

Resolving Insolvency – what does it measure?

CASE ASSUMPTIONS:

(a) Mirage is a **local limited liability company** that runs a hotel in Vientiane; its only asset and source of income is the hotel property. The value of the hotel is **LAK 1,828,834,297**. On January 1, 2013, Mirage signed a 10-year loan agreement with BizBank, a local bank. The loan was secured by the hotel property and/or by a universal business charge (an enterprise charge) in those economies where this type of collateral is allowed. BizBank's outstanding credit is **LAK 1,828,834,297**, which represents 74% of Mirage's total outstanding debt. The outstanding amount owed to BizBank is exactly equal to the market value of the hotel business.

(b) Unsecured creditors (e.g. suppliers, tax authorities and employees) hold the remaining 26% of Mirage's debt, which is equivalent to **LAK 642,563,401**. Among unsecured creditors, the largest group is Mirage's suppliers (50 in total), all of which are owed payment for their last deliveries.

(c) Mirage's founder owns 51% of the company and is the chairman of its board of directors (or equivalent supervisory body). No other shareholder holds more than 5% of the voting power. The company has a professional general manager and 201 employees. All parties in this scenario are local entities or citizens. The founder and Mirage's management both want to keep the firm operating.

(d) Today is January 1, 2019. Since the execution of the loan agreement with BizBank, Mirage has met all conditions of its loan and made all payments on time. However, at the end of 2018, Mirage experienced an unexpected operating loss due to worsened market conditions. As a result, Mirage will default on its next loan payment to BizBank, which is due tomorrow, January 2, 2019. Mirage can neither obtain a new loan from another financial institution nor renegotiate its current loan with BizBank. The company expects to have negative net worth and operating losses in both 2018 and 2019.

(e) The company's expected 2019 cash flow will cover all operating expenses, including supplier payments, salaries, maintenance costs and taxes. It will not cover principal or interest payments to BizBank.

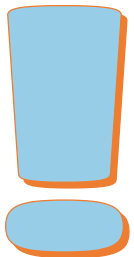
(f) If Mirage is sold as a going concern (i.e. as a business that has the resources needed in order to continue to operate in the foreseeable future), it would fetch 100% of its current market value. But if Mirage's assets are sold piecemeal, they would fetch only 70% of Mirage's current market value.



According to the research conducted by the Doing Business team, there were no foreclosure, liquidation or reorganization proceedings filed in the country in the last 12 months. Due to this circumstance, it is not possible to assess the time, the cost or the outcome associated with the insolvency scenario described in the case study.

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| Strength of insolvency framework index (0-16) | | | |
|---|--|--|-----|
| Commencement of proceedings index (2-3) | What procedures are available to a DEBTOR when commencing insolvency proceedings? | (b) Debtor may file for liquidation only | 0.5 |
| | Does the insolvency framework allow a CREDITOR to file for insolvency of the debtor? | (b) Yes, but a creditor may file for liquidation only | 0.5 |
| | What basis for commencement of the insolvency proceedings is allowed under the insolvency framework? | (c) Both (a) and (b) options are available, but only one of them needs to be complied with | 1.0 |



Note: Even if the economy's legal framework includes provisions related to insolvency proceedings (liquidation or reorganization), the economy receives 0 points for the strength of insolvency framework index, if time, cost and outcome indicators are recorded as "no practice."

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| Strength of insolvency framework index (0-16) continued | | | |
|---|--|--|-----|
| Management of debtor's assets index (2-6) | Does the insolvency framework allow the continuation of contracts supplying essential goods and services to the debtor? | No | 0.0 |
| | Does the insolvency framework allow the rejection by the debtor of overly burdensome contracts? | No | 0.0 |
| | Does the insolvency framework allow avoidance of preferential transactions? | Yes | 1.0 |
| | Does the insolvency framework allow avoidance of undervalued transactions? | Yes | 1.0 |
| | Does the insolvency framework provide for the possibility of the debtor obtaining credit after commencement of insolvency proceedings? | No | 0.0 |
| | Does the insolvency framework assign priority to post-commencement credit? | (c) No priority is assigned to post-commencement creditors | 0.0 |

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| Strength of insolvency framework index (0-16) continued | | | |
|---|--|-------------------|-----|
| Reorganization proceedings index (0.5-3) | Which creditors vote on the proposed reorganization plan? | (a) All creditors | 0.5 |
| | Does the insolvency framework require that dissenting creditors in reorganization receive at least as much as what they would obtain in a liquidation? | No | 0.0 |
| | Are the creditors divided into classes for the purposes of voting on the reorganization plan, does each class vote separately and are creditors in the same class treated equally? | No | 0.0 |
| Creditor participation index (0-4) | Does the insolvency framework require approval by the creditors for selection or appointment of the insolvency representative? | No | 0.0 |
| | Does the insolvency framework require approval by the creditors for sale of substantial assets of the debtor? | No | 0.0 |
| | Does the insolvency framework provide that a creditor has the right to request information from the insolvency representative? | No | 0.0 |
| | Does the insolvency framework provide that a creditor has the right to object to decisions accepting or rejecting creditors' claims? | No | 0.0 |

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Thank you!