

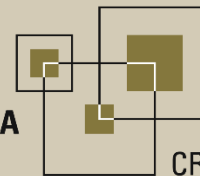


# Out of Court Restructuring

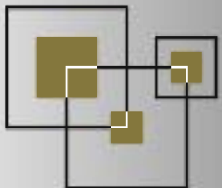
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Zagreb 22/11/2016

HRVATSKA UDRUGA BANAKA



CROATIAN BANKING ASSOCIATION



# OOCR Importance for Croatian Banks

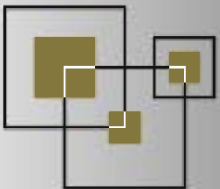
- Keeping clients (SMEs) viable
- Lowering costs and length of involvement (formal proceedings at court vs. out of court)
- General macroeconomic stability
- Trust in the banking system

## General Legal Framework

- Execution Law
- Insolvency Law
- Decisions on asset classification, provisions for litigation
- Debt Write-off – Tax treatment
- MoJ Guidelines – Government's Conclusion on SME OOCR

# Implementation – Current Status

- Government's (MoJ) Guidelines – good basis, but downside - non binding for debtors and creditors
  - OOCR necessary because of
    - *High level NPL*
    - *Slow court proceedings*
    - *Non-liquid market - slow real estate sales*
      - Unable to return debtors property/funds to business
  - OOCR may be a better option if restructuring done early and with majority of significant debtors

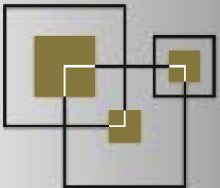


# OOCR Implementation – Current Status

- OOCR - typically investing „good money” to save „bad money” – „good money” as OOCR’s target
- „Good money” should have seniority; there must be safety net – seniority in case of debtor’s insolvency
- Same for collateral base of „good money” – this kind of collateral may be obstructed within regulatory timeframe (Insolvency Law)
- Currently, no such risk protection, creditors less likely to risk „good money”
- Subordination of debt an ongoing concern and insolvency based – primarily Execution Law and/or Insolvency law could be changed
- Given OOCR’s non-binding status – inability to control all creditors – brings risk that „1 may fail all” - in Croatia everyone holds various debt instruments – blocking debtors’ accounts
- Typically, solved by one form of „good money” - *stand-by backstop facilities* provided by involved creditors, used to pay out creditors who do not accept OOCR or who may break OOCR

# OOCR - Making it Work in Croatia

- Need for quicker decisions; firmer frameworks
- Different viewpoints of all sides and confidentiality issues (debtor ↔ creditor or multiple creditors, + regulators)
- Building/keeping **trust** in proposed solutions – need for better cooperation and financial literacy
- Standstill (moratorium) – good for short term
- *Restrictive regulatory framework*: wide NPL definition, late payment days trigger for loan reprogramming, rigid loan grading regulation
- Different impact of level of exposure on creditors
- Legal framework of bank owners in other countries still not comparable with Croatian framework



# Banks and the CBA

- CBA regularly: forming banks' standpoints, recommendations, comments, proposals to regulators
- Potential role – opening dialogue with regulators on OOCR (CNB, MFin, MoJ, ...), and others – institutions (EBRD, WB), experts and industry or professionals' chambers
- Proposing law changes (very likely)
  - Insolvency Law, Execution Law
- Useful - good examples and practice  
→ overall learning: debtor/creditor/regulator
- Having skillful financial mediators for the process
- Need to raise OOCR culture and knowledge
- Making experts and the „wider” public aware/understand

