is not in liquidation or judicial management (eg, subject to a compromise), then credit is subject to the ordinary requirements and repayment terms. Business rescue practitioner may obtain credit facilities and the repayments are a cost of administration.
	<b>Creditor claims and appeals</b>
	Creditors' claims are submitted at creditors' meetings by way of affidavit. The liquidator can request the master, on notice to the creditor, to set aside the claim. Creditor can substantiate or amend the claim before the master makes a decision. If the master disallows the claim, the creditor may take a decision on review to the High Court, in limited circumstances.
	<b>Priority claims</b>
	'Preferent' claims, constitute, in order of rank, first charges against the non-secured assets of insolvent estate, ranking ahead of concurrent creditors: the costs of liquidation; employee claims (note: limited preference); arrear levies, duties and taxes owed by the insolvent to government or social service bodies, all of which rank equally; balance of claims filed by a creditor who had security of a general mortgage or notarial bond; and local authorities (municipalities) entitled to be paid for rates and property taxes in arrears for up to two years preceding liquidation out of proceeds of the immovable property in preference to, and even to the exclusion of, mortgage bond.
<b>Major kinds of voidable transactions</b>	
Any disposition by a company of its property after commencement of liquidation (see stay of proceedings) is void if the company is unable to pay its debts. Transactions can be avoided if assets are disposed of while the company is insolvent in circumstances where assets are not sold for value or in a manner preferential to certain creditors or with intention to prejudice other creditors. If a debtor that is a trader sells business or assets that form part of business without publicly advertising the sale in the prescribed manner and is liquidated within six months of the sale, the sale can be set aside. The business practitioner has the power to apply to court to terminate commercially onerous contracts.	
<b>Operating and financing during reorganisations</b>	
In business rescue the practitioner supervises the board but remains ultimately responsible. For financing, see 'Set-off and post-filing credit' above.	
<b>International cooperation and communication</b>	
The Cross-Border Insolvency Act No. 42 of 2000 has been enacted but not yet in operation, so foreign liquidators or administrators must apply to South African courts for recognition based on comity.	
<b>Liabilities of directors and officers</b>	
Personal liability for pre-liquidation debt can be attributed to directors and officers if the business is run in a reckless or fraudulent manner.	
<b>Pending legislation</b>	
The Cross-Border Insolvency Act No. 42 of 2000 (enacted but not yet in operation).	

Spain	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The main regulation of insolvency proceedings is the Insolvency Law, enacted on 9 July 2003, which came into force on 1 September 2004 and that has been subject to several amendments, the last being Royal-Decree Law 11/2013, dated 2 August, for the protection of part-time employees and other urgent economic and social measures.
	<b>Customary kinds of security devices on immoveables</b>
	The principal security device on immovable property is the mortgage. Mortgages must be granted by public deed and be registered in the Land Registry. No security enforceable against third parties is created until the mortgage registration has been completed.
	<b>Customary kinds of security devices on moveables</b>
	The principal security device on moveable property is the possessory pledge. To be enforceable against third parties pledges must be generally granted in a public document and possession over the pledged asset must be transferred either to the pledgee or a depository.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Declarative proceedings pending at the time of the insolvency declaration will continue but may be consolidated into the insolvency proceedings. New declarative proceedings can be initiated but must be filed with the insolvency court. Unsecured claims for the attachment of assets pending at the time of the insolvency declaration can continue if the assets attached are not required to continue running the business. No new unsecured claims for the attachment of assets can be initiated during the insolvency proceedings. Secured claims over the assets that are used in the debtor's business cannot be initiated until a settlement agreements that does not affect the security/secured claim is approved or a year passes following the insolvency declaration without the liquidation phase being opened. Enforcement of secured claims over the assets used in the ordinary course of business will be suspended under the same conditions mentioned above. As an exception, this is not applicable to secured claims related to certain financial collateral.
