

**OFFICE OF THE SUPERVISOR OF INSOLVENCY  
(OSI)**

**MINISTRY OF FINANCE**

***A New Era in Insolvency in  
Trinidad and Tobago***

*Presented by:*

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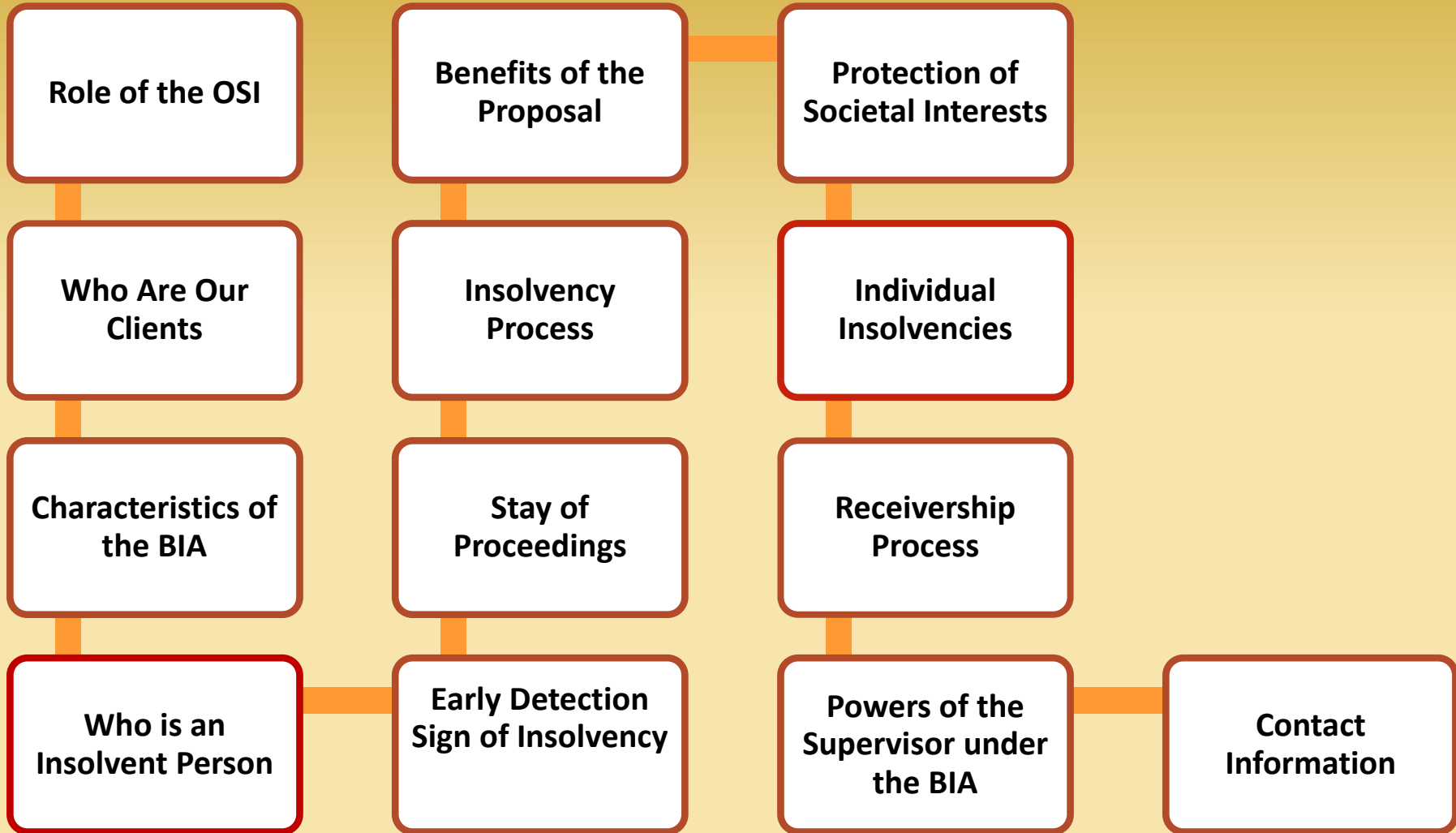
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# Overview



