

Closing a Business Survey
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Dear Contributor,

We would like to thank you for your cooperation with the *Doing Business* project. The information you provide is analyzed and presented in the *Doing Business* report, an annual publication of the World Bank and the International Finance Corporation that benchmarks business regulation in 178 economies worldwide.

Last year's report, *Doing Business 2008*, was a great success and inspired more than 3500 articles in the press, thanks to the generous contribution of 5000 experts like you in 178 economies. Since its inception in 2004, *Doing Business* has inspired 113 reforms around the world. These reforms make it easier to do business in countries as diverse as Egypt and Estonia.

Thanks to reforms of business regulation, more businesses are starting up, finds *Doing Business 2008*. Your participation has been essential to this success.

For *Doing Business 2009*, we are honored to be able to count on your expertise. We would be interested in understanding if reforms affecting closing a business in your country have been implemented since June 2007.

Please return the completed questionnaire within the next 20 working days, the latest by February, 7th 2008 to Bryan Welsh (bwelsh@worldbank.org) or Joanna Nasr (jnasr@worldbank.org). If you have any questions, do not hesitate to contact us.

Thank you again for your invaluable contribution to the World Bank's work.

Sincerely,



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How to Proceed

1. Please review the assumptions of the case study to understand fully the context of the survey.
2. Update your contact information, the information you would like us to publish, and the information regarding others who contributed to the completion of this survey.
3. Fill out the survey and describe in the allocated spaces any new reforms or administrative changes that will take place between June 2007 and June 2008. Please provide detailed explanation to any changes in the current data.
4. For your convenience we have provided last year's answers. A few of the questions are new and therefore no answer is provided.

Case study

The survey analyzes the time, cost and outcomes of bankruptcy proceedings involving the business in an attempt to assess the recovery rate recouped by the creditors.

Please read carefully the following assumptions because they are important to understand the context of the survey.

Mirage is a local company that runs a hotel in MostPopulousCity. Mirage has 201 employees and its only asset is the hotel property. The company's annual revenue has averaged LCU Revenue over the past three years. On January 1, 2003, Mirage signed a 10-year loan agreement with BizBank, an Australian bank. The loan was secured by the hotel property. The total amount of debt outstanding is 136 units. BizBank holds 74% of Mirage's total debt; unsecured creditors (e.g. suppliers, tax authorities and employees) hold the remaining 26%.

In countries where universal business charges, floating charges, or other charges covering an entire enterprise are available, BizBank holds such a charge. In countries with no such charges, but where parties can set up a similar arrangement by contract (for example by granting the lender rights to future streams of profits or other proceeds of the collateral), assume that the BizBank-Mirage contract specifies such an arrangement.

Mirage's founder, Mr. Douglas, owns 51% of the company and is chairman of its board of directors. No other shareholder holds more than 5% of voting power. The company has a professional general manager. Mirage has 50 suppliers, all of whom Mirage owes payment for their last deliveries. Note that all parties in this scenario are Australian entities or citizens; no foreign parties are involved.

Today is January 1, 2008. For three years, Mirage has kept all of its loan conditions and made all payments on time. However, at the end of 2007, Mirage experienced an unexpected operating loss due to worsened market conditions. As a result, Mirage will default on its next loan payment to BizBank, which is due tomorrow, January 2.

Please assume the following:

The Hotel:

1. The remaining amount owed to BizBank exactly equals the hotel's market value.
2. The company expects operating losses in both 2008 and 2009.
3. The company expects to have a negative net worth (i.e., liabilities will exceed assets) in both 2008 and 2009.
4. The hotel is Mirage's only source of income.
5. The company's expected 2008 cash flow will cover all operating expenses, including supplier payments, salaries, maintenance costs and taxes. It will not cover principal or interest payments to BizBank.
6. Mirage does not default on any payments other than the BizBank loan.

7. If Mirage is sold as a going concern, it would fetch 100% of its current market value. But if Mirage's assets were sold piecemeal, they would fetch only 70% of Mirage's current market value. The hotel's sale price as a going concern would just cover the amount owed to BizBank, but there would be nothing left over for other creditors.

