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LEGAL PROCESSES IN WINDING UP OF COMPANIES UNDER MYANMAR INSOLVENCY LAW 2020

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Abstract

Winding up refers to the procedure through which a business ceases its operations and its assets are liquidated to settle debts and distribute any remaining funds to shareholders or creditors. This research explores the complexities inherent in the winding up proceedings of companies in Myanmar, with a particular emphasis on the legal structure dictating this process and its implications for corporate rescue and rehabilitation. The study aims to examine and define key legal aspects, including provisions, definitions, and regulations surrounding the winding up of companies. Additionally, it seeks to evaluate the effectiveness of the legal framework in addressing corporate rescue and rehabilitation during the winding up process. The outcomes of the research show that Myanmar's rehabilitation and restructuring regime provide a structured framework for companies suffering financial distress. The initiation of rehabilitation, whether voluntary, by a secured creditor, or through a court order, includes a crucial aspect: the imposition of a three-month moratorium during the rescue stage. This provides a protective shield against legal actions during the development of a rehabilitation plan, with certain improvements to the existing legal framework identified. This research highlights the strengths and limitations of Myanmar's legal framework for the winding up of companies, offering practical suggestions for enhancement. Through implementing these suggestions, Myanmar has the opportunity to fortify its insolvency framework, making it more adaptable, supportive, and conducive to successful corporate restructuring amidst financial challenges. Focusing on effective corporate governance and legal reforms contribute to a more resilient and sustainable business environment in Myanmar, fostering long-term prosperity and peace through improved insolvency practices.

Keywords: winding up, companies, rehabilitation, rescue, legal framework

Introduction

The winding up of a company is a controversial issue that requires a thorough understanding of the legal procedures and the company's financial records. This research focuses on the complexities of winding up proceedings in Myanmar Companies Law, 2017 and Myanmar Insolvency Law, 2020, emphasizing the importance of the legal framework in corporate rescue and rehabilitation. With the theme of research and innovation for peace, prosperity, and sustainability, the study aims to meticulously examine key legal aspects and evaluate the effectiveness of Myanmar's legal framework. By scrutinizing provisions, definitions, and regulations, the research provides insights into the structural underpinnings of business dissolution. It also offers practical suggestions for enhancing Myanmar's insolvency framework to make it more adaptable and supportive of successful corporate restructuring. Ultimately, this study seeks to foster a resilient and responsive legal environment in Myanmar, contributing to a sustainable business landscape and promoting long-term prosperity and peace.

Research Objectives

1. To descriptive the key legal provisions, definitions and regulations governing the winding up process of companies in Myanmar, with a focus on understanding the procedural aspects and legal requirements involved.

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2. To assess the effectiveness of the existing legal framework in Myanmar concerning company rescue and rehabilitation during the winding up process, aiming to identify strengths, weaknesses and potential areas for improvement in supporting distressed companies.

Research Method

The study employed a qualitative research design, integrating documentary legal description for the laws, rules, court decisions and legal precedents governing company winding up.

Research Questions

1. What is the legal framework for the winding up of companies in Myanmar, and how does it define and regulate the process?
2. How can the existing legal framework in Myanmar be improved to better address challenges related to company rescue and rehabilitation during the winding up process?

Definition of the Winding up of the Company in Myanmar

With regarding to the definition of the winding up, the process of closing a company, selling its asset and paying its debt.[1] In Myanmar, the winding up of companies is governed by two laws: the Myanmar Companies Law of 2017 and the Insolvency Law of 2020. Generally, the winding up process occurs under two circumstances (1) when a company is solvent and able to pay its debts, and (2) when a company is insolvent and unable to meet its financial obligations. The Insolvency Law applies to cases where companies, individuals, or small and medium enterprises are insolvent, unable to pay their debts, or seek rescue or rehabilitation.

In Myanmar, the establishment of a company is subject to the Myanmar Companies Law 2017, but a company must be dissolved only under the Insolvency Law, 2020. Because the provision of section 418(a) of Insolvency Law, 2020. Also, the Directorate of Investment and Company Administration (DICA) announced that insolvency proceedings, including winding up of companies, must be carried out under section 418 of the Insolvency Law, 2020, from the effective date of the Law. Upon the commencement of the Insolvency Law, the winding up of companies, incorporated micro, small, and medium enterprises (MSMEs), partnerships, and unincorporated MSMEs must be conducted in accordance with this Law, regardless of the provisions in Part V of the Myanmar Companies Law.[2]

Similarly, the Directorate of Investment and Company Administration (DICA) announcement, companies must state the relevant sections of the Insolvency Law from now on upon making a public announcement for liquidation. In addition, all companies must comply with the timeline set in the Insolvency Law and Rules for the winding up process. Moreover the Supreme Court of the Union has also issue application forms through notifications. By Myanmar Companies Online (MyCo)[3].Correspondingly, section 3(g) of the General Clauses Law, 1973 prescribed that confirmation of the later promulgations is favored in the legal context when it contradicts previous promulgations. When there is a contradiction between previous

[1] Oxford Business Dictionary, Oxford University Press, 1st Edition, 2005, P.605.
[2] Section 418(a), Myanmar Insolvency Law, 2020.
[3] Notification 998/2024 of the Supreme Court of the Union.

promulgation (Myanmar Companies Law, 2017) and a later promulgation (Myanmar Insolvency Law, 2020), the latter is favored and given preference in terms of confirmation.

