

RE-IMAGINING THE FUTURE OF PERSONAL INSOLVENCY

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There is inherent tension between rehabilitating individuals where business debts are concerned and fairness to creditors in insolvency proceedings. This article distils insights from the existing personal insolvency framework, recent reforms, and case law. It proposes strengthening institutions, greater alignment with the Model Law, and capacity-building and collaboration across regulators to balance creditors' interests and legitimate enterprise.

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I. Introduction

1 Personal insolvency has grown increasingly complex as high-net-worth individuals who run conglomerates hold assets and incur debts across borders. The digitalisation of commerce and advent of new asset classes further complicate insolvency situations. Much ink has also been spilt on how to reduce personal insolvency and rehabilitate individuals especially where business debts are concerned. Finally, the intersection of insolvency laws and high-profile business failures are considered

by references to crypto insolvency cases and the collapse of the Envy group of companies (“Envy Companies”). This article surveys the landscape in relation to each of these issues and provides suggested reform and a way forward for a balanced insolvency regime that prioritises creditor interests while keeping in mind the dual aims of enterprise and rehabilitation in the business context, and second chances in personal debt context.

II. Cross-border enforcement of bankruptcy orders

2 On 1 February 1950, Singapore entered into an agreement with the Government of Malaysia for the mutual recognition of Official Assignees (“OAs”) appointed by each jurisdiction in bankruptcy (“Reciprocal Recognition of Official Assignees – Singapore and Malaysia”). This historic arrangement facilitates co-operation and coordination in the administration of bankruptcy estates between the two countries. The agreement is enshrined in statute under s 424 of the Insolvency, Restructuring and Dissolution Act 2018¹ (“IRDA”), giving it continuing legal effect within Singapore’s insolvency framework.

3 In 2023, a Malaysian citizen was declared bankrupt in Singapore. Abuthahir Abdul Gafoor was appointed as the trustee to manage and realise the bankrupt’s assets. As part of his responsibilities, the trustee conducted searches with the Malaysian land offices, confirming the ownership of multiple properties in Malaysia. Additionally, the trustee instructed Malaysian lawyers to conduct a local bankruptcy search to ensure there were no active bankruptcy proceedings against him in Malaysia. Relying on s 104 of the Insolvency Act 1967,² which provides the statutory framework for recognising foreign bankruptcy orders in Malaysia, and O 92 r 4 of the Rules of Court 2012, which enables Malaysian courts to provide ancillary assistance in enforcing foreign orders, the trustee applied to the High Court of Malaya for recognition of the Singapore

1 2020 Rev Ed.

2 Act 360 of 1967 (M’sia).

bankruptcy to exercise legal powers over Malaysian-situated assets. The application was filed in February 2023, and the High Court of Malaya granted the recognition order in March 2023, formally vesting the Malaysian assets in the trustee and enabling cross-border administration in accordance with both Malaysian law and the Singapore bankruptcy order. This case highlights the practical operation of cross-border insolvency principles, and illustrates how Malaysian courts can facilitate recognition and enforcement of foreign bankruptcy orders to ensure orderly asset realisation across jurisdictions.

4 That said, the Reciprocal Recognition of Official Assignees – Singapore and Malaysia represents a narrow and exceptional arrangement, limited in scope to the mutual recognition of OAs. Beyond this bilateral framework, Singapore lacks a comprehensive statutory regime governing the recognition of foreign personal bankruptcy orders. Further, while the UNCITRAL Model Law on Cross-Border Insolvency³ (“Model Law”) has been implemented in Singapore to facilitate cross-border corporate insolvency matters, its scope does not extend to personal bankruptcy. Resultantly, a lacuna remains in Singapore’s legal framework regarding the recognition and assistance of foreign personal bankruptcy proceedings (with the exception of Malaysia).⁴ This creates a conundrum, especially given the increase in cross-border personal bankruptcy proceedings in Singapore.

A. *Paulus Tannos judgments in Singapore*

5 The case of *Heince Tombak Simanjuntak v Paulus Tannos*⁵ and *Paulus Tannos v Heince Tombak Simanjuntak*⁶ (collectively referred to as “*Paulus Tannos Judgments*”) highlight the challenges in recognising foreign personal bankruptcy orders in Singapore. Indonesian receivers, Heince Tomak Simanjuntak and others, sought recognition in Singapore of bankruptcy orders

3 United Nations Commission on International Trade Law, UNCITRAL Model Law on Cross-Border Insolvency (1997).

4 Insolvency, Restructuring and Dissolution Act 2018 (2020 Rev Ed) s 424.

5 [2020] 4 SLR 816.

6 [2020] 2 SLR 1061.

made in Indonesia against the debtors, who later applied to set aside the *ex parte* recognition order (“Recognition Order”), raising questions about the legal framework governing cross-border personal bankruptcy.

