Global insolvencies return to pre-pandemic levels

Global insolvencies are forecast to rise 10 per cent in 2022 and 14 per cent in 2023, according to a new report from Allianz. The withdrawal of government support is causing corporate insolvencies to rebound to pre-pandemic levels as businesses struggle to deal with financial and economic challenges.

The Global Insolvency Report found the number of insolvencies in Australia rose 24 per cent year-on-year in Q1, while they were up 26 per cent in India over the same time period and 30 per cent in Singapore. While government support is expected to keep insolvencies artificially low in France (32,510 cases) and Germany (14,600) in 2022, the UK could see a sharp rebound in 2022 (up 37 per cent year-on-year to 22,305 cases). One in three countries will return to pre-pandemic levels in 2022, and one in two countries in 2023, the report found.

In Asia, China should be able to keep insolvencies in check, but other countries could see an increase due to the deterioration of the regional and global environment.

Australia to see high numbers over FY23

Jirsch Sutherland Partner Melissa Lau says as government support in Australia after the pandemic was phased out, insolvencies rose in most markets. “The business and financial environment continues to deteriorate, with a number of factors likely to create big negative headwinds for the economy in FY2023, including inflation, rising interest rates, supply chain challenges, energy prices and abnormal weather events,” she says.

Melissa Lau, Jirsch Sutherland Partner

Lau expects Australia to experience high insolvency numbers over the next financial year on the back of the withdrawal of government support. “While some countries are already citing ‘back to normal’ insolvency figures, for most, this situation is expected to occur during late 2022 and 2023,” she says. “This will be a result of additional defaults coming from zombie companies after government support is withdrawn. In general, by the end of 2023 we see a flattening out of the insolvencies to normal levels.”

Jirsch Sutherland has experienced an increase in the levels of enquiries, but Lau anticipates that this is just the tip of the iceberg – with challenges likely to drive demand for insolvency solutions. “The smart businesses understand that while the circumstances they are facing may not be their fault, it is their responsibility,” Lau says. “The key factor affecting companies, especially those with high levels of debt, is interest rates. Federal Treasurer Jim Chalmers says the risk of recession in major economies has now tipped from ‘possible to probable’, but leading economists say Australia is likely to fare better than most.”

The sector most at risk of insolvencies in Australia is food and beverage, according to CreditorWatch, as consumers tighten their purse strings. Retail, hospitality and construction are also dealing with a number of challenges.

Meanwhile, an inquiry into the effectiveness of Australia’s corporate insolvency laws in protecting and maximising value for the benefit of all interested parties and the economy was announced by the Parliamentary Joint Committee on Corporations and Financial Services in September 2022. “It is important to have an insolvency law, which would deliver an insolvency and restructuring regime that sees more viable businesses being saved, individuals in bankruptcy given a chance to rebuild their lives, and, generally, build a culture that focuses on rescuing distressed business to protect jobs,” said ARITA CEO, John Winter at the time of the announcement.

The inquiry is likely to recommend ways to simplify the country’s notoriously complex insolvency regime, but the Federal Labor government says it wants to find new ways to help struggling businesses and solidify insolvency as a last resort measure. The inquiry comes amid a jump in business failures, which hit a 2½-year high in July after a surge in construction-sector insolvencies.

New filings expected to decline for India

According to the Allianz report, insolvencies in India for 2022 rebounded 26 per cent year-on-year to Q1. Uday Ahlawat, Managing Partner and Sheena Ogra, Partner with the Indian accountancy firm Ahlawat & Associates, a member of the GRIP (Global Restructuring & Insolvency Practitioners) Asia-Pacific network, say because of widespread losses and the inability of many businesses to repay their debts, the Indian government temporarily suspended the registration of any new proceedings under the Insolvency and Bankruptcy Code from March 2020 until March 2021.

Uday Ahlawat, Managing Partner of Ahlawat & Associates

“It is primarily this suspension that has acted as a catalyst for the surge in new filings for insolvency in India,” Ogra says. “We expect the number of new filings will decline, particularly since the backlog will ease. Also, the schemes and regulations introduced by the government should boost the financial strength of companies.”

Ogra adds that a high risk of insolvency exists in real estate and manufacturing, as the pandemic led to a lower demand in these sectors, although new government incentives may change this situation.

Meanwhile, when it comes to new insolvency law reform, Ahlawat says while the Code in its current form, allows authorities to act upon cross-border insolvencies, it still lacks a comprehensive framework for the straightforward resolution in such situations. “The judicial authority that handles such cases has decided upon several landmark decisions involving corporations, which have their presence in multiple jurisdictions around the world,” he says. “Since the board under the Code has recognised the dire need for such a framework – which makes it easier to handle cross-border insolvency cases – and has submitted comments and reports for consideration, the enactment of legislation to tackle this is not too far away.”

Singapore insolvencies rebound

Insolvencies in Singapore for 2022 rebounded 30 per cent year-on-year to Q1, according to the Allianz report. Its insolvency regime underwent major changes during the COVID-19 pandemic – with one change being the coming-into-force of the first-ever omnibus insolvency legislation in Singapore – the Insolvency, Restructuring and Dissolution Act 2018 (“IRDA”). IRDA was introduced on 30 July 2020, but some provisions were only truly utilised in any scale after the COVID measures were relaxed in 2021/2022. Independent Singapore boutique law firm TSMP Law Corporation, also a GRIP Asia-Pacific member, believes the omnibus insolvency legislation enhances measures that support debt restructuring, providing a lifeline for financially distressed businesses and individuals.

Felicia Tan, Partner, TSMP

Insolvency proceedings in Singapore are expected to continue rising throughout the rest of 2022, ranging from judicial management, scheme moratoriums to liquidation. “There will be an increased emphasis on debt restructuring via various IRDA mechanisms,” says Felicia Tan, Partner at TSMP. “The introduction of new rules at the Singapore International Commercial Court (SICC) in early October 2022 also now allows the SICC to deal with cross-border corporate insolvency, restructuring and dissolution matters. This is a massive step forward, as these changes introduce new processes in the SICC relating to corporate insolvency, restructuring or dissolution proceedings that are international and commercial in nature, and offer restructuring outcomes that would appeal to both debtors and creditors.

“The SICC has an established reputation for neutrality, which allows it to play an important role in facilitating cross-border corporate insolvency proceedings where the laws of different jurisdictions are at play.”