Company Director Guide prescribed as a company can be wound up voluntarily either by way of member' or creditor' voluntary winding up. Both types of voluntarily winding up must initiate by a special resolution passed by the company's members at a general meeting. A members' voluntary winding up involves the liquidation of a company that is still solvent. The process is initiated when the company ceases business operations, and a general meeting of members is convened to approve a special resolution for voluntarily winding up the company. Before the meeting, the directors must submit an affidavit declaring that they have thoroughly reviewed the company's affairs and believe that the company will be able to settle its debts in full within three years from the start of the winding up process. This declaration must be backed by an auditor's report and filed with DICA before the notice of the general meeting is sent to members. At the meeting, members must pass the special resolution to voluntarily wind up the company. Within 10 days of the resolution being passed, the company must publish a notice in the gazette and a national newspaper that a special resolution has been passed to voluntarily wind up the company. A liquidator must be appointed to wind up the affairs of the company and file the required notification with DICA in accordance with the Companies Law. Once a liquidator is appointed, the directors will no longer have any authority to run the company.[1]

The winding up of the company under Myanmar Insolvency Law has been seen in the case of Myanmar Economic Holdings Public Co., Ltd. vs Myanmar Brewery Co., Ltd.[2] Myanmar Economic Holdings Public Co., Ltd. is sued Myanmar Brewery Co., Ltd. for liquidation by court order under section 298(f) of the Myanmar Companies Law. Myanmar Economic Holdings Public Co., Ltd. signed a joint venture agreement with Kirin Holding Singapore Pte. Ltd., a subsidiary of Myanmar Brewery Limited with Myanmar Economic Holdings Public Co., Ltd. owning 49% of the share and Kirin Holding Singapore Pte. Ltd., holding 51% of the shares. Myanmar Brewery Limited has been paying annual profit distribution and company trade tax; income tax and special commodity tax up to the financial year 2019 but failed to pay the profit distribution and taxes due for the financial year 2020-2021. Although the Directors of Myanmar Economic Holdings Public Co., Ltd. has repeatedly discussed the failures, Myanmar Brewery Limited has been announced unilaterally that the distribution of profits has been suspended. Therefore, Myanmar Brewery Limited is sued to be liquidated by a court order. The main point to be examined in this case is whether the applicant company's application for liquidation by court order according to section 298(b) of Myanmar Companies Law, the court consider should admission or not. There are two Laws concerning company winding up in Myanmar, Myanmar Companies Law and Myanmar Insolvency Law. Insolvency proceedings, including winding up of companies, must be carried out under section 418 of the Insolvency Law from the effective date of the law. Application of the Insolvency Law is on the commencement of this Law, the winding up of companies, incorporated MSME's and partnerships and unincorporated MSME's must be carried out under this Law.

To initiate the liquidation process for a company, the initial step involves compiling a comprehensive list of its liabilities. The second step involves assessing the company's assets to

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[1] Directorate of Investment and Company Administration, Company Director Guide, 2018, P. 26.

[2] Myanmar Economic Holdings Public Company Limited Vs Myanmar Brewery Limited, Yangon Western District Court, No.68/2021.

settle the liability, encompassing both physical assets and financial resources. The third requirement entails issuing a legally binding declaration affirming the company's ability to settle the debt by leveraging all assets and funds, fulfilling all financial obligations. Within the framework of company law, it is crucial for directors to proactively disclose a declaration of solvency stating that the company will be able to pay its debts but if there is an impossible situation for the company to pay the debt or if the statement that the debt cannot be published, then, it is necessary to take legal action. The purpose is to complete the winding up of the company after all debts are paid.[1]

Therefore, it can be summarized that the winding up of companies in Myanmar is governed by the Myanmar Insolvency Law, 2020, outline distinct processes depending on the solvency or insolvency of the company with the Insolvency Law taking precedence in cases of insolvency or corporate rehabilitation. Voluntary winding up requires a special resolution passed by the company's members and adherence to legal procedures, including declarations of solvency and notifications to relevant authorities. Compliance with the provisions of both laws and the associated timelines ensures proper liquidation and dissolution of companies in Myanmar.

