

Republic of Korea

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On March 21 2005 the Korean government promulgated the Act on Rehabilitation and Bankruptcy of Debtors, also known as the Unified Insolvency Law, which will come into force on April 1 2006. The law consolidates the Corporate Reorganisation Act, the Composition Act, the Bankruptcy Act and the Act on Rehabilitation of Individual Debtors in order to establish systematic procedures for the rehabilitation and liquidation of insolvent companies and individuals. In consolidating these statutes, the law abolishes the composition procedure and establishes a rehabilitation procedure which modifies and improves the previous reorganisation procedure. As a result, the law provides for two corporate insolvency procedures: bankruptcy and rehabilitation. The Korean principles on bankruptcy were adopted from the German legal system, introduced to the Republic of Korea via Japan. The principles on rehabilitation were largely modelled on US federal law, such as Chapter 11 protections.

In June 1998 almost all Korean financial institutions entered into the Financial Institutions Arrangement for Facilitating Corporate Restructuring (known as the Master Workout Arrangement), introducing an informal workout system into the Korean insolvency regime. The Korean government subsequently enacted the Corporate Restructuring Promotion Act, which replaced the Master Workout Arrangement with the aim of facilitating and expediting informal workouts. The act, effective from September 2001 until the end of 2005, is the basic law governing out-of-court, informal corporate rescue procedures. However, there has been some debate as to its constitutionality, which is currently under review by the Constitutional Court. Depending on the court's decision, the Korean government is considering amending the act to extend its effectiveness.

The number of insolvency cases, both formal and informal, has soared since 1997, leading to growth in the domestic distressed claims business. Moreover, workouts are more popular than corporate reorganisations. Since the introduction of the Master Workout Arrangement, a total of 83 insolvent companies have been subject to workouts. While most of the blue-chip companies involved in workouts have successfully completed the procedure, the process is still ongoing for those in declining industries or industries requiring heavy equipment and installations.

As a response to difficulties in reaching agreement between creditors and a lack of professionalism in the management of insolvent companies, the government introduced the corporate restructuring vehicle in October 2000. However, this has not yet been utilised as an effective restructuring vehicle. The corporate restructuring company was also introduced in May 1999 to promote corporate restructuring of insolvent companies and to address financial institutions' non-performing loans. The primary role of the corporate restructuring company is to obtain managerial control of an insolvent company and enhance its corporate value through vigorous restructuring. The insolvent company is eventually sold, within eight years of the date of acquisition, in order for the corporate restructuring company to realise capital gains.

1. Legal framework and the effectiveness of court processes/legal remedies

1.1 Describe the nature and effectiveness of the following:

(a) Debt recovery remedies where the creditor has no security

A creditor must first obtain a court judgment against the debtor in connection with the unsecured debt. Upon the creditor's petition for enforcement of the judgment, the court will order that the debtor's assets be attached and disposed of – normally through a public auction. The sale proceeds, net of expenses, are then distributed to the creditor. If necessary, the creditor may file a petition for preliminary attachment prior to filing a formal lawsuit.

(b) The enforcement of security

A secured creditor need not obtain a court judgment. Depending on the nature of the security and the terms and conditions of the security agreement, the creditor can either enforce its security rights directly or petition the court to proceed with enforcement.

(c) Corporate bankruptcy/liquidation processes

Under the bankruptcy chapter of the Unified Insolvency Law, an insolvent debtor company or its creditors may file an application for bankruptcy. Upon an adjudication of bankruptcy, the court will appoint a trustee to conduct the liquidation process.

(d) Formal corporate rescue processes

Formal corporate rescues are governed by the corporate rehabilitation chapter of the Unified Insolvency Law. Previously, under the Corporate Reorganisation Act, only joint stock companies were eligible for corporate reorganisation. Under the Unified Insolvency Law, however, all forms of companies are now eligible for corporate rehabilitation. An application for corporate rehabilitation may be filed if:

- the company cannot pay its debts as they fall due without a significant impact on business continuity; or
- there is a fear that the company will enter into bankruptcy.

