



WORLD BANK GROUP

**Business Ready (B-Ready)**

# **Methodological Workshop**

**Business Insolvency**

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# Outline

## Business Insolvency

1. Motivation

2. Indicators:

a. Pillar I – Regulatory framework: Quality of regulations for insolvency proceedings

b. Pillar II – Public services: Quality of institutional and operational infrastructure for insolvency processes

c. Pillar III – Efficiency: Efficiency of resolving a judicial insolvency proceeding in practice

3. Preliminary Topic Scoring

4. Data Sources

5. Parameters

6. Expert Screening and Selection

# 1. Motivation – why does Business Insolvency matter?

- A well-functioning insolvency system:
  - ✓ Plays a key role in enhancing new firm creation and encouraging greater entrepreneurial activity.
  - ✓ Spurs productivity by allowing capital reallocation through the exit of nonviable firms and by creating the conditions to preserve viable businesses.
  - ✓ Facilitates access to finance to emerging firms by preventing credit misallocation and lending to otherwise insolvent firms.
  - ✓ Boosts job creation and growth.



## 2. Indicators – Outline



### Regulatory framework

Quality of regulations for insolvency proceedings

1. Legal and procedural standards \*
2. Assets and stakeholders +
3. Specialized proceedings



### Public services

Quality of institutional and operational infrastructure

1. Digitalization and online services \*
2. Public officials and insolvency administrator



### Efficiency

Efficiency of resolving a judicial insolvency proceedings in practice

1. Time and cost to resolve a liquidation proceeding
2. Time and cost to resolve a reorganization proceeding

The \* symbol denotes components that will cover the **adoption of digital technologies**. The + symbol denotes components that will cover **environmental sustainability**.

## a. Pillar I – Quality of regulations for insolvency proceedings

<b>1.1</b>	<b>Legal and procedural standards</b>
1.1.1	Pre-commencement and commencement of insolvency proceedings
1.1.2	Liquidation and reorganization proceedings
1.1.3	Insolvency administrator's expertise
<b>1.2</b>	<b>Assets and stakeholders</b>
1.2.1	Management of debtor's assets
1.2.2	Creditor participation
<b>1.3</b>	<b>Specialized proceedings</b>
1.3.1	Micro and Small Enterprises (MSE)
1.3.2	Cross-border insolvency

# a. Pillar I – Quality of regulations for insolvency proceedings

## What does it cover and why is it important?

### Category 1.1 – Legal and procedural standards

- This category measures the quality of insolvency regulations on judicial liquidation and reorganization procedures including commencement, voting of the plan and rules applicable to insolvency administrators .
- Allowing the debtor or creditors to commence insolvency proceedings broadens the legal options available in the resolution of its financial difficulties. Insolvency proceedings provide adequate legal mechanisms to address the collective satisfaction of the ongoing claims held against the debtor.



### Category 1.2 – Assets and stakeholders

- This category measures what happens with the contracts, transactions, and finance of the debtor company during insolvency proceedings, and the safeguards available to the parties of the proceedings.
- Efficient and transparent regulatory mechanisms for managing the debtor's assets improve the likelihood of debt recovery.
- Creditor protection is essential as the maximized value of assets is closely tied to the recovery of creditors.



### Category 1.3 – Specialized proceedings

- This category measures the availability of specialized proceedings for Micro and Small Enterprises (MSEs), which promotes expeditious and low-cost insolvency proceedings for the firm, also alleviating the time and cost of insolvency for ordinary firms.
- The lack of an attractive exit for MSEs may prevent many entrepreneurs from even starting a business.



# a. Pillar I – Quality of regulations for insolvency proceedings

## Preliminary Scoring

		No. of indicators	FFP*	SBP*	Total Points	Rescaled Points
<b>1.1</b>	<b>Legal and Procedural Standards</b>	<b>13</b>	<b>13</b>	<b>13</b>	<b>26</b>	<b>49.4</b>
1.1.1	Pre-commencement and commencement	5	5	5	10	19
1.1.2	Liquidation and reorganization	5	5	5	10	19
1.1.3	Insolvency administrator's expertise	3	3	3	6	11.4
<b>1.2</b>	<b>Assets and stakeholders</b>	<b>11</b>	<b>10</b>	<b>9</b>	<b>19</b>	<b>36.1</b>
1.2.1	Management of debtor's assets	6	6	4	10	19
1.2.2	Creditor participation	5	4	5	9	17.1
<b>1.3</b>	<b>Specialized proceedings</b>	<b>5</b>	<b>5</b>	<b>3</b>	<b>8</b>	<b>15.2</b>
1.3.1	Micro and small Enterprises (MSEs)	3	3	3	6	11.4
1.3.2	Cross-border insolvency	2	2	n.a.	2	3.8
<b>Total</b>		<b>29</b>	<b>28</b>	<b>25</b>	<b>53</b>	<b>100</b>

\*Scoring will consider the perspectives of entrepreneurs (firm flexibility points) and broader public interests (social benefits points).



## **b. Pillar II – Quality of institutional and operational infrastructure for insolvency proceedings**

<b>2.1</b>	<b>Digitalization and online services</b>
2.1.1	E-court
2.1.2	Interoperability of services (E-services) for insolvency proceedings and public availability of information
<b>2.2</b>	<b>Public officials and insolvency administrator</b>
2.2.1	Specialization of bankruptcy courts or bankruptcy judges
2.2.2	Insolvency administrator's expertise in practice



## b. Pillar II – Quality of institutional and operational infrastructure for insolvency proceedings

### What does it cover and why is it important?

#### Category 2.1 – Digitalization and online services

- The category measures whether the key aspects of a functioning e-justice system are implemented in practice.
- The rapid development of Information and Communication Technologies (ICT) opens new opportunities to significantly improve the administration of justice. For example, court automation increases efficiency and transparency while reducing administrative costs.