# INTRODUCTION

- **What is an insolvency system?**

It allows for keeping viable businesses operating, increases access to credit, improves creditor recovery and there is the strengthening of job preservation are a few of the main goals of an insolvency system

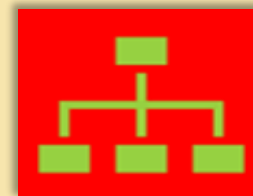
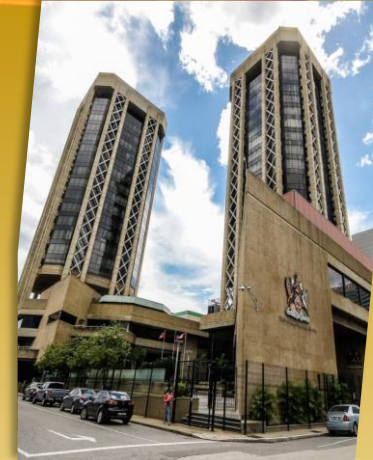
- **Why should having a robust insolvency system matter?**

- ✓ From the viewpoint of the debtor (individual and corporate)
- ✓ Benefits to the financial system (organized, predictable, transparent, and support to the economy )
- ✓ Benefits to the country (impacts GDP, Ease of Doing Business and aids international competitiveness and acts as a stimulus for investment
- ✓ In the age of globalization, it provides a framework for cross-border insolvencies

- **Lessons from other countries** – Canada, Jamaica, Barbados and Scotland

# ROLE OF THE SOI

- The OSI was established to operationalize the BIA, the focus being on improving the credit, and by extension, the financial and economic environment of Trinidad and Tobago.
- The Supervisor is responsible for the administration of the BIA and is charged with the role of Regulator.
- The role of the Supervisor as the Regulator of the Trustees ensures their compliance with the BIA and preserves the integrity of the regime.



# WHO ARE OUR CLIENTS?



- **The OSI's principal clients are:**
  - ❖ Debtors;
  - ❖ Creditors (secured and unsecured);
  - ❖ Individuals;
  - ❖ Societies or Organisations;
  - ❖ Corporations; and
  - ❖ Licensed Trustees who may be appointed as Receivers.

# CHARACTERISTICS OF THE BIA

- **As a regulatory body, the OSI administrates the BIA which envisages:**
  - ❖ Accomplishing - an efficient, fair and equitable reorganization where an economically viable business enterprise can be saved;
  - ❖ Accomplishing an orderly, fair and efficient liquidation of business enterprise when it cannot be saved;
  - ❖ Accomplishing an equitable distribution of proceeds to creditors, respecting type and rank of the claim in accordance to clear rules for doing so;
  - ❖ Providing a method to recycle assets and labor back to productive use within an economy;

# CHARACTERISTICS OF THE BIA CONT'D

- ❖ Providing clear and predictable procedures, deadlines and outcomes;
- ❖ Providing appropriate incentives for timely movement toward case resolution;
- ❖ Providing an equitable allocation of risk;
- ❖ Providing protection of creditors rights; and
- ❖ Serving as a backdrop for negotiation and out of court resolution of disputes.

# WHO IS AN INSOLVENT PERSON?

An insolvent person is someone whose total debt (bank/credit union loans, hire purchase agreements, etc.) is four thousand dollars (\$4,000.00) or more.

The person must be unable to pay his/her debts or has stopped paying his/her debts when they become due or whose total assets (cash, property, jewellery, car etc.) is not sufficient to pay his/her debts on the due date.