Companies typically file for corporate rehabilitation on a voluntary basis. However, in the case of limited liability companies and joint stock companies, creditors with claims amounting to at least 10 per cent of the company's paid-up capital may apply for corporate rehabilitation. For other types of company, creditors with claims amounting to at least KRW50 million may file a petition for corporate rehabilitation. Shareholders owning at least 10 per cent of the company's total issued and outstanding shares, or equity holders owning at least 10 per cent of the company's total equity, may also apply for corporate rehabilitation. The court will appoint a receiver to manage the company under court supervision and in accordance with the rehabilitation plan. A creditors' council, consisting of the major creditors, is also set up, unless the debtor is a small to medium-sized company. The creditors' council adjusts the creditors' interests and conveys the creditors' opinions to the court. The company's debts are restructured or rescheduled in accordance with the rehabilitation plan.

(e) Informal corporate rescue processes

Joint management by creditor financial institutions under the Corporate Restructuring Promotion Act is used as a typical out-of-court restructuring method. Any insolvent company owing over KRW50 billion to creditor financial institutions is subject to the Corporate Restructuring Promotion Act. The act defines 'creditor financial institutions' as all local financial institutions, and most branches of foreign financial institutions, in the Republic of Korea.

In other cases a debtor company may seek a 'private composition' – that is, an out-of-court debt rescheduling in accordance with one or more private individual agreements with creditors.

1.2 What are the formal processes to effect a liquidation of the company's assets?

The formal process to effect a liquidation of an insolvent company is through bankruptcy proceedings. Where the court recognises that there are proceeds appropriate for distribution, it must distribute these to the creditors in accordance with the priority of claims as listed in the distribution list, which is established through the filing and examination of claims.

1.3 What is the effect on debt collection and the enforcement of security of:

(a) An adjudication of corporate bankruptcy/liquidation?

Upon an adjudication of bankruptcy, the debtor's assets are transferred to the bankruptcy estate. The trustee conducts the liquidation of the bankruptcy estate, which is subject to creditors' security rights. No unsecured creditor may individually enforce its claims, but security rights are unaffected and secured creditors can enforce their rights individually.

(b) The commencement of a formal corporate rescue process?

The Unified Insolvency Law provides for an interim period between filing and the commencement of proceedings. During this time the company's assets may be preserved for rehabilitation and distribution under a rehabilitation plan. The court must issue a decision on whether to grant a provisional preservation order within two weeks of the filing date, and a decision on whether to commence rehabilitation proceedings within one month of the filing date. Upon the commencement of rehabilitation proceedings, both secured and unsecured creditors are prevented from individually enforcing claims that arose prior to the date of commencement. Claims arising after the commencement of proceedings are not stayed.

Under the Corporate Reorganisation Act, in the period between filing the application for reorganisation and the commencement of proceedings, the debtor could only file an application for an ordinary temporary stay in order to prevent creditors from enforcing their rights. An ordinary temporary stay against specific enforcement procedures would then be ordered on a case-by-case basis. The Unified Insolvency Law has now introduced the concept of a comprehensive temporary stay. This allows the court to order a comprehensive temporary stay which prohibits all creditors, both secured and unsecured, from exercising their claims or enforcing their rights against the debtor's assets. A comprehensive temporary stay will be ordered if the court has reason to believe that an ordinary temporary stay order will not adequately fulfil the purposes of the rehabilitation, and if preservation orders have been or are being placed on the

debtor's major assets. The court may also exempt specific creditors from the scope of a comprehensive temporary stay if there are reasonable grounds to believe that the order would cause damage to those creditors.

(c) The initiation of an informal corporate rescue process?

Joint management by creditor financial institutions is the process formerly known as a 'workout' in the Republic of Korea. Where a company shows signs of insolvency, the main creditor bank will convene a meeting of the council of creditor financial institutions and notify the other creditor financial institutions accordingly. If the council resolves to commence joint management, its members are temporarily prevented from individually enforcing their claims. The period of this temporary stay may not exceed two months (or four months if due diligence is necessary), from the date of commencement of joint management. During this period, the debtor and the council will consult on, finalise and officially adopt the corporate restructuring plans. These normally involve debt reschedulings, including stays on claim enforcement, write-offs and debt-for-equity swaps. Debt collection and the enforcement of security are also subject to the restructuring plans. Limitations on debt collection apply to both secured and unsecured creditors on an equitable basis. Outside of the joint management procedure, secured creditors cannot exercise their security rights over the debtor's property; however, this restriction applies only to creditors which are members of the council. Other secured creditors are free to enforce their claims by exercising their claims or enforcing their rights over the debtor's assets, unless they voluntarily decide to participate in the joint management.

In private compositions, debt collection and the enforcement of security are subject to individual agreements between the debtor and its creditors.

(d) The initiation of an insolvency or insolvency-related process under any special legislation?