Modes of the Winding up of the Company

The winding up of a company registered under the Myanmar Companies Law may be either: (i) voluntary or (ii) by the Court.[2] A company may be wound up voluntarily under the following circumstances: when the company's constitution specifies a duration and that period expires, or if it provides for dissolution upon the occurrence of a certain event and that event takes place, when the company passes a resolution in a general meeting to wind up voluntarily, if the company resolves by special resolution to undertake voluntary winding up or in accordance with the circumstances outlined in Part V and Part VI that lead to a transition to winding up.[3]

Therefore, companies registered in Myanmar may be wound up voluntarily by their shareholders or creditors, or compulsorily through a court order, with voluntary winding up being the more common practice easier than the compulsory winding up. The relevant laws governing the company liquidation are the Insolvency Law, 2020 and the Insolvency Rules, 2020.

Voluntary winding up of the company

Companies registered in Myanmar can be voluntarily wound up by its shareholders or creditors. A statutory declaration of solvency is made when it is proposed to wind up a company voluntarily under the circumstances outlined in section 147(a) (i) or (ii)of Myanmar Insolvency Law,2020. The majority of directors may, during a directors' meeting, issue a statutory declaration stating that they have conducted a thorough inquiry into the company's affairs and believe that the company will be able to pay its debts in full, along with any interest, within one year from the commencement of the winding up. However, this declaration has no effect under this Law if it is not made within three weeks prior to the resolution for winding up being passed and if it does not include a statement of the company's assets and liabilities as of the date the declaration is made. In the case of a public company or a wholly-owned subsidiary of a public company, the declaration must be supported by a report from the company's auditors. The declaration must be submitted to the Registrar. If a director makes a declaration under this

[1] Kyaw Zayar, (2020), *The Knowledge for the winding up of the company*, 1st edition, P.5.
[2] Section 145(b), Myanmar Insolvency Law, 2020.
[3] Section 147(a), Ibid.

section without reasonable grounds to believe that the company can pay its debts in full within the specified period, they may be fined by the Registrar an amount not exceeding 1,000,000 kyats. Furthermore, if the company is wound up based on a resolution passed within three weeks of the declaration, and its debts are not fully paid within the specified period, it is presumed that the director lacked reasonable grounds for their opinion, unless proven otherwise.

If the declaration of solvency is not submitted to the Registrar within the timeframe set by the Rules, the company and any defaulting officers may face a fine from the Registrar of up to 100,000 kyats.[1]

When making a statement that a director can make a statutory declaration of solvency, the official must send it to the registrar in time. "Registrar" refers to the Directorate of Investment and Company Administration, its successor, or any other Union level body or individual appointed to oversee the registration of companies. This entity is responsible for exercising the powers and performing the functions and duties assigned to the Registrar under the Companies Law or other applicable laws, as well as registering matters related to personal insolvency (including MSMEs) under this Law.[2]

During liquidation of a company, the shareholder has the right to appoint the liquidator in general meeting. A liquidator must be appointed at one on the day of the meeting to liquidate the company. In order to be able to make such an appointment, the company needs to prepare in advance. In a members' voluntary winding up, the company must appoint one or more liquidators during a general meeting to manage the winding up of the company's affairs and distribute its assets. The appointed insolvency practitioner must provide written consent to accept this role.[3]

One of the following individuals must be appointed as the liquidator, and their written consent must be submitted to the Court for the appointment to be valid: a nominee proposed by the applicant for the winding up order, or, if no nominee is designated, the Official Receiver must be appointed by the Court. If no insolvency practitioner is nominated, the Court is obligated to appoint the Official Receiver as the liquidator.[4]Additionally, The District Courts of each State, Region, Self-Administered Division and Self-Administered Zone of the Union have the jurisdiction to wind up a company registered under the Myanmar Companies Law.[5]

Therefore, voluntary company winding up involves shareholders or creditors initiating the process. In the case of members' voluntary winding up, directors must make a statutory declaration of solvency, confirming the company's ability to pay its debts within a year. This declaration must be timely supported by an auditor's report for public companies in Myanmar.

Procedure for the voluntary winding up

The Board of Directors holds a meeting to pass a resolution to wind up the company and adopt the statutory declaration and the statement of the company’s assets and liabilities according to Myanmar Insolvency Law, 2020 and Myanmar Insolvency Rules, 2020 prepared no longer than three weeks before the Board of Director meeting date and confirm that the company will be able to pay its debts in full within one year from its winding up commencement date. The shareholders of the company hold a general meeting to pass a special resolution for the company's winding up and appoint a liquidator who holds an Insolvency Practitioner Registration

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[1] Section 151, Ibid.
[2] Section 2(z) (ll), Myanmar Insolvency Law, 2020.
[3] Section 152, Ibid.
[4] Section 167(c), Ibid.
[5] Section 159, Ibid.