# **EARLY DETECTION SIGNS OF INSOLVENCY**

**Inability to meet your immediate and short term financial obligations;**

**Change in the business environment- COVID 19; Supply Chains; Climate Change**

**Continued Losses;**

**Cap/reduced credit limit from lenders;**

**Use of personal funds;**

**Selling of private assets – e.g. Cars, land; and**

**Net current assets are less than your current liabilities.**

# **STAY OF PROCEEDINGS**

## **(AUTOMATIC STAY)**

**Section 55 –  
Notice of  
Intention to  
make a  
Proposal**

**Once a notice of intention is filed with the OSI, this prevents creditors from seeking full recovery until the trustee has been discharged or the insolvent person becomes bankrupt.**

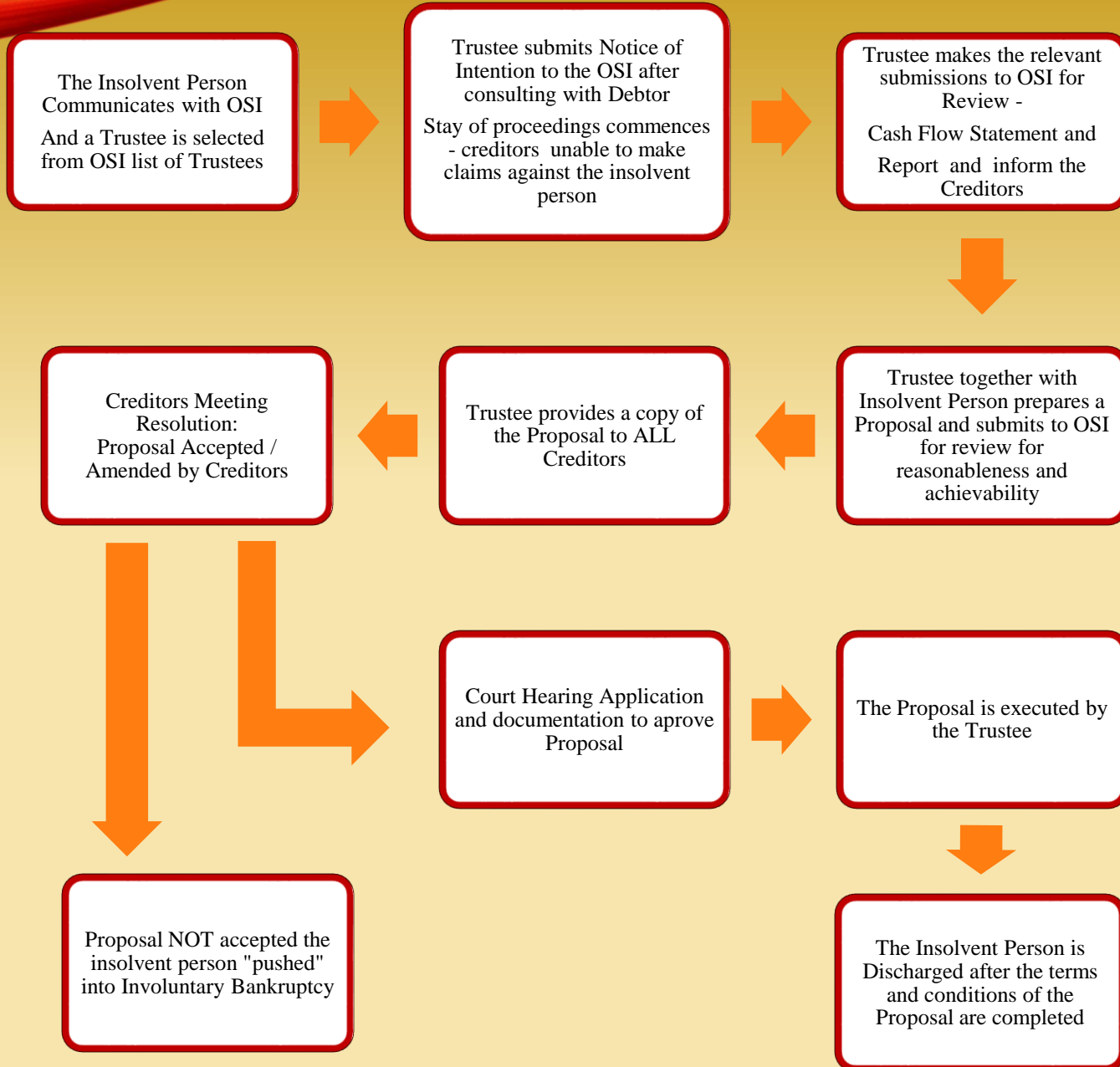
**Section 56 –  
Upon  
Bankruptcy**

**Similar to Section 55, prevents creditors from enforcing claims on the bankruptcy of the debtor until the trustee has been discharged.**

