

OFFICE OF THE SUPERVISOR OF  
INSOLVENCY (OSI)  
MINISTRY OF FINANCE

*Corporate Rescue*

Presented by:

Mrs. Karen Seebaran-Blondet, Supervisor of Insolvency

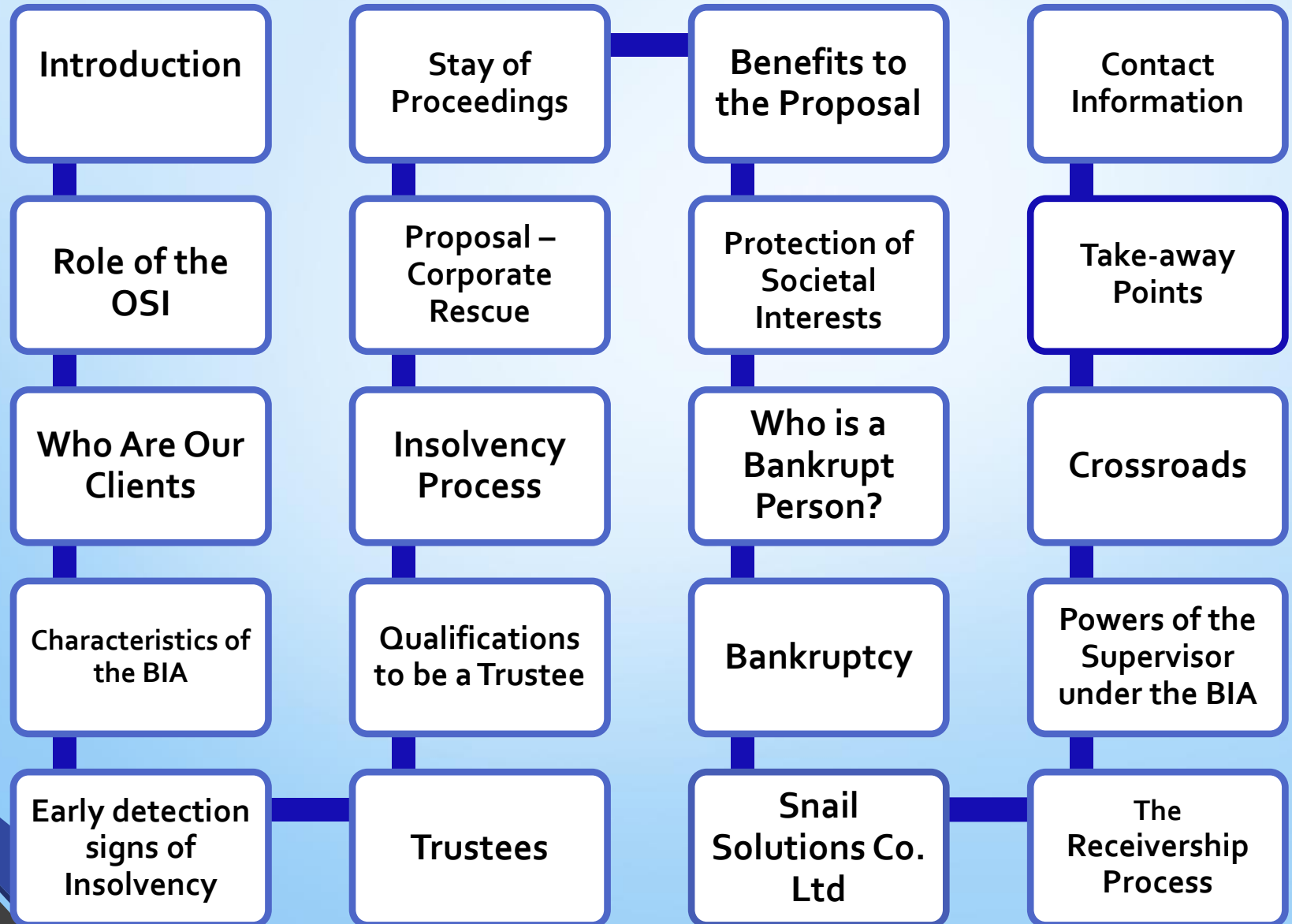
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# Overview



# Introduction

## ❖ What is an insolvency system?

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

A good insolvency system should inhibit the premature liquidation of business.

## **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 OSI

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 is important by ensuring compliance with the BIA and preserving the integrity of the regime.