Certificate. The liquidator is responsible for managing the company's affairs and distributing its assets during the liquidation process. Within two days of their appointment, the liquidator submits the statutory declaration and appointment notice to the Registrar of Directorate of Investment and Company Administration (DICA). Additionally, within five days from the notice date, the liquidator publishes the winding up notice in a Myanmar daily newspaper and sends the notice to all the creditors of the company together with Proof of Debt or Claim Form to claim for payment of debts. Once the liquidator is appointed, the authority of the company’s directors is transferred to the liquidator. However, the company’s corporate status and powers remain in effect until the completion of the liquidation, as stipulated in section 55(c) of the Myanmar Insolvency Law, 2020. The company must cease all business activities except those necessary for the winding up process. During liquidation, no legal actions, Court proceedings, or arbitration proceedings can be initiated against the company or its property unless authorized by a Court order. The liquidation must be completed within one year from its start date. If it extends beyond one year, the liquidator is required to submit an annual report to the Registrar each year until the process is finalized. Upon completion of the liquidation, the liquidator must prepare a final account detailing the conduct of the liquidation and the disposal of the company’s property. The liquidator will then convene a general meeting of the shareholders to present the liquidation account and provide an explanation. A copy of the liquidation account, minutes of the general meeting, and other necessary documents must be submitted to the Registrar within one week following the meeting. The Registrar must register the liquidation documents immediately upon their receipt and register the completion of the company liquidation 3 months from the liquidation documents registration date provided in section 211(a), Myanmar Insolvency Law.

To conclude the winding up process of a company in Myanmar is a meticulous and legally regulated procedure aimed at the orderly dissolution of the business entity. As provided in the Insolvency Law and other relevant regulations, the process involves several crucial steps, including the appointment of a liquidator, the realization of assets, settlement of liabilities, and the distribution of remaining funds to shareholders. Throughout this intricate process, adherence to legal requirements and transparency is paramount to ensure fairness and protect the interests of creditors, shareholders, and other parties involved.

Winding up by the Court

Winding up by the Court, also known as compulsory winding up or liquidation is a legal process through which a company is brought to an end by order of the Court. This method of dissolution is typically initiated when a company is unable to meet its financial obligations or faces insurmountable financial difficulties. Unlike voluntary winding up, where the decision is made by the company's shareholders, winding up by the court involves a judicial intervention to ensure fairness and protect the interests of various stakeholders.

Circumstances in which company may be wound up by the Court in Section 161 of Myanmar Insolvency Law, 2020 provides that A company may be wound up by the Court under several circumstances: if the company has passed a special resolution to be wound up by the Court; if it fails to commence business within one year of incorporation or suspends its business for an entire year; if the company is insolvent; if the Court deems it just and equitable to wind up the company; or if the Court finds valid grounds of public interest. Public interest grounds include situations where the company has no directors or has conducted business or entered into transactions with the intent to defraud its creditors or for any other fraudulent purpose.[1] It can be seen that if the court applied for the winding up of the company due to one of the above five factor.