What each party wants:

1. BizBank wants to recover as much of its loan as possible, as quickly and cheaply as possible. It also wants to make sure its claim has priority over other creditors.
2. The unsecured creditors will do everything within the limits of the law to avoid piecemeal sale, and will use all lawful delaying tactics that they can.
3. Mr. Douglas wants to keep the firm operating and under his control, but does not care whether the current management stays or goes.
4. Management wants to keep the firm operating as well as their jobs, but all other parties are indifferent about management's fate.

What each party knows:

1. BizBank will know there is a problem when Mirage defaults on its payment due January 2. However, the bank will not know the full extent of Mirage's troubles until the company releases its Annual Report on March 31. Nevertheless, BizBank maintains the hotel's bank accounts and has the capability, through its access to records of Mirage's payments and receipts, to identify all the company's suppliers and potential creditors.
2. Mirage management knows all the information described above, and therefore has a first-mover advantage over BizBank.
3. All other parties will not know about the company's situation until the Annual Report's release on March 31.

Existing Contact information:

	Please provide us with your updated information, if any.	Please mark the information you would like published?
Title (Mr., Ms., etc.)	[]	<input type="checkbox"/>
Name	[] (first/given) [] (last/family)	<input type="checkbox"/>
Position	[]	<input type="checkbox"/>
Firm	[]	<input type="checkbox"/>
Mailing Address	[] (street) [] (city) [] (state/province) [] (country) [] (zip/postal)	<input type="checkbox"/>
Phone	[]	<input type="checkbox"/>
Cell Phone	[]	<input type="checkbox"/>
Fax	[]	<input type="checkbox"/>
E-Mail	[]	<input type="checkbox"/>
Website	[]	<input type="checkbox"/>

Additional Contributors:

	Name	Firm and Position	Email	Phone
1st participant	[] (first/given) [] (last/family)	[] (firm) [] (position)	[]	[]
2nd participant	[] (first/given) [] (last/family)	[] (firm) [] (position)	[]	[]
3rd participant	[] (first/given) [] (last/family)	[] (firm) [] (position)	[]	[]
4th participant	[] (first/given) [] (last/family)	[] (firm) [] (position)	[]	[]
5th participant	[] (first/given) [] (last/family)	[] (firm) [] (position)	[]	[]

Updating Indicators

I. Reforms		
a. Have any amendments to bankruptcy legislation been adopted between June 2007 and now? Y <input type="checkbox"/> N <input type="checkbox"/> If yes, please indicate the date of the reform, the laws/regulations affected and describe the reform's objectives and major characteristics. []		
b. If the answer to 1(a) is Yes, are these amendments likely to affect:		
▪ The available procedures in bankruptcy (liquidation, reorganization, etc)	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The duration of the bankruptcy procedure	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The cost of the bankruptcy procedure	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The priority ranking of payments in liquidation proceedings	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The likelihood of a going-concern sale in liquidation proceedings	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The likelihood of a going-concern sale in foreclosure proceedings	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The likelihood that a rehabilitation plan will be approved	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ The likelihood that management is fired in reorganization proceedings	Y <input type="checkbox"/>	N <input type="checkbox"/>
▪ Professional or academic requirements for administrator position	Y <input type="checkbox"/>	N <input type="checkbox"/>
If yes to any of the above, please describe: []		
c. Are any amendments to bankruptcy legislation likely to be passed by June 2008? Y <input type="checkbox"/> N <input type="checkbox"/> If yes, please describe the expected changes: []		

II. Mirage's Scenario: Procedure, Time, Outcome, Cost and Legal System:		
Please answer the following questions based on your personal experience, the laws in your country and the assumptions of this case study.		
1. Procedure:		
a. Choice of bankruptcy procedure. According to our data, the most likely initial procedure for Mirage is: Procedure . This answer may reconcile responses from several contributors. If you believe this answer is incorrect, please indicate the procedure you believe will apply in Mirage's case. Unless the facts of the case scenario determine otherwise, please select only one procedure.		
▪ <input type="checkbox"/> A debt enforcement or foreclosure procedure that is not stopped by the start of bankruptcy procedures. Bankruptcy procedures may go on in simultaneously, or after the sale of the hotel;		
▪ <input type="checkbox"/> A reorganization procedure. Also check this box if Mirage enters a single bankruptcy procedure that leads to a reorganization attempt;		
▪ <input type="checkbox"/> A reorganization procedure (or attempt) that is unsuccessful and leads to a liquidation/winding-up procedure;		
▪ <input type="checkbox"/> A liquidation procedure, including a single bankruptcy procedure that leads directly to liquidating Mirage.		
If you disagreed with the reconciled answer, please explain your reasoning: []		
b. Final procedure. Would the procedure indicated above be converted to another procedure in the majority of cases (i.e. reorganization to liquidation if unsuccessful after one year)? If yes, please indicate the reason for the change and what the final procedure would be. []		
c. Type of security that BizBank holds. Please name the type of security that BizBank is likely to hold in Mirage (e.g. mortgage over the land and building, floating charge, enterprise charge, etc) and describe which of Mirage's assets are covered by that security (e.g. the land and building, or all present and future assets, etc). []		

