

# Annex 1. Business Reorganisation Assessment Methodology

This Annex explains and summarises the EBRD's methodological approach to the Business Reorganisation Assessment and the scoring and validation of the assessment results. It provides guidance for economies seeking to understand how points were awarded for each economy and how the EBRD Assessment Team worked to ensure a consistent approach to data and legislative analysis in each of the 38 economies (and 40 jurisdictions) covered by the assessment. See at **Appendix 1** Overview of Business Reorganisation Assessment Methodology for a high-level description.

## I. General background

The assessment was conducted by means of a Business Reorganisation Assessment questionnaire contained at **Appendix 2** addressed to legal professionals working in law firms and banks, and other insolvency experts (the respondents). The respondents were approached based on EBRD headquarters and resident office contacts along with Investment Council contacts in each of the 38 economies where we operate<sup>1</sup>. The questionnaire was open for completion from 7 September until 7 November 2020, with certain exceptions<sup>2</sup>. In total, 500 respondents completed the questionnaire across 57 jurisdictions, including the 40 jurisdictions (38 economies) that are part of the EBRD regions<sup>3</sup>. Respondents in 18 countries<sup>4</sup> outside of the EBRD regions completed the assessment

questionnaire for benchmarking purposes, out of which 11 countries were EU member states and not EBRD countries of operations. Out of this number, 457 respondents filled in the questionnaire in the EBRD regions. Factual data gathered was subsequently validated through a review of relevant legislation for each economy from December 2020 until May 2021.

A separate short survey on non-performing loans (NPLs) was run in parallel with the Business Reorganisation Assessment questionnaire. The survey consisted of six perception-based questions addressed to leading accounting firms, legal professionals and banks. The **NPL Survey** does not include any scoring questions and was only for data gathering purposes. A total of 331 of surveys were collected from 48 jurisdictions. 315 surveys were collected for the EBRD regions. This Assessment Methodology applies to the Business Reorganisation Assessment questionnaire only.

With regard to economies that amended their insolvency legislation or adopted new insolvency legislation<sup>5</sup> between 1 September (the opening date of the questionnaire) and 7 November 2020 (the closing date of the questionnaire), the ranking of the respective economy was based on the responses received to the questionnaire in 2020. These responses in turn, were based on the then existing law and practice. Therefore, the Assessment Report and the economy rankings reflect

the law that was in then in effect and domestic practice as of the cut-off date of the questionnaire (i.e., the 'old' law). New legislation adopted after the closure of the consultation period for the questionnaire up until end of November 2021 has been included within the Business Reorganisation Assessment Economy Profiles.

## Annex appendices:

1. Overview of Business Reorganisation Assessment Methodology	7
2. Business Reorganisation Questionnaire	8
3. Assessment Benchmarks and Indicators	33
4. Conversion Table for Weighted Questions	36
5. Data Collection Template	37

<sup>1</sup> Investment Councils sponsored by the EBRD are located in Albania, Armenia, Georgia, Kosovo, Kyrgyz Republic, Moldova, Montenegro, Tajikistan, Ukraine and Uzbekistan (for which funding is provided by the UK Good Governance Fund in Armenia, Georgia, Moldova and Montenegro). See [www.ebrd.com/what-we-do/sectors-and-topics/investment-councils.html](https://www.ebrd.com/what-we-do/sectors-and-topics/investment-councils.html) for further details.

<sup>2</sup> In Lebanon, we needed to extend the deadline to achieve the Minimum Response Threshold (defined in section 3.1 of this Annex).

<sup>3</sup> Since the launch of the Assessment in September 2020, Cyprus is no longer an economy of operations and as of 24 March 2021, the Czech Republic has become again an economy of operations of the EBRD for a limited period of up to five years.

<sup>4</sup> Argentina, Austria, Belgium, Brazil, China, Czech Republic, England and Wales, France, Germany, India, Italy, Luxembourg, Netherlands, Portugal, South Africa, Spain, Sweden and the USA.

<sup>5</sup> For example, the Federation of Bosnia and Herzegovina, Georgia, Greece and Hungary.

## II. Description of the questionnaire

The Business Reorganisation Assessment questionnaire contains a mixture of scoring and non-scoring data-gathering questions (see **Appendix 2** for a copy of the questionnaire and the points assigned per question). The questionnaire is divided into five key sections, which largely follow the sequential steps that businesses take when faced with financial distress and when they embark on a reorganisation exercise. It covers 'reorganisation': the process aimed at resolving the financial difficulties of a debtor with a view to preventing insolvency and ensuring the viability of the debtor business. This process is typically supported by a legislative procedure and may take place both in and out of court. Banks and financial institutions were excluded from the questionnaire as they typically follow a separate regime. The questionnaire was available in three languages: English, French and Russian. The final section of the questionnaire focuses on other general aspects of domestic insolvency laws that are important for the overall improvement of the reorganisation/insolvency environment.

The sections of the questionnaire are as follows:

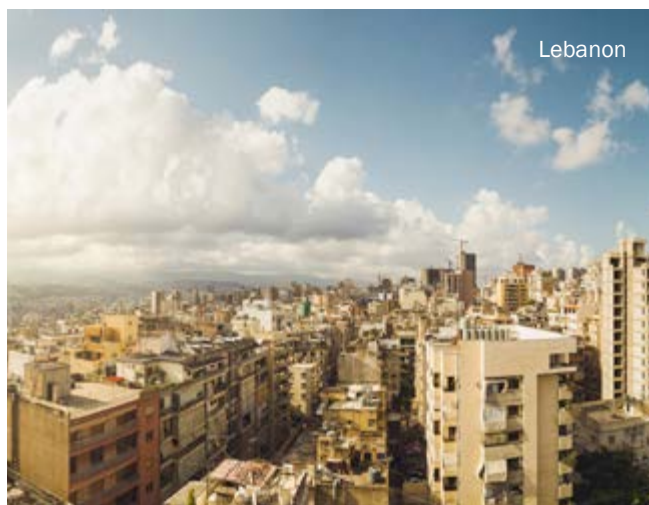
1. **General Approach to Corporate Reorganisation**, which covers general information on the existence of court-supervised or out-of-court reorganisation, private workouts, new financing and SMEs.
2. **Planning and the Initial Stages of Reorganisation**, which addresses matters such as the entry criteria for reorganisation procedures, the length of such procedures, court involvement and the existence of hybrid procedures, along with moratoria and the impact on secured creditors, preferential creditors and tax.
3. **The Reorganisation Plan**, which follows the mechanics of the restructuring plan including restructuring options such as debt write-off, formation of classes of creditors for voting purposes, consent thresholds, voting by shareholders and connected parties, as well as any powers in relation to management or employees.

4. **The Reorganisation Approval Phase**, which includes judicial involvement in the approval of the plan and whether this goes beyond formalities, the ability of dissenting creditors to challenge a plan, and any supervision of an approved plan.

5. **Other Relevant Aspects**. This includes questions on general principles of insolvency law as applied in a jurisdiction, such as principles of universality, procedural efficiency, economic efficiency, equality of creditors and professional and ethical standards.

The questionnaire has in total 81 questions of the following three types:

- (1) 'Yes' or 'No' questions: these are simple and straightforward questions that require a 'Yes' or 'No' answer. Some of these questions are of a factual nature and are aimed at collecting factual information about the law or the legal framework in the economy (as in, the laws on the books) and some require an opinion about the practices in the jurisdiction.



(2) 'Traffic light' questions: these are questions with five colour indicators to measure the effectiveness of the law. This type of question asks for the respondent's opinion regarding a specific topic. Most of the traffic light questions are aimed at understanding the domestic practices as they are applied.

(3) 'Data gathering' questions: these are questions that attempt to collect additional information to obtain a better understanding of the framework and practice in the specific economies. There are two types of data gathering questions:

- a) Information request questions: these types of questions elicit information from the participants in the questionnaire by asking them to complete a blank space provided and provide additional information for the specific economy.
- b) Multiple choice questions: these types of questions are limited but allow the participants in the questionnaire to select from a number of pre-determined options.