	<b>Duties of the insolvency administrator</b>
	The receivers' duties may range from mere supervision of the debtor to administration of the debtor's assets and activities. As a general rule, the law provides for the supervision regime when the debtor files for insolvency and for the administration regime otherwise. The relevant regime and specific receivers' duties will be decided by the court case by case.
	<b>Set-off and post-filing credit</b>
	In general, set-off is not permitted in an insolvency proceeding unless the requirements for set-off have been met prior to the insolvency declaration. As an exception to the general regime: set-off provisions complying with the requirements set out in Spanish Royal Decree-Law No. 5/2005 (which implements EU Directive 2002/47 on financial collateral) will be enforceable in an insolvency scenario; set-off is allowed if the non-Spanish law governing the reciprocal claim allows such set-off in insolvency proceedings. The Spanish Insolvency Act does not expressly regulate the debtor's right to obtain secured or unsecured loans but provides that during the insolvency proceedings it is possible to resume loan agreements that have been accelerated in the three months before the insolvency declaration.
	<b>Creditor claims and appeals</b>
	Any claim against the debtor must be filed with the court dealing with the insolvency proceedings. Appeals may be available, under certain circumstances, before the relevant court of appeals.
	<b>Priority claims</b>
The insolvency debts are classified as follows. <b>Debts of the insolvency estate</b> These include, among others, debts that originated within the insolvency proceedings (eg, judicial expenses, loan agreements that are rehabilitated by the court), debts that originated after the insolvency declaration (eg, debts arising from the continuation of the business) and salary claims for the 30 days immediately preceding the declaration of insolvency. <b>Insolvency debts</b> These debts are classified as: specially privileged debts (among others, debts secured by mortgages or pledges, rental payments arising from lease agreements and instalments arising from hire-purchase agreements); generally privileged debts (among others, salaries and severance payments up to certain limits, certain taxes, credits arising from tort liability and 50 per cent of the debt of the creditor who applied for the insolvency are classified as generally privileged debts); ordinary debts; or subordinate debts. Debts of the insolvency estate will be paid out of the debtor's assets (other than those assets attached to specially privileged debts) with preference to any other debts. Secured debts are generally paid with the proceeds of the enforcement of the security. Generally privileged debts will be paid by segregating from the debtor's estate those assets covering the aggregate amount of such credits.	
<b>Major kinds of voidable transactions</b>	
Acts and contracts entered into by the debtor in the two years before the insolvency declaration may be rescinded by the court on the basis that these acts or contracts are harmful to the insolvency estate. Certain acts and contracts are presumed by law to be harmful to the insolvency estate, without any possibility for the parties to file evidence against this presumption. This is the case for gifts and early payments of unmatured debt. The law also presumes (although admitting evidence against such presumption) that certain acts or contracts damage the insolvency estate (eg, the creation of security in favour of pre-existing obligations, or contracts entered into with specially related persons (among others, shareholders owning more than 5 per cent of listed companies (or 10 per cent if not listed) or directors)). Refinancing agreements that meet the requirements provided for in the Spanish Insolvency Act are excluded from the general rescission regime and can only be challenged by the receivers on other grounds (eg, fraud).	
<b>Operating and financing during reorganisations</b>	
Depending on the specific regime decided by the court, the debtor might be able to enter into operations within the ordinary course of business. Any other transactions should be agreed by the court. Loan agreements accelerated prior to the insolvency declaration can be rehabilitated by the court.	
<b>International cooperation and communication</b>	
Both the EU Regulation 1346/2000 on cross-border insolvency proceedings and the Spanish Insolvency Act establish the duty of reciprocal cooperation for domestic and foreign receivers. Cooperation is basically focused on exchange of information, coordination of the administration of assets and the possibility of enacting concrete cooperation rules.	
<b>Liabilities of directors and officers</b>	
The amendment introduced to the Spanish Insolvency Act on 10 October 2011 has also enacted a mechanism similar to the English scheme of arrangement. As such, it is aimed at allowing a debtor and some of its financial creditors to enter into a restructuring of the debt which, under certain conditions, will be enforceable against other financial creditors. Under certain conditions, included a sensible majority of creditors, it will allow non-participating or dissenting financial creditors to defer the maturity of the debts as agreed in the refinancing, although financial creditors secured with a security in rem are expressly excluded from the scope of application of the procedure.	