Not applicable.

1.4 Are insolvency procedures involving a corporation incorporated in your jurisdiction recognised if they are started in another jurisdiction?

Previously, Korean law did not recognise

insolvency proceedings commenced in a foreign jurisdiction. The Korean insolvency legislation provided that insolvency proceedings commenced in a foreign country would have no effect on assets located in the Republic of Korea. Even if foreign insolvency laws allowed a foreign insolvency administrator to administer assets in the Republic of Korea, the administrator was not deemed to have authority to act in the Republic of Korea on behalf of the corporate debtor unless he or she obtained the approval of the competent Korean court.

Under the Unified Insolvency Law, representatives in foreign insolvency proceedings may now seek assistance from the Korean courts. The Korean courts will cooperate and exchange information with the foreign court and the foreign insolvency representative to facilitate the fair and smooth enforcement of cross-border insolvency proceedings.

Among other things, the Unified Insolvency Law sets out the procedures for the recognition of foreign insolvency proceedings. If the debtor has an office or address in the jurisdiction where the insolvency proceedings are opened, the foreign insolvency representative may file an application for recognition, together with supporting documents, with the Korean court. The Korean court must issue its decision within one month of the date of filing of the application. The Korean court will deny an application for recognition if:

- the court fees are not paid;
- the required documentation is not submitted or is insufficient to prove the claims; or
- recognition would constitute a manifest breach of public order or morality.

In addition, the Korean court may appoint a cross-border insolvency administrator to manage the debtor's assets in the Republic of Korea. The court may also order any other measures it deems necessary to preserve the debtor's assets and to protect the creditors' rights and interests. Following a decision for the recognition of foreign insolvency proceedings, the foreign insolvency representative may participate in, or file a petition for the commencement of, insolvency proceedings in the Republic of Korea. The court-appointed cross-border insolvency administrator has the exclusive authority to implement the proceedings and to manage and dispose of the debtor's property. The administrator must obtain the approval of the Korean court to dispose of, convert or distribute the debtor's assets, or to

transfer those assets outside the Republic of Korea.

1.5 In what circumstances would the directors or officers of a company in financial difficulties face potential personal liability for continuing to trade? In practice, are any such provisions actually enforced?

The directors and officers of a debtor company do not generally have personal liability with respect to pre-bankruptcy trade or claims. However, under the Commercial Act, directors and officers are liable for losses and damage to the company caused by their violation of laws or the company's articles of incorporation, or by negligence in performing their duties. Also, if the directors or officers failed to perform their duties in bad faith, or were grossly negligent in their duties, they will be liable for losses and damage which their actions cause to any third party.

In addition, the Unified Insolvency Law provides that the directors or officers of a debtor company will be subject to criminal penalties where they:

- conceal, destroy or dispose of the company's assets in order to benefit themselves or any other third parties, or to harm creditors; or
- falsely increase the company's debt burden.

These provisions have been enforced in the Republic of Korea under the insolvency laws.

2. What are the advantages and disadvantages of triggering a formal procedure?

As the purpose of bankruptcy proceedings is liquidation, there is little point in examining the advantages of the formal bankruptcy procedure. The following is therefore an evaluation of the advantages and disadvantages of the formal corporate rehabilitation procedure.

The advantages of corporate rehabilitation are as follows:

- It is legally binding on all creditors.
- It facilitates the equitable reconciliation, under court supervision, of the interests of all stakeholders, including the company itself, the creditors and the shareholders.
- It provides little room for the company to dodge its financial crisis by securing debt restructuring without any intention of undergoing corporate restructuring.
- It allows for more streamlined and expeditious corporate restructuring methods, such as

mergers and acquisitions, spin-offs, capital reductions and debt-for-equity swaps, as the stringent provisions set out in the Commercial Act and other relevant laws and regulations in connection with these methods do not apply to companies undergoing corporate rehabilitation.

The disadvantages are as follows:

- Corporate rehabilitation limits the autonomy of the company's management, as the court exercises extensive control and supervision over material business decisions.
- Court approval must normally be sought after the creditors' council has consulted on the possibility of rehabilitation, which may double the time and the number of procedures involved.
- Compared to an informal corporate rescue, it is relatively difficult for the company and its creditors to compromise and agree to a flexible debt restructuring or corporate rehabilitation plan, as the court is more likely to adhere strictly to the rules and to emphasise fair and equitable solutions for all interested parties.