6 In the absence of a legislative framework, the High Court, *per* Aedit Abdullah J, relied on common law principles and held that recognition requires showing:⁷

- (a) The foreign bankruptcy order was made by a court of competent jurisdiction.
- (b) The court had to have had jurisdiction on the basis of either the debtor’s domicile or residence, or by submission by the debtor to the jurisdiction of the court.
- (c) The foreign bankruptcy order was final and conclusive.
- (d) No defences to recognition applied. The High Court upheld the Recognition Order.

7 On appeal, however, the Court of Appeal set aside the Recognition Order, holding that the Indonesian bankruptcy orders were obtained in breach of natural justice, and that such orders will not be recognised in Singapore. While the Court of Appeal declined to revisit the High Court’s framework, as (a) both parties accepted it, and (b) the issue was not argued. The *Paulus Tannos* Judgments highlight the need for legislative reform in this area. Australia’s approach and Hong Kong’s modified universalism are examples of solutions to this issue of cross border enforcement.

B. Example 1: recognition of Singapore bankruptcy order in Australia

8 Since adopting the Model Law in 2008, the Federal Court of Australia (“FCA”) has had jurisdiction over both corporate and personal insolvency applications. The case *Yit (Trustee)*, in

7 *Heince Tombak Simanjuntak v Paulus Tannos* [2020] 4 SLR 816 at [19].

*the matter of Lee (Bankrupt) v Lee*⁸ illustrates the Model Law's effectiveness in the administration of cross-border personal bankruptcy proceedings.

9 There are two broad categories to satisfy for FCA to recognise a foreign bankruptcy proceeding: (a) status-based criteria under Arts 2(a), 2(d) and 17(1) of Model Law ("Status-Based Criteria"); and (b) procedural criteria under Arts 15(2) and 15(3) of the Model Law ("Procedural Criteria"), in compliance with s 13 of the Cross-Border Insolvency Act 2008.⁹ The applicant must also comply with rr 14.03, 14.05 and 14.06 of the Federal Court (Bankruptcy) Rules 2016¹⁰ ("FCBR").

10 On 27 May 2019, a Singaporean ("Lee") was made bankrupt in Singapore. The trustee of Lee's estate sought to realise Lee's assets in Queensland and applied to the FCA to recognise the Singapore bankruptcy proceeding as a "foreign proceeding" under the Model Law. The FCA granted relief under Art 21 as the trustee satisfied the following requirements for such relief: (a) Status-Based Criteria; (b) Procedural Criteria; (c) compliance with the FCBR; (d) Lee was a habitual resident of Singapore; and (e) that the Singapore bankruptcy proceeding was a "foreign main proceeding" rather than a "foreign non-main proceeding" under Art 2 of the Model Law.

C. Example 2: doctrine of modified universalism

11 In Hong Kong, the court has confirmed the application of the doctrine of modified universalism in cross-border corporate and personal insolvency matters. In *Robert Scott Woods v Industrial and Commercial Bank of China (Asia) Ltd*,¹¹ the plaintiff was appointed trustee in bankruptcy by the FCA. The bankrupt was an Australian citizen. The trustee sought recognition of his appointment in Hong Kong to investigate transactions exceeding HK\$85m in the bankrupt's accounts with the defendant bank.

8 [2021] FCA 886.

9 Cth.

10 Cth.

11 [2024] HKCFI 3311 at [19].

The court held that the doctrine of “modified universalism”¹² provided “a common basis for recognition and assistance”¹³ of both personal bankruptcy and corporate insolvency proceedings. A distinction was drawn from the concept of Centre of Main Interests (COMI) as personal bankruptcy traditionally turns on either domicile or submission to jurisdiction.¹⁴ Notably, a key limitation of cross-border bankruptcy recognition is that such recognition only extends to movable property.¹⁵ This accords with the traditional common law principle that the *lex situs* governs immovable property rights.

12 The doctrine of modified universalism promotes fairness among creditors by favouring a single global liquidation in which all creditors must prove their claims. A foreign trustee seeking recognition or assistance must show that the foreign proceedings are collective in nature, conducted in the debtor’s domicile or a jurisdiction to which the debtor has submitted, and that such assistance is necessary for administering the foreign personal bankruptcy. Any order sought is consistent with Hong Kong’s substantive law and public policy.¹⁶

13 The legislative amendments in Australia and the common law approach in Hong Kong provide some suggestions on how we can expand recognition of foreign bankruptcy orders beyond the one reciprocal arrangement that we have at the moment with Malaysia.¹⁷

12 *Robert Scott Woods v Industrial and Commercial Bank of China (Asia) Ltd* [2024] HKCFI 3311 at [19].

13 *Robert Scott Woods v Industrial and Commercial Bank of China (Asia) Ltd* [2024] HKCFI 3311 at [19].

14 *Robert Scott Woods v Industrial and Commercial Bank of China (Asia) Ltd* [2024] HKCFI 3311 at [25].

15 *Robert Scott Woods v Industrial and Commercial Bank of China (Asia) Ltd* [2024] HKCFI 3311 at [18].