For scoring purposes, the questions are divided into:

- Weighted/scoring questions ('core' questions) that cover the quality of reorganisation procedures and carry points towards the total scoring. The reason these questions are labelled 'core' is because they reflect principles identified in the international best practices, key policy papers and the **EBRD Core Insolvency Principles**.
- Non-weighted questions ('Non-core' questions) that can be described as data gathering questions. These are aimed at collecting information that can be used to inform the data obtained from the scoring questions to produce additional reports and gain necessary understanding of the domestic legal system and a better sense of idiosyncratic or practical aspects. The data gathering questions will only be taken into account for informative purposes and analysis in the report and have no impact on the overall scoring.

### III. Processing the Data

#### 3.1 Minimum Response Threshold

Questionnaire respondents were invited to leave blank any questions which they did not want to answer. Overall, there was a minimum completion threshold of 26 answers out of a maximum possible number of 94 answers to 81 questions (the Minimum Completion Threshold) meaning that where we received questionnaires with less than 26 answers, we disregarded the responses in such questionnaires in their entirety to prevent a distortion of the results for a particular jurisdiction. In total 14 questionnaires (representing 3% of the 456 questionnaires for the EBRD regions) were disregarded as they did not fulfil the Minimum Completion Threshold. Once applied, the Minimum Completion Threshold resulted in 442 questionnaires being available for data processing and evaluation.

This threshold is based on the minimum number of possible answers since the questionnaire contained a number of extra questions that were available only when a respondent selected a particular answer.

In addition, there was a minimum response threshold of three respondents from separate organisations per jurisdiction (the Minimum Response Threshold). The Minimum Response Threshold was achieved across the EBRD regions. However, we had a significant range of responses among jurisdictions, with the largest number of responses received for Romania (54 questionnaires) and the lowest number of responses in received for Bosnia and Herzegovina (Republika Srpska) (three questionnaires)<sup>6</sup>. In respect of non-EBRD benchmarking economies, economies were only considered for comparative purposes where we also achieved the Minimum Response Threshold.

<sup>6</sup> Further responses were received for the Federation of Bosnia and Herzegovina.

<sup>7</sup> For economies where we have five responses from different organisations, we would reach 20% difference with only one diverging response. Thus, it is logical to set the level at 75% to avoid verifying all factual questions.

<sup>8</sup> Since the launch of the Assessment in September 2020, Cyprus is no longer an economy of operations and as of 24 March 2021, the Czech Republic has become again an economy of operations of the EBRD for a limited period of up to five years.

#### 3.2 Validation of the factual responses

A total of 34 questions out of a maximum of 81 questions in the questionnaire were factual questions and therefore subject to a validation process. Factual questions were considered to be questions that ask about facts or the legislative position (i.e., the 'laws on the books').

Some 'Yes' or 'No' factual questions produced diverging responses to a certain extent across all economies. Some respondents either misunderstood the question or marked the 'wrong' answer. Wrong answers were due possibly to the technical nature of certain questions and the availability of the questionnaire only in English, French and Russian. Another important factor for certain economies was the relatively uncommon practice of business reorganisation compared with liquidation or winding-up.

To ensure that the assessment results reflected the correct position under the domestic laws, certain factual responses were double-checked against the law and with follow up questions to local law firms where there was a significant divergence of opinion among respondents. All factual questions are highlighted in yellow in the questionnaire in **Appendix 2** of this Annex.

The verification process for factual closed ('Yes' or 'No') questions was as follows:

- (1) Where at least 75%<sup>7</sup> of respondents related to the same economy agreed, the answer was automatically marked as a 'Yes' for that economy across all questionnaires. Conversely, the same applied if 75% of respondents disagreed; this was marked as a 'No'.<sup>8</sup> This form of validation enabled the Assessment Team to correct any responses to the assessment questionnaire that were factually incorrect and which could have undermined the accuracy of the

assessment results. For the avoidance of doubt, only those factual questions (as identified in the highlighted questions in Appendix 2 of this Annex) that did not produce a solid 75% agreement were re-validated. The cases where this did not lead to a definite answer were subject to further verification as explained in paragraphs (2) and (3) below. Croatia produced the least diverging responses for individual factual questions and Tajikistan the most.

- (2) Any remaining questions where it was not possible to reach 75% or more agreement were then validated by the Assessment Team. We identified the questions for each jurisdiction where a definite answer was not achieved, and conducted analysis of the law and supplemental research to determine the appropriate response. Any findings were cross-checked with at least two national counsels for accuracy. The final points for each validated question were overridden with one definite answer and corresponding points attributed to the economy. To use a theoretical example, in economy X, 55% of respondents said 'yes' to the following question and 45% respondents said 'no': "Does approval of the reorganisation plan require a majority by number of creditors as well as value of claims within each group or class?" The team was able to ascertain the correct answer and therefore the points to be awarded that economy.



(3) While assessing the validity of any questions according to this methodology, it became apparent that the multiple choice question 5 in section 1 also needed to be validated due to some confusion among the respondents due to the question's formulation. For example, in some economies, other parties (in addition to the debtor and creditor) could commence an insolvency procedure and therefore a number of respondents ticked response 'D'. However, this resulted in 0 points. The Assessment Team therefore checked which parties could initiate the reorganisation procedure for each jurisdiction and the points were adjusted accordingly. Some questions, despite being closed ('Yes' or 'No'), asked for opinions rather than factual answers, and some questions (in particular, related to tax) could be treated as factual, but were not validated as the assessment did not focus on tax matters and we were not able to verify the results with tax experts. Consequently, the presentation of data with respect to the tax questions was treated as a matter of opinion rather than fact in the Assessment Report.



### 3.3 Minimum Accuracy Threshold

In addition to the Minimum Response Threshold, the team added another filter: a minimum accuracy threshold based on the results of the validation process described at paragraph 3.2 above. In cases where, following validation, the number of incorrect factual responses to the questionnaire was 12 or more (the Minimum Accuracy Threshold), we disregarded the affected questionnaire on the basis of lack of familiarity of the respondent with business reorganisation in their jurisdiction. This filter only affected economies with a larger percentage of diverging responses to factual questions, that is, 12 or more out of the total 34 factual questions identified by the Assessment Team. In total, 21 questionnaires that did not meet the Minimum Accuracy Threshold were disregarded as follows:

Country	Number of affected questionnaires
Azerbaijan	1
Bosnia and Herzegovina (Federation)	1
Kazakhstan	1
Kosovo	1
Moldova	3
Mongolia	2
North Macedonia	3
Tajikistan	3
Tunisia	3
Ukraine	1
Uzbekistan	2

Thus, applying both the Minimum Response Threshold and the Minimum Accuracy Threshold resulted in 421 questionnaires being available for data processing and evaluation by the Assessment Team. The rationale for exclusion of these responses is that the lack of accuracy indicated a probable unfamiliarity with the technical of reorganisation procedures. Inclusion of questionnaires with a high level of factual inaccuracy risked distorting the results for unvalidated factual questions and perception-based questions and therefore the scoring for a relevant economy.

### IV. Scoring

The assessment analyses the effectiveness and extensiveness of business reorganisation procedures in all 38 economies where the EBRD invests.

There are two different scoring systems:

- (1) Scoring in accordance with the sections of the questionnaire (the Overall Assessment Results Scoring System).
- (2) Scoring in accordance with the three benchmarks defined in the **Appendix 3** Assessment Benchmarks and Indicators (the Assessment Benchmark Scoring System).

The overall points per jurisdiction are slightly different under each of these scoring systems due to the different weighting of the questionnaire sections and the benchmarks.

In addition, economies were compared on an aggregate level based on the answers to some selected questions, such as the total number of economies that have protection for new financing or prohibit third-party contractual termination clauses triggered by the debtor entering into an insolvency or reorganisation procedure. Overall, the Assessment Report presents the results based on both the Overall Assessment Results Scoring System and the Assessment Benchmark Scoring System. At the same time, the report highlights the latest international trends for reorganisation, relying on input from local counsel in each of the economies, as well as the EBRD Assessment Team's experience.



