

Insolvency Laws

Full Description

When contemplating any form of financing of infrastructure project, the host country's insolvency laws will need to be understood by all parties concerned. Any host country seeking to attract private sector investment will need to have transparent and efficient insolvency laws which are fair to the parties concerned and are consistent with an ever more standardized international standard.

Key issues that will need to be addressed when contemplating an infrastructure project are:

- What happens if the project company, or another party to the project, becomes insolvent?
- Is there a clear definition of insolvency in the host country law?
- Are there clear procedures for appointment of liquidators?
- Whether it is possible to intervene prior to liquidation and appoint administrators to try and get the business back to being viable
- Is there a clear prioritization between different creditors? - (for more on creditors' rights and taking security in PPP Projects, go to [Lender Issues - taking security](#))
- What will happen to project assets (will they automatically vest back in the state)?
- Can the state step in and take over the project prior to actual insolvency (as is the case, for example in England and Wales in the water, power and rail sectors)?

The World Bank, in its capacity as the international community's standard setter (under the Financial Stability Forum) for insolvency and creditor rights ("ICR") systems, has coordinated the effort to articulate a set of assessment standards (the "Principles") regarding ICR regimes. The Principles are used for, among other things, the preparation of ICR Reports on the Observance of Standards and Codes (ROSCs) under the joint World Bank/IMF international financial architecture program. This as well as other relevant information can be found on the [World Bank Global Insolvency Law Database](#) under Principles and Guidelines.

The ROSC program operationalizes a number of normative instruments in the ICR sphere, including the Principles and the detailed UNCITRAL Legislative Recommendations on insolvency that provide specific guidance on the content of an insolvency law, with an extensive discussion of various options and approaches:

- in English - [Uncitral Legislative Guide and Model Law on Insolvency](#),
- in French - [Insolvabilité - Guide législatif et Loi typ de la CNUDCI](#),
- in Spanish - [Insolvencia - Guía Legislativa/ Ley Modelo de la CNUDMI](#)

Additional guidelines on designing systems that adequately address insolvency and creditor rights can be found on [European Bank for Reconstruction and Development](#)

Specific examples of national laws can be found at [Business Ready](#) (Replacing Doing Business).

Related Content

[Legal and Regulatory Issues Concerning PPPs](#)

[Legal Framework/ Enabling Environment Assessment for PPPs](#)

[Legislation and Laws - General and Sector Specific](#)

[Regulation of Sectors and Regulatory Issues Impacting PPPs](#)

[Country Profiles](#)

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Additional Resources

[EBRD Covid-19 Response: Financial Restructuring and Insolvency Discussion Paper](#)

[PPP Reference Guide](#)

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Asset Recycling Guide: Tools and References