



INSOL
INTERNATIONAL



THE WORLD BANK
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Africa Round Table

Gaborone, Botswana
7-8 November 2024

Platinum:



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Welcome Back



- **Adam Harris, INSOL International Past President, Bowmans, Republic of South Africa**
- **Will Paterson, INSOL Fellow, World Bank Group**

Keynote Address



Lizzy Mogale, Nedbank, Republic of South Africa

Environmental, Social and Governance (ESG) and Climate Change Issues and Insolvency



- **Chair: Dr. Eugenio Vaccari, The World Bank Working Group**
- **Scott Atkins, INSOL International Past President, INSOL Fellow, Norton Rose Fulbright, Australia**
- **Okorie Kalu, INSOL Fellow, Punuka Attorneys & Solicitors, Nigeria**
- **Judy Muigai, DLA Piper Africa, Kenya**
- **Will Paterson, INSOL Fellow, The World Bank Group**

WB Report on Insolvency and Climate Change



Core idea: robust insolvency systems are essential to climate adaptation and mitigation

- Ch. 1: Good Practices for Climate Adaptation
- Ch. 2: Adjustments to Facilitate Climate Mitigation
- Ch. 3: Menu of Options for Climate Mitigation
 1. embedding climate goals into restructuring plans
 2. granting EPAs standing in restructuring and insolvency procedures

Networking Coffee Break



IP PIPER
ANALYTICS

Alternative Dispute Resolution and Insolvency



- **Chair: Jeffrey Bookbinder, Bookbinder Business Law, Botswana**
- **Juliette de Hutton, Bowmans, Republic of South Africa**
- **Samira Musayeva, UNCITRAL**
- **Hon. Judge Elizabeth Stong, US Bankruptcy Court, Eastern District of New York, United States of America**
- **PJ Veldhuizen, Gillan & Veldhuizen, Republic of South Africa**

Networking Lunch



Savuti Restaurant

Please return by 1.40 pm for a 1.45 pm start

INSOL International Update



- **Dr. David Burdette, INSOL International**
- **Dr. Eric Levenstein, Werksmans, Republic of South Africa**

INSOL International Update



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INSOL AFRICA ADVISORY COUNCIL

Main Objectives

1

Enhance Member Association collaboration across Africa

2

Encourage member engagement and discussion

3

Assist in forming new Member Associations

4

Provide comprehensive education and training opportunities

5

Facilitate academic knowledge exchange

6

Advance the regulatory environment

7

Develop inter-jurisdiction information sharing systems



INSOL International Update



- **Dr. David Burdette, INSOL International**
- **Dr. Eric Levenstein, Werksmans, Republic of South Africa**

- Hong Kong Conference in March 2025 (20% discount for emerging market countries)
- Technical library
- Special interest groups
 - Academics
 - ADR
 - Asset Tracing & Recovery
 - International Financiers Group
 - Insolvency Practitioners Group
 - INSOLTech
 - Judicial Group
 - Legislative & Regulatory Group
 - Small Practice Group
 - Younger Members



- International partnerships (with the World Bank and UNCITRAL)
 - ART
 - FAIR
 - Eastern Caribbean Round Table
 - Latin America Round Table
 - MENA Forum
 - Judicial Insolvency Programme
- INSOL Future Leaders Programme
 - Presented in 23 countries since 2023
 - Asia, Africa, Latin America and Offshore
 - 6 countries in Africa, including Botswana





- Existing Educational Programmes
 - Foundation Certificate in International Insolvency Law
 - Global Insolvency Practice Course
 - Programme in South African Insolvency Law and Practice (in conjunction with SARIPA)
 - Programme in South African Business Rescue (in conjunction with SARIPA)
 - Introductory Certificate in Insolvency Law and Practice in the Cayman Islands (in conjunction with RISA Cayman)
- Forthcoming Educational Programmes
 - Short Course in Private Equity and Alternative Investments
 - Short Course in Asset Tracing and Recovery
 - Advanced Certificate in International Insolvency Law

INSOL International Update



- **Dr. David Burdette, INSOL International**
- **Dr. Eric Levenstein, Werksmans, Republic of South Africa**

