

Simplified Insolvency Programme

Introduction

The COVID-19 pandemic has had a devastating impact on many businesses, with micro and small companies (“**MSCs**”) being more vulnerable to potential insolvency. Whilst the existing Insolvency, Restructuring and Dissolution Act of 2018 (“**IRDA**”) generally provides restructuring and winding up processes for companies with substantial assets, these processes may not be wholly suited for distressed MSCs which have now been depleted of their already limited resources, as a result of the pandemic.

Recognising this, the Ministry of Law had responded by amending the IRDA and introducing the Insolvency, Restructuring and Dissolution (Amendment) Bill (the “**Bill**”) in Parliament on 5 October 2020. The Bill establishes a Simplified Insolvency Programme (the “**SIP**”) to assist MSCs in restructuring their debts to rehabilitate their businesses, or in winding up their company where their business has ceased to be viable. The Bill was subsequently passed by Parliament on 3 November 2020.

Eligibility Criteria

MSCs that meet the following specified eligibility criteria may opt for the streamlined and expedited insolvency proceedings:

1. Its annual sales turnover must not exceed SGD 10 million;
2. It must not have more than 30 employees;
3. It must not have more than 50 creditors;
4. Its liabilities (including contingent and prospective liabilities) must not exceed SGD 2 million;
5. It must not be a foreign company; and
6. It must not be involved in any ongoing winding up proceedings.

Application Process

The SIP will only be available for a 6-month period starting from 29 January 2021, the date of commencement of the legislation, and ending on 28 July 2021. To be considered for acceptance into the SIP, MSCs must, during such 6-month period, make an application to the Official Receiver. The application must include a special resolution at a general meeting authorising the making of the application, as well as a list containing the prescribed particulars of each creditor and amounts owed. A non-refundable application fee of SGD 450 is to be paid upon submission of the application.

Simplified Debt Restructuring

Set out below are the key features of the simplified debt restructuring programme.

Firstly, the SIP adapted the existing pre-packaged scheme of arrangement under the IRDA such that MSCs may work out a debt restructuring proposal with creditors out of Court. The proposal is then submitted to the Court for approval. This removes the need to apply for leave of the Court to conduct a creditors’ meeting to propose the scheme of arrangement. Further, it reduces the number of applications to the Court.

Secondly, once the application into the SIP has been accepted, the restriction on *ipso facto* clauses and moratorium against the creditors’ action will automatically be in place while the MSC is in simplified debt restructuring. This provides respite for the business and breathing room to focus on its restructuring proposals.

Thirdly, the creditor approval threshold has been lowered to two-thirds in value from three-fourths in value.

Lastly, an administrative fee of SGD 18,750 is to be paid to the Official Receiver, in the form of a deposit, upon acceptance into the SIP.

Simplified Winding Up

Set out below are the key features of the simplified winding up.

Firstly, similar to the simplified debt restructuring process, MSCs can make any application to the Official Receiver to be accepted into a simplified winding up process. The winding up will be treated as a creditors' voluntary winding up. This dispenses with the need for a Court application to be wound up.

Secondly, the Official Receiver is the liquidator of an MSC that is wound up voluntarily under the SIP. Where the Official Receiver believes that the assets of the company are insufficient to meet the expenses of winding up, and its affairs require no further investigation, the company may be dissolved without the need to take further steps for the administration of the winding up.

Thirdly, the scope of the Official Receiver's functions as a liquidator will be reduced under the SIP. This recognises that certain complex and costly aspects of a conventional winding up are not suitable for a simplified process. For instance, meetings of the company's creditors would not need to be convened, and the Official Receiver may only commence legal proceedings to preserve the rights of the company.

Fourthly, if the Official Receiver is of the view that an MSC is unsuitable for the simplified winding up programme, the MSC may be placed into a Court-ordered winding up.

Lastly, an administrative fee of SGD 2,700 is to be paid to the Official Receiver, in the form of a deposit, upon acceptance into the SIP.

Should you have any queries as to how this update may affect you or your organisation or require further information, please do not hesitate to email us.



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This article is intended to discuss the proposed Simplified Insolvency Programme in Singapore, and it is not intended to be comprehensive nor should it be construed as legal advice. This article is updated as of 15 March 2021.

The author would like to express her appreciation and thanks to Rhee Koay, trainee at Gateway Law, for her assistance and contribution to this article.