#### 4.1 Overall Assessment Result Scoring System

The Overall Assessment Result Scoring System determines the overall Assessment points per jurisdiction, subject to a bonus score which is awarded to economies that publish clear and comprehensive data on insolvency proceedings, including reorganisation proceedings (the Data Transparency Factor).

The automatic scoring system is the main tool for assessing the quality of reorganisation procedures in all economies. The scoring questions were assigned weights ranging from -0.333 to 1. The weight categories were: -0.333, 0, 0.25, 0.333, 0.5, 0.666 and 1 for each of the possible answers. Each of the five sections were weighted equally (an achievable maximum of 20 points) totalling a maximum possible award of 100 points. As described above, the maximum points per economy could be increased to 110 points by taking into account the Data Transparency Factor.

The weighted questions were converted into points based on a pre-agreed conversion table (see the **Appendix 4** Conversion Table for Weighted Questions).

##### 4.1.1 Data Transparency Factor

The maximum number of points achievable under the questionnaire is 100. However, this is subject to a Data Transparency Factor for insolvency data, which is valued at up to 10 points. Insolvency data is understood for the purpose of the Data Transparency Factor to mean all data related to business pre-insolvency and insolvency procedures, excluding data on voluntary financial restructuring mechanisms or framework procedures that do not involve the court.

The Data Transparency Factor therefore does not evaluate: bank and financial institution insolvency data, which is typically subject to a different insolvency regime; insolvency data in relation to consumers (natural persons who are not acting as entrepreneurs) and data on voluntary financial restructuring mechanisms or frameworks that do not involve the court,

such as the Framework Agreements in Turkey, the Consensual Financial Restructuring Procedure in Serbia and the Financial Restructuring Law in Ukraine. In practice, the data gathered under these voluntary frameworks, as seen by the Business Reorganisation Assessment overviews for individual economies, tends to be very comprehensive but is not centrally administered with other insolvency data, since these frameworks lie outside the main insolvency system.

In theory, each economy could be awarded up to 110 points for its business reorganisation framework if it scores full marks on both the questionnaire and the Data Transparency Factor. The Data Transparency Factor has no effect on the Assessment Benchmark Scoring System, which does not form part of the overall rankings of economies, and is used to gauge the performance of each economy against the three benchmarks of: Effectiveness, Efficiency and Flexibility.

The criteria for optimal points for the Data Transparency Score are:

- (i) Insolvency data is centralised and maintained by an official authority or body.
- (ii) Comprehensive insolvency data is published online.
- (iii) Published data is updated regularly on at least an annual basis.
- (iv) Published data is available on an aggregated basis at national level.
- (v) Published data is available on a disaggregated basis at national level with a breakdown by each available insolvency procedure.

Each of these criteria are evenly weighted and worth up to 2 points, with 0, 1 or 2 points awarded per criterion or indicator.

The aim of the Data Transparency Factor is to ensure that rankings take into account the publication of insolvency data, which is essential for the enhancement of the transparency

of an economy's insolvency framework. Transparency benefits users of insolvency systems, courts and potential NPL investors. It also supports greater data-driven policymaking and indicates how procedures are being used by market participants.

With time, data collection can be improved to collect more information on the outcome of insolvency procedures, to differentiate more accurately between different types of debtor (legal and natural persons, entrepreneurs, SMEs, women-run enterprises, etc.), to collect data on the average time spent in insolvency proceedings and the average return to creditors in an insolvency and to track the outcome of any reorganisation plans approved as part of an insolvency procedure, including how many plans are successful after a given period and the failure rates of businesses. Economies that wish to attract international investors may also consider including available data in the register in English. Data transparency requires significant investment both in term of human resources as well as IT infrastructure but it delivers real benefits for insolvency users.

Further information on data transparency in each of the economies assessed and the results of the Data Transparency Factor points are contained in the **Annex Data Transparency Factor** to the Assessment Report.



## 4.2 Assessment Benchmark Scoring System

To articulate the key principles in international best practices, policy papers and the EBRD Core Insolvency Principles that were reflected in the scoring questions, we developed benchmarks and indicators (see Annex 2). The benchmarks and indicators provided conceptual guidance for the analysis of the responses and ultimately for the Assessment Report. We adopted a simple approach in which three benchmarks – Flexibility, Efficiency and Effectiveness – were explored in different questions contained in the questionnaire.

The overall assessment points are based on weighing each section equally (at 20 points max), adding the Data Transparency Factor (at 10 points max), with overall possible results of 110. However, the benchmarks needed to be weighed separately to achieve meaningful results.<sup>9</sup> The maximum score possible under each benchmark was treated as 100% and was unaffected by the Data Transparency Factor<sup>10</sup>.

## V. Legal Review and Economy Profiles

To gain a better understanding of the domestic legal system and of the practical aspects, economy representatives and national authorities were asked to fill in a Data Collection Template (see **Appendix 5**). The Data Collection Template aimed to gather links to any official websites where national laws were published and to any official English, or Russian if English was unavailable. For European Union economies the team relied on the European Commission's in-house automatic translation software. The team was also able to review legislation in the original language where available in French, Greek, Georgian and Russian. For Russian language versions of the legislation, the Assessment Team also used the DeepL automatic translation service. Another useful source was unofficial law firm translations.

In two jurisdictions, the Gaza strip and Bosnia and Herzegovina Republika Srpska, the team needed to rely on local law firms to fill in the relevant sections of the profile due to the unavailability of the legislation in English. Local firms were able to use other profiles for guidance with respect to content (in these cases, West Bank for Gaza and the Bosnia and Herzegovina Federation for the Republika Srpska). The team also checked with at least two law firms per jurisdiction that the legislation was up to date. During the project there were several legislative changes, especially in the European Union countries as a result of Directive (EU) 2019/1023 (the EU Restructuring Directive) on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt. Where it was not possible to obtain a Data Collection Template from government authorities or an Investment Council<sup>11</sup>, we tried to obtain comparable information, to the extent available, from a reputable law firm and verified the results with a separate firm.

Information from the Data Collection Templates forms part of the separate Business Reorganisation Assessment overviews of each economy that we have prepared, which are detailed profiles for individual economies. These provide a written and visual overview of an economy's reorganisation procedures and a more detailed and in-depth analysis of national insolvency legislation to support the analysis contained in the Assessment Report. Since the questionnaire did not distinguish between possible different types of reorganisation procedures, economy overviews and flowcharts describing the main procedural steps are essential to understand an economy's business reorganisation framework. A general overview of the information contained in the economy profiles and certain questionnaire data is provided in the tables annexed to the Assessment Report.