World Bank Group Update



- **Will Paterson, INSOL Fellow, World Bank Group**

World Bank Update

Current Work & Emerging Trends

Africa Round Table 2024

Will Paterson

Insolvency & Debt Resolution Team

Outline

World Bank Insolvency Work

B-READY

Strengthening Institutions

Responding to Fintech

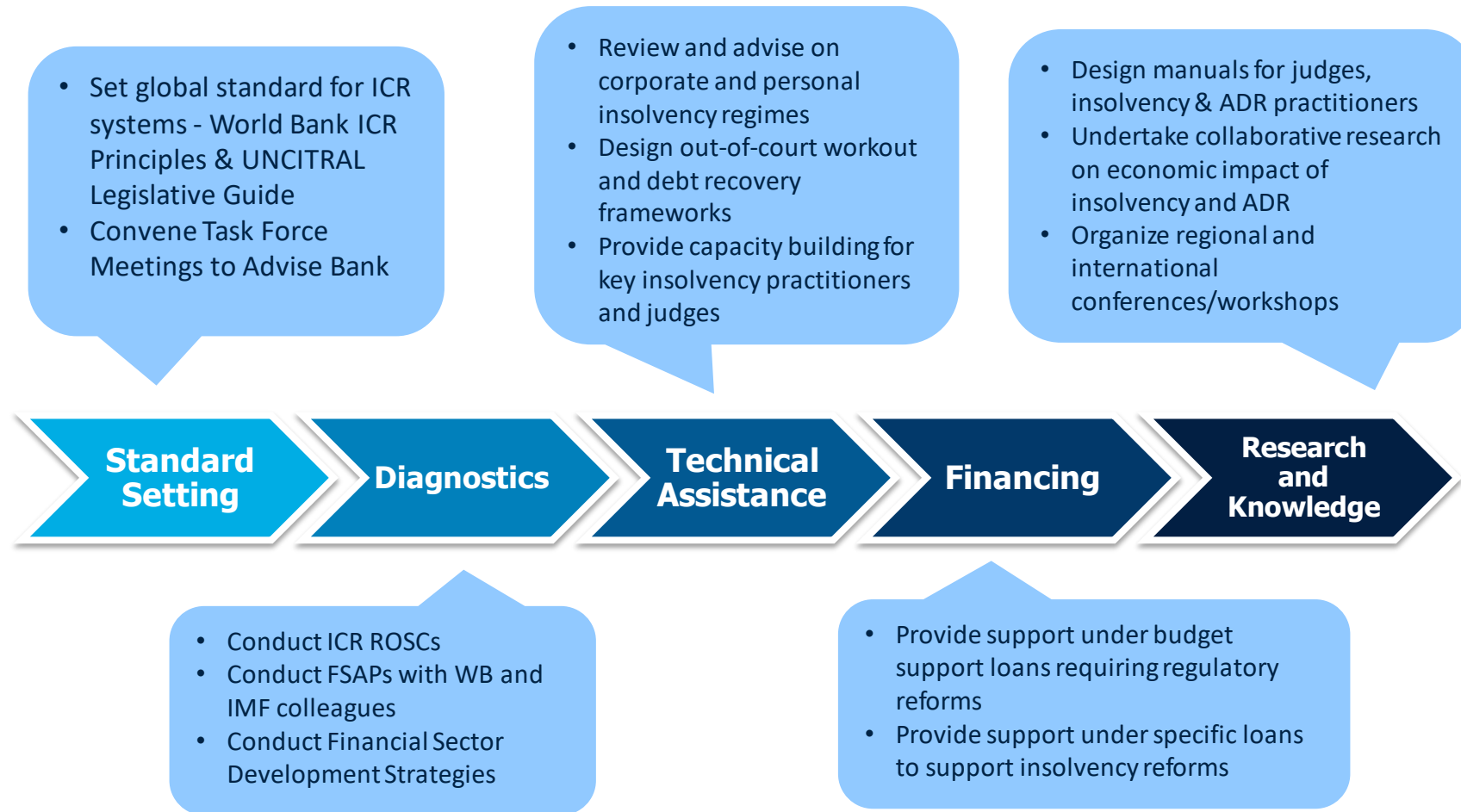
High Levels of NPLs

Climate Change

Personal Insolvency & Over-Indebtedness

Early Warning Tools

World Bank Insolvency Work



Snapshot of Recent Insolvency Projects

Rwanda – TA / Financing

- New Insolvency Administrator Regulation
- New Law on MSE Insolvency



Mozambique – TA

- New Insolvency Administrator Regulation
- New comprehensive licensing, monitoring process for Insolvency Administrators
- Capacity building