<b>Sweden</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Swedish Bankruptcy Act (SFS 1987:672), Right of Priority Act (1970:979), Reorganisation of Business Act (1996:764). More than 95 per cent of the cases are liquidations and only 5 per cent, or even less, are business reorganisations. However, also under a liquidation the business can be transferred to a new entity and survive.
	<b>Customary kinds of security devices on immoveables</b>
	Security interest in real property, ships and aircraft is created by mortgaging.
	<b>Customary kinds of security devices on moveables</b>
	The principal types of security devices that are taken on moveables are: pledges; security assignments; reservation of title; and floating charge in the changing assets of a business enterprise.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	<b>Bankruptcy</b> Generally a creditor's pecuniary claim should be filed and tested in the bankruptcy proceedings and only a creditor holding a pledge (including mortgages) is allowed to continue execution procedures (through the Enforcement Authority). Sale of pledged assets except through the Enforcement Authority is restricted in several ways and may need the consent of the trustee. Property that is not pledged or mortgaged, including assets to which a creditor has security interest in way of a floating charge, is sold by the trustee.
	<b>Business reorganisation</b> The opening of such proceedings does not stay legal proceedings as such. The opening of a business reorganisation is intended, inter alia, to prevent independent actions by one or more of the creditors. Therefore, a petition for bankruptcy filed by a creditor after the commencement of a case is, with some exceptions, to be declared suspended and execution proceedings, not relating to claims secured by a pledge, are stayed.
	<b>Duties of the insolvency administrator</b>
	The administrator in business reorganisation proceedings is under a duty to examine the debtor's affairs and negotiate with the creditors on a reorganisation plan.
	<b>Set-off and post-filing credit</b>
	Set-off is, with some exceptions, allowed in bankruptcy or reorganisation proceedings if the claim and counterclaim existed at the day of the opening of the proceeding. Post-filing credit can be obtained and will normally be preferential.
	<b>Creditor claims and appeals</b>
	If the trustee is able to ascertain which creditors are entitled to payment in the bankruptcy, the creditors only need to notify the trustee of their claims. In more complicated bankruptcies proofs of debt must be filed with the court. The court of first instance is the district court, whose decisions maybe appealed to the Court of Appeal and ultimately the Supreme Court.
	<b>Priority claims</b>
Priority claims should be paid in the following order: preferential rights in respect of certain specific property; preferential rights in certain non-specific property; and employees' salary claims, etc. Claims against the bankrupt estate itself must always be paid before other claims.	
<b>Major kinds of voidable transactions</b>	
Transactions whereby a creditor has been improperly favoured as against others; gifts; unreasonably high salary payments; payments of debts within a certain period before the limitation date made by non-customary means; and conveyance of security within a certain period prior to the limitation date. The recovery provisions in the Bankruptcy Act also apply in a business reorganisation situation.	
<b>Operating and financing during reorganisations</b>	
The debtor retains control over its property but must consult the administrator. The debtor, with the consent of the administrator, is allowed to raise new loans during the business reorganisation in order to facilitate the reorganisation.	
<b>International cooperation and communication</b>	
There are no certain rules regarding international cooperation and communication besides the rules contained in the EC Regulation.	
<b>Liabilities of directors and officers</b>	
Personal liability of directors may arise under the provisions in the Companies Act and the company directors may also be personally liable for unpaid taxes and duties if they have negligently failed to pay them. In addition, there are rules on criminal liability of directors as well as rules on trade prohibitions.	
<b>Pending legislation</b>	
The previously proposed reform that aimed to create a more efficient single law will, as the time has passed and the proposal has been discussed, probably not be presented shortly.	



