

Country	Statutory Scheme for Post-Filing?	Authorization for Borrowing Money Post-filing?	On What Terms?	Security Interest?	Administrative Priority over Secured Creditors?
Albania	Law on Bankruptcy Procedure, Oct. 25, 1995, provides for corporate reorganization plans and the appointment of a bankruptcy manager.	Not explicit, but a couple of provisions appear to contemplate that the bankruptcy manager, running the debtor's business, will obtain financing to successfully rehabilitate the debtor.	Two classes of creditors (secured, unsecured, etc.) must approve the plan by majority (in value) vote.	Statute is silent.	No
Argentina	Law No. 24,522, <i>el Ley de Concursos y Quiebras</i> , effective Aug. 17, 1995, provides for court approval of composition plans negotiated with creditors.	Statute is silent.	n/a	n/a	The debtor and <i>sindico</i> are forbidden to alter creditors' status from their pre-filing position.
Armenia	Law on the Bankruptcy and Financial Reorganization of Legal Entities, Enterprises Lacking Legal Entity Status, and	Yes; the administrator can "pledge assets." [PBWT article] Can "take loans, as approved" [PBWT article]; see Art. 13(l) and Art. 50(c).	New loans must be approved by the court; Art. 13(l). Creditors (by majority vote) may "submit proposals" for new loans [PBWT article]. A restructuring program must be approved by a majority of creditors, Art. 52-53.	Yes	No, but priority is given over pre-filing unsecured claims.

	Entrepreneurs, effective Mar. 1, 1997. An administrator is appointed.				
Australia	The Corporations Act 2001 provides for “voluntary administration.”	The administrator is empowered to do anything the debtor was legally able to do pre-filing.	Statute is silent	Statute is silent	No
Austria	Two laws from 1914 have reorganization provisions which provide for court approval of compromise agreements with unsecured creditors only.	No provision; in practice new financing is “extremely difficult to obtain.”	n/a	n/a	Priority over existing secured claims is forbidden by law.
Azerbaijan	On Insolvency and Bankruptcy, dated June 13, 1997, provides for plans of rehabilitation.	No provision	n/a	n/a	No
Belarus	On Economic Insolvency and Bankruptcy, effective May 30, 1991	Yes, provided the company initiates the Economic Insolvency	Company must have filed, not creditors	Statute is silent	No
Brazil	Decree-Law No. 7,661, effective June 21, 1945,	The statute does not affect the debtor’s ability to borrow in any way.	n/a	Not required, but permitted	No.

	provides for a <i>concordata</i> proceeding—a repayment plan during an automatic stay—against only unsecured creditors.			with the approval of the court.	
Bulgaria	Law Concerning the Amendment and Amplification of the Commercial Law, passed in 1994.	Yes.	Permitted.	Yes	Only over unsecured claims.
Canada	Two regimes: The BIA and the CCAA. Both provide a reorganization scheme.	Yes, under both	Normal granting of security interest under the BIA; bankruptcies under the CCAA allow granting of priority interests if certain conditions are met.	Yes to both	Neither have specific provisions for post-petition financing, but common law provides for it under the CCAA.
China	The Enterprise Bankruptcy Law contains reorganization provisions only for state-owned enterprises	n/a	n/a	n/a	n/a
Czech Republic	The Czech Bankruptcy and	?	?	?	?

	Composition Act of 1991, amended multiple times and due to be replaced.				
England and Wales	The Insolvency Act of 1986, as amended by the Enterprise Act of 2002, provides for an administration process	Yes, the administrator is specifically authorized “to raise or borrow money.”	An administrator may not grant security over already-encumbered assets	Permitted	No
Estonia	Bankruptcy Act, passed June 10, 1992, provides for court approval of private schemes of arrangement	No.	n/a	n/a	n/a
France	Law 85-98, effective Jan. 25, 1985 (as amended), gives the commercial court great power to order and carry out a reorganization plan.	Yes, Art. 40.	New loans must have been procured “under normal conditions.”	Sources are silent.	Yes, Art. 40.
Georgia	Law of Georgia on Bankruptcy Proceedings, Jan. 1, 1997, provides for court approval	Post-petition finance is not mentioned in the statute.	n/a	n/a	No