16 *Robert Scott Woods v Industrial and Commercial Bank of China (Asia) Ltd* [2024] HKCFI 3311 at [18]–[20].

17 *Re PT Garuda Indonesia (Persero) Tbk* [2024] 3 SLR 254 at [95].

III. Preventing insolvency – Debt Repayment Scheme 2.0 or voluntary arrangements

A. General introduction to Debt Repayment Scheme

14 The Debt Repayment Scheme (“DRS”) was implemented in Singapore on 18 May 2009 as an alternative framework to help individuals avoid personal insolvency (*ie*, bankruptcy proceedings). The DRS was modelled after Chapter 13 of the US Bankruptcy Code (“US Bankruptcy Code”), and it is intended to be a “voluntary debtor-driven scheme”¹⁸ aimed to “help wage-earning debtors with relatively small debts avoid bankruptcy, while helping creditors receive higher repayments than what they would otherwise receive in the event of bankruptcy”.¹⁹ Essentially, DRS is a pre-bankruptcy scheme with a preventive framework that focuses on providing a “win-win outcome for both the debtor and his creditor”.²⁰

15 Although the DRS is administered by the OA,²¹ it can only be initiated through a bankruptcy application filed in the General Division of the High Court of Singapore (“General Division”), and directed by the court.²² This means that a debtor cannot apply directly to the OA to be placed on the DRS.²³ Where a bankruptcy application is filed, and the debt does not exceed

18 Ministry of Law, “Public Consultation on the Proposed Legislative Amendments to the Debt Repayment Scheme” (9 June 2025) <<https://www.mlaw.gov.sg/public-consultation-on-the-proposed-legislative-amendments-to-the-debt-repayment-scheme/>> (accessed 8 September 2026).

19 Ministry of Law, “Public Consultation on the Proposed Legislative Amendments to the Debt Repayment Scheme” (9 June 2025) <<https://www.mlaw.gov.sg/public-consultation-on-the-proposed-legislative-amendments-to-the-debt-repayment-scheme/>> (accessed 8 September 2026).

20 Ministry of Law, “When Is the Debt Repayment Scheme (“DRS”) and When Did It Start?” <<https://ask.gov.sg/mlaw/questions/cmfotebpz01aded2houys1lfj>> (accessed 8 September 2026).

21 Ministry of Law, “Debt Repayment Scheme (DRS)” <<https://io.mlaw.gov.sg/debt-repayment-scheme/about-debt-repayment-scheme/>> (accessed 8 September 2026).

22 Ministry of Law, “Debt Repayment Scheme (DRS)” <<https://io.mlaw.gov.sg/debt-repayment-scheme/about-debt-repayment-scheme/>> (accessed 8 September 2026).

23 Ministry of Law, “Debt Repayment Scheme (DRS)” <<https://io.mlaw.gov.sg/debt-repayment-scheme/about-debt-repayment-scheme/>> (accessed 8 September 2026).

S\$150,000, the court has the discretion to refer the debtor to the OA, who will assess the debtor's eligibility and suitability to participate in the DRS ("DRS Assessment").²⁴ If the court directs a DRS Assessment, it may adjourn the matter for up to six months to enable the OA to complete the assessment.²⁵

16 Since its inception in 2009, the DRS has served as an alternative framework to help individuals avoid bankruptcy, and 2025 is shaping up as a year of positive growth for DRS case commencements. As of December 2025, a total of 2,809 cases has commenced the DRS, marking an increase of around 38.6% compared to 2,026 cases in 2024.²⁶ This follows a dip in 2024 of 10.1%, falling from 2,253 cases in 2023. This rebound in 2025 signals a return to steady progress and optimism in DRS activity.²⁷

17 Even during the dip in 2024, there was a silver lining: the number of cases referred for DRS Assessment increased by 22.3% from 2,989 cases in 2023 to 3,654 cases in 2024.²⁸ This shift highlights growing reliance on the assessment process, and together with the ongoing upward trends in 2025, suggests that both referrals and commencements are on a path towards steady, encouraging growth.

18 Despite the availability of the DRS, from 2022, the number of bankruptcy orders made against individuals has risen considerably, reflecting growing financial pressures. A total of 1,623 bankruptcy orders were made in 2025, representing the

24 Ministry of Law, "Debt Repayment Scheme (DRS)" <<https://io.mlaw.gov.sg/debt-repayment-scheme/about-debt-repayment-scheme/>> (accessed 8 September 2026).

25 Ministry of Law, "Information for Debtors" <<https://io.mlaw.gov.sg/debt-repayment-scheme/information-for-debtors/>> (accessed 8 September 2026).

26 Ministry of Law, "DRS Statistics as at 31 July 2026" <https://io.mlaw.gov.sg/files/DRS%20Statistics%20/DRS_Stats_for_Website_as_at_31_Jul_2026.pdf> (accessed 8 September 2026).