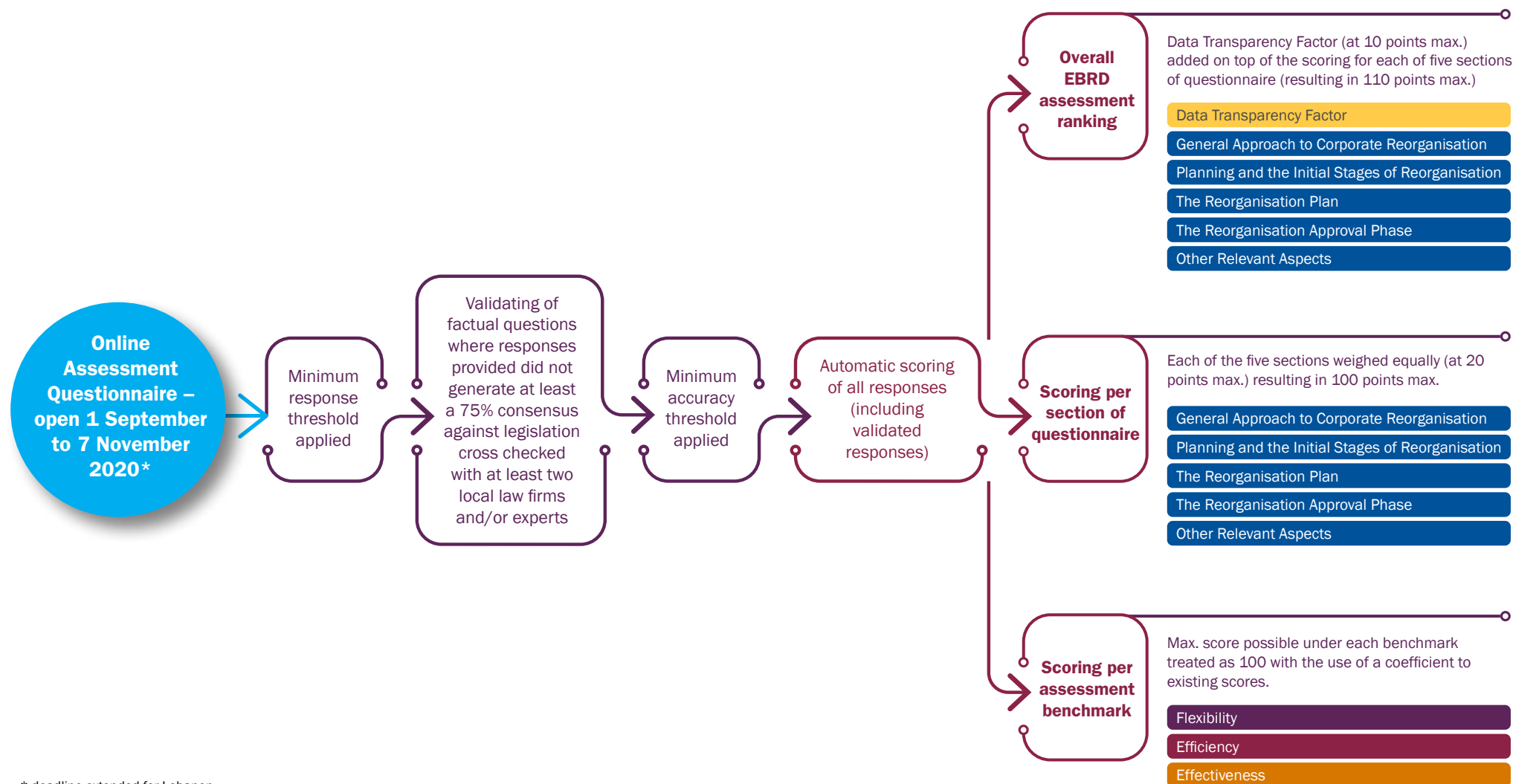
Georgia

<sup>9</sup> Benchmark results were unaffected by the Data Transparency Factor since this was only added to the overall assessment score per economy.

<sup>10</sup> Although different benchmarks refer to different numbers of **EBRD Core Insolvency Principles**, all the benchmarks are treated as having equal importance. This is because: Insolvency Core Principles are not reorganisation-specific; the benchmarks were developed taking into account the data gathered and not vice versa; and it is typical for EBRD legal assessments to show how much economies score per benchmark out of a possible 100%, flagging the gaps and to allocate an equal weight to each benchmark.

<sup>11</sup> Read more about the Investment Councils in EBRD's regions [here](#).

# Appendix 1. Overview of Business Reorganisation Assessment Methodology



\* deadline extended for Lebanon

# Appendix 2. Business Reorganisation Questionnaire<sup>12</sup>

## Part I: Expedited Corporate Reorganisation




### Section 1. General approach to Corporate Reorganisation

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
1	<p>Do the insolvency law(s) in your jurisdiction allow for court supervised or out-of-court corporate reorganisations to take place?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>Reorganisation is the process aimed at addressing the debtors' financial difficulties with a view to preventing insolvency and ensuring the viability of the business. It mainly involves the restructuring of the debtor's business, including inter alia changing the composition, conditions or structure of the debtor's assets and liabilities or any other part of its capital structure. Reorganisation or restructuring are usually used as synonyms and for purpose of this questionnaire they are used interchangeably.</i></p>	Extensiveness	Core	A = 1	Y/N
				B = 0	
2	<p>Do the insolvency laws contain a specific procedure(s)?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 0.5	Y/N
				B = 0	
3	<p>If you answered YES to the previous question, please list the specific procedure(s) below:</p> <div></div>	Extensiveness	Non-core	0	Data gathering

<sup>12</sup> All highlighted questions were considered factual questions and were validated by the Assessment Team in accordance with the methodology set out in section III of the Business Reorganisation Assessment Methodology.



No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
4	<p>If you answered NO to the previous two questions, please describe how is corporate reorganisation conducted:</p> <div></div>	Extensiveness	Non-core	0	Data gathering
5	<p>Who can initiate the reorganisation procedure(s)?</p> <p> <input type="radio"/> Debtor  <input type="radio"/> Creditor  <input type="radio"/> Both debtor and creditor  <input type="radio"/> Other, please specify         </p> <div></div> <p><b>MARK AS MANY AS NEEDED</b></p>	Extensiveness	Core	A = 0.666 B = 0.333 C = 1 D = 0	Y/N
6	<p>Can a debtor convert an ongoing liquidation process into a reorganisation procedure?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p> <p><i>Liquidation is a formal insolvency process pursuant to which an insolvency practitioner (the liquidator) is appointed to put the affairs and assets of a company in order. Liquidation aims at realising the assets of the company, distributing the proceeds of such assets among creditors and dissolving the company.</i></p>	Extensiveness	Core	A = 0.333 B = 0	Y/N

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
7	<p>Are private workouts a common practice in your jurisdiction? Please signal your level of agreement by clicking on the relevant traffic light.</p> <div>    </div> <p><i>By private workouts we refer to completely out-of-court reorganisation arrangements, using simple contract law as the tool to conduct the reorganisation.</i></p>	Effectiveness	Core	0.333 ( $>2.50 = 0.333$ and $\leq 2.50 = 0$ )	T/L
8	<p>Can private workouts be conducted on a multi-creditor basis (e.g., secured, unsecured, preferred, etc.)?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p> <p><i>Preferred creditors are those creditors that are entitled by the law to be paid before other creditors.</i></p> <p>If you have any comments, please add them here:</p> <div></div>	Effectiveness	Core	<div>A = 0.333</div> <div>B = 0</div>	Y/N
9	<p>Do the insolvency laws in your jurisdiction protect new financing required for the reorganisation?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p> <p><i>New financing is any financing provided by an existing or a new creditor to enable the debtor to continue operating its business during the reorganisation procedure, or to preserve or enhance the value of the assets of the estate or to implement the reorganisation plan.</i></p> <p><b>IF ANSWERED NO, GO STRAIGHT TO QUESTION NO. 12</b></p>	Extensiveness	Core	<div>A = 1</div> <div>B = 0</div>	Y/N

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
10	<p>Is the creditor providing such new financing able under relevant insolvency legislation to obtain a priority of repayment before all other existing creditors?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>New financing is any financing provided by an existing or a new creditor to enable the debtor to continue operating its business during the reorganisation, or to preserve or enhance the value of the assets of the estate or to implement the reorganisation plan.</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
11	<p>Is the creditor providing such new financing protected from avoidance actions in liquidation?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>New financing is any financing provided by an existing or a new creditor to enable the debtor to continue operating its business during the reorganisation, or to preserve or enhance the value of the assets of the estate or to implement the reorganisation plan.</i></p> <p><i>Avoidance Actions are judicial actions or remedies that can be brought in a liquidation proceeding against corporations and individuals who have received a payment or other preferential interest from an insolvent debtor.</i></p> <p><i>Liquidation is a formal insolvency process pursuant to which an insolvency practitioner (the liquidator) is appointed to put the affairs and assets of a company in order. Liquidation aims at realising the assets of the company, distributing the proceeds of such assets among creditors and dissolving the company.</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
12	<p>Is the provision of new financing a used practice in your jurisdiction? Please signal your level of agreement by clicking on the relevant traffic light</p> <p><input type="radio"/> <input type="radio"/> <input type="radio"/></p> <p><i>New financing is any financing provided by an existing or a new creditor to enable the debtor to continue operating its business during the reorganisation, or to preserve or enhance the value of the assets of the estate or to implement the reorganisation plan.</i></p>	Effectiveness	Non-core	0	T/L

