



## **Survey on ABA Member Banks' Interest to Know More about the ABA Informal Workout Guidelines and the Model Agreement to Promote Company Restructuring**

### **A. Background**

1. In 2005, the Asian Bankers Association (ABA) adapted the “ABA Informal Workout Guidelines-Promoting Corporate Restructuring in Asia” and the “Model Agreement to Promote Company Restructuring: A Model Adaptable for Use Regionally, by a Country, or for a Particular Debtor” (hereinafter referred to as “Guidelines”). These two documents contain principles which aim to guide financial creditors on how they should deal with debtors in difficulties in circumstances where the debtor is dealing with multiple financial creditors as creditors.

2. Developed by the ABA with the guidance and support of the Asian Development Bank (ADB) and the Australia-based consultants Blake Dawson Waldron, the Guidelines were subsequently amended in 2013 following consultations between the ABA Policy Advocacy Committee and Dr. Shinjiro Takagi, a leading Japanese and global expert on insolvency issues and is currently working toward establishing global guidelines for informal workouts. Dr. Takagi also sought inputs and endorsements from the APEC Business Advisory Council (ABAC) and the International Insolvency Institute (III), among others, as well as from experts in various countries in the region, including China, Hong Kong, Korea, the Philippines, Singapore, Thailand, and Malaysia.

3. After the Asian Financial Crisis of the 1990s, many asset management companies and other special purpose organizations were created to wipe out and dispose of non- and poor-performing loans in Asian region. Experts team led by Australian lawyer Late Mr. Ronald Winston Harmer and other Asian experts made extensive research for several years to avoid recurrence of the financial crisis commissioned by the ADB and presented a report “RETA 5795: Insolvency Law Reforms” with the ADB in 2000. The “Guidelines” were completed based on the report.

4. Preventive debt restructuring schemes which should be taking place at early stage before insolvency is popular now worldwide. Both INSOL 8 Principle made by INSOL International in 2001 (revised slightly in 2017) and the Guidelines are two big tools

for out of court workout to restructure excessive debts owed to multiple or plural financial institutions by distressed business corporations operating valuable business.

5. Recognizing the advantages of informal workouts, the ABA encourages ABA members and non-members to apply the Guidelines whenever and wherever they are seeking to resolve the financial difficulties of a debtor owing to multiple financial creditors. The ABA believes that the Guidelines help in rehabilitating companies at minimal cost on the latter's part, as well as encourage the revitalization of troubled business organizations. The Model Agreement can be used to facilitate an informal workout and is capable of both adaptation and adoption by some or all members of the ABA, regionally or in a particular jurisdiction or on a case-by-case basis.

6. The Guidelines is the International Rule adopted by the ABA and ABAC. It is an appropriate tool to use for cross-border cases. Members of the ABA are composed of banks not only in Asia but also banks located in other regions worldwide. The out-of-court workout proceeding and agreed restructuring plan according to the Guidelines may be more acceptable to foreign banks.

## **B. Objective of the Survey**

This survey primarily aims to determine member banks' interest to know more about the Guidelines.

## **C. Survey Questionnaire**

We would appreciate it very much if you could take a few moments of your time to reply to the following questions:

1. In your country, how is a business corporation financed?

\_\_\_\_\_ By one financial institution usually

\_\_\_\_\_ By multiple or plural financial institutions

2. Does your organization know about the Guidelines?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

3. Is your organization interested to know more about the Guidelines?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

4. If your answer to Question 3 is “Yes”, is it possible to have a symposium on the Guidelines which will be held by bankers association or other organizations whose members include banks or financial institutions in your country?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

If your answer to Question Number 4 is “Yes”, the ABA is prepared to send Dr. Shinjiro Takagi as a speaker.

5. If your answer to Question 3 is “No”, how do you propose to learn more about the Guidelines?

\_\_\_\_\_ Send Dr. Takagi (or his representative) to visit our organization

\_\_\_\_\_ I suggest that *(please elaborate below)*:

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*Note: Please submit the completed Questionnaire to the ABA Secretariat by e-mail at [aba@aba.org.tw](mailto:aba@aba.org.tw) or by Fax at +886 2 2760 7569, preferably before **August 3, 2018**. Thank you very much for your kind cooperation.*