27 Ministry of Law, "DRS Statistics as at 31 July 2026" <https://io.mlaw.gov.sg/files/DRS%20Statistics%20/DRS_Stats_for_Website_as_at_31_Jul_2026.pdf> (accessed 8 September 2026).

28 Ministry of Law, "DRS Statistics as at 31 July 2026" <https://io.mlaw.gov.sg/files/DRS%20Statistics%20/DRS_Stats_for_Website_as_at_31_Jul_2026.pdf> (accessed 8 September 2026).

highest annual figures in recent years.²⁹ This compares with 1,232 orders in 2024, 1,096 orders in 2023, and 958 orders in 2022, demonstrating a sustained upward trend in personal bankruptcies.³⁰ Similarly, bankruptcy applications have continued to increase. In 2023, an “unprecedented surge in personal bankruptcy applications ... hitting an 18-year high at 3,986” was also reported.³¹ Applications rose further to 4,925 in 2024, an increase of³² 23.6% over the previous year and reached a new high of 5,111 in 2025.³³

19 The upward trend has persisted into 2026. As of May 2026, there have already been 821 bankruptcy orders and 1,718 bankruptcy applications.³⁴ While these figures represent only the first five months of the year, they suggest that personal insolvency activity remains elevated and will continue to warrant close monitoring.

20 Notably, many individuals today take personal loans to fund their businesses. Unlike bankruptcy, the DRS allows debtors to avoid bankruptcy status and obtain a fresh start upon completion of payments. Yet, the rising number of bankruptcy orders prompts the question: Is the DRS reaching those who need it most, or is its limited uptake a result of resource constraints? This raises three important considerations: first, how voluntary arrangements (“VAs”) compare with the DRS; second, whether

29 Ministry of Law, “Number of Bankruptcy Applications Orders Made and Discharges (July 2026)” <<https://io.mlaw.gov.sg/bankruptcy/statistics/>> (accessed 8 September 2026).

30 Ministry of Law, “Number of Bankruptcy Applications Orders Made and Discharges (July 2026)” <<https://io.mlaw.gov.sg/bankruptcy/statistics/>> (accessed 8 September 2026).

31 Lance Ang & Adrian Peh, “Commentary: Why Are More People in Singapore Going Bankrupt?”, CNA (11 March 2024) <<https://www.channelnewsasia.com/commentary/singapore-bankruptcy-applications-debt-challenging-economy-money-4172186>> (accessed 8 September 2026).

32 Ministry of Law, “Number of Bankruptcy Applications Orders Made and Discharges (July 2026)” <<https://io.mlaw.gov.sg/bankruptcy/statistics/>> (accessed 8 September 2026).

33 Ministry of Law, “Number of Bankruptcy Applications Orders Made and Discharges (July 2026)” <<https://io.mlaw.gov.sg/bankruptcy/statistics/>> (accessed 8 September 2026).

34 Ministry of Law, “Number of Bankruptcy Applications Orders Made and Discharges (July 2026)” <<https://io.mlaw.gov.sg/bankruptcy/statistics/>> (accessed 8 September 2026).

personal debts and business debts should be distinguished, so that entrepreneurs can manage business risk responsibly without jeopardising their personal financial standing; third, whether Private Trustees in Bankruptcy (“PTIBs”) could assist in the administration of the DRS, leveraging their experience in bankruptcy estate management to improve efficiency and access.

B. Utility of voluntary arrangements vis-à-vis Debt Repayment Scheme

21 As an alternative to the DRS, debtors may pursue a VA under the IRDA, which offers a formal, negotiated settlement with creditors. Unlike the DRS – a government-supervised scheme allowing eligible individuals to repay debts under S\$150,000 while avoiding bankruptcy – a VA requires a court application for an interim order under ss 276 and 279 of the IRDA. The court first assesses whether the debtor’s proposal meets the “gateway conditions” under s 276 and, if satisfied, whether it is appropriate to facilitate the proposal under s 279. The proposal must be serious and viable, providing a real prospect of benefit to creditors; only then will an interim moratorium be granted, temporarily suspending legal proceedings.³⁵ While a VA is legally binding once creditors accept the terms and involves more direct creditor participation, the DRS is implemented under the supervision of the OA, who ensures repayments are made and provides protection through the scheme’s structured process. Both pathways aim to balance debtor rehabilitation with creditor protection, offering complementary options depending on the debtor’s circumstances and financial complexity.

22 Notably, the DRS was implemented in response to the limitations arising from VA. See Kee Oon, who was then Official Assignee and Public Trustee, observed that Singapore’s experience indicates that the individual VA is only useful in specific situations and is generally unsuitable for most consumer debtors.³⁶ Many debtors struggle to secure the requisite creditor

³⁵ The applicable principles were set out in *Re Sifan Triyono* [2021] 4 SLR 656.