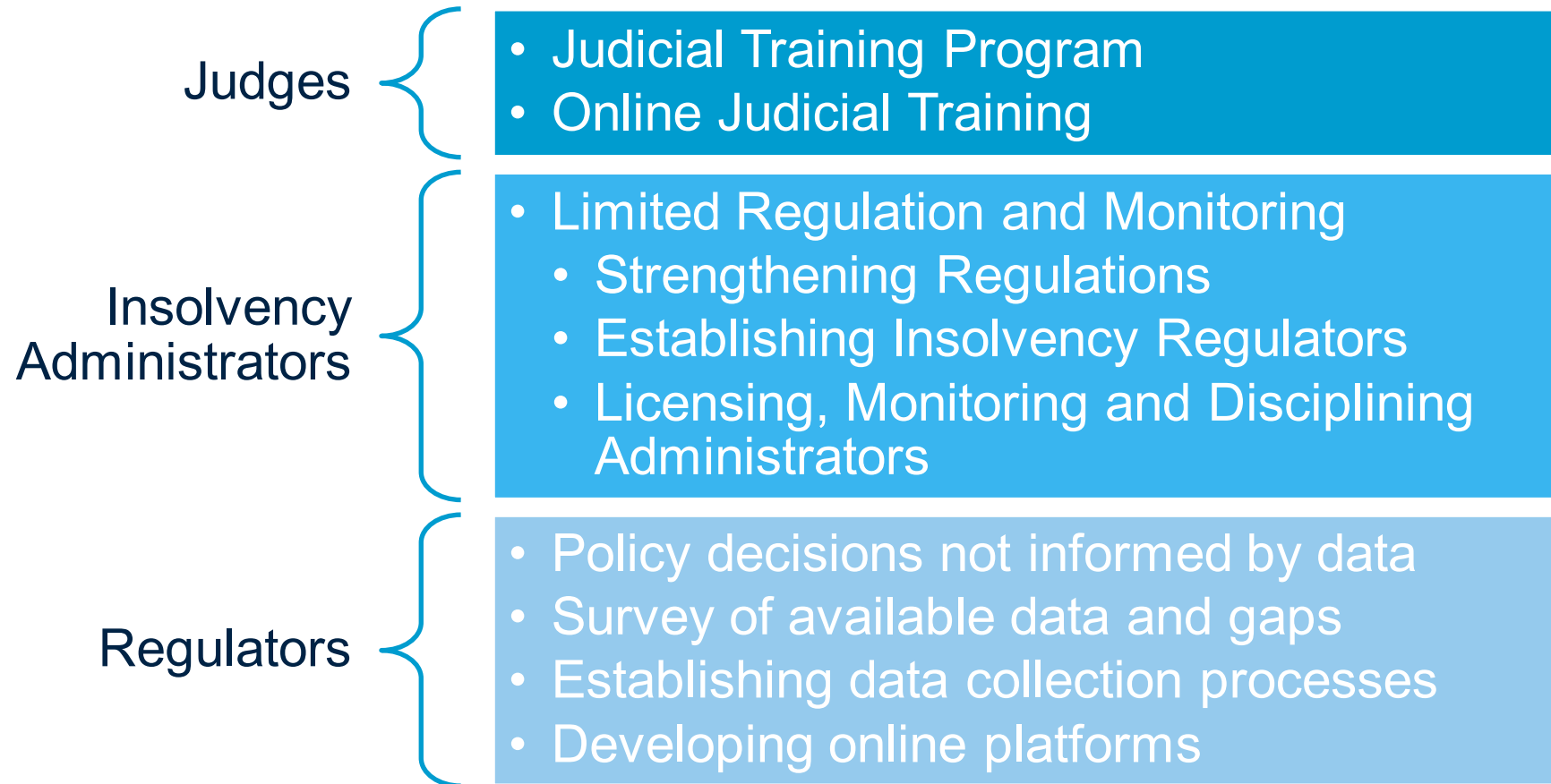
Sri Lanka – TA/Financing

- New Workout Framework led by Central Bank
- Draft unified insolvency Bill
- Capacity building of financial institutions