## QUICK REFERENCE TABLES

<b>Switzerland</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Federal Statute on Debt Collection and Bankruptcy (DCBA) governs the enforcement of pecuniary claims and claims for the furnishing of security against private individuals and legal entities of private law. This is only 2 per cent and more important cases result in a court-approved composition agreement.
	<b>Customary kinds of security devices on immovables</b>
	Security interests in real property, ships and aircraft by way of a mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Pledges, right of retention, retention of title, fiduciary transfer of property title (in particular assignment of claims).
	<b>Stays of proceedings in reorganisations/liquidations</b>
	The commencement of composition and bankruptcy proceeding automatically stays almost all execution proceedings. Except for urgent matters civil court proceedings will be suspended.
	<b>Duties of the insolvency administrator</b>
	During the composition agreement the administrator supervises the business of the debtor, examines the affairs and submits its recommendation regarding the reorganisation plan to the court. In liquidation he marshals and liquidates the assets for distribution to the creditors according to the creditors' schedule.
	<b>Set-off and post-filing credit</b>
	Set-off is permitted except in cases considered as misuse. The debtor is either prevented (bankruptcy) or restricted (composition) from disposing of its assets. The administrator has to consent to contract new obligations, such as loan or credit, which may touch its assets.
	<b>Creditor claims and appeals</b>
	Creditors must submit their claims within a month after the public announcement of commencement of a composition or a bankruptcy. The disallowance of its claim can be challenged by the creditor by instituting legal proceedings.
	<b>Priority claims</b>
	Three different classes are distinguished: first class: claims of employees that arose during the six months prior to the opening of proceedings and unpaid pension plan contributions; second class: unpaid social security contributions; and third class: all other claims (including taxes).
	<b>Major kinds of voidable transactions</b>
Gifts (and equivalent transactions), preferential transactions concluded in over-indebted situation; fraudulent transactions.	
<b>Operating and financing during reorganisations</b>	
Under the supervision of the commissioner the debtor may continue its business operations, however certain transactions will require court approval or approval of the creditors' committee. Transactions approved by the administrator (and the court or creditors' committee when necessary) enjoy privileged treatment.	
<b>International cooperation and communication</b>	
Foreign insolvency administrators require approval by the relevant Swiss authorities to represent the foreign insolvent estate for assets located in Switzerland (application for ancillary ('mini') insolvency proceeding). No specific rules are established for international cooperation; official secrecy rules will be observed. A language barrier may be encountered. Special rules apply for insolvency proceedings involving regulated financial institutions.	
<b>Liabilities of directors and officers</b>	
Any member of the board of directors or any person entrusted with management (officers) is liable for any damage caused in the corporation, its shareholders or creditors where he or she has intentionally or negligently acted in breach of his duties. They may also become liable for unpaid social security or certain taxes.	
<b>Pending legislation</b>	
Amendment of DCBA regarding composition agreements to become effective 1 January 2014. FINMA position paper on recovery and resolution of globally active banks.	

<b>Thailand</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Bankruptcy Act BE 2483 (AD 1940). Bankruptcy Court Act BE 2542 (AD 1999). Regulations for Bankruptcy Case BE 2549 (AD 2006).
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Pledge and retention.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Automatic stay is available only in reorganisation under section 90/12 of the Bankruptcy Act BE 2483 (AD 1940).
	<b>Duties of the insolvency administrator</b>
	In bankruptcy, the official receiver must gather the assets of the debtor and distribute them among the creditors. In reorganisation, the plan administrator plays the said roles in compliance with the reorganisation plan.
	<b>Set-off and post-filing credit</b>
	Creditors can set off debts, unless the creditor's right of claim against the debtor is accrued after the court's order of receivership or after the court's order of a reorganisation. Upon the issuance of the court's order of receivership, a debtor is prohibited from doing any acts relating to his asset, or his business, except by order or approval of the court, the official receiver, the administrator of the asset, or of a creditors' meeting (as the case may be). Otherwise, the transaction shall be void. Once the court orders to accept the reorganisation petition, the debtor is prohibited from undertaking certain activities during the term of automatic stay.