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
13	<p>Do the laws in your jurisdiction restrict or prohibit ipso facto clauses?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>Ipso facto clauses are contractual provisions that allow a party to a contract to terminate its outstanding arrangements or obligations if the other party becomes insolvent (or files for insolvency or an insolvency-related reorganisation procedure).</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
14	<p>Could small and medium-sized enterprises benefit from a simplified reorganisation procedure with fewer requirements?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>The definition or categorisation of “Small and Medium-sized Enterprises” (SMEs) differs from jurisdiction to jurisdiction. However, the main factors determining whether an enterprise is an SME may include: (1) number of employees; (2) annual turnover and/or (3) value of assets.</i></p> <p><i>A simplified reorganisation procedure means a less cumbersome procedure with fewer requirements or stages and/or a shorter timeframe than the reorganisation procedure available for larger companies.</i></p> <p><b>IF YOU ANSWER NO, GO TO SECTION 2 BELOW</b></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
15	<p>If you answered YES to the previous question, do they benefit from a faster reorganisation procedure?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	<p>A = 0.25</p> <p>B = 0</p>	Y/N



No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
16	<p>Are small and medium-sized enterprises entitled to submit less documentation than large-sized enterprises as part of the reorganisation procedure?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>The definition or categorisation of “Small and Medium-sized Enterprises” (SMEs) differs from jurisdiction to jurisdiction. However, the main factors determining whether an enterprise is an SME may include: (1) number of employees; (2) annual turnover and/or (3) value of assets.</i></p>	Extensiveness	Core	<div>A = 0.25</div> <div>B = 0</div>	Y/N
17	<p>If you replied NO to any of the two previous questions, do you think that small and medium-sized enterprises should benefit from a less burdensome and faster procedure as long as the minimum standards and requirements are observed? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p><input type="radio"/> <input type="radio"/> <input type="radio"/></p> <p><i>The definition or categorisation of “Small and Medium-sized Enterprises” (SMEs) differs from jurisdiction to jurisdiction. However, the main factors determining whether an enterprise is an SME may include: (1) number of employees; (2) annual turnover and/or (3) value of assets.</i></p>	Effectiveness	Non-core	0	T/L




## Section 2. Planning and the initial stages of the reorganisation

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
1	<p>Can a company start a reorganisation procedure without the need to be in a legal (as defined by law) state of insolvency?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>Insolvency laws sometimes establish that in order to benefit from the tools or processes included in the law, the company must prove that it is in a state of insolvency. Insolvency is usually demonstrated either through the cash-flow test (i.e., failure to pay obligations as they fall due) or the balance sheet test (i.e., liabilities exceed the value of assets).</i></p>	Extensiveness	Core	<p>A = 1</p> <p>B = 0</p>	Y/N
2	<p>Is there a single procedure for the reorganisation of companies or more than one procedure?</p> <p><input type="radio"/> Single procedure</p> <p><input type="radio"/> More than one procedure. If so, please could you list them:</p> <div></div>	Extensiveness	Non-core	0	Data gathering
3	<p>If there is more than one procedure, can companies use any of them, or are some procedures restricted to specific types of companies or businesses?</p> <p><input type="radio"/> Unrestricted</p> <p><input type="radio"/> Restricted. If so, please clarify what types of restrictions apply:</p> <div></div> <p><i>Some jurisdictions limit the options of companies by only allowing them to use one (or some) of the available procedures. The restrictions may be based on the type of debts, size of the company, number of employees, or on whether a company has already accessed a procedure.</i></p>	Extensiveness	Non-core	0	Data gathering

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
4	<p>Based on an estimated average, how long does it usually take to conduct a reorganisation from presentation of the plan to the creditors (excluding any preparatory time by the debtor) to receiving the court or administrative authority's approval?</p> <p> <input type="radio"/> Less than 3 months  <input type="radio"/> Between 3 to 6 months  <input type="radio"/> Between 6 to 9 months  <input type="radio"/> Between 9 to 12 months  <input type="radio"/> More than 12 months         </p> <p><b>MARK ONLY ONE BASED ON AN ESTIMATED AVERAGE</b></p>	Effectiveness	Core	A = 1	Y/N
				B = 0.5	
				C = 0.3	
				D = 0	
				E = (-0.333)	
5	<p>Are all formal, statutory reorganisation procedures conducted under the supervision or guidance of the court at all times?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p> <p><b>IF YOU ANSWERED YES, GO TO QUESTION 7</b></p>	Extensiveness	Core	A = 0	Y/N
				B = 0.5	
6	<p>Which (if any) other entity or authority is involved?</p> <p> <input type="radio"/> Central Bank  <input type="radio"/> Representative or Professional Association  <input type="radio"/> Government Agency  <input type="radio"/> Other, please specify:         </p> <div></div>	Extensiveness	Non-core	0	Data gathering

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
7	<p>Can part of the reorganisation process be conducted out-of-court and then submitted to the court/administrative authority for validation?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>This is what is known as a hybrid procedure, where most of the process takes place out-of-court, behind closed doors and usually under confidentiality agreements. Then, once the required majority of creditors have agreed a reorganisation plan, it is submitted to the court/administrative authority for approval.</i></p>	Extensiveness	Core	A = 1	Y/N
				B = 0	
8	<p>Do you think that the requirement to appoint an ‘insolvency practitioner’ can facilitate the reorganisation procedure? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p><input type="radio"/> <input type="radio"/> <input type="radio"/></p> <p><i>An ‘insolvency practitioner’ is a central figure in most insolvency law systems and is a professional, frequently licensed, who is charged with responsibilities as diverse as management of the debtor’s business and preparation of reorganisation plans, to collection and verification of creditors’ claims and distributions of proceeds.</i></p>	Effectiveness	Non-core	0	T/L
9	<p>Is it common practice for debtors to involve advisors with expertise on insolvency and/or reorganisation to assist in the reorganisation process? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p><input type="radio"/> <input type="radio"/> <input type="radio"/></p>	Extensiveness	Non-core	0	T/L






No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
10	<p>Can a reorganisation procedure be used to transfer the business as a going concern without liabilities? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p> <input type="radio"/>  <input type="radio"/>  <input type="radio"/>  </p> <p><i>In some jurisdictions, it is possible to use a reorganisation procedure to purge liabilities and transfer the business as a going concern without any liability. In other words, liabilities are restructured, converted into equity and/or are paid with the proceeds of the sale of business. A public procedure with publications in the official gazette and/or a major newspaper is sometimes required.</i></p>	Extensiveness	Core	0.5 (>2.50 = 0.5 and ≤2.50 = 0)	T/L
11	<p>Do all court-supervised reorganisation procedures enjoy the benefit of a standstill or moratorium during which creditors are prevented from taking certain enforcement actions?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No           </p>	Extensiveness	Core	A = 0.5 B = 0	Y/N
12	<p>If you have responded NO to the previous question, please list any procedure(s) that do benefit from a moratorium:</p> <div></div>	Extensiveness	Non-core	0	Data gathering
13	<p>Does the moratorium in the reorganisation procedure also apply to secured creditors' claims?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No           </p> <p><i>The reference to "secured creditors" refers — in a broad sense—to creditors whose claim is secured by any type of security, i.e. personal (an obligation that can be enforced against a person, e.g. a guarantee), real (a proprietary interest attached to the assets regardless of the person to whom the assets belong) or quasi-security (other ways of enhancing creditors' protection without creating an actual security interest).</i></p> <p><b>IF YES GO TO QUESTION 15, IF NO GO TO THE NEXT QUESTION</b></p>	Extensiveness	Core	A = 0.5 B = 0	Y/N

