



AGENDA ITEM 3: ATTACHMENT 3

PROMOTING A SOUND REGIONAL FRAMEWORK FOR CROSS-BORDER INSOLVENCY AND INFORMAL WORKOUTS

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Background

During the ABAC FWG January 2006 meeting in Singapore, the ADB, through its consultant (Blake Dawson Waldron) presented (a) a set of non-binding regional guidelines for informal workouts, with an accompanying model agreement that may be adopted by financial institutions to suit a particular jurisdiction or individual workout, and (b) a set of proposals to support effective informal regimes in the region.

ABAC FWG members discussed the guidelines and model agreement as well as the ADB's proposals, and agreed to develop proposals along these lines in the context of promoting the development of bond markets in the region. Material related to the guidelines, model agreement and proposals have been made available to ABAC FWG at the Singapore meeting.

Issues

The non-binding regional guidelines for informal workouts and the accompanying model agreement have been developed by ADB through a series of road show presentations and dialogues with financial institutions in several Asian economies in 2005. The intention behind these efforts is to promote region-wide acceptance of these guidelines and adoption of the model agreement by financial institutions. In October 2005, the Asian Bankers' Association endorsed the guidelines and model agreement. Further endorsements by key public institutions, particularly bank regulatory authorities, and by the private sector would be important to encourage wider adoption of these guidelines and agreement by financial institutions and the development of a regional framework for informal workouts.

To further support the development of effective informal workout regimes, the ADB, in cooperation with the Asian Bankers' Association, developed a number of proposals. These proposals are aimed at the provision of readily accessible formal insolvency procedures available to creditors on an expeditious basis, so that debtors are encouraged to cooperate in informal workouts. These proposals include the following: (a) adoption of a fast-track formal workout regime; (b) legislation providing for Creditors' Voluntary Liquidation or Voluntary Administration; (c) a regional center or centers for the resolution by arbitration of cross-border disputes; (d) strengthening cross-border cooperation and

assistance in insolvency cases; and (e) measures to enhance institutional capacity to promote effective administration of insolvency laws.

Recommendations

- ***ABAC should endorse the above-mentioned non-binding regional guidelines for informal workouts and the accompanying model agreement, and propose that APEC Finance Ministers, central banks, and bank regulatory authorities encourage financial institutions in the region to adopt them.***
- ***ABAC should endorse the above-mentioned proposals to support the development of effective informal workout regimes, and ask APEC Finance Ministers to work on their implementation.***

ABAC Chinese Taipei