3. What are the practical options for out-of-court restructuring?

There are two realistic approaches to out-of-court restructuring: joint management under the Corporate Restructuring Promotion Act and private composition.

Private composition is usually used where there are only a few creditors. The procedure allows for greater flexibility and autonomy in rehabilitating the debtor, but it may lack enforceability and some creditors may not participate in the process. This in turn can lead to the problem of 'free riding': while creditors that participate in the private composition and accept the debt restructuring will suffer some losses, those creditors that do not participate will still hold their claims in full. If the company is rehabilitated, non-participating creditors will be fully repaid and will thus benefit from the losses suffered by the participating creditors.

The introduction of the Corporate Restructuring Promotion Act has largely solved the problem of free riding. For example, all creditor financial institutions, as defined in the act, must belong to the council of creditor financial institutions. If creditors with voting rights corresponding to at least three-quarters of the total voting rights in the council consent to the proposed restructuring plan, then all

members of the council – including dissenters – will be bound by the resolutions, except in certain cases as set forth in section 7.4.

4. What is the effect on the management of a company of:

4.1 An adjudication of corporate bankruptcy/liquidation?

Upon an adjudication of bankruptcy, the debtor continues to exist for the purpose of liquidation only. Normal business operations are wound up. The existing management and controlling shareholders are precluded from managing the debtor, and the court-appointed trustee conducts the liquidation process.

4.2 The commencement of a formal corporate rescue process?

In principle, shares owned by controlling shareholders are extinguished without consideration. One or more receivers will be appointed upon the official commencement of rehabilitation proceedings. Previously, it was customary under the Corporate Reorganisation Act that, upon the commencement of corporate reorganisation proceedings, the existing management and controlling shareholders were precluded from managing the company. In contrast, however, the Unified Insolvency Law provides that, in principle, the existing management shall be appointed as the receiver in the rehabilitation proceedings, so that its know-how and expertise may be utilised. However, the court may appoint external receivers and replace the existing management where there is good cause to do so. Examples of such good cause include where:

- the existing management was responsible for serious circumstances which led to the company's insolvency;
- the creditors' council requests the appointment of outside receivers for justifiable reasons; or
- the court considers that the appointment of external receivers is necessary for the debtor's rehabilitation.

Typically, the existing management will be held responsible for the insolvency where it embezzled or concealed company assets, or is materially responsible for mismanagement.

4.3 The initiation of an informal corporate rescue process?

In an informal corporate rescue process, the existing management and controlling shareholders generally continue to manage the debtor company. However, creditors' representatives generally assume supervisory roles, particularly in connection with the company's financial affairs. Creditors' representatives are sometimes appointed as company officers.

4.4 The initiation of an insolvency or insolvency-related process under any special legislation?

Not applicable.

5. Roles of key players involved in the restructuring and insolvency process

5.1 Who is responsible for the 'case management control and administration of a corporate bankruptcy/liquidation, a formal rescue or an informal rescue?

In bankruptcy, the court-appointed trustee has responsibility for case management control and administration.

In corporate rehabilitation, responsibility for case management control and administration rests with the court-appointed receiver.

In joint management, the existing management has responsibility for case management control and administration, subject to supervision by the financial administrator appointed by the council of creditor financial institutions.

5.2 Who is responsible for the 'case management control and administration of a case of corporate insolvency under any special legislation?

Not applicable.

5.3 Who is responsible for preparing the restructuring plan in a formal or informal rescue?

In corporate rehabilitation proceedings, the court-appointed receiver is responsible for preparing the draft rehabilitation plan. The plan is formally adopted over the course of three or more statutory meetings of the interested parties.

As regards informal rescues, the existing management and the major creditor bank of the council of creditor financial institutions, in joint

management – or the creditors' representatives, in a private composition – generally consult with each other and jointly prepare the draft plan. More often than not, creditors exert more influence over the plan's preparation.

5.4 Who is responsible for preparing the restructuring plan in a case of corporate insolvency under any special legislation?

Not applicable.

6. What financial information is available to creditors in a corporate bankruptcy/liquidation, a formal rescue and an informal rescue?

Corporate rehabilitation: Under the Corporate Restructuring Promotion Act, the creditor financial institutions may ask a debtor which is seeking additional loans to provide audited financial statements for the two previous fiscal years. The council of creditor financial institutions may have the company evaluated by an external specialist to determine its value as a going concern.

