

THE ADVISORY GROUP ON APEC FINANCIAL SYSTEM CAPACITY-BUILDING

A Public-Private Sector Initiative

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22 January 2013

2:15 PM – 4:15 PM

Manila Room, Makati Shangri-La Manila Hotel
Makati City, Philippines

Meeting Paper 7-A

Draft Program for the Workshop *Facilitating Finance through Legal Architecture Reforms: The Role of APEC*

Office of the Advisory Group Chair

- PURPOSE** For consideration
- ISSUE** Draft Program for the Workshop *Facilitating Finance through Legal Architecture Reforms: The Role of APEC*
- BACKGROUND** Experience has shown that providing attractive environments for lenders and investors requires well-defined legal systems with effective enforcement mechanisms. An important area where reforms can have a major impact on finance is commercial law, which sets the rules governing various stages of the relationship between lenders and investors, on one hand, and borrowers, on the other. This workshop looks at how APEC can contribute to promoting these reforms. It seeks to build on and update previous work undertaken by the Advisory Group and ABAC and to develop concrete and practical recommendations that can be submitted to APEC Leaders, Ministers, Senior Finance Officials and Senior Officials for consideration, adoption and implementation.
- PROPOSAL** Organize a workshop at ABAC III in Kyoto to discuss ways forward to promote implementation of the Advisory Group's and ABAC's previous

recommendations (a) to develop model elements for a code of security interest creation, perfection and enforcement and model treatment of floating charges and accounts receivable financing; and (b) to promote adoption of regional guidelines and a model agreement on informal workouts. Proposed date is July 9.

***DECISION
POINT***

Endorse the proposed workshop and program.

FACILITATING FINANCE THROUGH LEGAL ARCHITECTURE REFORMS: THE ROLE OF APEC

*Organized by
The Advisory Group on APEC Financial System Capacity Building
APEC Business Advisory Council*

9 July 2013
Hotel Okura, Kyoto, Japan

Finance in emerging markets has taken on a greater importance under the current global economic environment. As advanced economies go through an extended period of economic adjustment, the continued rapid growth of emerging markets is needed for the world economy to avoid a painful retrenchment and to continue moving toward greater prosperity. This will require among others making more finance available to enterprises, especially small- and medium scale firms that are key to job creation, as well as to infrastructure projects in developing economies.

Experience has shown that providing attractive environments for lenders and investors requires well-defined legal systems with effective enforcement mechanisms. Such systems provide a highly predictable environment that reduces non-commercial risks faced by lenders and investors and leads to lower financing costs. An important area where reforms can have a major impact on finance is commercial law, which sets the rules governing various stages of the relationship between lenders and investors, on one hand, and borrowers, on the other.

Many of the region's emerging markets stand to greatly benefit from such reforms, particularly in the areas of secured lending and insolvency regimes, which form a single integrated body of law representing the backbone of modern commercial legal systems. This workshop looks at how APEC can contribute to promoting these reforms. It seeks to build on and update previous work undertaken by the Advisory Group and ABAC and to develop concrete and practical recommendations that can be submitted to APEC Leaders, Ministers, Senior Finance Officials and Senior Officials for consideration, adoption and implementation.

PROGRAM

0830-0900 **Registration**

OPENING SESSION

0900-0920 **Welcome and opening remarks**

Keynote Presentation: Addressing Legal Issues that Constrain the Financing of Economic Growth

Mr. Arthur M. Mitchell, Senior Counselor, White & Case Law Offices (TBC)

SESSION ONE

0920-1045

IMPROVING THE LEGAL ARCHITECTURE FOR SECURED LENDING

For many mid-market companies, access to asset-based lending products is an important component of liquidity, allowing them to use inventory, movables, accounts and trade receivables and other intangibles as collateral. However, in many economies in the region, gaps in the legal regime for secured lending create disincentives to creditors to extend loans to such borrowers, resulting in increased cost of credit, or even inability to access credit, in the face of perceived risks. Promoting enhanced certainty and transparency in the legal regime, including through such measures as unified collateral registrations systems, elimination of hidden liens, expanded definitions of eligible collateral, and assignability of claims, among others, can promote a more varied and affordable set of financing options for SMEs.

Chair:

0920-0940 **Current Gaps in the Legal Architecture for Secured Lending in the Region**

TBC

0940-0955 **Developing Model Elements for a Code of Security Interest Creation, Perfection and Enforcement and Model Treatment of Floating Charges and Accounts Receivable Financing.**

TBC

0955-1045 **Open discussion**

1045-1100

Coffee Break

SESSION TWO

1100-1225

PROMOTING EFFECTIVE REGION-WIDE INSOLVENCY REGIMES BY CREATING REGIONAL INFORMAL WORKOUT RULES

In the Asia-Pacific region, the number of multinational enterprises owing debts to multinational financial creditors has grown and continues to grow dramatically. It looks almost impossible to enact uniform insolvency and reorganization laws that could be applicable all over the world. However, global informal workout rules approved by the global financial community may be useful even if uniformed statutes are not possible. “Asian Banker’s Association Informal Workout Guidelines” and “Model Agreement to Promote Company Restructuring by Informal Workout” were approved by the Asian Bankers’ Association on 2005. The Guidelines and Agreement are buried treasure tools. It is recommended to be adopted in wider APEC region with some minor amendments to activate them. Finally, Global Informal Workout maybe a goal.

Chair: TBC

1100-1115 **Proposal to formulate updated Asia Pacific Regional Rules and Model Agreement to Promote Company Restructuring by Informal Workout**

Dr. Shinjiro Takagi, Advisor, Nomura Securities, Co.,Ltd.

1115-1130 **Informal Workouts: Background on Existing Guidelines and Model Agreement**

Professor Richard Fisher, General Counsel, University of Sydney

1130-1225 **Commentators:**

Mr. George Kelakos, Kelakos Advisors LLC (TBC - Alternate: Mr. Steven Kargman, Kargman & Associates) USA

Professor Min Han, Ehwa Womans University (TBC – Alternate: Mr. Chiyong Rim, Bae Kim & Lee, Korea)

Mr. Francis Lim, Co-Managing Partner, Angara Abello Concepcion Regala & Cruz Law Offices (TBC), Philippines

Open discussion

CONCLUSION

1225-1230 Closing remarks

TBC