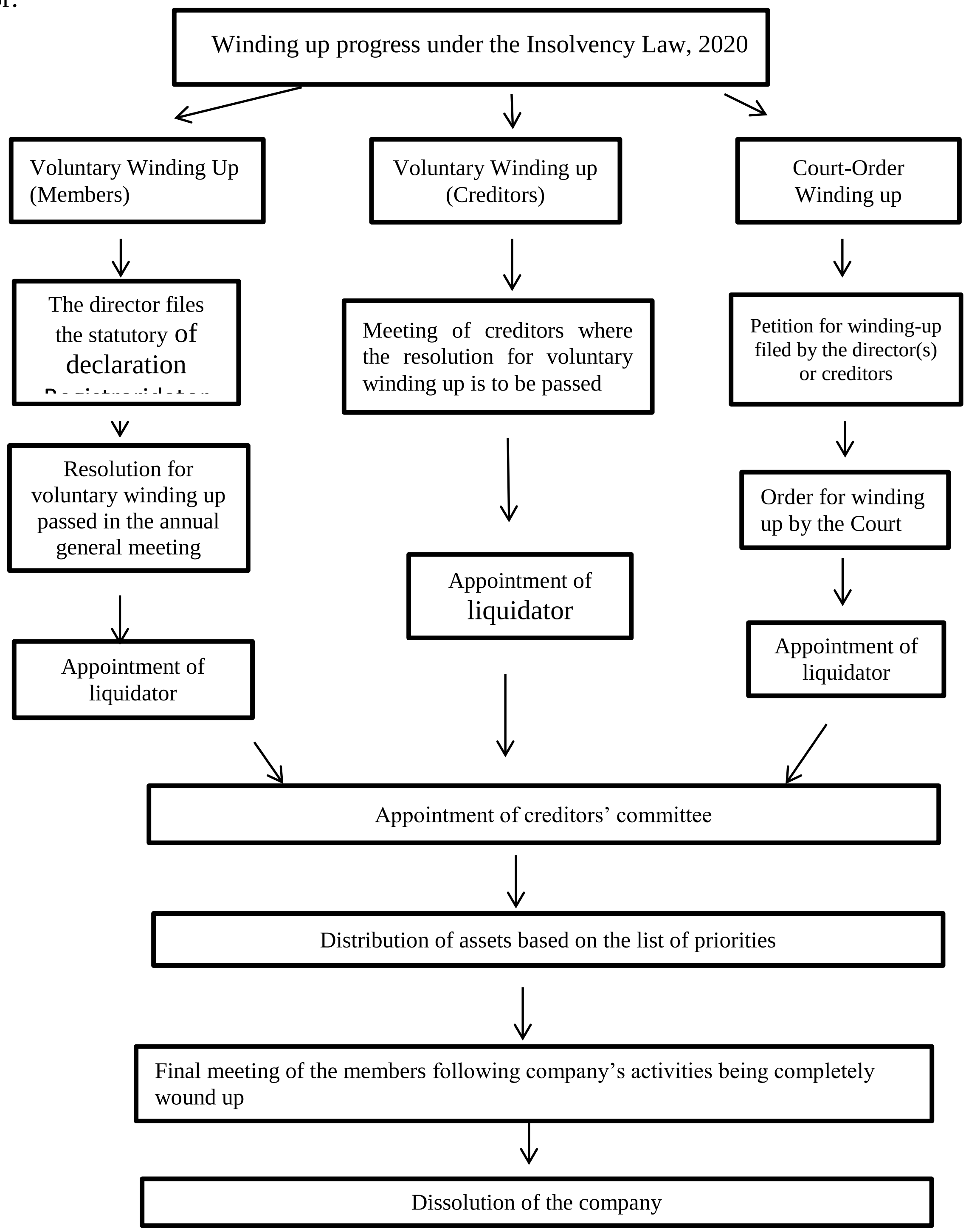

Figure 1. Winding up process[2]

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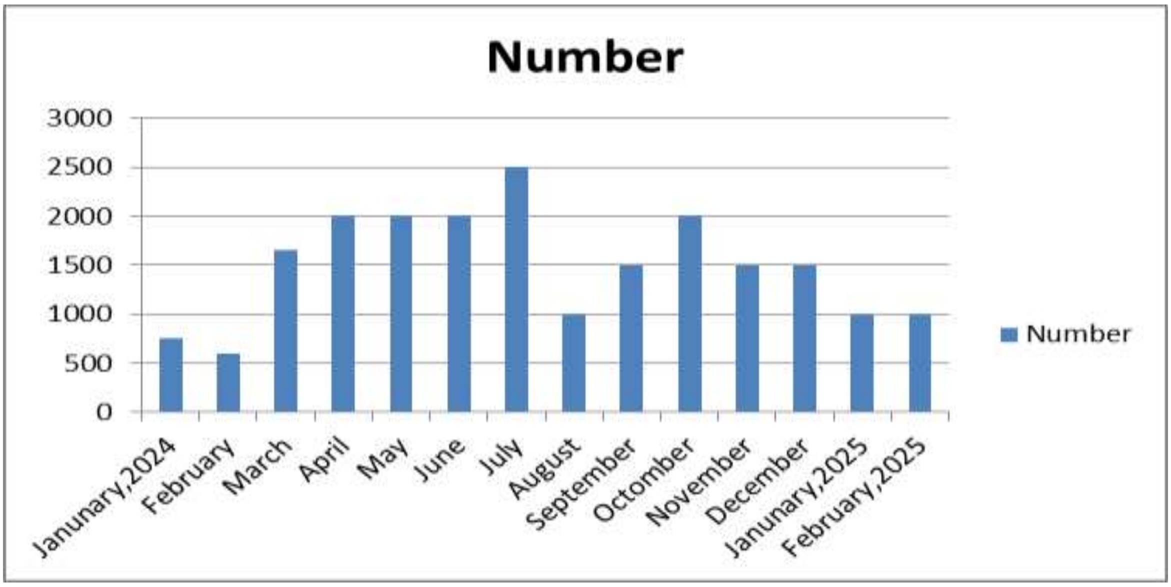
[1] U Tun Tun vs Po Kaung Company Lmited, 2024, Civil Miscellaneous Suit, No. 136. New Light of Myanmar, September 12, 2024.

[2] Notification No.1185/2023, Procedures for adjudication proceedings under the Insolvency Law, the Supreme Court of the Union.