The role of the Trustees is key as they give guidance to their clients on their best options to resolve insolvency issues. They play a vital role as a person must access the regime through a Trustee.

# Who Are Our Clients?

The OSI's principal clients are:

- ❖ Debtors;
- ❖ Creditors (secured and unsecured);
- ❖ Individuals;
- ❖ Societies or Organisation;
- ❖ Corporations; and
- ❖ Licensed Trustees who may be appointed as Receivers.



# Characteristics of the BIA

As a regulatory body, the osi enforces the BIA which envisages:

- ❖ Accomplish an efficient, fair and equitable reorganization where an economically viable business enterprise can be saved;
- ❖ Accomplish an orderly, fair and efficient liquidation of business enterprise when it cannot be saved;
- ❖ Accomplish an equitable distribution of proceeds to creditors, respecting type and rank of the claim in accordance to clear rules for doing so;
- ❖ Provide a method to recycle assets and labor back to productive use within an economy;

# Characteristics of the BIA Cont'd

- ❖ Provide clear and predictable procedures, deadlines and outcomes;
- ❖ Provide appropriate incentives for timely movement toward case resolution;
- ❖ Provide protection of creditors rights; and
- ❖ Serve as a backdrop for negotiation and out of court resolution of disputes.

# Who is an Insolvent Person?

An insolvent person (individuals and companies) 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;

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.



# Trustees

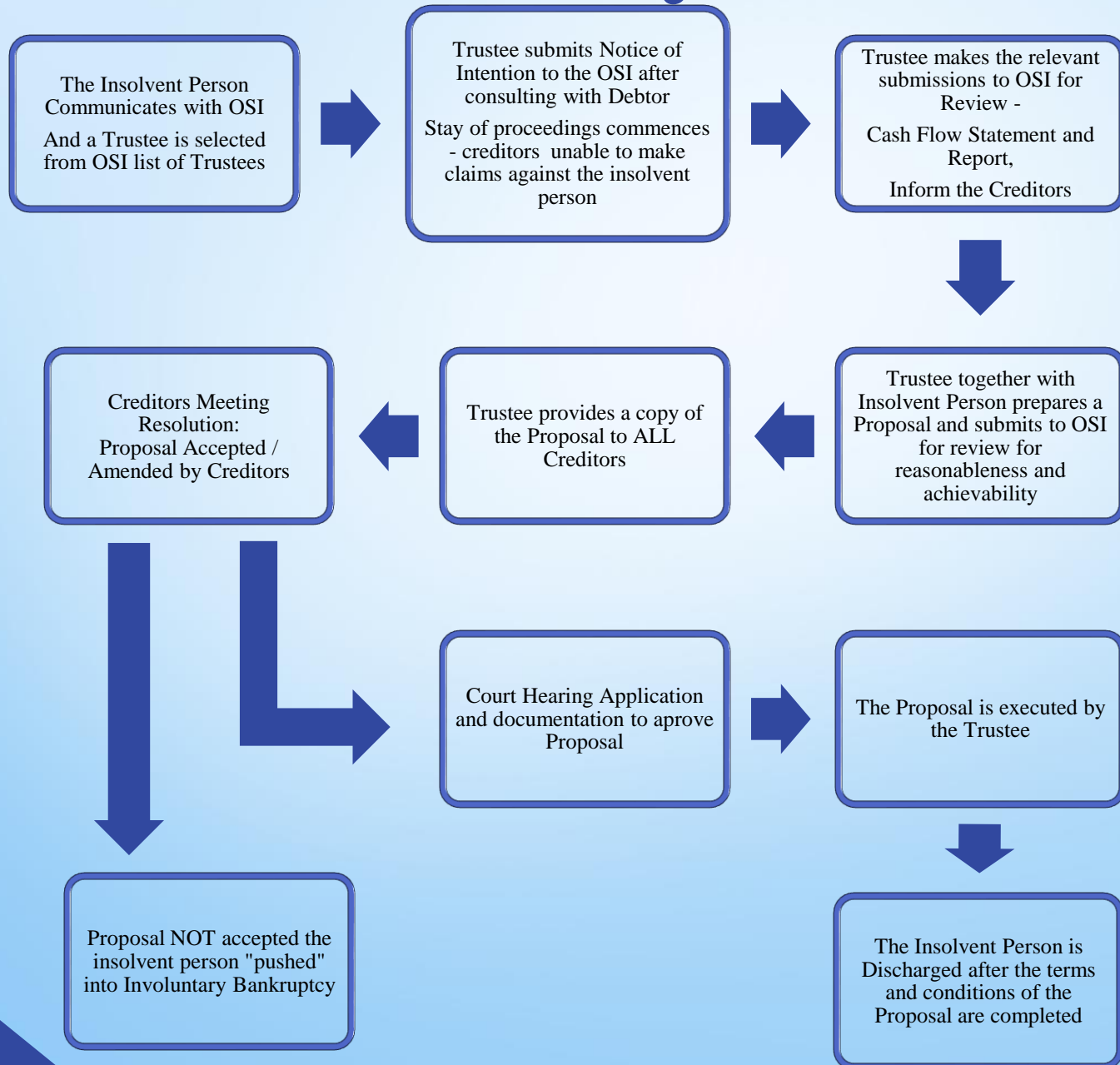
- ❖ There is a cadre of Trustees with a wealth of varied experiences that provide financial advice and guidance in accordance with the BIA to clients.
- ❖ OSI is responsible for the Licensing of Trustees and ensures that each application meets the criteria of the Supervisors “Fit and Proper Test”.
- ❖ Part XVI of the Bankruptcy and Insolvency Regulations states that a Trustee shall be bound to the code of ethics.
- ❖ Misconduct of Trustees.
- ❖ Monitoring and oversight of the Trustees.