³⁶ See Kee Oon, “Alternatives to Bankruptcy – The Debt Repayment Scheme (‘DRS’)” (2008) 20 SAcLJ 541 at 542 (referred to in Jodi Gardner, “Rethinking
(cont’d on the next page)

approval, and the court-based process can be lengthy and expensive. Consequently, most debtors do not utilise it. Individual VAs tend to be more effective in cases involving complex debtor proposals, such as business or partnership debts, but successful cases in Singapore have been rare. Therefore, this scheme is clearly not a practical alternative to bankruptcy for the majority of Singaporean creditors.³⁷ Given the effectiveness of the DRS in assisting individual debtors, the use of VAs is likely to decline and possibly phase out over time.

C. *Distinguish personal debt from business debt*

23 In the US, personal individual debts are distinguished from business debts acquired in personal capacity. The former is filed under Chapter 7, while the latter is filed under Chapter 11 of the US Bankruptcy Code. Chapter 11 is also known as “reorganisation” or “rehabilitation”. Subchapter V of Chapter 11 is designed to make bankruptcy easier and faster for small businesses or entities with less than about US\$2.7m in debts that also meet other criteria. The Small Business Reorganization Act of 2019 also introduced shorter timelines, greater flexibility in negotiating restructuring plans with creditors, and the appointment of a private trustee who will work with the small business debtor and its creditors. Essentially, Chapter 11 applications allow the individual to continue doing business, obtain emergency relief, benefit from the automatic stay, eliminate certain debts and renegotiate other debts, all while reducing the business’ monthly debt load.

24 There is a compelling case therefore for distinguishing between personal and business debts, at least from the US experience.

Bankruptcy Alternatives in Singapore” [2020] Sing JLS 502 at 512).

37 Jodi Gardner, “Rethinking Bankruptcy Alternatives in Singapore” [2020] Sing JLS 502.

D. *Delegating administration of Debt Repayment Scheme to Private Trustee in Bankruptcy*

25 In Malaysia, the Director General of Insolvency (“DGI”) bears similar functions to Singapore’s OA. Malaysia also offers a similar pre-rehabilitation mechanism – the Debt Repayment Plan (“DRP”), which was modelled on Singapore’s DRS and Chapter 13 of the US Bankruptcy Code.

26 However, unlike Singapore, the DRP is managed by the Credit Counselling and Debt Management Agency (“AKPK”) rather than the DGI. Since its inception in 2006, the DRP has supported nearly 1.4 million individuals through the AKPK’s advisory services.³⁸ By late 2024/early 2025, over 64,000 borrowers had fully settled their loans under the program, while approximately 270,000 participants remained actively engaged in financial recovery.³⁹ AKPK has also introduced targeted initiatives, such as the Golden Solace program for borrowers aged 55 and above, allowing those who have repaid at least 90% of their debt to settle the remainder. These measures highlight the flexibility and effectiveness of structured repayment schemes in promoting sustainable recovery and offer valuable insights for Singapore.⁴⁰

27 This raises the question whether delegating DRS administration could enhance efficiency and broaden public access. Some have proposed that PTIBs manage the administration of DRS, though concerns remain that DRS cases are time-intensive. PTIBs would need to verify debtors’ income and financial disclosures, determine appropriate monthly

38 “MOF: 13% of AKPK Borrowers Fully Settled RM3.2b Debt”, *Agensi Kaunseling & Pengurusan Kredit* (10 December 2024) <<https://www.akpk.org.my/mof-13-akpk-borrowers-fully-settled-rm32b-debt>> (accessed 8 September 2026).

39 “AKPK’s DMP Strengthens Financial Stability, Approved Over 100,000 Cases in Two Years”, *Agensi Kaunseling & Pengurusan Kredit* (16 April 2025) <<https://www.akpk.org.my/akpks-dmp-strengthens-financial-stability-approved-over-100000-cases-two-years>> (accessed 8 September 2026).

40 “MOF: 13% of AKPK Borrowers Fully Settled RM3.2b Debt”, *Agensi Kaunseling & Pengurusan Kredit* (10 December 2024) <<https://www.akpk.org.my/mof-13-akpk-borrowers-fully-settled-rm32b-debt>> (accessed 8 September 2026).

payments, and monitor adherence to the repayment plan while maintaining ongoing communication and detailed records. However, because non-compliance can result in termination of the DRS and the issuance of a Certificate of Failure, which may lead to bankruptcy proceedings, debtors have a strong incentive to adhere to their plans, mitigating some of the practical challenges PTIBs may face.

IV. Insolvency law and the intersection with asset recovery where there is fraud or fraudulent activity

28 The IRDA was introduced as an omnibus legislation consolidating Singapore's personal and corporate insolvency and debt-restructuring framework,⁴¹ with the aim of creating a modern and progressive regime that balances responsible entrepreneurship with fair and orderly creditor recovery.⁴² The reforms seek to encourage legitimate business risk-taking, streamline the restricting mechanism, and align Singapore with best practices.⁴³ At the same time, the IRDA is not intended to make it easier for scams, Ponzi schemes, or fraudulent operators to exploit the insolvency process. At its core, the integrity of the insolvency regime depends on ensuring that wrongdoers cannot use bankruptcy as a shield.