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
14	<p>Can secured creditors continue with any ongoing legal proceedings regarding their secured claim until they obtain a court order despite the moratorium in the reorganisation procedure?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><b>GO TO QUESTION 16</b></p>	Extensiveness	Core	A = 0.5	Y/N
				B = 0	
15	<p>Can secured creditors then enforce on the court order and sell the asset subject to the security irrespective of the ongoing reorganisation procedure?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 0	Y/N
				B = 0.333	
16	<p>Can a reorganisation plan also be used to reorganise the liabilities owed to secured creditors (such as holders of mortgages)?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>The term “secured creditors” refers – in a broad sense – to creditors whose claim is secured by any type of security, i.e. personal (an obligation that can be enforced against a person, e.g. a guarantee) real (proprietary interest attached to the assets regardless of the person to whom the assets belong) or quasi-security (other ways of enhancing creditors’ protection without creating an actual security interest).</i></p>	Extensiveness	Core	A = 1	Y/N
				B = 0	
17	<p>Can a reorganisation plan also be used to reorganise the liabilities owed to preferred creditors?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>Preferred creditors refer to those creditors that have been given a priority in ranking or preference by means of the insolvency law or other piece of legislation (such as employees and the State with uncollected taxes, etc.) and not as result of being secured creditors.</i></p> <p><b>IF NO, GO TO QUESTION 20</b></p>	Extensiveness	Core	A = 1	Y/N
				B = 0	

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
18	<p>If you responded YES to the previous question, are any preferred creditors exempted from the reorganisation?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><b>IF NO, GO TO QUESTION 20</b></p>	Extensiveness	Core	A = 0	Y/N
				B = 0.5	
19	<p>If you answered YES to the previous question, list the exempted preferred creditors below.</p> <div></div>	Extensiveness	Non-core	0	Data gathering
20	<p>Would a creditor obtain some kind of tax relief if, as result of a reorganisation, the creditor decides to write down (cancel) a debt obligation partially or in its entirety?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 0.5	Y/N
				B = 0	
21	<p>Would a debtor be taxed if, as a result of a reorganisation, the debtor receives an indirect benefit due to write down (cancellation) of a debt obligation owed to one of its creditors?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 0	Y/N
				B = 0.5	

### Section 3. The reorganisation plan

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
1	<p>Does the debtor have the freedom to propose any reorganisation (or restructuring) options to its creditors? Please signal your level of agreement by clicking on the relevant traffic light.</p> <div>    </div> <p><i>Examples of these options include: reduction of face value of creditors' claims, debt-for-equity swaps, extension of maturities, reduction of applicable interest, payment 'holidays', etc.</i></p>	Extensiveness	Core	<p>1</p> <p>(<math>&gt;2.50 = 1</math> and <math>\leq 2.50 = 0</math>)</p>	T/L
2	<p>If a debt-for-equity conversion is proposed, does it require the shareholders' prior approval?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p>	Extensiveness	Core	<p>A = 0</p> <p>B = 0.5</p>	Y/N
3	<p>Can the debtor request a debt write-off (a nominal value reduction on the creditors' claim)?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p> <p><b>IF NO, GO TO QUESTION 5</b></p>	Extensiveness	Core	<p>A = 1</p> <p>B = 0</p>	Y/N
4	<p>Can the debtor also request a debt write-off of preferred debts?</p> <p> <input type="radio"/> Yes  <input type="radio"/> No         </p> <p><i>Preferred debts refer to those debts that have been given a priority in ranking or preference by means of the insolvency law or other piece of legislation (such as employees and sometimes uncollected taxes, etc.) and not as result of being secured creditors.</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N



No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
5	<p>Does the insolvency law allow the debtor to choose which creditors are affected by the reorganisation plan and to leave out certain creditors whose rights are unaffected, such as employees or trade creditors?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 0.666	Y/N
				B = 0	
6	<p>In a reorganisation plan, does the law provide for creditors to be organised into groups for voting purposes (also referred to as classes)?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><b>IF NO, GO TO QUESTION 9</b></p>	Extensiveness	Core	A = 0.5	Y/N
				B = 0	
7	<p>Is there any mandatory/required group(s) or class(es)? For example, in some jurisdictions the legislation prescribes two classes of creditors: secured and unsecured for voting on a reorganisation plan.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 0	Y/N
				B = 0.333	
8	<p>If you responded YES to the previous question, which group(s) or class(es) are these?</p> <div></div>	Extensiveness	Non-core	0	Data gathering
9	<p>Do creditors vote on the reorganisation plan?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	Extensiveness	Core	A = 1	Y/N
				B = 0	

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
10	Can the debtor propose the group(s) or class(es) for voting purposes at its own discretion (subject to any guidelines or parameters established by the law)?  <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Core	A = 0.333	Y/N
				B = 0	
11	Irrespective of the possibilities provided by the law, can the debtor decide to create a single class comprising all types of creditors (e.g., secured, unsecured, preferred, etc.)?  <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Non-core	0	Y/N
12	Are connected parties allowed to vote on the reorganisation plan?  <input type="radio"/> Yes <input type="radio"/> No  <i>A connected party is a person or entity which is directly or indirectly related to the debtor company performing the reorganisation, e.g. the parent company or shareholder.</i>	Extensiveness	Core	A = 0	Y/N
				B = 0.5	
13	Are shareholders allowed to vote on the reorganisation plan?  <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Core	A = 0	Y/N
				B = 0.5	
14	Does a majority in every group or class need to vote in favour of the reorganisation plan for the plan to be confirmed by a court or administrative authority?  <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Core	A = 0	Y/N
				B = 0.5	

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
15	<p>Does approval of the reorganisation plan require a majority by number of creditors as well as value of claims within each group or class?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>Certain jurisdictions, in order to guarantee proper representation, require a double threshold, i.e. simple majority in number of participants/voters (numerosity) and a given percentage in relation to the value of the total outstanding claims (economic value).</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0.5</p>	Y/N
16	<p>Can the consent of one or more classes of creditors be used to achieve cram down of other classes of non-consenting creditors in their entirety?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>Cram down means that the decision of the majority of creditors in one or more groups/ classes can be imposed on other classes of creditors voting against the reorganisation plan, usually subject to a number of statutory protections for non-consenting creditors (this is different from a cram down within a class).</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
17	<p>Can preferred creditors be subject to cram down?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>Preferred creditors refer to those creditors that have been given a priority in ranking or preference by means of the insolvency law or other piece of legislation (such as employees and the State with uncollected taxes, etc.) and not as result of being secured creditors.</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
18	<p>Are there any types of creditors who have a veto right over the reorganisation plan?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>A veto right is a right to block the reorganisation plan.</i></p> <p><b>IF YES, GO TO THE NEXT QUESTION. IF NO, GO TO QUESTION 20</b></p>	Extensiveness	Core	<p>A = 0</p> <p>B = 0.5</p>	Y/N

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
19	Which types of creditors have a veto right over the reorganisation plan? <div></div>	Extensiveness	Non-core	0	Data gathering
20	Can management of the company conducting the reorganisation be replaced by creditors? <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Non-core	0	Data gathering
21	Can you use the reorganisation plan to dismiss employees? <input type="radio"/> Yes <input type="radio"/> No, please specify: <div></div>	Extensiveness	Core	A = 0.5 B = 0	Y/N












#### Section 4. The reorganisation approval phase

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
1	Does a judge or a competent administrative authority review the approved reorganisation plan? <input type="radio"/> Yes <input type="radio"/> No <b>IF YES, GO TO THE NEXT QUESTION. IF NO, GO TO QUESTION 3</b>	Extensiveness	Core	A = 0.25	Y/N
				B = 0	
2	Would the judge limit his involvement to reviewing formalities, e.g. voting numbers? <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Non-core	0	Data gathering
3	Does the judge assess the feasibility of the reorganisation plan? <input type="radio"/> Yes <input type="radio"/> No <i>The feasibility of the reorganisation plan means the ability of the debtor to meet its obligations under the proposed plan.</i>	Extensiveness	Core	A = 0.5	Y/N
				B = 0	
4	Does the judge assess whether the plan satisfies the 'best- interest-of-creditors test'? <input type="radio"/> Yes <input type="radio"/> No <i>Under the 'best interests test' the plan must be better than other alternatives available to creditors, typically what they could obtain in the event that the company is liquidated.</i>	Extensiveness	Core	A = 0.5	Y/N
				B = 0	
5	Can dissenting creditors challenge the reorganisation plan after the vote and prior to the consent or approval by the court (where such consent or approval is required by law)? <input type="radio"/> Yes <input type="radio"/> No	Extensiveness	Core	A = 1	Y/N
				B = 0	