ii. Bizbank receives payment on its claims is:

- A) **MinTime** months, if there are no disputed claims, appeals or other complications;
- B) **MaxTime** months, if all parties except BizBank are attempting to delay the process.
- C) **AvgTime** months, most likely.

This answer may reconcile responses from several contributors. If you believe this answer is incorrect, please provide a new estimate:

- A) [] months, if there are no disputed claims, appeals or other complications;
- B) [] months, if all parties except BizBank are attempting to delay the process.
- C) [] months, most likely

If you disagree with the reconciled answer, please explain why it is incorrect: []

- o What are probable dilatory tactics used? []

4. Cost

a. How much do the proceedings cost? According to our data, the entire proceeding's estimated cost, including all fees, expressed as a percentage of the estate's value on January 1, is: **Cost%**. This answer may reconcile responses from several contributors. If you believe this answer is incorrect, please provide a new estimate:

- Below 2%
- Between 2% and 5%
- Between 5% and 8%
- Between 8% and 11%
- Between 11% and 18%
- Other (please specify): []
- Between 18% and 25%
- Between 25% and 33%
- Between 33% and 50%
- Between 50% and 75%
- Between 75% and 100%

Please explain why you think the reconciled answer is incorrect: []

Please indicate the cost measured to the time that Mirage's fate is determined (if different from above): []

5. Legal System

a. **How much are bankruptcy laws used?** Please estimate how many new bankruptcy cases are filed each year: []

b. **Likelihood of informal workout?** Please comment on the likelihood that Mirage would enter an informal workout or debt restructuring rather than insolvency proceedings: []

c. **Type of courts.** Please indicate the name of the court involved in the procedure (if there is court involvement) [] and please indicate the number of judges in that court []

- d. Does the court and legal system in your country have the following characteristics?
- Option for no court involvement in insolvency process Y N
 - Specialized commercial court Y N
 - Specialized bankruptcy court Y N
 - Creditors can appoint administrator Y N
 - Limits to procedural appeals Y N
 - Statutory time limits for bankruptcy proceedings Y N
 - Internet use for posting decisions and publicizing auctions Y N
 - Allows for floating charges Y N
 - Requires special qualifications for trustees Y N

Applicable Law.

According to our data, bankruptcy proceedings in Australia are governed by the following law(s):
Laws

If this is incorrect, please clarify (please provide name of law in original language and in English and an internet link, if possible):
[]

Referrals

The Doing Business project covers several topics of business regulation from start-up to closing. Please let us know whether you would like to contribute to any of the following topics in addition to this survey or whether you would like to recommend one of your colleagues.

I would like to contribute to the following topic	I would like to recommend :		
	Name	Firm and Position	Contact Information
<input type="checkbox"/> Starting a business	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Construction licenses/ building regulation (including Architects and Engineers)	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Labor and social security regulation	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Registering property	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Collateral laws/secured transactions	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Protecting investors, (Corporate and Securities law)	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Enforcing contracts/ commercial disputes	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Closing a business/ bankruptcy law	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Transparency/ Public interest law (including NGO's, Academics and Practitioners)	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Trade (including Freight forwarders, Importers and Exporters)	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
<input type="checkbox"/> Infrastructure/ Electricity (including Architects, Engineers, Electrical utility personnel)	[] (first name) [] (last name)	[] (firm) [] (position)	[] (phone) [] (e-mail)
Other comments: []			

Thank you for completing the survey!

We appreciate your contribution to the Doing Business project.
The results will appear in *Doing Business 2009* and on our website: <http://www.doingbusiness.org>.