	<b>Creditor claims and appeals</b>
	The application for repayment of debt shall be submitted to the official receiver. In bankruptcy proceedings, the appeal of the court's order with respect of the repayment of debt shall be made to the Supreme Court, Bankruptcy Division. In reorganisation proceedings, the appeal of the official receiver's order with respect of the repayment of debt shall be made to the court.
	<b>Priority claims</b>
Bankruptcy: official receiver's fees, court fees and taxes due for payment within six months prior to the bankruptcy order; secured creditors with regard to secured assets; and employees. Reorganisation: in accordance with the plan, but if a priority creditor is treated other than in accordance with the normal distribution rules, that creditor must give its consent; if the reorganisation order is revoked and the debtor is declared bankrupt, debts incurred by the official receiver, planner and plan administrator have priority equal to the expenses of the official receiver in bankruptcy.	
<b>Major kinds of voidable transactions</b>	
Fraudulent transfer and preferential transfer.	
<b>Operating and financing during reorganisations</b>	
Operating and financing in reorganisation which are conducted in the ordinary course of business can be done under the Bankruptcy Act BE 2483 (AD 1940).	
<b>International cooperation and communication</b>	
None at present.	
<b>Liabilities of directors and officers</b>	
The liability of the directors and officers is separated from the liability of the company.	
<b>Pending legislation</b>	
None at present.	

Ukraine	<b>Applicable insolvency law, reorganisations: liquidations</b>
	The Law of Ukraine on Restoration of Debtor's Solvency or Declaration of Bankruptcy. The Commercial Procedural Code of Ukraine. The Commercial Code of Ukraine. The Civil Code of Ukraine. The Law of Ukraine on the Procedure of Fulfilling Taxpayers Obligations to Budget and State Specialised Funds. The Law of Ukraine on Introduction of Moratorium on the Forcible Sale of Property. The Law of Ukraine on Holding Companies in Ukraine dated 15 March 2006. The Law of Ukraine on Banks and Banking.
	<b>Customary kinds of security devices on immoveables</b>
	A mortgage.
	<b>Customary kinds of security devices on moveables</b>
	A pledge (public and private pledge).
	<b>Stays of proceedings in reorganisations or liquidations</b>
	A moratorium on satisfaction of the creditors' claims is imposed immediately after commencement of the bankruptcy proceedings and is terminated from the date of the beginning of the liquidation procedure.
	<b>Duties of the insolvency administrator</b>
	The insolvency administrator must: <ul style="list-style-type: none"> <li>• satisfy creditors' claims;</li> <li>• convene creditors' meetings and sessions of the creditors' committee;</li> <li>• to participate in the creditors' meetings and sessions of the creditors' committee with advisory vote;</li> <li>• take measures for the sake of debtor's assets protection; and</li> <li>• prepare and keep the register of the creditors' claims.</li> </ul>
	<b>Set-off and post-filing credit</b>
	Not applicable.
	<b>Creditor claims and appeals</b>
	The creditors' claims are divided into pre-bankruptcy creditors' claims and current creditors' claims. Creditors may appeal only those court resolutions that directly stipulated by the Bankruptcy Law.
	<b>Priority claims</b>
	Rank 1: claims of secured creditors; employees claims; payments to the fund securing bank deposits of individuals within the established amount of compensation; creditors' claims under insurance contracts; court fees, insolvency administrators' fees and expenses incurred in connection with insolvency proceedings. Rank 2: other employees' claims (personal injury). Rank 3: claims for taxes and other mandatory duties. Rank 4: unsecured creditors' claims. Rank 5: claims of the employees to receive contributions from the share capital of the debtor. Rank 6: all other claims.