No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
6	<p>Is the implementation of the plan supervised by the court, an administrative authority or an insolvency practitioner?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><b>IF YES, GO TO NEXT QUESTION. IF NO, MOVE TO NEXT SECTION</b></p>	Extensiveness	Core	A = 1	Y/N
				B = 0	
7	<p>Is it supervised by:</p> <p><input type="radio"/> The Judge/administrative authority</p> <p><input type="radio"/> An officer appointed by the court/administrative authority</p> <p><input type="radio"/> A professional with expertise on the subject matter</p> <p><input type="radio"/> Other, please specify:</p> <div></div>	Extensiveness	Non-core	0	Data gathering

## Section 5. Other relevant aspects

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
1	<p>Do the insolvency laws in your jurisdiction follow the principle of universality?</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> <p><i>The principle of universality implies that there is only one competent court to decide on the insolvency of the company (unity), and that the insolvency law of the country in which the insolvency has been initiated is effective in all other countries where the company has assets or branches (universality). All assets and liabilities of the parent entity and its foreign branches are wound up as one legal entity (extra-territorial effect to the adjudication of insolvency).</i></p>	Extensiveness	Core	<p>A = 0.5</p> <p>B = 0</p>	Y/N
2	<p>If you answered YES to the previous question, is this principle efficiently applied in practice? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p><input type="radio"/> <input type="radio"/> <input type="radio"/></p>	Effectiveness	Non-core	0	T/L
3	<p>Do you consider that the insolvency law in your jurisdiction is efficient from a procedural point of view? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p><input type="radio"/> <input type="radio"/> <input type="radio"/></p> <p><i>By efficient from a procedural point of view, we refer to being procedurally simple (e.g., requirements, stages, timeframes, legal costs, etc.) and not unnecessarily overburdening stakeholders.</i></p>	Effectiveness	Core	<p>1 (&gt;2.50 = 1 and ≤2.50 =0)</p>	T/L

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
4	<p>Do you consider that the insolvency law in your jurisdiction is efficient from an economic point of view? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p>    </p> <p><i>By efficient from an economic point of view, we refer to whether the law maximises value/return to creditors.</i></p>	Effectiveness	Core	$1$ $(>2.50 = 1 \text{ and } \leq 2.50 = 0)$	T/L
5	<p>Is equality of creditors protected? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p>    </p> <p><i>This is usually reflected by the pari passu principle (equal ranking of creditors) and the par condicio creditorum (equal treatment of creditors). If the law allows for the creation of security interests or certain preferences, this will not necessarily affect the equality of creditors.</i></p>	Extensiveness	Core	$1$ $(>2.50 = 1 \text{ and } \leq 2.50 = 0)$	T/L
6	<p>Do you consider that the procedures contemplated in the insolvency law are usually conducted within a framework of high ethical and professional standards? Please signal your level of agreement by clicking on the relevant traffic light.</p> <p>    </p>	Effectiveness	Core	$1$ $(>2.50 = 1 \text{ and } \leq 2.50 = 0)$	T/L

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
7	<p>If you responded NO to the previous question, what is the main reason that the procedures are not conducted within a framework of high ethical and professional standards?</p> <div></div>	Extensiveness	Non-core	0	Data gathering
8	<p>Are reorganisation procedures commonly used in practice in your jurisdiction? Please signal your level of agreement by clicking on the relevant traffic light.</p> <div> <input type="radio"/> <input type="radio"/> <input type="radio"/> </div>	Effectiveness	Non-core	0	T/L
9	<p>If you have answered YES to the previous question, do you think that reorganisation procedures serve their purpose, i.e. to enable the debtor to continue its operations on a sustainable debt basis? Please signal your level of agreement by clicking on the relevant traffic light.</p> <div> <input type="radio"/> <input type="radio"/> <input type="radio"/> </div>	Effectiveness	Non-core	0	T/L

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
10	<p>Is reorganisation often used to delay the unavoidable (liquidation)? Please signal your level of agreement by clicking on the relevant traffic light.</p> <div>    </div> <p><i>Liquidation is a formal insolvency procedure pursuant to which an insolvency practitioner (the liquidator) is appointed to manage the affairs and assets of a company in order to realise the assets and distribute the proceeds among creditors, in a set order of priority.</i></p>	Effectiveness	Non-core	0	T/L
11	<p>Does a reorganisation process carry a negative stigma for the debtor? Please signal your level of agreement by clicking on the relevant traffic light.</p> <div>    </div>	Effectiveness	Non-core	0	T/L
12	<p>If reorganisation procedures are NOT commonly used in your jurisdiction, please explain why below:</p> <div></div>	Effectiveness	Non-core	0	Data gathering

No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
13	<p>Which of the following guiding principles are part of your insolvency law:</p> <p><input type="radio"/> Expediency/speed <i>A rapid resolution of the situation of distress can be achieved.</i></p> <p><input type="radio"/> High professional and ethical standards <i>The process is conducted according to high professional standards and under ethical parameters.</i></p> <p><input type="radio"/> Efficiency <i>The process is economically and procedurally efficient.</i></p> <p><input type="radio"/> Equal treatment <i>All parties are treated equally (debtor(s) and creditors) and also among themselves (inter-creditors).</i></p> <p><input type="radio"/> Value maximisation <i>The creation of value for debtor and creditor should be enshrined in the process.</i></p> <p><input type="radio"/> Negotiability <i>There is flexibility in the options and certain degree of freedom to the parties to negotiate a favourable outcome.</i></p> <p><input type="radio"/> Reciprocity <i>The domestic recognition and enforcement of judgments or orders from a foreign court and vice-versa.</i></p> <p><input type="radio"/> Transparency and access to information <i>The process is conducted in an efficient manner and the parties have access to information to be able to make informed decisions.</i></p> <p><input type="radio"/> Universality <i>There is only one competent court to decide on the affairs of the company (unity), and the insolvency law of the country in which the insolvency has been initiated is effective in all other countries where the company has assets or branches.</i></p> <p><b>MARK AS MANY AS NEEDED</b></p>	Effectiveness	Non-core	0	Data gathering



No.	Question	Testing Extensiveness versus Effectiveness	Core versus Non-core	Score	Type of Question
14	<p>If some of the guiding principles listed in question 13 above are not part of your insolvency laws, list three (not more) that you think are essential to be included in order of priority, where 1 is the most important:</p> <p><input type="checkbox"/> Expediency/speed</p> <p><input type="checkbox"/> High professional and ethical standards</p> <p><input type="checkbox"/> Efficiency</p> <p><input type="checkbox"/> Equal treatment</p> <p><input type="checkbox"/> Value maximisation</p> <p><input type="checkbox"/> Negotiability</p> <p><input type="checkbox"/> Reciprocity</p> <p><input type="checkbox"/> Transparency and Access to information</p> <p><input type="checkbox"/> Universality</p> <p><b>TO BE MARKED WITH A NUMBER FROM 1 TO 3 IN ORDER OF PRIORITY, UP TO MAXIMUM OF THREE. THERE IS NO MINIMUM</b></p>	Effectiveness	Non-core	0	Data gathering
15	<p>Does mediation or any other alternative dispute resolution (ADR) mechanism have any role in reorganisation procedures in your jurisdiction?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> <p><i>Mediation is a process where a neutral third party assists in an attempt to resolve a dispute, conflict or disagreement. This is usually conducted using specialised communication and negotiation techniques. Alternative dispute resolution mechanisms usually refer to alternative ways of resolving disputes between the parties that do not involve the use of courts. Due the special nature of arbitration, it is usually a standalone category and therefore reference here to ADR does not include arbitration.</i></p>	Extensiveness	Core	<p>A = 0.3</p> <p>B = 0</p>	Y/N