29 More recently, the General Division rendered its largest monetary judgment to date – S\$900m – arising from the Envy Companies' fraudulent nickel scheme,⁴⁴ infamously known as the

41 Ministry of Law, "Insolvency, Restructuring and Dissolution Act to Commence on 30 July 2020", press release (23 July 2020) <<https://www.mlaw.gov.sg/news/press-releases/2020-07-23-insolvency-restructuring-and-dissolution-act-commencement/>> (accessed 8 September 2026).

42 Ministry of Law, "Insolvency, Restructuring and Dissolution Act to Commence on 30 July 2020", press release (23 July 2020) <<https://www.mlaw.gov.sg/news/press-releases/2020-07-23-insolvency-restructuring-and-dissolution-act-commencement/>> (accessed 8 September 2026).

43 Ministry of Law, "Insolvency, Restructuring and Dissolution Act to Commence on 30 July 2020", press release (23 July 2020) <<https://www.mlaw.gov.sg/news/press-releases/2020-07-23-insolvency-restructuring-and-dissolution-act-commencement/>> (accessed 8 September 2026).

44 *Envy Asset Management Pte Ltd v Ng Yu Zhi* [2025] 5 SLR 87.

S\$1.5bn nickel fraud case.⁴⁵ In the liquidators' claim against Ng Yu Zhi and the directors of the Envy Companies,⁴⁶ the court held that the company's directors were liable for more than S\$900m due to failures in supervision, oversight, and governance. While the third defendant was a knowing participant in fraudulent trading – actively assisting in the misapplication of investor funds and generating hundreds of millions in fresh inflows – the second defendant was found liable for a total abrogation of her directorial duties, having failed to exercise even basic oversight despite numerous warning signs. Their liability illustrates that directors who either knowingly participate in fraud or abdicate their supervisory responsibilities will face substantial civil consequences.⁴⁷

30 The related decisions in *CH Biovest Pte Ltd v Envy Asset Management Pte Ltd*⁴⁸ further demonstrate how insolvency law supports proof, recovery, and estate maximisation following fraud. Both the General Division⁴⁹ and the Court of Appeal⁵⁰ confirmed that the Envy Companies were operating a Ponzi scheme, and accordingly (a) payments made by a Ponzi operator were presumptively fraudulent, and (b) the liquidators were entitled to claw back fictitious profits and referral fees under the IRDA's avoidance provisions. The Court of Appeal emphasised that these payments were made without consideration, that the companies were cash-flow insolvent at the time, and that avoidance actions – such as those under s 224 of the IRDA and the statutory intent-to-defraud provisions – were available concurrently to maximise recovery. While these rulings significantly boosted the estate available for distribution to

45 Lydia Lam, “S\$1.5b Nickel Fraud: Court Allows Liquidators to Claw Back Bonuses, Commissions From Ponzi Scheme's Ex-Staff”, CNA (29 July 2025) <<https://www.channelnewsasia.com/singapore/high-court-allows-envy-companies-claw-back-bonuses-payments-ng-yuzhi-employees-5264461>> (accessed 8 September 2026).

46 *Envy Asset Management Pte Ltd v Ng Yu Zhi* [2025] 5 SLR 87.

47 Ministry of Law, “Insolvency, Restructuring and Dissolution Act to Commence on 30 July 2020”, press release (23 July 2020) <<https://www.mlaw.gov.sg/news/press-releases/2020-07-23-insolvency-restructuring-and-dissolution-act-commencement/>> (accessed 8 September 2026).

48 [2025] 1 SLR 141.

49 *Envy Asset Management Pte Ltd v CH Biovest Pte Ltd* [2024] SGHC 46.

50 *CH Biovest Pte Ltd v Envy Asset Management Pte Ltd* [2025] 1 SLR 141.

genuine victims, they also expose the harsh reality that innocent investors who unknowingly received fictitious profits may face restitution claims and, in some cases, personal insolvency.

31 The Envy Companies saga is a timely reminder that Singapore's insolvency framework must continually evolve to balance deterrence of fraud with the encouragement of genuine enterprise. It raises important policy questions about whether additional safeguards are needed to protect victims of large-scale frauds, even as the IRDA continues to uphold creditor equality and prevent the misuse of insolvency protections by fraudulent actors.

32 The intersection between insolvency law and cryptocurrency presents further unique challenges due to the decentralised and borderless nature of digital assets. Traditional insolvency frameworks struggle with issues of ownership, valuation and jurisdiction where crypto assets are held across multiple exchanges or wallets. The General Division's decision in *Re Zipmex Pte Ltd*⁵¹ marked a pivotal moment in adapting insolvency principles to this emerging asset class. Faced with thousands of small retail creditors, the court approved the creation of an administrative convenience class, balancing administrative efficiency with fairness and transparency in the restructuring process. Drawing on Chapter 11 jurisprudence, the court demonstrated a pragmatic approach to complex crypto-related restructuring within the framework of the IRDA. This ruling highlights Singapore's judicial flexibility and innovation in navigating crypto insolvency and underscores the need for adaptive legal frameworks that reconcile technological advancements with core insolvency principles.

