Restructuring Principles
Some key lessons learned from experience in SEE

March 2016

Loren Richards, Partner
Frankfurt

CLIFFORD CHANCE

Practical example:

- Poslovni sistem Mercator, d.d. ("**Mercator**") - the largest Slovenian retailer and the second largest consumer staples company in Southeastern Europe with ca. €3bn of revenue
- A significant post-Lehman contraction of GDP and intense competition from discounters across its operational territories led to declining consumer sales
- In response the Company's current management undertook:
  - a comprehensive operational restructuring effort to reduce costs, focus on core programmes and regain market share
  - a restructuring of its c.€1.1bn financial liabilities to address its capital structure
- The macro-economic environment, pressure in the banking sector, coupled with tight liquidity, the parallel takeover of the Company by Croatian competitor Agrokor resulted in a sensitive financial and political situation and, by far, the region's most complex financial restructuring case
- **Clifford Chance** was hired in Summer 2013 and, together with Mercator's other advisors (**PwC/Lazard**) and local counsel (**Jadek & Pensa**) ran an expedited restructuring process across all jurisdictions to close the restructuring successfully in June 2014 and without derailing (or being derailed by) the parallel public M&A process

Some key issues:

- Diverse lender group with predominantly bilateral facilities
- High leverage/debt maturities
- Macro-economic operating environment
- Tight liquidity
- Limited legal tools
- Listed business/parallel M&A process
- High political and media interest
- Ripple effects

What role could/did the INSOL principles play in facilitating the successful restructuring?

Could have, should have, would have?:

Standstill	**Composition of lender universe; evolution of standstill arrangements throughout the process**
No lone enforcement	**How exposed was the process to such persons? Correlation to degree of standstill?**
No favouritism	**Equality of treatment; the shareholder/lender dynamic; the “bilateral lending” mindset**
Co-ordination	**Buy-in to a CoCom; make-up of CoCom; an easy path?**
Access to information	**Barriers to information sharing and overcoming these**
Respect the starting position	**Perception that all creditors are equal but that some creditors are more equal than others?**
Equality of information and confidentiality	**Navigating deal/dynamic specifics – listed business, ongoing M&A process**
Priority for new money	**Ensuring (i) market terms could be offered (ii) availability to all and (iii) liquidity needs could be met**

…and next time?