Source: Notification from Directorate of Investment and Company Administration[1]

Figure2. List of companies struck off from company registration by Directorate of Investment and Company Administration in 2024 and 2025

Corporate Rescue and Rehabilitation

The Insolvency Law permits companies facing insolvency to choose between liquidation and a new option, corporate rescue and rehabilitation. A company is unable to pay its debts as and when they become due will be declared insolvent. Insolvency proceedings in the form of rehabilitation or liquidation may be initiated when a company is declared insolvent. Corporate rehabilitation proceedings to rescue the company may be initiated by a company, its secured creditor(s) or by a rehabilitation order passed by the court. In the event that company rescue is not possible, the company may be liquidated either by a voluntary or court mediated winding up process. A company may also be directly liquidated without going through the rehabilitation phase. Such a petition for the direct winding up of a company without having to go through the rescue process may be filed before a court by the company's directors or creditors. It introduces a dedicated rescue and insolvency framework for micro, small, and medium enterprises, designed to simplify the rehabilitation and liquidation procedures, providing a more streamlined and cost-efficient system suited to micro, small, and medium enterprises.[2]

The objectives of the new corporate rescue and rehabilitation proceedings are as follows: to rescue the company as an ongoing entity, if the first objective cannot be achieved, to ensure that as much of its business as possible continues to operate, if neither of the first two objectives can be met, to secure a better outcome for the company's creditors as a whole than would occur if the company were to be wound up. These rehabilitation proceedings will be managed by a rehabilitation manager, an insolvency practitioner who must be registered under the Insolvency Law. This manager will implement a rehabilitation plan approved by the company's creditors. The rehabilitation plan represents a compromise between the company and its creditors and shareholders. If the rehabilitation proceedings conclude without creditors agreeing to a

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[1] Notifications No. 3,5,9,13, 16,18,25,27,33,41,44, 47,58,62,69,73,80,84,85,87, 92,101,104,108,113,116,119, 122,126,129,137,149,150,155,161/2024 of Directorate of Investment and Company Administration.

[2] Section93, Myanmar Insolvency Law, 2020.

rehabilitation plan or if no plan is executed within the timeframe established by the Insolvency Law, the company will move to a creditors' voluntary winding up.[1]

No corporate or personal insolvency has been reported yet under the Insolvency Law of Myanmar.[2] It follows that the objectives and process of MSME rehabilitation closely resemble those of corporate rescue and rehabilitation. However, there are a few notable differences that make the MSME rehabilitation process more flexible compared to corporate rescue and rehabilitation. Under the corporate rescue and rehabilitation process, the functions of the rehabilitation manager is to manage the affairs of the company and rehabilitation manager must take into his custody or under his control all the property to which the company is or appear to be entitled. The rehabilitation plan may be prepared by either the rehabilitation manager or any interested party. In certain specified situations, the rehabilitation manager bears personal liability for fulfilling the company's obligations. In contract, under MSME rehabilitation process, the function of the rehabilitation advisor is principally to advise and assist MSME in the rehabilitation process. The rehabilitation plan must be prepared by MSME or by the rehabilitation advisor with the consent of MSME. The rehabilitation advisor is not personally accountable for any debts or liabilities of an MSME under rehabilitation.

Initiation of Rehabilitation Proceedings

Rehabilitation proceedings of a company which is unable to pay its debts begin with the appointment of a Rehabilitation Manager who may be appointed by the directors of the company, a secured creditor who holds security over all or the majority of a company's assets or by a rehabilitation order passed by a court provided in section 43 in Myanmar Insolvency Law, 2020.Rehabilitation Proceedings for corporates are divided into two phases: rescue stage where the Manager conducts a meeting with the creditors to discuss preparation of the rehabilitation plan(RP) and plan stage where the Plan that has been adopted is given due effect and the assets of the company are distributed as per the plan and the company is revived as a going concern.[3]

Rescue Stage

During rehabilitation proceedings, the Manager is deemed to be an agent of the company and must manage the affairs of the company and adopt reasonable measures to effectively revive the company. The Manager is required to conduct a meeting of the creditors, facilitate the appointment of a "Creditors Committee", float the Plan, and ensure that the Plan is acceptable to the creditors. The Manager assumes personal liability in respect of the debts incurred by the company during the rehabilitation process. A meeting of the creditors must be summoned by the Manager within 30 days of appointment to discuss the rehabilitation proceedings and deliberate on the plan (if already prepared). A Creditors Committee may be appointed through the mutual consensus of the creditors at this meeting. The primary objective of appointing the Committee of Creditors is to assist the Manager in preparation of the plan.[4] This plan is a compromise between the company, its creditors and members. It may be prepared by the Manager or any other interested party. The plan must contain details of the company's property, the manner of the

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[1] Section 94, Myanmar Insolvency Law, 2020.

[2] Thant Sin Lwin U, Director-General, of the Directorate of Investment and Company Administration (DICA), Myanmar Digital News, July 28, 2020.