33 Singapore-based crypto fund, Three Arrows Capital ("3AC") established in 2012 by Zhu Su ("Mr Zhu") and Kyle Livingston Davies ("Mr Davies") (both of whom are Singapore citizens) filed for bankruptcy⁵² in the US and the British Virgin

51 [2024] 3 SLR 724.

52 "S'pore-Based Crypto Fund Three Arrows Capital Files for Bankruptcy in US", *The Straits Times* (3 July 2022) <<https://www.straitstimes.com/business/US>>, *The Straits Times* (3 July 2022) <<https://www.straitstimes.com/business/US>> (cont'd on the next page)

Islands (“BVI”).⁵³ At its peak, 3AC had managed more than US\$4bn in assets. However, in 2022, it collapsed under bad debts following the failure of cryptocurrencies Luna and Terra US\$ in May 2022. Creditors estimate that 3AC owed roughly US\$3.3bn⁵⁴ to US\$3.5bn.⁵⁵ Liquidators sought US\$1.3bn from Mr Zhu and Mr Davies, who allegedly accumulated losses while the company was already insolvent.⁵⁶ Teneo, the BVI-appointed liquidator, obtained a worldwide freezing order against Mr Zhu and Mr Davies in connection with claims alleging that the founders should be held responsible for causing the company’s financial position to deteriorate.⁵⁷ The BVI order – covering assets of up to US\$1.33bn and extending to Mr Davies’ wife, Kelly Chen⁵⁸ – was a domestic freezing order issued by the Singapore court. The liquidators had also previously accused the founders of failing to co-operate meaningfully.

34 The Monetary Authority of Singapore (“MAS”) found that 3AC failed to implement an appropriate risk-management

companies-markets/spore-based-crypto-fund-three-arrows-capital-files-for-bankruptcy-in-us> (accessed 8 September 2026).

53 “Three Arrows Co-Founders’ \$1.33 Billion in Assets Frozen by Court”, *The Straits Times* (21 December 2023) <<https://www.straitstimes.com/business/three-arrows-co-founders-133-billion-in-assets-frozen-by-court>> (accessed 8 September 2026).

54 “Three Arrows Co-Founders’ \$1.33 Billion in Assets Frozen by Court”, *The Straits Times* (21 December 2023) <<https://www.straitstimes.com/business/three-arrows-co-founders-133-billion-in-assets-frozen-by-court>> (accessed 8 September 2026).

55 Claire Huang, “MAS Slaps 9-Year Bans on Founders of Failed Crypto Hedge Fund Three Arrows Capital”, *The Straits Times* (14 September 2023) <<https://www.straitstimes.com/business/mas-bans-founders-of-failed-crypto-hedge-fund-three-arrows-capital>> (accessed 8 September 2026).

56 Claire Huang, “MAS Slaps 9-Year Bans on Founders of Failed Crypto Hedge Fund Three Arrows Capital”, *The Straits Times* (14 September 2023) <<https://www.straitstimes.com/business/mas-bans-founders-of-failed-crypto-hedge-fund-three-arrows-capital>> (accessed 8 September 2026).

57 “Three Arrows Co-Founders’ \$1.33 Billion in Assets Frozen by Court”, *The Straits Times* (21 December 2023) <<https://www.straitstimes.com/business/three-arrows-co-founders-133-billion-in-assets-frozen-by-court>> (accessed 8 September 2026).

58 “Three Arrows Co-Founders’ \$1.33 Billion in Assets Frozen by Court”, *The Straits Times* (21 December 2023) <<https://www.straitstimes.com/business/three-arrows-co-founders-133-billion-in-assets-frozen-by-court>> (accessed 8 September 2026).

framework for its digital asset investments.⁵⁹ As directors, Mr Zhu and Mr Davies were primarily responsible for ensuring compliance but failed to discharge their duties.⁶⁰ 3AC also provided false information in January 2022 regarding the employment of Arthur Cheong Jun Yoong (“Mr Cheong”), who performed fund management activity on the company’s behalf between August 2020 and September 2021, and failed to notify the MAS of his hiring. The MAS later confirmed it would not take action against Mr Cheong. The MAS took significant action against the founders and the company, including⁶¹ reprimanding 3AC in June 2022 for breaching the Securities and Futures Act 2001⁶² (“SFA”) and the Securities and Futures (Licensing and Conduct of Business) Regulations⁶³ (“SFR”) and issuing nine-year prohibition orders against Mr Zhu and Mr Davies,⁶⁴ barring them from performing any regulated activity under the SFA or holding management or ownership roles in regulated capital-markets entities in Singapore.