#### Category 2.2 – Public officials and insolvency administrator

- The category measures whether a specialized bankruptcy court or a judge/division in a commercial court dedicated to bankruptcy matters is available and whether it is fully operational. It also measures whether the requirements for the appointment and dismissal of insolvency representatives are observed in practice.
- Specialized courts help to handle complex legal issues in areas of commercial law (e.g., corporate insolvency).



## b. Pillar II – Quality of institutional and operational infrastructure for insolvency proceedings

### Preliminary Scoring

		No. of indicators	FFP*	SBP*	Total Points	Rescaled Points
<b>2.1</b>	<b>Digitalization and online services</b>	<b>10</b>	<b>10</b>	<b>10</b>	<b>20</b>	<b>83</b>
2.1.1	E-courts	6	6	6	12	49.8
2.1.2	Interoperability of services (e-services) for insolvency	4	4	4	8	33.2
<b>2.2</b>	<b>Public officials and insolvency administrator</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>4</b>	<b>17</b>
2.2.1	Specialization of bankruptcy courts or bankruptcy judges	1	1	1	2	8.3
2.2.2	Insolvency administrator's expertise in practice	1	1	1	2	8.5
<b>Total</b>		<b>12</b>	<b>12</b>	<b>12</b>	<b>24</b>	<b>100</b>

\*Scoring will consider the perspectives of entrepreneurs (firm flexibility points) and broader public interests (social benefits points).

## c. Pillar III – Efficiency of resolving a judicial insolvency proceeding in practice

<b>3.1</b>	<b>Liquidation proceedings in practice</b>
3.1.1	Time to resolve an in-court liquidation proceeding
3.1.2	Cost to resolve an in-court liquidation proceeding
<b>3.2</b>	<b>Reorganization proceedings in practice</b>
3.2.1	Time to resolve an in-court reorganization proceeding
3.2.2	Cost to resolve an in-court reorganization proceeding



## c. Pillar III – Efficiency of resolving a judicial insolvency proceeding in practice

### What does it cover and why is it important?

#### Category 3.1 – Liquidation proceedings in practice

- The category assesses the time and cost to resolve in-court liquidation proceedings.
- Cost-effective insolvency proceedings can encourage inefficient firms to exit and embolden greater entrepreneurial activity and new firm creation.



#### Category 3.2 – Reorganization proceedings in practice

- The category assesses the time and cost to resolve in-court reorganization proceedings.
- Excessive length of restructuring and business discharge triggers loss of value for the enterprise.



## c. Pillar III – Efficiency of resolving a judicial insolvency proceeding in practice

### Preliminary Scoring

		No. of indicators	Rescaled Points*
<b>3.1</b>	<b>Liquidation proceedings in practice</b>	<b>2</b>	<b>50</b>
3.1.1	Time to resolve an in-court liquidation proceeding	1	25
3.1.2	Cost to resolve an in-court liquidation proceeding	1	25
<b>3.2</b>	<b>Reorganization proceedings in practice</b>	<b>2</b>	<b>50</b>
3.2.1	Time to resolve an in-court reorganization proceeding	1	25
3.2.2	Cost to resolve an in-court reorganization proceeding	1	25
<b>Total</b>		<b>4</b>	<b>100</b>

\*Scoring on Pillar III will consider the perspectives of entrepreneurs (firm flexibility points) only. For each indicator, scoring is calculated using the distance-to-frontier approach. Each category in Pillar III has the same weight. Within each category, each subcategory also has the same weight.

# 3. Preliminary Topic Scoring

Pillar	Title	No. of indicators	FFP	SBP	Total Points	Rescaled Points	Weight
I	Regulatory framework: Quality of regulations for insolvency proceedings	29	28	25	53	100	0.33
II	Public services: Quality of institutional and operational infrastructure	12	12	12	24	100	0.33
III	Efficiency: Efficiency of resolving a judicial insolvency proceedings in practice	4	100	n.a.	100	100	0.33



# 4. Data Sources

## Data collection sources:

### **Pillars I, II, and III**

- **Private sector experts:** Insolvency practitioners and lawyers specialized in corporate law or commercial law, with practical experience in corporate insolvency proceedings and relevant knowledge of the insolvency framework in each economy.

## Data validation sources (for expert questionnaires):

- **Public sector experts:** Insolvency judges, court clerks, insolvency administration agencies and officials of ministries of justice

# 5. Parameters for Expert Consultations

## Specific Parameters

### Competent court and its location (Pillars II and III)

First instance courts in the largest business city



The competent court is the first instance court (or specialized bankruptcy or judge/division in a commercial court) with jurisdiction over insolvency cases in the largest business city of each economy.

### Debtor company (Pillar III)

The company is a commercial LLC operating in the largest business city



The debtor is a domestic Limited Liability Company (LLC) operating in the largest business city of each economy. The size of the company's assets is determined by the company's market value, which is set based on a range from 150 to 200 times the GNI

# 6. Expert Screening and Selection

## Relevant expert professions:

- Lawyer, judge, and other associated professions, including, for example, clerk, official receiver, insolvency administrator, bankruptcy commission official.

## Relevant areas of specialization:

- Corporate insolvency, corporate law, commercial law, procedural law.

## Assessment of experts' knowledge and experience related to business insolvency, commercial and corporate law:

- Experience in formal judicial proceedings, either liquidation or reorganization, involving corporate debtors or creditors in the last three years, particularly with domestic Small and Medium Enterprises.
- Experience or knowledge in the basic framework of the UNCITRAL Legislative Guide on Insolvency Law, and the World Bank's Principles for Effective Insolvency and Creditor/Debtor Regime.





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Thank you

Q&A

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