In corporate rehabilitations, two types of report are available to creditors:

- a report indicating the results of the investigation of the creditors' rehabilitation claims and related securities; and
- a rehabilitation plan, which is prepared by the court-appointed receiver and includes both mandatory and optional information.

The rehabilitation plan must be submitted to the court within four months (extendable for a period of two months for large corporations and one month for small to medium-sized companies) of the date of the first meeting of interested parties. Mandatory information to be provided in the plan includes:

- any modifications to the rights of secured creditors, unsecured creditors and shareholders;
- payment of administrative expenses;
- the manner of securing funds for debt repayments; and
- use of extraordinary profits.

Optional information which may be provided in the plan includes:

- the transfer of business and property;
- reduction of capital;
- issuance of new shares and bonds;
- mergers; and

- the establishment of new companies.

Bankruptcy: In bankruptcy, two types of report are available to creditors:

- a report indicating the results of the investigation of the creditors' claims; and
- a report indicating the reasons for bankruptcy and other general information relating to the debtor company, which is available at the first meeting of creditors.

The court-appointed trustee should also report to creditors as requested at the first meeting of creditors.

7. Financial issues

7.1 What are the main areas from which funding is generally utilised by companies undertaking either formal or informal restructuring?

The principal sources of funding for Korean companies undergoing formal or informal restructuring are their existing finance providers – mainly domestic banks. Because the risks involved in lending to such financially troubled companies are relatively higher than anticipated, only a few investors or lenders that are not risk averse will consider injecting new capital into them. Therefore, in many instances there is often no alternative but to have the company seek debtor-in-possession financing in a workout or undergo formal insolvency proceedings such as corporate rehabilitation.

Where a workout (including joint management) is approved by a super-majority of the members (with the consent of creditors representing more than three-quarters of claims) of the council of creditor financial institutions, all members with claims against the company may be required to provide it with working capital in the form of new loans in proportion to their respective claims, regardless of whether they approved or rejected the proposed workout plan. Approval of a workout plan may also allow the company to raise capital outside of the council – possibly through strategic or financial investors which are interested in acquiring management control of the company. In rare cases, a company can also raise funds by selling off its assets with the consent of secured creditors.

In reality, however, claims against the company are often sold to the council of creditor financial institutions from creditors unwilling to bear further risks of involvement in the workout process. In such situations the burden of providing financing

falls almost entirely upon the members of the council. To alleviate this burden, the council frequently sells off debt owed by companies undergoing insolvency proceedings to the Korea Asset Management Corporation, a government-funded organisation, which in turn sells them to domestic or foreign investors. This may lead to a transfer of control from the incumbent management to those investors, which can lead to more intense structural reforms of the company.

7.2 In what order are creditors paid in a corporate bankruptcy/liquidation?

Secured creditors may exercise their rights without being affected by the bankruptcy proceedings. Claims against the bankruptcy estate – such as claims arising after the adjudication of bankruptcy, employee salaries, severance pay and certain taxes and costs – will have priority over bankruptcy (unsecured) claims. The payment order is as follows:

- secured creditors;
- creditors with claims against the bankruptcy estate; and
- creditors with bankruptcy (unsecured) claims.

7.3 Are there any legal provisions that might operate to invalidate the creation of security, the disposal of an asset or the payment of a creditor by a company in financial difficulties?

The Civil Act contains a general provision invalidating 'fraudulent conveyance' transactions (ie, dispositions of property for no or unfairly low consideration). The Unified Insolvency Law contains largely identical provisions. However, the number of fraudulent conveyance transactions subject to invalidation under the Unified Insolvency Law is greater than that under the Civil Act. For example, debt repayments to unsecured creditors or disposals of property for this purpose, in and of themselves, will not be invalidated under the Civil Act. However, such activities which violate the principle of equal distribution among unsecured creditors, and which were performed within a certain period of time prior to the adjudication of bankruptcy or after the filing of the application for bankruptcy or corporate rehabilitation, may be invalidated under the Unified Insolvency Law.

The creation of new security rights over the debtor's assets is restricted by any preservation order, as well as by the statutory provisions on the invalidation of fraudulent conveyance transactions

under the Unified Insolvency Law.

7.4 What is the position of both unsecured and secured creditors that vote against, do not agree with or do not consent to a formal or informal rescue plan?

If a rehabilitation plan is duly adopted at the meeting of interested parties and approved by the court, it becomes binding on all secured and unsecured creditors, including dissenting creditors.