<b>Major kinds of voidable transactions</b>	
Major kinds of voidable transactions include: <ul style="list-style-type: none"> <li>• transactions that have been executed with an 'affiliated person', as a result of which debtor's creditors have incurred or may incur losses;</li> <li>• transactions which are executed with a particular creditor or any other person within the period of six months prior to the court decision on commencement of the debtor's rehabilitation and if such transactions establish preferential treatment of one creditor as compared to the other creditors;</li> <li>• transactions the fulfilment of which causes damage to the debtor or would prevent the restoration of the debtor's solvency; and</li> <li>• transactions with a term longer than one year.</li> </ul>	
<b>Operating and financing during reorganisations</b>	
During reorganisation or rehabilitation of the debtor, the latter has the right to conduct its business operations. The control over the debtor's business activities and over the activities of an asset or rehabilitation manager is exercised by the creditors' committee.	
<b>International cooperation and communication</b>	
International cooperation or communication is carried out according to the principle of reciprocity.	
<b>Liabilities of directors and officers</b>	
Civil liability; criminal liability for deliberate bankruptcy; and administrative liability for fraudulent bankruptcy, concealing permanent insolvency and illegal actions during bankruptcy.	
<b>Pending legislation</b>	
A new version of the Bankruptcy Law, which will come into force on 19 January 2013.	

<b>United Arab Emirates</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Federal Law No. (18) 1993 (Commercial Code). Federal Law No. (8) of 1984 (Companies Law). Federal Law No. (5) of 1985 (Civil Code). Federal Law No. (11) of 1992 (Civil Procedure Code). Federal Law No. (10) of 1980 (Central Bank Law).
	<b>Customary kinds of security devices on immoveables</b>
	Mortgage.
	<b>Customary kinds of security devices on moveables</b>
	Business mortgage (pledge over a commercial business). Pledge.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	Proceedings can only be continued with permission of the court.
	<b>Duties of the insolvency administrator</b>
	The trustee is responsible for issuing notices providing reports to creditors and the court, gathering in assets and continuing the business where relevant.
	<b>Set-off and post-filing credit</b>
	Set-off requires connection between the obligations.
	<b>Creditor claims and appeals</b>
	Local creditors and the debtor have 10 days. Creditors based outside the UAE generally have 30 days.
	<b>Priority claims</b>
	Priority given to employee salaries, government taxes, rent on business premises, secured creditors and bankruptcy costs and expenses.
	<b>Major kinds of voidable transactions</b>
	Gifts, early repayments, debts paid with something other than as agreed, providing security for pre-existing debts and transactions that are detrimental to the creditors may be voided.
	<b>Operating and financing during reorganisations</b>
	Subject to court permission initially. Continuance of business after a judicial composition is subject to approval by the creditors. During a protective composition permission of the creditors is required before the debtor can obtain financing.
	<b>International cooperation and communication</b>
There are no provisions in UAE law that facilitate international cooperation and communication in the context of insolvencies.	
<b>Liabilities of directors and officers</b>	
Directors and officers may be liable for: <ul style="list-style-type: none"> <li>• acts of fraud;</li> <li>• abuse of power;</li> <li>• violation of law or constitutional documents; and</li> <li>• mismanagement of the company.</li> </ul> Risk of criminal penalties for fraudulent actions.	
<b>Pending legislation</b>	
A new federal insolvency code is currently under discussion but dates for publication of a draft have yet to be disclosed.	

<b>United States</b>	<b>Applicable insolvency law, reorganisations: liquidations</b>
	Title 11 of the United States Code (chapter 7 governs liquidations; chapter 11 governs reorganisations).
	<b>Customary kinds of security devices on immoveables</b>
	The real estate mortgage. Alternative forms include the land sale contract and deed of trust.
	<b>Customary kinds of security devices on moveables</b>
	Security interests created under and enforced by article 9 of the UCC. Special security devices exist for certain intangible property, equipment such as automobiles, aeroplanes, etc and intellectual property.
	<b>Stays of proceedings in reorganisations/liquidations</b>
	The filing of a bankruptcy petition immediately triggers an automatic stay that enjoins most creditor enforcement action against the debtor and its property.
	<b>Duties of the insolvency administrator</b>
	The trustee or debtor-in-possession is an officer of the court and has a fiduciary duty to protect and preserve assets of the estate, and to administer such assets in the best interests of creditors.
