



International Perspectives on Insolvency of Micro & Small Enterprises

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Agenda

1. Context: Importance of micro and small enterprises
2. Overview of UNCITRAL Insolvency Texts
3. UNCITRAL Legislative Recommendations on Insolvency of Micro and Small Enterprises



Context: Importance of micro & small enterprises (“MSEs”)



Specific Characteristics of MSEs

Existing insolvency systems generally designed with larger enterprises in mind;
not tailored to specific characteristics of MSEs



Centralised Governance Model

Ownership, control & management overlap; together with closely intermingled business & personal debts



Commencement of proceedings

Management may be unwilling to request commencement of insolvency proceedings



Business Records

Few or no business records may exist



Financial sophistication

MSEs typically do not share the same level of financial sophistication as larger enterprises



Credit & Security

Physical assets encumbered to secured creditors; unencumbered assets having little to no value for distribution



Creditor Apathy/Passivity

Creditors may not be willing to invest time & resources, as the cost of participation may outweigh any returns

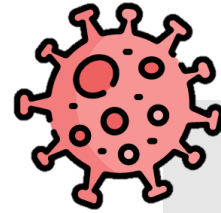


Importance of MSEs

Small businesses form a large proportion of economies

Represents
90% of
enterprises

More than
50% of
employment
worldwide



Share of SMEs
with negative
equity may rise by
**6 percentage
points**



UNCITRAL Legislative Recommendations on Insolvency of Micro and Small Enterprises



Overview of UNCITRAL Insolvency Texts

1997	Model Law on Cross-Border Insolvency
2004	Legislative Guide on Insolvency Law
2018	Model Law on Recognition & Enforcement of Insolvency-related Judgments
2019	Model Law on Enterprise Group Insolvency
2019	Part 4 of the Legislative Guide on Insolvency Law: Directors' obligations in the period approaching insolvency
2021	Legislative Recommendations on Micro and Small Enterprise Insolvency



UNCITRAL Legislative Recommendations on Insolvency of Micro and Small Enterprises

OVERVIEW

The Recommendations provide guidance on designing and implementing a simplified insolvency regime.

Encompassing both simplified reorganization & simplified liquidation.



UNCITRAL Legislative Recommendations

Key Principles & Aims

(1)	Expeditious, simplified, flexible & low-cost procedures
(2)	Making simplified proceedings available & easily accessible
(3)	Promoting fresh start
(4)	Protection of all affected parties , including creditors, employees & other stakeholders
(5)	Effective measures to facilitate participation by creditors
(6)	Sanctions regime to prevent improper use
(7)	Addressing concerns over stigma because of insolvency
(8)	Where reorganization is feasible, preserving employment & investment



UNCITRAL Legislative Recommendations

Key Features & Innovations

1. Measures to reduce the cost and length of simplified insolvency proceedings
2. Mechanisms to address creditor disengagement and passivity that arises as a result of the few incentives for creditors to deal with debtors in simplified insolvency proceedings
3. Preference for debtor-in-possession governance model in simplified re-organisation proceedings (subject to various safeguards to protect creditors' interests)
4. Recognition of the comingling of business and personal debts of the debtor



Thank you