**Section 57 –  
Application to  
the Court for the  
removal of stay**

**A creditor who's affected by the operations of Section 55 or 56, may apply to the court for the removal of the stay.**

# THE INSOLVENCY PROCESS



# Benefits of the Proposal



• The insolvent person gains access to a Trustee (professionals in the industry) who provides advice on formulating a new business plan and rescheduling repayments to creditors;

• A proposal is a proactive measure by an insolvent person which provides “breathing room” during a period of financial difficulty;

• The process is Court driven where disputes are referred for resolution in accordance with the BIA;

• Certainty of outcome - solvency

• Efficient processes (strict timelines that are enforced by both the OSI and the Court);

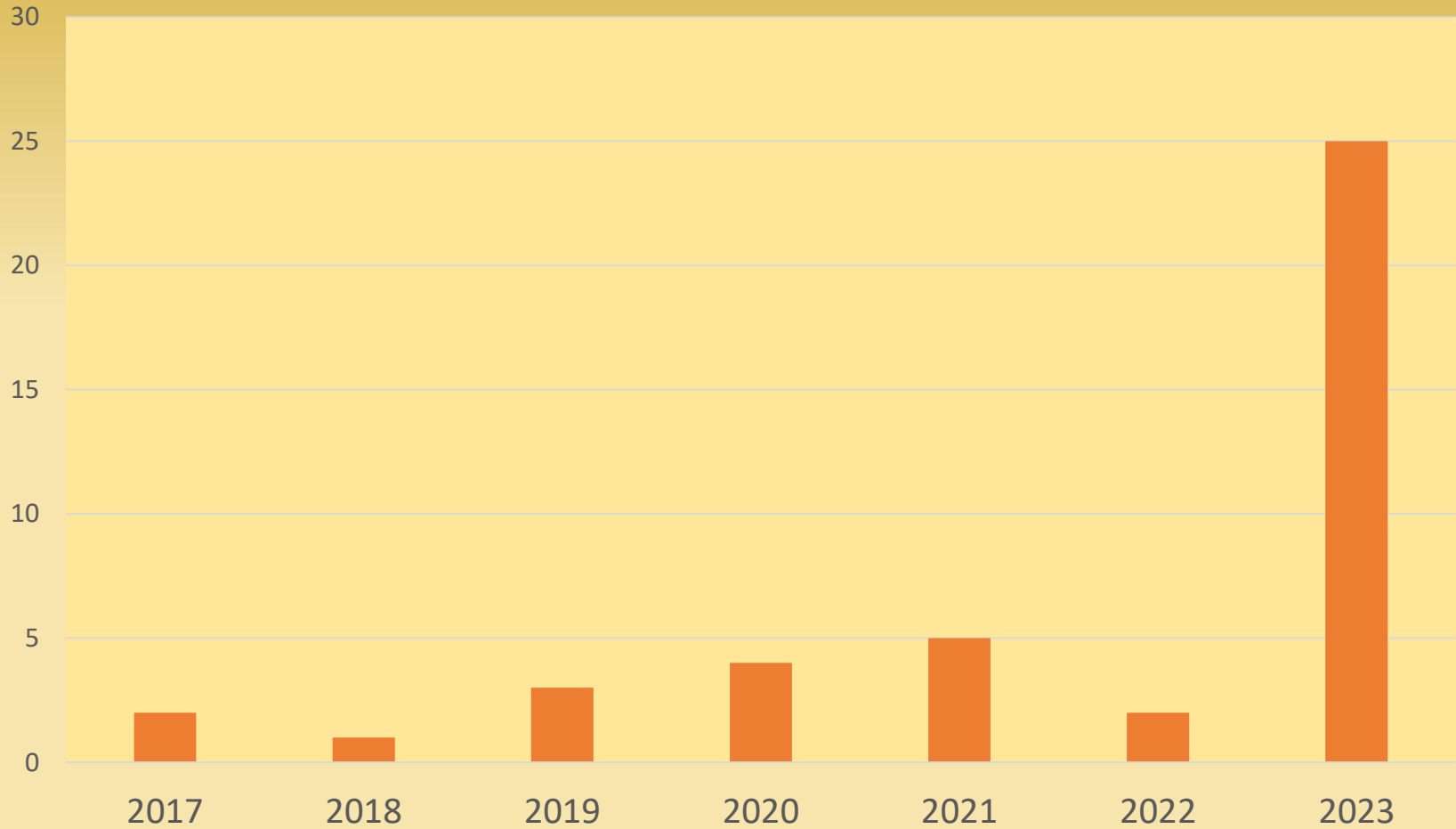
• Promotes rehabilitation of individuals and companies as opposed to liquidation of the insolvent person; and

