The UAEs New "Mini-Insolvency Law"

On 29 March 2016, Abdul Aziz Al Ghurair, Chairman of the UAE Banks Federation (UBF), announced a new "rescue initiative" in relation to SME debt in the United Arab Emirates, under which UBF member banks might impose a 90-day "standstill" on use of judicial means to enforce the payment of SME debts. The initiative is stated to be very limited in scope, designed to befit borrower SMEs with debts in the range of DH 50 million to DH 1 billion of debt – however it has been heralded as major step by some local banks and by the UBF which is declaring it a "mini-insolvency law".

How Does the "Mini-Insolvency Law" Work?

First, the "mini-insolvency law" is not a law. It is a voluntary forbearance by some UBF members in the collection of certain types of debt. Established in 1982, the UBF is a professional representative body of 49 member banks operating in the UAE. It is not a legislative body although it has acted in the past to provide advice and suggestions to government on legislative issues.

The "mini-insolvency law" and the 90 day moratorium it creates is not automatically binding upon UBF members. Its terms are not entirely certain either. Some sources have indicated that its enforcement would include requiring the banks to take steps to allow for a restructuring of SME debt and potentially forgoing steps to criminally prosecute parties who have tendered bounced cheques to endeavour to impose travel bans. Other descriptions have been more vague and its actual content remains unpublished. The "law" has not been unanimously approved by UBF members, only by its board (although the UBF has indicated that no UAE bank has objected to the proposal). In fact, Mr. Ghurair on behalf of the UBF has been quoted as saying that "…all banks are morally committed to support the initiative".

Note in particular that this is not the long-awaited comprehensive insolvency law which has been mentioned continuously in the press since 2009 or even earlier. In early 2015, it was announced that that this highly anticipated law was now pending the approval and ratification of the Federal National Council and Supreme Council before it receives final approval by the UAE President. However there is no sign of its implementation as of yet. Particulars of the new law have yet to be revealed and there is some confusion as to how it will be structured.

What Is Its Impact?

In real terms, the effect of the "mini-insolvency law" is likely to be minimal, other than, of course, to those SMEs enjoying a brief moratorium on debt repayment. In fact, the UBF has pointed out that while SMEs account for as much as 60% of non-oil related economic activity in the UAE, SME debt only adds up to a small proportion of local banks' exposures, possibly between 3-5%. Most local bank exposure is to GREs and government itself and any real reform of the local banking sector would really need to include those borrowings.

It is worth noting however that the debt ranges stated to apply for relief are actually quite high – DH50 million to DH1 billion. Those are debt levels which few real SMEs in practice should be able to amass or service on an ongoing basis.

What Does It Mean?

First and foremost, the UFB's announcement is a real admission of the significant financial challenges that SMEs face in the UAE at the current time and the knock-on effect on local lenders. That, in and of itself, is unusual. Secondly, in the absence of a much needed overall actual law for dealing with corporate insolvencies in a fair and comprehensive manner, it is a good start and a signal that at least some local banks will act with a degree of social responsibility in realizing on their debts in difficult and uncertain times. While not a substitute for a law, the "mini-insolvency law" may represent a good start.

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