

APEC Business Advisory Council Finance Working Group

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BOND MARKET LEGAL INFRASTRUCTURE

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Bond Market Legal Infrastructure

BACKGROUND

- Regional Technical Assistance
 - Cross-border Insolvency
 - Informal Workouts
- April 2005 Presentation
- January 2006 Presentation
 - Informal Workouts as "ADR Technique"

Bond Market Legal Infrastructure

Infrastructure "Deficiencies"

ABA Position Paper

- Fast Track Formal Workout Regime
- Creditors' Voluntary Liquidation or Voluntary Administration
- Regional Centre for Arbitration
- Cross-border Cooperation

Bond Market Legal Infrastructure

Infrastructure "Deficiencies"

ABA Position Paper

Institutional Capacity

- Improve efficiency and transparency of courts
- Increase judicial awareness of commercial issues
- Enhance regulatory system
- Support development of insolvency professionals' association

Bond Market Legal Infrastructure

Private/Public Sector Initiatives

Formation of Asian Securities Industry Association (ASIA)

- Membership – underwriters of bond issues
- Finance ministers to encourage development and participation
- Activities to include
 - Master Agreement for Regional Bond Issues
 - Promotion of economic infrastructure reform

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Private/Public Sector Initiatives to Promote
Regional Bond Markets

ASIA Master Agreement for Regional Bonds

- Cross-Guarantees
- Security Arrangements
- Dispute Resolution Procedures - Arbitration

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Private/Public Sector Initiatives to Promote Regional Bond Markets

Regional Centres of Arbitration

- More acceptable "ADR technique" in Asia
- Less infrastructure than courts
- Can be undertaken by private sector
- Can involve "commercially astute" arbitrators
- Cross-border recognition: Convention on the Recognition and Enforcement of Foreign Arbitral Awards

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Private/Public Sector Initiatives to Promote Regional Bond Markets

Formation of Association of Insolvency Professionals

- Support from Finance Ministers
- Support from ASIA
- Support from INSOL International
- Enhanced technical capacity to resolve issues both:
 - Where default is possible but an informal workout may be available; and
 - On default

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Private/Public Sector Initiatives to
Promote Regional Bond Markets

Is it all a matter for Government?