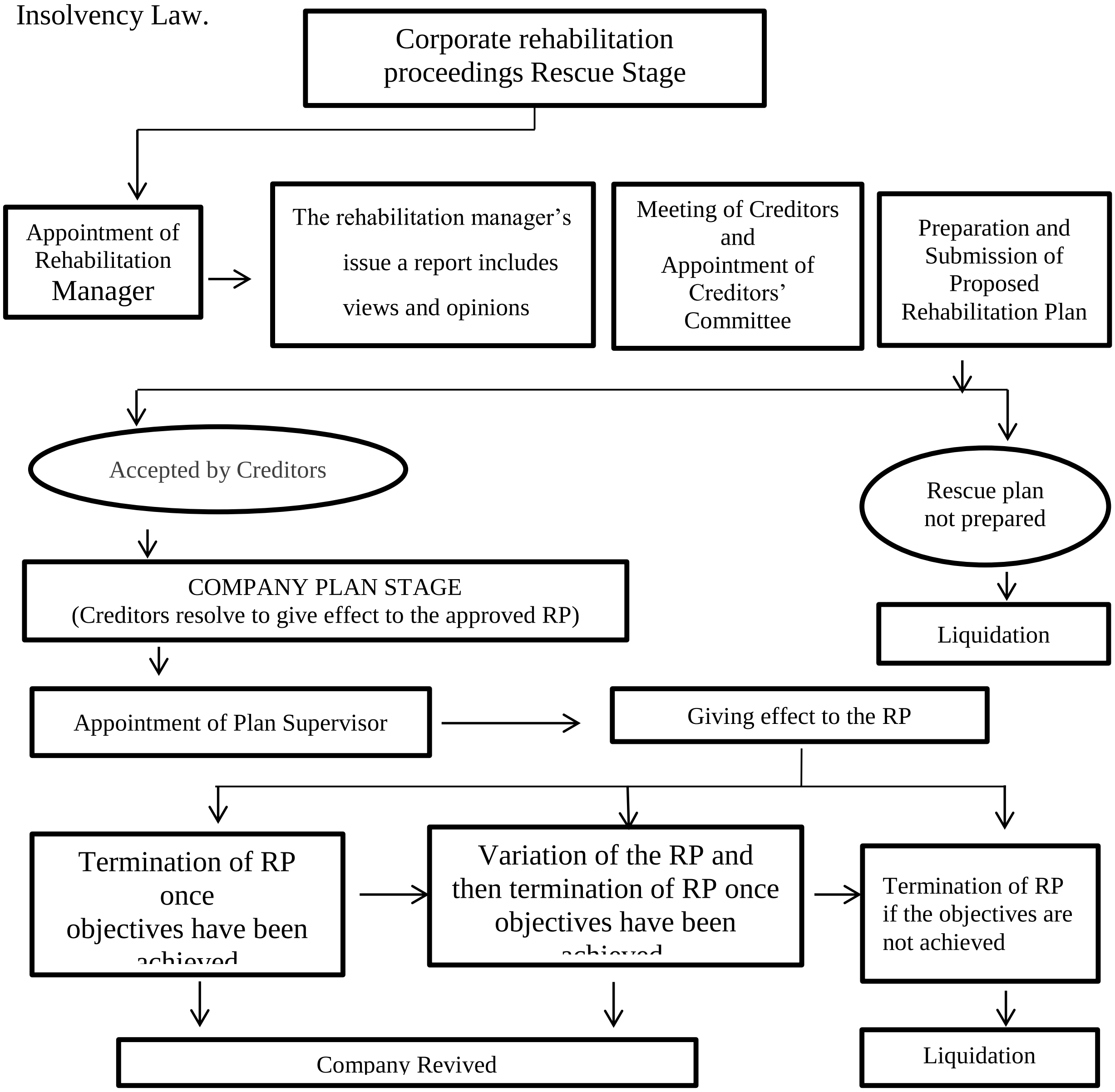
[3] Section 40, Myanmar Insolvency Law, 2020.

[4] Sections 51, 53, 61, 69, Ibid.

fulfillment of liabilities, order of payment priority, the responsibilities of the directors and other officers of the company to give effect to the plan and details regarding termination of the plan. Once the Plan has been accepted, the company will thus enter into the plan Stage.

Plan Stage

After acceptance of the plan, the company will have to appoint a plan Supervisor ("Supervisor") to ensure its due implementation. The Supervisor will give effect to the plan, ensure that the terms mentioned in the plan have been met, the claims of the creditors have been duly fulfilled and this will conclude the plan Stage. In the event that objectives mentioned in the plan are not achieved, it should be altered accordingly at a meeting of the creditors and the plan so altered should be enforced. If alteration of the plan is not possible then the company will move to the liquidation phase and will have to be wound up provided in chapter 4 of Myanmar Insolvency Law.