	of schemes of arrangement and the appointment of a bankruptcy “intendant.”				
Germany	The Insolvency Code, or InsO, provides for reorganization proceedings after a liquidation has begun.	Yes.	New loans may not exceed the value of unencumbered assets of the insolvency estate.	Yes—banks usually will not provide new financing without security.	Yes, over unsecured claims but new financing remains below secured claims.
Hong Kong (current)	No scheme—private arrangements are common; and also § 166 of the Companies Ordinance	Common practice in private arrangements; § 166 allows a court to order a private arrangement binding on all creditors with 75% approval.	N/A in the statute; banks “usually require certain undertaking from the company and its group regarding the running and operation of the company and its business during the standstill period, including financial control . . . of an implementation of an asset disposal programme and the provision of financial and other information relating to the company and its group on a regular basis.”	N/A in the statute; “new security” is expected for new loans in private workouts.	N/A in the statute; super priority for “new facilities” during a negotiated standstill period, pursuant to private agreement..
Hong Kong (proposed)	Yes	The provisional supervisor “will be provided with the power of management,” including the ability to borrow money and assign security interests	Lenders during the provisional supervision period “will benefit from super priority”	Yes	Super priority during provisional supervision
Hungary	Act 49 of 1991	Unclear—Section 14(3)(c)	Statute is silent	Statute is	No

	provides for a corporate reorganization plan to be adopted	says that the bankruptcy trustee may approve “financial commitments” that are “in excess of the limit fixed by the creditors in the moratorium agreement.”		silent	
India	Two laws provide for court approval of privately-negotiated compromises and schemes of arrangement	No	n/a	n/a	No
Indonesia	The amended bankruptcy law provides for court approval of private-negotiated composition agreements during a suspension of payments.	Yes	The approval of the court-appointed administrator is required.	Permitted.	No
Ireland	The Companies (Amendment) Act 1990 provides for “examinership.”	The examiner is empowered to borrow new funds post-filing.	Approval of the court is required	Yes	Yes, but controversial and may be repealed
Japan	A multitude of insolvency laws, including provisions for “corporate reorganization”	Yes, but only in the period between the filing of the petition for reorganization/rehabilitation and when it is approved by the court.	Sources are silent	Yes, under civil rehabilitation	Yes, with court approval under reorganization; under rehabilitation, new lending has

	and “civil rehabilitation”				the same priority as other claims of that class (secured or unsecured)
Jordan	New bankruptcy law in 2001				
Kazakhstan	The Law of the Republic of Kazakhstan on Bankruptcy, Jan. 21, 1997, provides for a rehabilitation procedure run by an outsider	The rehabilitation plan may include “sanation,” which seems to be provision of new financing to the debtor.	Sanation must be included in the rehabilitation plan.	Statute is silent	No
Korea	The Corporate Reorganization Act and the Composition Act provide two different regimes.	Yes, under both.	Court approval is required for new borrowing.	May not be granted.	No, under corporate reorganization; superpriority for new lending under the Composition Act.
Kyrgyzstan	Law on Bankruptcy of the Kyrgyz Republic, Sept. 22, 1997, provides for “rehabilitation” of insolvent companies.	No specific authorization	Rehabilitation plans must be approved by creditors representing 60 percent of outstanding debt.	Statute is silent	No
Lithuania	Law No. IX-218, “On Restructuring	“No legal obstacles” to doing so, and “the	Restructuring plan must be approved by 75% of creditors,	Yes	No

	of Enterprises,” 20 Mar. 2001. Administrator is appointed to oversee the restructuring plan; management remains in place.	administrator can borrow and create security for new money.” No priority given to emergency financing.	and the court. Creditors can request that the court block emergency financing.		
Macedonia	Bankruptcy Law contains detailed provisions for a restructuring plan.	Yes, up to certain limits.	Granting new security interests requires the approval of the Board of Creditors.	Permitted but not required.	Yes, over unsecured creditors, but not over secured claims.
Malaysia	The Pengurusan Danaharta Nasional-Berhad Act of 1998 provides a new corporation rescue provision (“special administration”)	Yes.	Sources are silent	Permitted	No—secured creditors retain highest priority. Sources are silent as to any priority over unsecured claims.
Mauritius	Court may approve privately negotiated compromises with creditors; <i>see</i> The Companies Act 2001 §§ 253-265. A new Insolvency Act is forthcoming, however.	No.	n/a	n/a	No