- First Edition of Report (50 economies)
- Business Insolvency one of ten indicators
- Separate World Bank Global Indicators team
- Three pillars for Business Insolvency
 - Quality of Regulations for Judicial Insolvency Proceedings
 - Quality of Institutional and Operational Infrastructure for Judicial Insolvency Proceedings
 - Operational Efficiency of Resolving Judicial Insolvency Proceedings

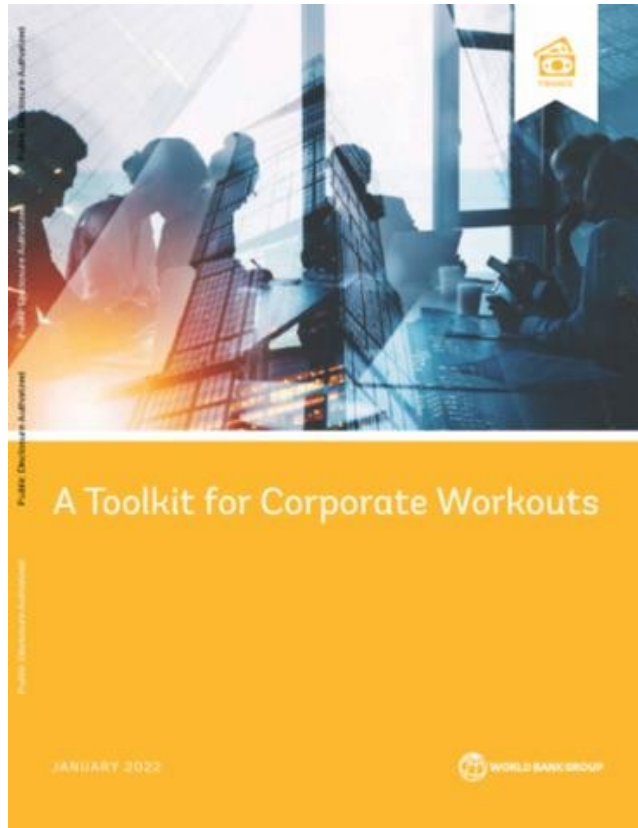




- Mobile money has become an **important enabler of financial inclusion** in Sub-Saharan Africa — especially for women.
- The COVID-19 pandemic **accelerated use of mobile money** and other e-money services.

Challenges

- Mobile money firms who go insolvent would likely be **subject to corporate insolvency laws**.
- Existing mitigation tools meant to safeguard customers' funds may face **legal and logistical problems** unless they are coordinated with the country's standard insolvency system.
- Customers may **lose funds and/or not have prompt access** to them.



Updating ICR Principles

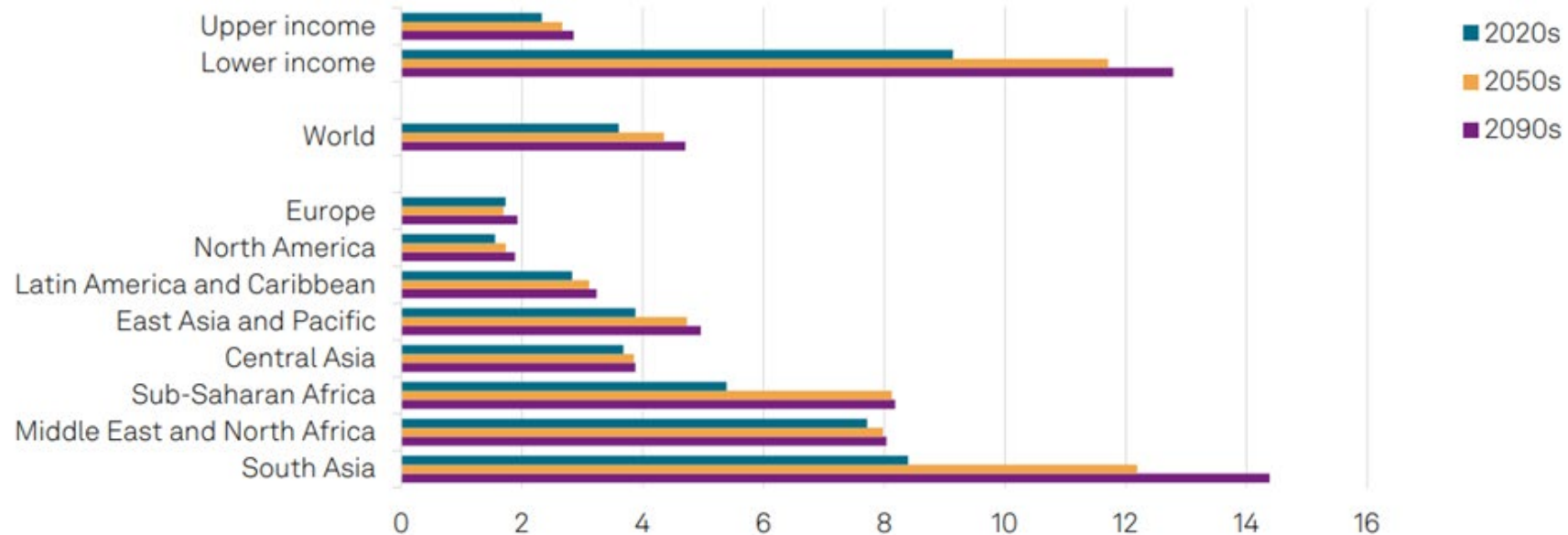
Also:

