



GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO
MINISTRY OF FINANCE

THE OFFICE OF THE
SUPERVISOR
OF INSOLVENCY
(OSI)

WHO WE ARE

The Office of the Supervisor of Insolvency (OSI), Ministry of Finance, was created in June 2014 to operationalize the Bankruptcy and Insolvency Act, Chapter 9:70 (BIA), in an effort to improve the credit and economic environment of Trinidad and Tobago. The OSI is a regulatory government agency headed by the Supervisor of Insolvency (Supervisor) and is charged with the responsibility of monitoring, protecting and strengthening the insolvency system of Trinidad and Tobago.

BANKRUPTCY AND INSOLVENCY ACT, CHAPTER 9:70 (BIA)

The BIA, save Part XI (International Insolvencies), came into operation on May 26, 2014. The Act was created to modernize the previous law relating to bankruptcy, to make provisions for corporate and individual insolvency, and to provide for the financial rehabilitation of the insolvent debtor.

WHO IS AN INSOLVENT PERSON?

As defined by the Act, an insolvent person means a person who is not bankrupt and who resides, carries on business or has property in Trinidad and Tobago, whose liabilities to creditors provable as claims under this Act amount to not less than four thousand dollars and—

who is for any reason unable to meet his obligations as they generally become due;

who has ceased paying his current obligations in the ordinary course of business as they generally become due; or

the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all his obligations, due and accruing due.

WHO IS A BANKRUPT?

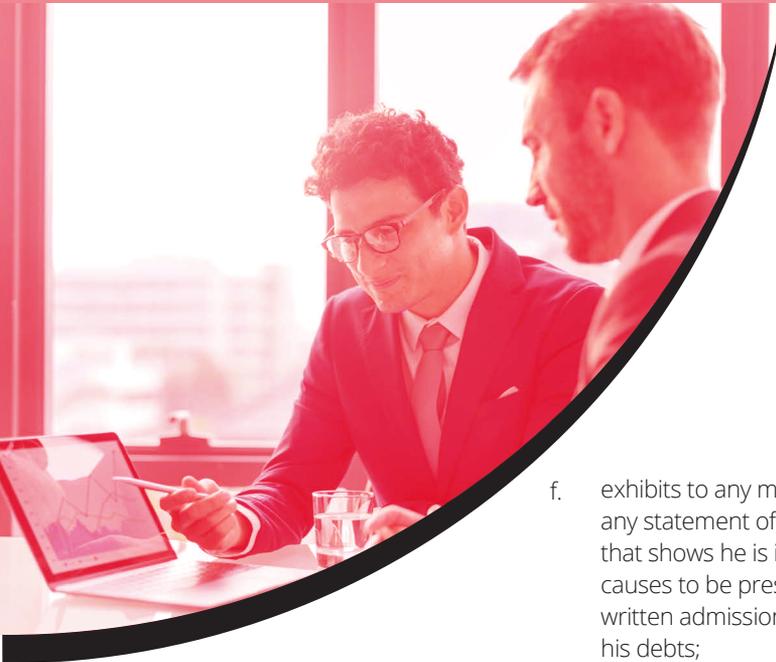
In accordance with the BIA, a bankrupt is a person who has made an assignment (voluntary) or against whom a receiving order has been made under Section 5(10) of the Act (involuntary). Once the person is declared a bankrupt, the BIA provides for an orderly liquidation of the bankrupt's assets and the eventual distribution of the value of assets amongst creditors.

ACTS OF BANKRUPTCY

Where a debtor commits an “act of bankruptcy” under the BIA, that debtor may be liable to bankruptcy proceedings being brought against them.

A debtor commits an act of bankruptcy where the debtor—

- a. either in Trinidad and Tobago or elsewhere makes an assignment of his property to a Trustee for the benefit of his creditors generally, whether it is an assignment authorised by this Act or not;
- b. either in Trinidad and Tobago or elsewhere makes a fraudulent conveyance, gift, delivery or transfer of his property or of any part of that property;
- c. either in Trinidad and Tobago or elsewhere makes any conveyance or transfer of his property or any part of the property, or creates any charge on the property that would under this Act be void as a fraudulent preference;



- d. with intent to defeat or delay his creditors, departs out of Trinidad and Tobago, or being out of Trinidad and Tobago remains out of Trinidad and Tobago, or departs from his dwelling house or otherwise absents himself;
- e. permits any execution or other process issued against the debtor under which any of the debtor's property is seized, levied on or taken in execution to remain unsatisfied for twenty-one days, or if any of the debtor's property has been sold by the Marshal, or if the execution or other process is returned endorsed to the effect that the Marshal can find no property on which to levy or to seize or to take;
- f. exhibits to any meeting of his creditors any statement of his assets and liabilities that shows he is insolvent, or presents or causes to be presented to that meeting a written admission of his inability to pay his debts;
- g. assigns, removes, secretes or disposes of or attempts or is about to assign, remove, secrete or dispose of any of his property with intent to defraud, defeat or delay his creditors or any of them;
- h. gives notice to any of his creditors that he has suspended or is about to suspend payment of his debts;
- i. defaults in any proposal made under this Act; or
- j. ceases to meet his liabilities generally as they become due.





WHO ARE OUR MAIN STAKEHOLDERS?

The objectives of the BIA are carried out through the participation of the debtors, creditors, Trustees, Court, trade unions and the Supervisor of Insolvency.

WHO ARE TRUSTEES?

Trustees are professionals who are either accountants or attorneys at law, licensed by the Supervisor of Insolvency in accordance with the BIA. Currently, there are thirteen (13) Trustees.

WHY CONSULT A TRUSTEE?

Trustees are qualified professionals who have experience and training in dealing with individuals and businesses affected by insolvency. Therefore, once professionally engaged, a Trustee is in the best position to give guidance to an individual or business as to what may be their best options to resolve insolvency.

WHAT IS A PROPOSAL?

A proposal is an alternative to bankruptcy whereby a debtor, with the agreement of the creditors and approval of the Court, is permitted to reorganize their credit arrangements with a view of pursuing solvency and economic well-being. Proposals are enforceable before a Court and could result in bankruptcy if there is default by a debtor.

The proposal process is facilitated by a Trustee, regulated by the Supervisor and administered by the Court.



BENEFITS OF A PROPOSAL

- The insolvent person is guided through the process by a Trustee (industry professionals) who provides advice on formulating a new business plan and rescheduling repayments to creditors;
- A proposal is a proactive measure by an insolvent person to provide “breathing room” during a period of financial difficulty;
- Promotes financial rehabilitation as opposed to liquidation of the insolvent person’s assets;
- Maintains the going concern of the business, preservation of jobs and goodwill;

- The rights of creditors and debtors are well articulated under the BIA and enforceable before the Courts. This provides legal certainty throughout all stages of the proposal process;
- The proposal process is robust and efficient. It has been adopted in main jurisdictions such as Canada, Jamaica and Barbados.

WHO CAN MAKE A PROPOSAL?

A proposal may be made by the following:

- an insolvent person;
- a receiver, but only in relation to an insolvent person;
- a liquidator of an insolvent person’s property;
- a bankrupt; and
- a Trustee of the estate of a bankrupt.

Contact Us

 The Office of the Supervisor of Insolvency (OSI)
Ministry of Finance
Level 19, Finance Building
Eric Williams Financial Complex
Independence Square
Port-of- Spain

 osi.finance@gov.tt

 (868) 612-9700 exts. 1945-8



www.finance.gov.tt