Mexico	The LCM, passed in May 2000, provides for reorganization proceedings with the oversight of a “conciliator.”	Yes; the conciliator is authorized to approve new loans. Art. 75.	The conciliator must “consider” the opinions of creditor representatives.	Statute is silent.	Apparently not.
Mongolia	Bankruptcy Law of the Mongolian People’s Republic; no provision for corporate restructuring.	n/a	n/a	n/a	n/a
New Zealand	The Companies Act 1993 allows private “compromises” between debtor and creditors	No specific provision	n/a	n/a	No
Nigeria	Part XVI of the Companies and Allied Matters Act of 1990 allows a court to sanction privately-negotiated compromises and schemes of arrangement	No provision	n/a	n/a	No
Norway	Two laws, both passed in 1984,	The debtor may “undertake or renew debt” during the	The approval of the Composition Committee (which	Sources are silent.	No

	govern: the Debt Reorganization and Bankruptcy Act and the Act on Creditors' Access to Assets. They provide for court approval of private-negotiated composition agreements with creditors.	composition proceedings.	includes a lawyer, creditor reps, and a labor rep).		
Poland	Two laws: the Bankruptcy Law of 1934 and the Composition Law of 1934. Both provide for court approval of privately-negotiated "compositions."	The Composition Law permits the debtor to obtain new loans.	Approval by the court supervisor is required.	Permitted under the Composition Law.	No
Qatar	No bankruptcy law	n/a	n/a	n/a	n/a
Romania	"Law 64" provides for a reorganization procedure	The law does not provide for post-filing credit and financing.	n/a	Granting security interests post-filing is forbidden.	n/a
Saudi Arabia	Bankruptcy law enacted 1996; provides only for court approval of	Unclear from source	Unclear from source; perhaps court approval is required.	n/a	No

	schemes of arrangement				
Singapore	The Companies Act of 1987 provides for “judicial management” modeled on the English system of administration	Yes.	None.	Permitted	No
Slovakia					No; although if secured will rank above unsecured creditors
South Africa	Chapter XV of the Companies Act, No. 61 of 1973 covers “judicial management.”	Yes; judicial managers are allowed to borrow to keep the company running.	Authorization to borrow must be given by the court in its order authorizing judicial management.	Statute is silent.	Yes, with the approval of the creditors.
Spain	Law of Suspension of Payments (1922) provides for a restructuring process, with appointment of intervenors	Yes; intervenors may approve new financing during a suspension of payments.	Approval of the intervenors is required for new borrowing.	Unclear	Yes
Taiwan	The Company Law has a reorganization provision	Yes	Probable that approval of the court and/or the court-appointed “reorganizer” is required.	Permitted	Yes
Tajikistan	“On Bankruptcy	No	No	No	No

	of Enterprises,” Mar. 10, 1992. Has no corporate reorganization provisions, but does provide for private schemes of arrangement.				
Thailand	The Bankruptcy Act (B.E. 2483) of 1940, as amended, provides for rehabilitation	Yes.	Must be pursuant to a creditor- and court-approved rehabilitation plan.	Probably not	Yes, over even secured claims.
Turkey	Court approval and supervision of private composition agreements; no formal restructuring provision	No—after a Composition Commissioner is appointed, “encumbrance of property [is] not permitted.”	n/a	n/a	n/a
Ukraine	Law of Ukraine on the Restoration of Solvency of the Debtor or Declaring it Bankrupt, effective Jan. 1, 2000	Post-petition borrowing is allowed.	The consent of the rehabilitation manager and perhaps the creditors’ committee is required.	May be granted.	No, but secured claims have first priority, regardless of when granted.
United Arab Emirates	New bankruptcy law enacted 1993				
Uzbekistan	Law on	Yes.	Borrowing more than 20 percent	Statute is	No

	Bankruptcy, enacted Aug. 28, 1998, provides for external management and ouster of the debtor from control		of the company's already outstanding debt requires approval of the creditors' committee, unless as part of an already-approved rehabilitation plan.	silent.	
Venezuela	The Venezuela Commerce Code provides for an <i>atraso</i> proceeding, or suspension of payments during an automatic stay	Apparently there is no explicit provision	n/a	n/a	No
Vietnam	The Law on Business Bankruptcy (Dec. 30, 1993) and the Decree Guiding Implementation (Dec. 23, 1994) provide for court approval of a plan of rehabilitation with an automatic stay	Yes	Must be approved by the court	Statute is silent	No