

THE ADVISORY GROUP ON APEC FINANCIAL SYSTEM CAPACITY-BUILDING

A Public-Private Sector Initiative

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Asia Pacific Financial Forum

Draft Work Plan for Development of Legal Reform to Facilitate Finance in APEC

Asia-Pacific Credit Coalition

- PURPOSE*** For information
- ISSUE*** Draft Work Plan for Development of Legal Reform to Facilitate Finance in APEC
- BACKGROUND*** 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.
- PROPOSAL*** It is proposed to proceed with a two-phase approach to be implemented over the next 2 years to speed the development of this

critical element of financial infrastructure. Since much of the theoretical work laying out the impact of legal architecture on credit availability has already been done within the ABAC/Advisory Group process, including most recently the development of a Model Code which has been discussed and endorsed by the ABAC Legal Workshop in Kyoto on July 9, 2013, and updated to ABAC's website for endorsement by the Finance Ministers, and supported by data presented at past Financial Inclusion Forums, it will be possible to proceed directly to analyzing technical gaps and to proposing remedial measures that will assist member economies.

***DECISION
POINT***

Note the draft work plan.

Draft Work Plan for Development of Legal Reform to Facilitate Finance in APEC

Background

Finance in emerging markets has taken on 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 policy initiatives 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 effort will build on work undertaken by ABAC over the past two years to lay out a program for capacity building in the area of improving the predictability of legal regimes for secured lending. Drawing on the research presented at and discussion in the Advisory Group for APEC Financial System Capacity Building, the recent APFF breakouts in Sydney, and the just completed Legal Workshop on Promoting Finance, this Work Plan will set forth how APEC can contribute to promoting these reforms. It will develop concrete and practical recommendations that can be submitted not only to APEC Leaders, Ministers, Senior Finance Officials and Senior Officials for consideration, adoption and implementation, but also produce actionable recommendations that can be adopted directly by member economies.

Work Plan

It is proposed to proceed with a two-phase approach to be implemented over the next 2 years to speed the development of this critical element of financial infrastructure. Since much of the theoretical work laying out the impact of legal architecture on credit availability has already been done within the ABAC/Advisory Group process, including most recently the development of a Model Code which has been discussed and endorsed by the ABAC Legal Workshop in Kyoto on July 9, 2013, and updated to ABAC's website for endorsement by the Finance Ministers, and supported by data presented at past Financial Inclusion Forums, it will be possible to proceed directly to analyzing technical gaps and to proposing remedial measures that will assist member economies.

Phase One will consist of an expert consultation process to produce a gap analysis for member economies. Working with legal and market experts, we will identify where given markets have opportunities to improve and harmonize legal infrastructure for secured lending in a way that will increase both predictability and ease of use of such systems (e.g. improving lien registration systems, harmonized standards around eligible collateral, assignability of claims, etc.). Priorities will be recommended based on opportunities for improved access to credit from identified improvements, and ease of improvement measures. Significantly, key regulatory stakeholders will be identified – such as Ministries of Law, Civil Code Reform Commissions, etc., who have not historically been integrated with APEC processes but who are key to implementing reforms within the scope of the initiatives. A number of “Pathfinder” economies will be identified where similar reforms are in the process of being considered, and they will be engaged to participate in extensive best practice sharing with ABAC and the Advisory Group, including its cooperating private sector partners, to speed this reform and result in concrete legal and regulatory recommendations that are advanced and advocated for in those economies.

Phase Two will further use the Phase One deliverables to define a clear list of recommended measures designed for ease of implementation by member economies to assist them both in improving credit availability and market mechanisms for developing a mature secured lending financial framework, as well as to promote harmonization among the APEC region, improving the environment for single market initiatives and regional integration through ease of doing business.

Within a two-year timeframe, this Work Plan will aim to produce concrete steps ready for implementation by path finders among member economies. A draft outline of the timeframe follows:

Timeframe

Month 1:	Kick-off meeting of ABAC and partner stakeholders
Months 2-4:	Field surveys of: <ul style="list-style-type: none"> • Regulators • Legal and Market Experts, including creditors • Small, Medium and Micro Enterprise borrowers
Month 5-6:	Analyze results of surveys: <ul style="list-style-type: none"> • Conduct gap analysis • Begin identification of specific remedial measures
Months 6-12:	Regulatory capacity development channel: <ul style="list-style-type: none"> • Host “Workshop on Legal Architecture for Financing II” to present finding, targeting for inclusion identified market and regulatory stakeholders. • Promote direct communication with member economy stakeholders, including through on-line tools and channels. • Develop resource materials for regulators (model regulations, case study packets, references of experts identified as subject matter experts willing to assist process).
Months 12-18	Develop economy-by-economy engagement with relevant stakeholders: <ul style="list-style-type: none"> • Host joint working groups of regulators, lenders and experts. • Develop actionable reform proposals.
Months 18-24	Transition to Implementation/Advocacy <ul style="list-style-type: none"> • Support Educational/Outreach efforts to build support for agreed upon reforms in each economy • Follow up workshops for lead path finders • Aim for passage/implementation of identified reform in 1-2 path finder economies • Update Work Plan for successive waves of implementation.