- NPL Resolution Strategies
- NPL Secondary Markets
- Capacity-building for financial institutions

Climate Change and Insolvencies

- Physical risks of climate change and the risks related to the transition to a lower-carbon economy may cause large-scale defaults on loans and widespread fire sales of assets of corporates highly exposed to climate risk.

Percentage of GDP at risk annually by region and income group under a slow transition scenario (SSP3-7.0), absent adaptation (%)



Source: S&P Global (November 27, 2023)

- Consumer over-indebtedness has emerged as a **significant and increasing risk** to financial consumers worldwide.
- 2023 Global Debt Monitor: private debt reached a **new high of 39 percent** of GDP in 2022 in low-income developing countries.
- **Holistic approach** to over-indebtedness is necessary and remains a critical challenge.
- World Bank projects and research:
 - Financial Ombudsman
 - Personal Insolvency Frameworks
 - Developing Secondary Markets for NPLs
 - Tools on Risks and Responses to over-indebtedness
 - Project examples: Fiji, Sri Lanka, Vietnam and South Africa

what

Alert debtors about financial difficulties and circumstances that could give rise to a likelihood of insolvency and incentivize them to take early action

why

Such measures are important for the well-functioning insolvency framework because they enable debtors to detect perspective insolvency signs quickly, respond appropriately and use minimal resources required to remedy the situation

how

Such an early intervention can:

- Help prevent bankruptcy and its consequences, including job-losses
- Guide debtors through a fast and transparent bankruptcy when this is the best solution for the company and its owner
- Mitigate the economic risk for suppliers and clients
- Alleviate personal and social effects on employees and business owners.



Thank you!

www.worldbank.org/insolvency

Judicial Panel



- **Chair: Hon. Justice Geoffrey Kiryabwire, Court of Appeal and Constitutional Court of Uganda**
- **Hon. Justice Simon Amobeda, Federal High Court of Nigeria**
- **Hon. Justice Kazimbe Chenda, High Court of Zambia**
- **Hon. Sir Alastair Norris, High Court of England & Wales**

Networking Coffee Break



IP PIPER
ANALYTICS

IP's Perspective: Stakeholder Management



- **Chair: Cosimo Borrelli, Kroll, Hong Kong**
- **Bulisa Mbano, Grant Thornton, Zimbabwe**
- **Sammy Ndolo, CDH Legal, Kenya**
- **Catherine Piper, Piper Analytics, Botswana**