# Qualifications to be a Licensed Trustee

- ❖ Under Section 180 (1) and 180 (2) of the BIA, an application for a Trustee licence is made to the Supervisor.
- ❖ Regulation 71 (a) of the Bankruptcy and Insolvency Regulations iterates, pursuant to section 180 (3) of the BIA, a person shall not be granted a licence as a trustee unless he is a member of one of the following professional bodies:
  - ❖ the Institute of Chartered Accountants of Trinidad and Tobago (ICATT);
  - ❖ the Institute of Chartered Accountants of the Caribbean (ICAC);
  - ❖ the Institute of Internal Auditors of Trinidad and Tobago (IIATT);
  - ❖ the Association of Chartered Certified Accountants; or
  - ❖ Law Association of Trinidad and Tobago established under the Legal Profession Act.
- ❖ Once the Supervisor is satisfied that the applicant has fulfilled the requirements of the BIA and is considered "Fit and Proper", a Trustee Licence is issued

# The Insolvency Process



# PROPOSAL – Corporate Rescue



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.

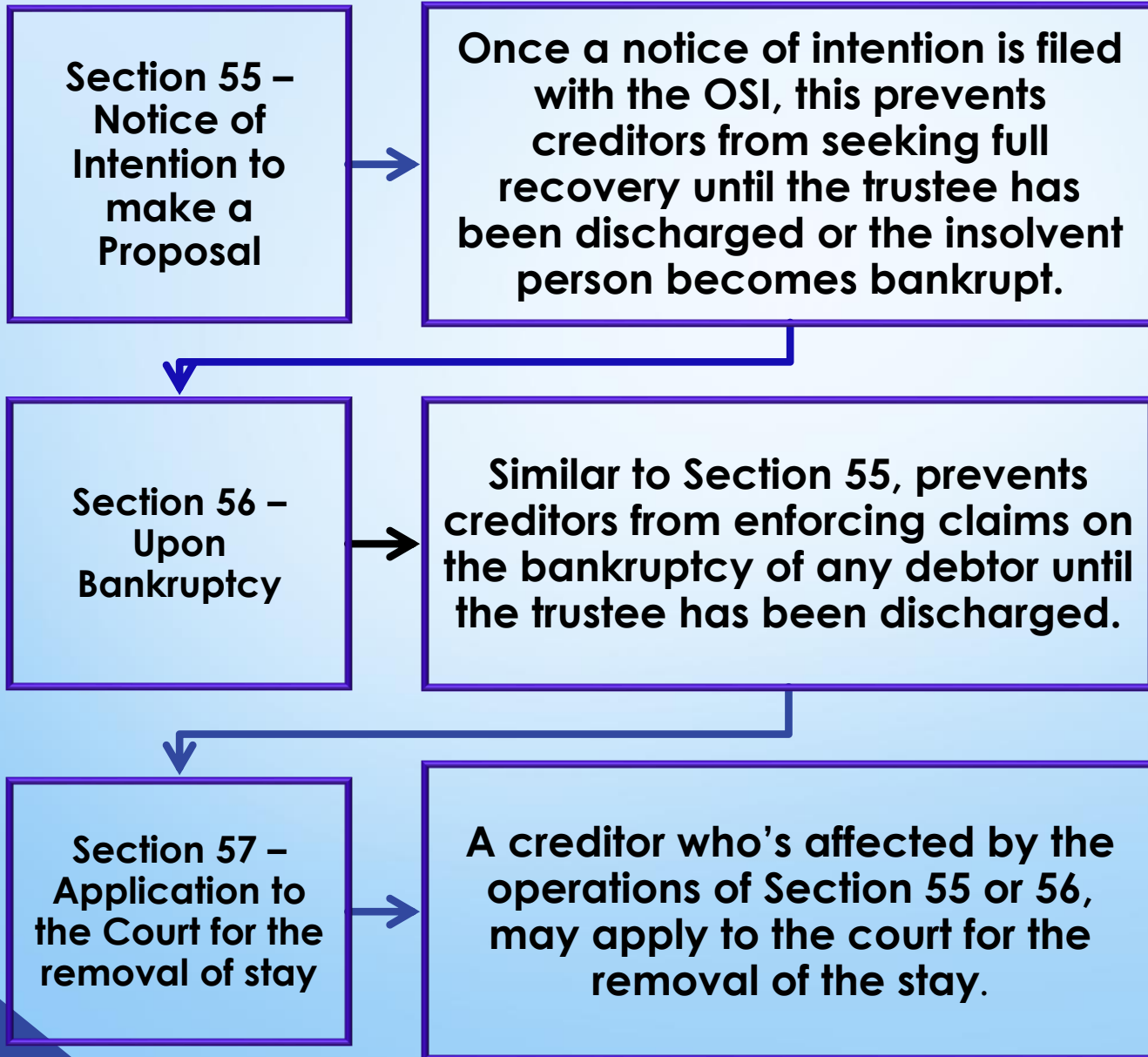


Proposals are enforceable before a Court and could result in bankruptcy if there is default by a debtor.



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

# Stay of Proceedings ( Automatic Stay)



# 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 to provide “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 (BIA based on Canadian Model);

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

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

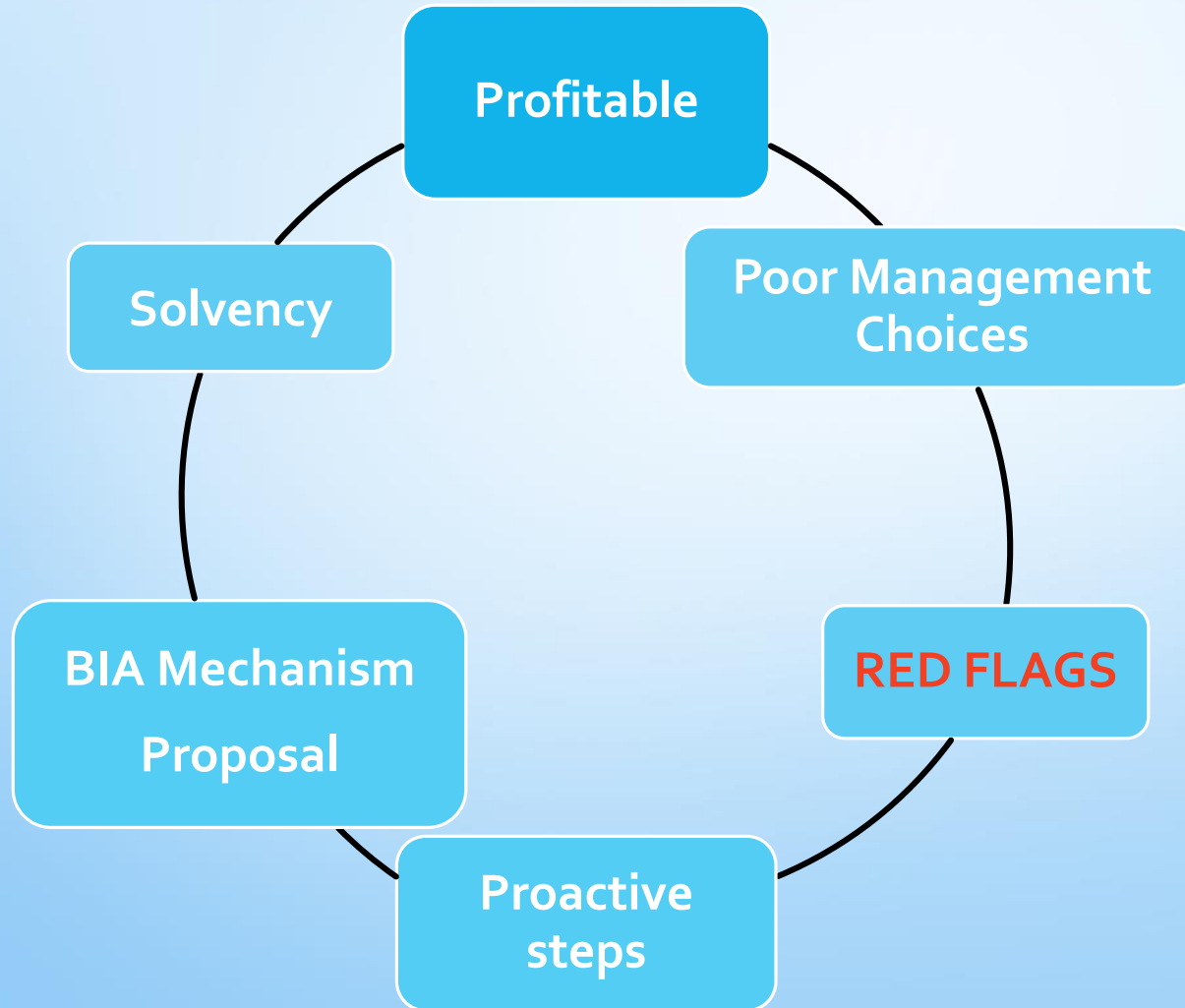
Maintains the going concern of the business, preservation of jobs and goodwill.