35 The regulatory and legal actions against the 3AC founders act like a dual security system: the MAS ban excludes the founders from the regulated financial sector for nearly a decade for professional misconduct, while the worldwide asset freezing orders lock down their personal and shared assets to ensure funds are available to meet the massive liabilities owed to creditors. While the courts have demonstrated adaptability as

59 Claire Huang, “MAS Slaps 9-Year Bans on Founders of Failed Crypto Hedge Fund Three Arrows Capital”, *The Straits Times* (14 September 2023) <<https://www.straitstimes.com/business/mas-bans-founders-of-failed-crypto-hedge-fund-three-arrows-capital>> (accessed 8 September 2026).

60 Claire Huang, “MAS Slaps 9-Year Bans on Founders of Failed Crypto Hedge Fund Three Arrows Capital”, *The Straits Times* (14 September 2023) <<https://www.straitstimes.com/business/mas-bans-founders-of-failed-crypto-hedge-fund-three-arrows-capital>> (accessed 8 September 2026).

61 Claire Huang, “MAS Slaps 9-Year Bans on Founders of Failed Crypto Hedge Fund Three Arrows Capital”, *The Straits Times* (14 September 2023) <<https://www.straitstimes.com/business/mas-bans-founders-of-failed-crypto-hedge-fund-three-arrows-capital>> (accessed 8 September 2026).

62 2020 Rev Ed.

63 2004 Rev Ed.

64 Claire Huang, “MAS Slaps 9-Year Bans on Founders of Failed Crypto Hedge Fund Three Arrows Capital”, *The Straits Times* (14 September 2023) <<https://www.straitstimes.com/business/mas-bans-founders-of-failed-crypto-hedge-fund-three-arrows-capital>> (accessed 8 September 2026).

seen in the case of *Re Zipmex Pte Ltd*,⁶⁵ there remains scope for policy refinement to better protect innocent investors caught in fraudulent schemes. One possible direction is to strengthen statutory safeguards for victims, such as limited clawback defences for *bona fide* investors who received payments without knowledge or fraud – or to establish compensation or insurance mechanisms funded through industry levies.

V. The role of Official Assignee in personal insolvency

36 As of November 2023, PTIBs administer bankruptcy estates in all cases, except where the OA considers there is a public interest. Singapore's shift to the mandatory PTIB-administered bankruptcy regime aligns with the approach adopted by the US and Canada.⁶⁶ With the involvement of PTIBs, the OA takes on a more regulatory role to ensure PTIBs' competencies and legislative compliance. Similar to the US and Canada, the goal for Singapore's reform is to utilise public resources more efficiently by having private practitioners manage private debt recovery processes.⁶⁷

37 The OA also has enforcement powers in relation to bankrupt estates. Its frequent interaction with PTIBs enables closer co-operation to achieve better recovery for creditors and a smoother journey for bankrupts. Further, the OA actively guides PTIBs through a combination of regular circulars and quarterly dialogues, keeping PTIBs informed of updates and best practices in bankruptcy administration. Circulars communicate regulatory or procedural changes, while quarterly dialogues allow for in-depth discussions, enabling PTIBs to raise concerns,

65 [2024] 3 SLR 724.

66 Ministry of Law, "Facilitating a 'Private Trustee in Bankruptcy' Administered Bankruptcy Regime With the Insolvency, Restructuring and Dissolution (Amendment) Bill", press release (28 November 2022) <<https://www.mlaw.gov.sg/news/press-releases/facilitating-ptib-administered-bankruptcy-regime-irda/>> (accessed 8 September 2026).

67 Ministry of Law, "Facilitating a 'Private Trustee in Bankruptcy' Administered Bankruptcy Regime With the Insolvency, Restructuring and Dissolution (Amendment) Bill", press release (28 November 2022) <<https://www.mlaw.gov.sg/news/press-releases/facilitating-ptib-administered-bankruptcy-regime-irda/>> (accessed 8 September 2026).

exchange experiences, and receive guidance on complex issues in case management. The OA is also responsive to queries from PTIBs, providing timely clarification and support as needed.

VI. Conclusion

38 A resilient personal insolvency framework must balance fairness, creditor protection, and economic dynamism. The way forward is not to overhaul the system entirely, but to strengthen its institutions and clarify its purpose. This includes drawing a clearer line between business debts arising from entrepreneurial risk and personal debts incurred for private consumption, equipping the OA with stronger enforcement tools – including coordinated action with PTIBs – and withholding discharge from debtors who conceal assets or act in bad faith. As financial relationships become more international, cross-border operation should also be enhanced, including greater alignment with the Model Law to support recognition and enforcement in cases involving overseas assets or creditors.

39 At the same time, reforms must uphold high standards to protect victims of fraud while ensuring that honest entrepreneurs are not permanently sidelined by business failure. Mirroring lessons from international dispute resolution, policymakers should focus on institutional strengthening, regional collaboration, and capacity-building across regulators and practitioners. A coordinated, rules-based and internationally attuned personal insolvency regime will promote accountability while enabling legitimate enterprise to continue to thrive.