• Maintains the going concern of the business, preservation of jobs and goodwill.

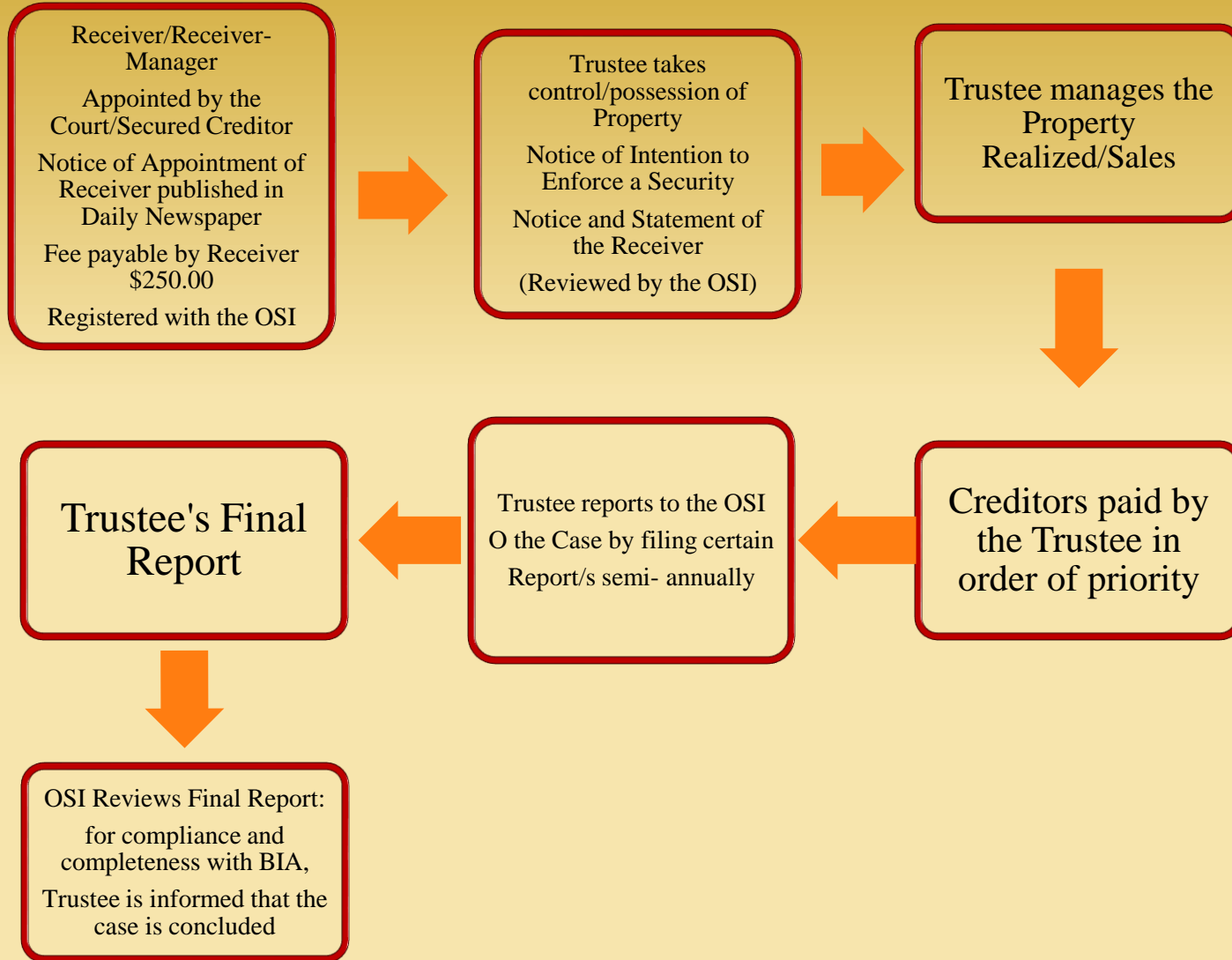
# PROTECTION OF SOCIETAL INTERESTS

- ❖ The debtor is part of a system and has an impact on demand and supply.
- ❖ A high percentage of new businesses fail even in the best of economies in the best of times.
- ❖ An efficient insolvency system encourages taking chances on “ **well thought of responsible risks**” and this will not happen if the most creative entrepreneurs are stalled in endless procedural and punitive proceedings.
- ❖ Having an efficient insolvency system in place can positively impact entrepreneurial activity, economic stability, growth and the country's competitiveness as it encourages foreign direct investment.

## No of Inquiries for Individual Insolvencies



# THE RECEIVERSHIP PROCESS



# POWERS OF THE SUPERVISOR UNDER THE BIA



Supervision of estate management and related matters



Trustee Licensing and monitoring



Compliance with the BIA



Conduct investigations



Maintenance of Public Records



Preservation of the Integrity of the Insolvency System



## Making our mark

- Member of the IAIR
- Member of INSOL International
- 13 Licensed Trustees
- 30 Receiverships
- 5 Insolvents
- Networking
- Technical and Advisory support



## Challenging, but Effective

- Building a Strong, knowledgeable resource base
- Ensure support of stakeholders
- Incremental changes



## Improved Framework

- Amendments to the Regulations of the BIA.
- A more modern insolvency system in line with best international practices.
- Improved regulation of Trustees