	<b>Set-off and post-filing credit</b>
	Bankruptcy generally does not affect set-off rights existing under non-bankruptcy law, but relief from stay must be obtained. Unsecured and secured post-petition credit may be obtained with court approval.
	<b>Creditor claims and appeals</b>
	Creditors generally file proofs of claim. Disputes are litigated in the bankruptcy court (or other court of competent jurisdiction) and may be appealed.
	<b>Priority claims</b>
	Expenses of administering the estate and other specified claims such as wages, pension benefits, and certain taxes enjoy priority.
	<b>Major kinds of voidable transactions</b>
	Fraudulent and preferential transfers may be avoided.
	<b>Operating and financing during reorganisations</b>
	The debtor-in-possession may operate its business in the ordinary course. Court approval must be obtained for transactions outside the ordinary course of business.
<b>International cooperation and communication</b>	
Chapter 15 of the Bankruptcy Code codifies the UNCITRAL Model Law on Cross-Border Insolvency, with some modifications. Chapter 15 enables a foreign representative of a foreign estate to obtain US bankruptcy court recognition of a foreign proceeding and thereby access a panoply of relief with respect to the foreign debtor's assets and operations in the US, including the imposition of the automatic stay, administration of the foreign debtor's US assets and operation of the foreign debtor's US business. The statute authorises and encourages communication between and among US and non-US courts.	
<b>Liabilities of directors and officers</b>	
Corporate directors and officers generally have no personal liability unless they have breached their fiduciary duties. Such duties expand to include the interests of creditors upon or near insolvency.	
<b>Pending legislation</b>	
Over a dozen new bills affecting the US Bankruptcy Code have been introduced by the 113th Congress and referred to Congressional committee, but none is likely to be enacted. The Furthering Asbestos Claim Transparency (FACT) Act of 2013, HR 982, has the best chance of becoming law. It would require trusts established under section 524(g) of the Bankruptcy Code (which a debtor may use to address asbestos-related claims or liability in mass exposure cases) to publicly disclose quarterly reports that contain detailed information regarding the receipt and disposition of asbestos-related claims. The 21st Century Glass-Steagall Act of 2013, section 1282, introduced by Senator Elizabeth Warren, among others, has received wide public attention but will likely not be passed. The Act intends to reduce risks to the financial system by reinstating certain Glass-Steagall Act protections that separated traditional banking and investment activities, and the repeal of which has been criticised as contributing to the 2008 financial crisis. The 2013 Act would require federally insured banks to separate bank lending activities from more risky securities trading. Among other things, the Act would repeal sections 555, 559, 560, 561 and 562 of the Bankruptcy Code. These 'safe harbour' provisions allow counterparties to securities contracts, repurchase agreements, swap agreements and master netting agreements to terminate such agreements notwithstanding the automatic stay, and also protects transfers made pursuant to them from avoidance. HR 100, the Protecting Employees and Retirees in Business Bankruptcies Act of 2013, reflects growing public frustration with perceived inequities in large commercial bankruptcy cases that appear to favour large payments to insiders at the expense of employees and retirees. Among other things, the Act would (i) increase the dollar amount of pre-petition priority wage claims, (ii) allow certain severance claims in full as administrative expense claims, (iii) revise requirements for confirmation of a chapter 11 reorganisation plan to provide more favourable treatment to claims arising from the rejection of collective bargaining agreements and modification of retiree benefits, and (iv) prohibit approval of payments to insiders, senior executive officers and other highly compensated employees as part of a confirmed chapter 11 plan unless approved by the bankruptcy court under new, more stringent criteria. A similar bill was introduced by the 112th Congress but failed to pass into law. Other proposed legislation affecting the Bankruptcy Code includes measures to protect homeowners from foreclosure, clarifications regarding the dischargeability of governmental claims arising from the sale of farm assets in farm bankruptcies, increased consumer protections for gift cards in the bankruptcy of the card issuer and modifications to the dischargeability of student loans.	



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