



**Chandler MHM Webinar**

# **Debt Restructuring**

**Nathee Silacharoen / Ittirote Klinboon  
Chandler MHM Limited**

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## Elements of the Plan as required under section 90/42 of the Bankruptcy Act.



The Plan is required be submitted the official receiver within 3 months after the order of the appointment of the Planner is published in the Thai Government Gazette



It may be extended by 1 month each time upon the court's approval (but not exceeding 5 months in total)



The Plan must be consisted of the following details;



## Elements of the Plan as required under section 90/42 of the Bankruptcy Act. (cont.)

The Plan must be consisted of the following details



Reasons for the business reorganization



Details of the debtor's property, liabilities and obligations at the time of the Court's business reorganization order



## Elements of the Plan as required under section 90/42 of the Bankruptcy Act. (cont.)

### The Plan must be consisted of the following details



Principles and methods for the business reorganization;

- 1 Steps in the business reorganization;
- 2 Payment of the debt, extension of time for payment of the debt, reduction of the debt, and classification of creditors;
- 3 Reduction and increase of capital;
- 4 Creation of debt and raising of funds, including sources of funds and any conditions pertaining to such debt and funds;
- 5 Management and acquisition of benefits from the assets of the debtor; and
- 6 Conditions regarding payment of dividends and other benefits



## Elements of the Plan as required under section 90/42 of the Bankruptcy Act. (cont.)

The Plan must be consisted of the following details



Redemption of security in the case where there are secured creditors and liability of the sureties



Ways to solve problems in the event of temporary lack of liquidity in the course of the implementation of the plan



Practices to be pursued in the event of an assignment of claims or a transfer of debt



## Elements of the Plan as required under section 90/42 of the Bankruptcy Act. (cont.)

The Plan must be consisted of the following details



Name, qualifications and letter of consent of the plan administrator and remuneration



Appointment of the plan administrator and its termination



Time for the implementation of the plan, which shall not exceed five years



Refusal to accept the debtor's property or contractual rights in case of the debtor's property or contractual rights bearing unreasonably greater burdens than benefits to be derived therefrom



## Information on the business liabilities, debts, and assets which should be included in the Plan



It is important to obtain all business liabilities, debts and assets to the Plan. This is because the Court will also rely on these facts to consider whether the Plan should be approved



The business liabilities should be concluded of any rights against/claimable and liabilities against/claimable any third party



The debts must be included of any debts that have been occurred until the date of the Court rehabilitation order



## How to classify the creditors and objecting to the Plan on the grounds of the class of creditor



For the purpose of implementing the plan, in accordance with Section 90/42 bis, the Planner will classify the creditors into the following groups:

1

Secured Creditor which each secured creditor with the amount of the secured debt being not less than 15% of the total amount of debts of which repayment may be applied for in the business reorganization

2

Secured creditors not classified in the above group

3

Unsecured creditors

4

Subordinated creditors under Section 130 bis of Bankruptcy Act.



## How to classify the creditors and objecting to the Plan on the grounds of the class of creditor (cont.)



Within each classification, there may be more than one group of the creditors, depending on the numbers of creditors and the amount of debts



The Planner must treat all creditors within the same classification equally for the purposes of the business rehabilitation plan



## How to classify the creditors and objecting to the Plan on the grounds of the class of creditor (cont.)



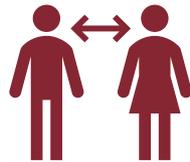
If any creditor views that the classification of the creditors is not in accordance with the above criteria, the creditor can file a petition to the Court within 7 days from the date he acknowledges the classification



The Court may order the re-classification of the creditors promptly and such Court's order is considered as final



## Unfair treatment under the Plan and how to prevent typical issues



An unfair treatment is occurred when one or more creditors in the same group have received more favorable treatment than other



To avoid such typical issues, the Planner must avoid any unfavorable treatment or provide any privileges to any creditors in the same group.