- Improved creditor/ debtor relationships
- Maximizing the value of companies' assets
- Increasing the possibility of preserving jobs and supply chains
- a better business climate and support for SMEs



## Recalibrating

- Outreach programmes
- e-brochure
- Building OSI capacity
- Maintenance of Public Records
- Trustee's Reporting and Meeting
- Harmonization of Legislation
- Part XI – International Insolvencies
- Individual and Corporate rescue mechanisms



# TAKE AWAY - POINTS

- **Who is an insolvent person** – A company that is unable to repay your immediate debts
- **Red flags** – EARLY Detection is key to rehabilitation
- **What to do** ? Understand the Insolvency process and benefits.
- **What is a Proposal** – Arrangement to repay your creditors at a future date, accepted by the Creditors and approved by the Court.
- **Time Bound** – Strict timelines – not to prejudice the rights of the Creditors and protection to the insolvent person
- Don't wait until your financial situation becomes a crisis to make a decision – seek assistance.

*“ What remains constant is that there will be individuals and businesses who, for various reasons find themselves overwhelmed by debt.*

*For them, and for the benefit of the economy, an effective insolvency regime is necessary to ensure an efficient process to settle debts and , where appropriate, provide individuals with a fresh start and businesses with an opportunity for financial rehabilitation”.*

*Minister James Moore - Canada*

# CONTACT INFORMATION



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E-brochure is available on our webpage



# THANK YOU!