In joint management under the Corporate Restructuring Promotion Act, any resolution passed by the council of creditor financial institutions is binding on all members of the council, including dissenting members. If a creditor financial institution dissented to the resolution to commence joint management or to the debt restructuring plan, and does not wish to be bound by the Corporate Restructuring Promotion Act, it is entitled to demand that other members buy out its claims against the debtor. The remaining consenting creditors usually buy out, or cause the debtor to buy out, the claims held by the dissenting creditor at a price equal to the liquidation value of the claims.

In a private composition, a debt rescheduling plan is binding only on those creditors that individually agreed to the plan.

7.5 What actions can creditors take if they are not satisfied with the conduct of either a formal rescue procedure or a corporate bankruptcy/liquidation?

In formal rescue procedures and bankruptcy proceedings, virtually no action can be taken by unsecured creditors that are dissatisfied with the procedure; this is also true for secured creditors in corporate rehabilitation proceedings.

Secured creditors in bankruptcy proceedings may participate in the proceedings as unsecured creditors to the extent of their outstanding claims that have not been satisfied through the enforcement of their security rights.

8. General

8.1 Can the insolvency regime be described as systematic and efficient for:

(a) The liquidation of businesses incapable of being restructured?

(b) The restructuring of debt?

The Korean insolvency regime may be described as systematic and efficient for the liquidation of businesses and the restructuring of debt, although certain aspects remain to be improved.

8.2 What are the biggest legal and non-legal impediments to the systematic and efficient liquidation of businesses and restructuring of debt?

One major legal impediment is the priority of claims in insolvency proceedings. In bankruptcy and rehabilitation, the priority of tax claims over unsecured claims has been criticised as excessive. In rehabilitation, the most serious issue in recent years is that the priority between secured claims and common benefit claims is unclear. In addition, new loans provided to an insolvent company during an informal rescue are not always adequately protected because the statutory provisions in this regard are somewhat vague.

One major non-legal impediment is that court judges and regulatory officials regularly issue inconsistent decisions in insolvency proceedings. Government-affiliated organisations are also precluded from making the best economic decisions by a lack of flexibility in the decision-making process and internal organisational bylaws. For example, such organisations often allow the liquidation of a distressed company because their bylaws prohibit debt restructurings, including debt exemptions and debt-for-equity swaps. This represents the biggest barrier to the restructuring of medium-sized companies, which are often beneficiaries of such organisations. The government recently made efforts to amend the bylaws of these organisations, but such reforms cannot be expected within a short period of time.

A further cause of delay to corporate restructurings is the risk of labour union strikes; however, there is no regulatory solution to this issue.

8.2 Has the insolvency regime been reformed in the last two years? If so:

(a) What are the reforms?

(b) Are the reforms being implemented so as to facilitate the systematic and efficient handling of corporate insolvency cases?

The Korean insolvency regime has been reformed with the promulgation of the Unified Insolvency Law (see introduction and sections 1.1(d), 1.3(b), 1.4 and 4.2). The law is not yet in force, but its purpose is to facilitate the systematic and efficient handling of corporate insolvency cases.

8.3 Are there any other legal or non-legal changes in the last two years that have impacted on the operation of the insolvency law regime?

Previously, profits made by an insolvent company from debt exemptions or debt-for-equity swaps executed in accordance with the insolvency laws were exempt from tax or carried over. The exempted taxes were to be paid at the time of liquidation or offset by deficit. In December 2003 the relevant tax law was amended to provide that such tax benefits shall apply to debt exemptions or debt-for-equity swaps executed by the end of 2005 only. This amendment has spurred insolvent companies and their major creditors to hasten corporate restructuring.

8.4 Is statistical information on insolvency cases and corporate insolvency published? If so, how? Is it published? Is it easily and freely accessible?

Basic statistical information on informal rescue procedures has been published by the Financial Supervisory Commission on its website (www.fsc.go.kr). However, official statistical information on formal rehabilitations is not publicly available.

8.5 What is the most urgent reform required to facilitate the systematic and efficient handling of corporate insolvency cases (formal and informal)?

First of all, the excessive priority afforded to government tax claims should be reduced. There are also concerns about potential inconsistencies in the Unified Insolvency Law, which is effectively a mere compilation – rather than a consolidation – of the Bankruptcy Act, based on the German legal system, and the Corporate Reorganisation Act, modelled on US law. Finally, the proposed extension of the effectiveness of the Corporate Restructuring Promotion Act is also urgent and of considerable significance. If this goes ahead, those provisions which have proved controversial should be restated.