## Amendment to the Plan and the relevant requirements

3

The Creditor who wishes to propose any amendment to the Plan must submit its proposed amendment at least 3 days before the Creditors' meeting date



The amendment to the Plan must be specified a reason and proposed an amendment to the Plan



## Creditors' meeting and votes



After the Plan is submitted to the official receiver, the official receiver (the "OR") shall deliver a copy of the Plan to the debtor and creditors



The Creditors' meeting will conduct under the OR's supervision



The Creditors have a right to vote whether the Plan should be approved and consider the amendment of the Plan as submitted by another Creditors/the Planner



## Creditors' meeting and votes (cont.)

### Voting thresholds for approval of the Plan : Threshold 1



2/3 of the total debt value of the creditors who present at the creditors' meeting and cast a vote



The majority of the creditors from each class of creditors who present at the creditors' meeting and cast a vote



## Creditors' meeting and votes (cont.)

### Voting thresholds for approval of the Plan : Threshold 2



2/3 of the total debt value of the creditors from at least one class of creditors who present at the creditors' meeting and cast a vote



The majority of the creditors from such class who present at the meeting and cast a vote



50% of the total debt value of the creditors of all classes who present at the creditors meeting and cast a vote



## Creditors' meeting and votes (cont.)



Nomination of the committee of the Creditor which should be consisted of at least 3 persons and not exceeding 7 persons



If the Creditors' meeting approved any amendment to the Plan, the OR will ask if the Planner shall consent to amend the Plan, if so such amendment will be included to the Plan and further votes to the Plan as amended.



## Plan objection and The Court's involvement



Once the Creditors' meeting approved the Plan, the OR will prepare its written opinion on the Plan and submit to the Court for consideration



The Creditor who has not vote in agreement with the Plan at the Creditors' meeting, is able to submit its objection with the Court again



## Plan objection and The Court's involvement (cont.)

Key consideration for court approval under the Bankruptcy Act.



The Plan's contents are complete particulars



The creditors in the same group must receive the same treatment under the Plan, unless a written consent is provided



The successful implementation of the Plan will result in creditors receiving payment higher than in case where the Court adjudges the debtor bankrupt



## Plan objection and The Court's involvement (cont.)



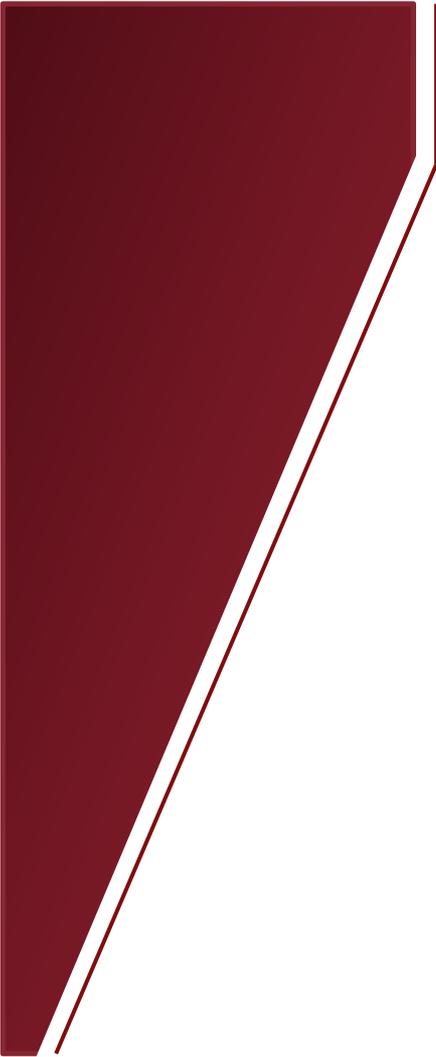
The Court will later announce its order whether the Plan should be approved or order to revoke the rehabilitation order



If the Plan is approved, the Plan Administrator then commence to proceed with the Plan



If the Court does not approve the Plan, the Court then order to revoke the rehabilitation order and the automatic stay will be lifted



# Q&A

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**Chandler MHM Limited  
98 Sathorn Square Office Tower, 17<sup>th</sup> and 36<sup>th</sup> Floors,  
North Sathorn Road, Silom, Bangrak,  
Bangkok 10500**

**Tel: 66 2 009 5000**

**Fax: 66 2 009 5080**

**E: [cmhm\\_info@mhm-global.com](mailto:cmhm_info@mhm-global.com)**

**[www.chandlermhm.com](http://www.chandlermhm.com)**

