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A quick reference guide for companies in financial distress

Innovation

The Ministry of Trade and Industry's perspective on the launch of Singapore's GDP growth and the Monetary Authority of Singapore's more recent quarterly report suggest that Singapore may be experiencing a period of economic contraction. [1] Evidence from the Ministry of Law indicates this to be so, as applications for corporate insolvency have steadily increased since 2011. [2] In the industry, retail, services and technology have been identified as the primary causes for the Ministry of Trade and Industry's data. The likelihood of recovery in these sectors in the near term has also, unfortunately, been expressed to be mixed at best, with negative investor effects anticipated to affect the trade-related services that have formed a primary sector in the face of the slowing global economy, such as transportation and storage.

Though optimism has been expressed as to the performance of other sectors such as ICT and business services, the subdued prospects of the key industries identified above and strong headwinds that Singapore is expected to face for the remainder of the year make it likely that more and more companies will come to experience financial distress in the near term. Consequently, for many companies in the affected sectors, the threat of insolvency may seem large on the horizon. However, insolvency need not be a fait accompli, and the Companies Act provides a first overview of the relevant law and practice in Singapore. [3] Financial distress under Singapore law, with a particular focus on how companies can attempt to avert, prevent or restructure their business and manage

thereof.

What does financial distress look like?

A company is said to be in financial distress if, for example, and amongst other things, it is unable to generate sales and revenue sufficient to cover costs, has payables that consistently exceed its receivables, and/or is unable to obtain or purchase work or supplies from its usual suppliers. Companies in this situation will look for themselves cash-flow problems if they are unable to raise funds and/or pay their obligations as and when they normally fall due and/or if they are unable to negotiate the delayed payment of their obligations.

What happens when a company is in financial distress?

In the event a company's debt to anyone (creditor) exceeds \$10,000 and the company is unable to pay or compound the debt to the satisfaction of the creditor within three (3) weeks from the creditor's service of a statutory demand, the creditor is free to apply to the High Court of Singapore for the company to be compulsorily liquidated. [4] Once the High Court has ordered that a company be compulsorily liquidated, a liquidator (a public accountant who is not the accountant of the company, and who typically specialises in liquidation) will take over the management of the company and will:

- attempt to recover and realise the company's assets in a way that is most advantageous to the company;
- investigate the affairs of the company and the conduct of its directors and

CNP ADVISED ON THE LAUNCH OF SHIFT4GOOD, A FRENCH IMPACT VC FUND FOCUSING ON SUSTAINABLE MOBILITY

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CNPLaw LLP (“CNP”) advised Shift4Good SAS, a French impact VC fund manager focusing on sustainable mobility, as Singapore counsel on its first fund, which recently announced its first close at over €100 million. Investors include the European Investment Fund (EIF), Renault Group, French Sovereign Fund Bpifrance, MOTUL, mobility players from MOBILIANS, family offices, and entrepreneur-investors. Shift4Good focuses on sustainable mobility and the circular economy, with a fundraising target of €300 million. Shift4Good Fund-I will invest in approximately 30 Series A and B startups over the next five years, of which two-thirds will be in the European Union and one-third in the rest of the world, focusing on Southeast Asia. CNP also advised Hera Capital Partners Pte Ltd (“HCP”) as Singapore counsel on its participation in Shift4Good. Bill Jamieson, partner, advised HCP and Shift4Good, and said “We are very pleased to be able to assist HCP, a long-standing client, and Shift4Good on their impact investment business, which is becoming a major asset class in our region as well as globally” .

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