# Appendix 3. Assessment Benchmarks and Indicators<sup>13</sup>

Flexibility			
Description/value	Indicators	Questions – assessed	Questions – non-weighted that inform the benchmark
<p>The insolvency framework should support corporate rescue and should have the flexibility to meet the needs of different market participants.</p> <p>(EBRD Core Insolvency Principles 1, 4 and 5.)</p>	1. The legal system supports informal corporate restructuring and private workouts.	1.1, 1.7, 1.8	
	2. The insolvency law contains one or more specific procedures for business reorganisation that are available on application of the debtor or its creditors.	1.2, 1.5	2.2, 2.3
	3. A reorganisation procedure is available to businesses at an early stage of financial difficulties, without the need to evidence actual technical insolvency.	2.1	
	4. The insolvency law recognises a hybrid ‘pre-packaged reorganisation’ approach, where a reorganisation plan is developed out-of-court and is submitted to the court for its confirmation and approval.	2.7	
	5. SMEs have access to simplified insolvency processes with fewer formalities and documentation requirements and/or shorter deadlines.	1.14, 1.15, 1.16	

<sup>13</sup> Each benchmark had a maximum potential total weighted score of 100% to ensure consistency of reporting. There is no weighting of indicators in the Assessment Report. Each benchmark has its own co-efficient and this was used to multiply the indicators under such benchmark to generate graphs showing the relevant indicator(s).

## Efficiency

Description/value	Indicators	Questions – assessed	Questions – non-weighted that inform the benchmark
<p>The insolvency law should be efficient from a procedural and economic point of view and should balance the interests of all stakeholders.</p> <p>(EBRD Core Insolvency Principles 2, 3, 7, 12, 13 and 14.)</p>	1. The reorganisation procedure can be completed within an expeditious timeframe.	2.4, 5.15	
	2. The law takes a universal approach and respects the principles of equal ranking and equal treatment of creditors.	5.1, 5.5	5.10, 5.11, 5.13
	3. The insolvency law is procedurally simple and maximises value for creditors.	1.6, 5.3, 5.4	
	4. Reorganisation proceedings are conducted in accordance with high ethical and professional standards.	5.6	2.8, 2.9
	5. The involvement of a court or administrative authority in the reorganisation proceeding is limited and is aimed at guaranteeing fairness and transparency.	2.5, 4.1, 4.6	4.2
	6. The tax regime supports the reorganisation process.	2.20, 2.21	

## Effectiveness

Description/value	Indicators	Questions – assessed	Questions – non-weighted that inform the benchmark
<p>The insolvency law should contain the necessary tools to facilitate a successful reorganisation.</p> <p>(EBRD Core Insolvency Principles 6, 9, 10, 11 and 13.)</p>	1. The debtor is able to propose any reorganisation option (including a debt write-off) that is feasible and in the best interest of creditors.	2.10, 3.1, 3.3, 3.21, 4.3, 4.4	
	2. The insolvency law contains measures aimed at the stabilisation of the debtor's business, including a temporary suspension of enforcement actions by creditors and restrictions on termination of contracts as a result of the debtor filing for a reorganisation procedure.	1.13, 2.11, 2.13, 2.14, 2.15	
	3. The reorganisation plan can compromise the liabilities of all types of creditors, subject to the right of dissenting creditors to challenge the plan.	2.16, 2.17, 2.18, 3.4, 4.5	
	4. The debtor has the discretion to choose which creditors are affected by its reorganisation plan and can propose classes of creditors with similar interests for voting purposes.	3.6, 3.7, 3.9, 3.10	
	5. The vote of a majority of creditors in one or more classes can bind a dissenting minority of creditors in that class and creditors across different classes. Shareholders and connected parties are not able to frustrate a viable reorganisation and no party can veto the reorganisation plan.	3.2, 3.12, 3.13, 3.14, 3.15 3.16, 3.17, 3.18	
	6. The insolvency law supports new financing in reorganisation procedures by recognising the priority of any new financing over existing claims and protecting the validity of new financing arrangements from avoidance actions in a subsequent liquidation procedure.	1.9, 1.10, 1.11	

# Appendix 4. Conversion Table for Weighted Questions

This table represents the mechanics for converting the scores of each section of the questionnaire to a maximum of 20 points in order for each section to be equally weighted.<sup>14</sup>

Section	Number of Questions	Maximum Possible Score Per Section	Conversion Rate Per Weighted Question	Maximum Weighted Score
1. General Approach to Corporate Reorganisation	17	6.999	1.000 = 2.856	20
			0.500 = 1.428	
			0.333 = 0.952	
			0.250 = 0.714	
2. Planning and the Initial Stages of the Reorganisation	21	8.833	1.000 = 2.264	20
			0.500 = 1.132	
			0.333 = 0.754	
3. The Reorganisation Plan	21	9.832	1.000 = 2.034	20
			0.500 = 1.017	
			0.333 = 0.677	
4. The Reorganisation Approval Phase	7	3.25	1.000 = 6.15	20
			0.500 = 3.075	
5. Other Relevant Aspects	15	4.833	1.000 = 4.166	20
			0.500 = 2.083	
			0.333 = 1.387	
6. Non-performing Loans	6	0	N/A	Data gathering only



<sup>14</sup> The column 'Number of Questions' represents the total number of questions in the relevant section of the questionnaire. The column 'Maximum Possible Score Per Section' is the arithmetic (unconverted) maximum aggregate number of points for the relevant section of the questionnaire, including all possible questions available to the respondents, i.e. from all further questions that were generated based on the respondent's answers. The column 'Conversion Rate Per Weighted Section' shows the original range of scores for answers to questions contained in each section of the questionnaire and after the = sign the converted score calculated in order to achieve the maximum of 20 points per section of the questionnaire.

# Appendix 5. Data Collection Template

## I. Macro data

Population (million)	
GDP growth rate	
GDP per capita	
Currency	
Corporate tax rate	
Inflation rate	
Unemployment rate	

## II. Insolvency legislation (or any other law providing for the reorganisation or restructuring of businesses)

Obtain digital copies (PDF or Word formats) of the insolvency legislation of the economy or any other law providing for the reorganisation or restructuring of businesses. General observations:

1. The focus is on the reorganisation of the business whether out-of-court or court-supervised aimed at rescuing the business (i.e., insolvent liquidation/bankruptcy is excluded).
2. In one single document (e.g., code or act) or several different documents (e.g., special laws, regulations, ordinances, etc.).
3. In the official language and an official English translation or Russian translation where available.

## III. Insolvency-specific data

For our analysis we require any official statistical data (e.g., from the relevant government ministry responsible for insolvency) related to insolvency proceedings for the last three years. This data shall comprise the following information:

1. A link to any official, publicly available register and identification of the person/entity in charge of such register.
2. Annual insolvency-law-related submissions/proceedings (on a national consolidated basis where available).
3. In relation to those submissions/proceedings, how many relate to (i) corporates; and (ii) reorganisation procedures.
4. How many companies go into insolvent liquidation or are declared bankrupt, i.e. insolvent, per year.

## IV. Company information

Please provide a link to any register of companies. We are collecting information on the number of companies to compare with data on the number of companies in insolvency proceedings.

## V. Insolvency courts, regulatory authorities and practitioners

Please provide a link if available to any register of insolvency practitioners.

Please provide a list of any authorities, other than courts, that are involved in insolvency proceedings (e.g., ministry/ministries, any regulatory body or agency).

## VI. Questionnaire

The questionnaire is open to all until 31 October 2020.<sup>15</sup> We are seeking responses from both the private sector and the public sector (including members of the judiciary and any regulatory bodies). The link to the questionnaire is available on the EBRD website: [www.ebrd-restructuring.com](http://www.ebrd-restructuring.com).



<sup>15</sup> This deadline was extended.