Stakeholders



Continuous Process



Stakeholder Management



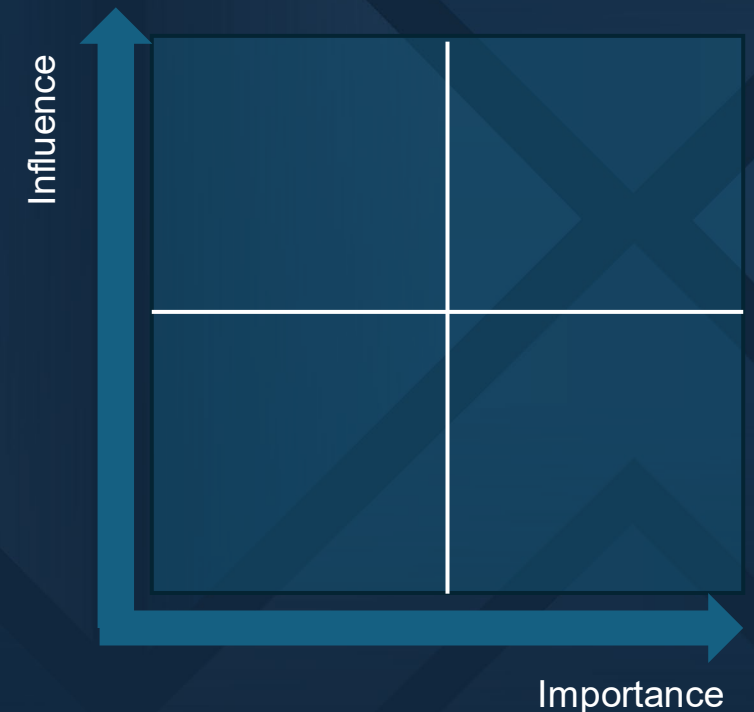
IP's Perspective: Stakeholder Management



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Importance vs Influence

- Start with process
- Determine importance vs influence of stakeholder
 - Influence - degree to which can advance or hinder objective
 - Importance - priority to satisfy objectives
- Potential impact on process by and on each stakeholder
- Differences between pre and post insolvency



Stakeholder Conflict



- Why does stakeholder conflict arise?
 - Divergent interests of stakeholders
 - Different levels of importance
 - Limited resources available
 - Communication / Understanding gap
- General approaches to stakeholder management
 - Emphasising shared outcomes
 - Cultivating understanding of other stakeholders
 - Enhancing collaboration and commitment

Stakeholder Conflict in Insolvency



- Conflict to be expected
 - Nature of the beast
 - Communication/actions by debtor prior to process
- Key differences of stakeholder management in insolvency
 - Shared outcomes likely not possible
 - Collaboration may not be possible
 - Legal requirements and obligations of practitioners
 - Neutrality of practitioners – “it wasn’t me”
 - No necessary ongoing relationships
 - Effect of court orders

Conflict Management



- Build trust
- Transparent, regular and tailored communication
- Clarify expectations of stakeholders
- Explanation of process
- Different approaches depending on importance and influence
- Considering “dual roles”
- Use appropriate method of communication
- Timing engagement
- Clarity of roles and responsibilities
- Legal protections - moratorium
- Formal procedures available – review, direction of court

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African Issues



- Legislation
- Lack of specialisation of practitioners, judiciary and lawyers
- Literacy and language
- Perceptions
- Technology
- Strength of regulators
- Government
- Quality of data and financial information

Issues for Practitioners



- Legal requirements
- Ethical and professional obligations
- Trading and business rescue issues
- Employees
- Considerations with respect to investigations
- Pre-appointment considerations and disclosures
- Knowledge limitations and self-interest

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Practical Approach for Practitioners



- Recognition of importance of trust in practitioner and process
- Plan
- Differences by process
- Approaches depend on stakeholder – one size does not fit all
- Prioritise stakeholders
- Overcoming limits in legislation and regulation
- Use of technology
- Templates and standard forms
- Be practical and be flexible

IP's Perspective: Stakeholder Management



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Closing Remarks



- **Adam Harris, INSOL International Past President, Bowmans, Republic of South Africa**
- **Will Paterson, INSOL Fellow, World Bank Group**

Organising Committee



- **Adam Harris – Co Chair, Bowmans Law, Republic of South Africa**
- **Antonia Menezes – Co Chair, INSOL Fellow, World Bank Group**
- **Jeffrey Bookbinder, Bookbinder Business Law, Botswana**
- **Chipso Gaobatwe, INSOL Fellow, Gaobatwe Law, Botswana**
- **Ayodele Kusamotu, INSOL Fellow, Kusamotu & Kusamotu, Nigeria**
- **Jo Mitchell-Marais, INSOL Fellow, Deloitte, Republic of South Africa**
- **Judy Muigai, DLA Piper Africa, Kenya**
- **Will Paterson, INSOL Fellow, World Bank Group**
- **Butler Phirie, DPS Consultancy, Botswana**

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