# Protection Of Societal Interests

- ❖ A high percentage of new businesses fail even in the best of economies in the best of times and a non-punitive, efficient insolvency system encourages taking chances on new ideas will not happen if the most creative entrepreneurs are stalled in endless procedural and punitive proceedings.
- ❖ The debtor is part of a system, which interfaces with employment issues, taxes and can have an effect on demand and supply.
- ❖ Having an efficient insolvency system in place can positively impact entrepreneurial activity, foreign direct investment and the country's competitiveness.



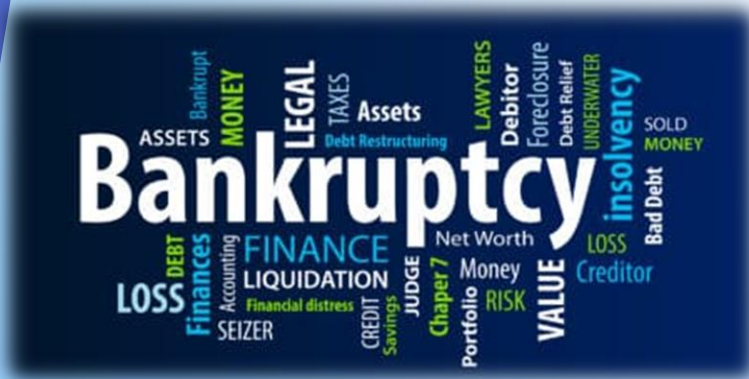
# Snail Solutions Co. Ltd - Temporary Insolvency



# Who is a Bankrupt Person?

Section 3 of the BIA, Chap. 9:70 stipulates that, “bankrupt” means a person who has made an assignment or against whom a receiving order has been made under Section 5(10).

Bankruptcy is a legal proceeding involving a person or business that is unable to repay their outstanding debts. The bankruptcy process begins with a petition filed by the debtor, which is most common, or on behalf of creditors, which is less common. All of the debtor's assets are measured and evaluated, and the assets may be used to repay a portion of outstanding debt.



# Bankruptcy

Bankruptcy proceedings may be viewed from the perspective of being either voluntary (jump) or involuntary (pushed and fall);

In the case of voluntary proceedings, an insolvent person makes an assignment to the benefit of the creditors (becomes operational when accepted by the Supervisor);

In the case of involuntary proceedings, the creditor relies on an "act of bankruptcy" to request the Court to make a receiving order;

Bankruptcy is applicable to both individuals and business entities;

Benefits include:

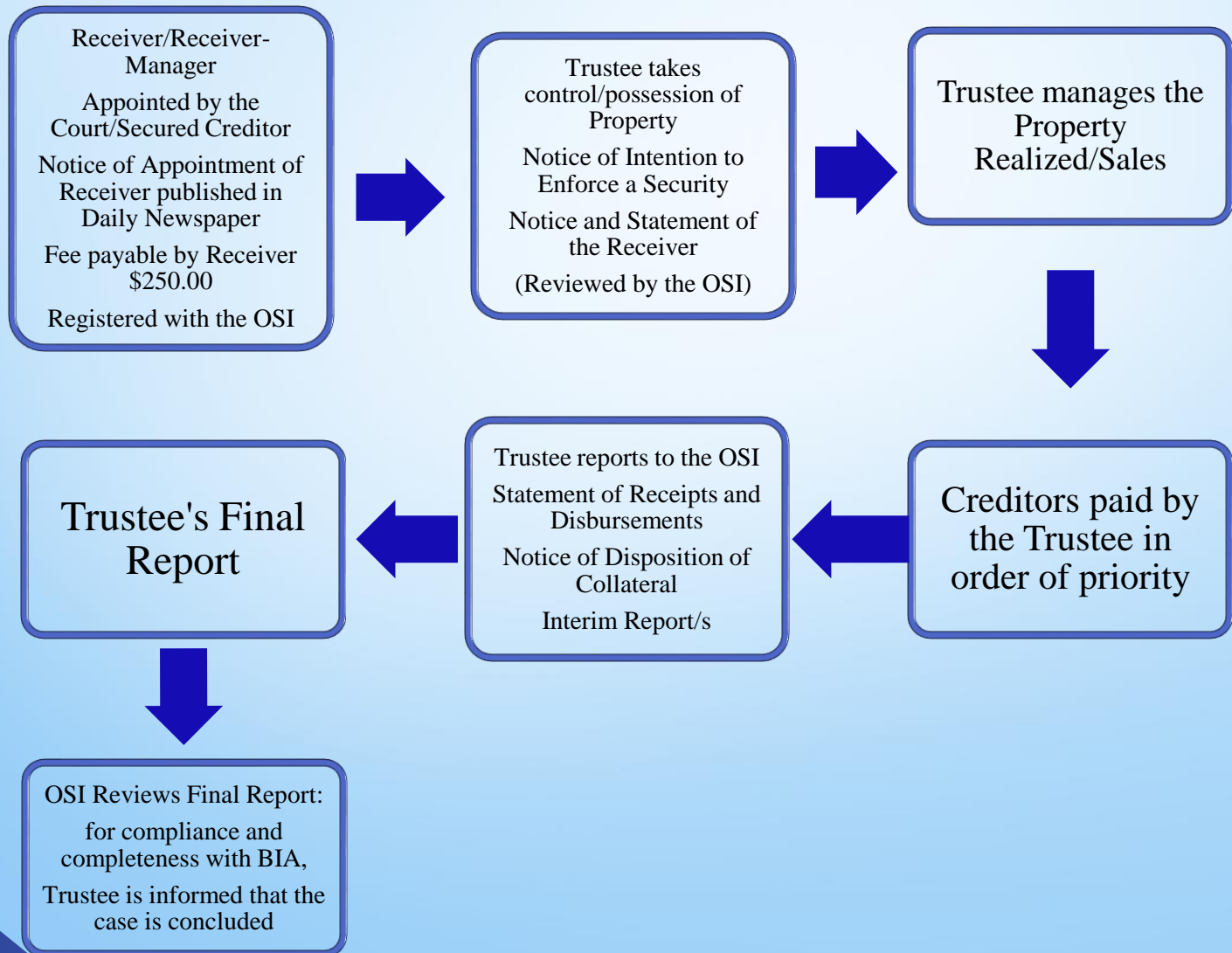
An orderly liquidation of the bankrupt's assets and the eventual distribution of the value of assets amongst creditors;

For business entities, bankruptcy is an alternative to winding up;

Debtor counselling is available for individuals for rehabilitation; and

The bankrupt is discharged over a period of time.

# 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
- 14 Licensed Trustees
- 30 Receiverships
- 5 Insolvents
- Networking
- Technical and Advisory support



## Improved Framework



- Amendments to the BIA Regulations.
- Improved regulation of Trustees
- A more modern insolvency system in line with best international practices.
- 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



## Challenging, but Effective



- Strategic Planning & Management
- Strong, knowledgeable resource base
- Ensure support of stakeholders
- Not an over night change



## 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 & 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 right's 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.*

*An effective insolvency provides 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!