Source: The New Myanmar Insolvency Law of 2020: An Overview[1]

Figure 3. The corporate rescue and rehabilitation proceedings

[1] Nishant Choudhary and Arijeet Nandi, *An Overview of the New Myanmar Insolvency Law of 2020*, www.pioneers in developing asia.com.

Table 1. Restructuring & Insolvency Regime in Myanmar

Myanmar	Areas
Rehabilitation and Restructuring Regime	Rehabilitation process can be initiated voluntarily, by a secured creditor and by an order of the Court
Eligible Companies	All companies incorporated in Myanmar
Scope of Moratorium	During the rescue stage of the rehabilitation process, the rehabilitation manager is given three months to develop a feasible rehabilitation plan.
Invocation of Moratorium	The moratorium is automatic. Any action intended against the company during the rescue stage of the rehabilitation process may only be initiated with the Court's permission.
Territorial effect of Moratorium	Within the territorial of Myanmar
Rescue Financing	The Myanmar Insolvency Law does not have any provision that deals with rescue financing
Approval of Plan	The rehabilitation plan is presented to the creditors at a meeting called by the rehabilitation manager. The plan is approved if a majority of the creditors vote in favor of it. The required majority consists of creditors whose claims amount to at least 50% of the total claims of those voting, as well as creditors who represent at least 50% of the total number of creditors present at the meeting.
Binding	The rehabilitation plan is binding on all unsecured creditors, regardless of their presence at the creditors' meeting or whether they voted in favor of the plan. Secured creditors are allowed to realize or manage their secured property unless the rehabilitation plan addresses that secured property and the secured creditor have voted in favor of the plan
Approval of plan without creditors’ meeting	The approval of plan is not possible without the approval of the creditor at creditors’ meeting

Therefore, it would be seemed that the restructured insolvency regime in Myanmar is a complex and evolving framework that plays a critical role in the country's economic development. While the legal framework for restructuring and insolvency is established under existing laws. In the majority of instances such as Neo Image Service Corporation Limited, One Stone Company Limited[1] companies are wound up through voluntary winding up and winding up by court is extremely rare. There have been little reported cases of corporate or personal insolvency in the High Courts of the Yangon[2] and Mandalay[3] Regions. It suggests that the need for further development and implementation to ensure a successful corporate restructuring and rehabilitation process in Myanmar. Addressing these areas could enhance the regime's effectiveness and support the country's broader economic growth efforts.

Table 2. Areas implement a successful corporate restructuring and rehabilitation

Areas	Strengths	Weaknesses	Findings
Rehabilitation and Restructuring Regime	**Multiple Initiators**: Myanmar allows for the initiation of the rehabilitation process voluntarily by the company, by a secured creditor with majority security, or by a Court order.	**Limited Initiators**: Myanmar permits multiple initiators for rehabilitation, but gaps exist when neither the company nor a secured creditor takes the lead in starting the process.	**Mediation as Alternative Dispute Resolution**
Scope of Moratorium	**Defined Timeframe**: Myanmar's moratorium is tied to a specific stage in the rehabilitation process, giving a clear timeline for action and decision-making. **Protection from Legal Actions**: The moratorium protects the company from legal proceedings and enforcement actions, providing a breathing space to work on a rehabilitation plan	**Restrictions on Asset Disposal:** The prohibition on selling or disposing of assets except in the ordinary course of business may limit flexibility in generating funds for restructuring.	**Flexible Duration**: Consider allowing flexibility in the duration of the moratorium based on the complexity of the case, with provisions for extensions if needed. **Asset Management Guidelines:** Provide clear guidelines on asset management during the moratorium to balance financial stability with the

[1] Gazette of the Republic of the Union of Myanmar, No.39, Vol.78, September 26,2025,Printing and Publishing Department, Ministry of Information.www.moi.gov.mm.
[2] Interview with Kyaw Kyaw, U, Managing Director, the High Court of Yangon Region, Yangon, 30 April 2024.
[3] Interview with Khin San Myint, Daw, Judge of the High Court of Mandalay Region, Mandalay, 30 August 2024.

Areas	Strengths	Weaknesses	Findings
			need for restructuring.
Rescue Financing	Myanmar's law grants administrators the right to prepare and propose compromise plans, providing some degree of flexibility in addressing financial distress.	**Lack of Rescue Financing Provisions:** Myanmar does not specifically address rescue financing, which can limit options for financially distressed companies. **Capital Increasing Mechanisms:** Myanmar Insolvency Law do not provide clear mechanisms for increase capital during the rehabilitation process, Many ASEAN countries especially Laos which allows for capital increases through various means.	**Clarify Capital Increasing Methods:** Detailing procedures for increasing capital during rehabilitation by increasing values of the shares, making a creditor to a shareholder, increasing a number of shares and loan.

The above mentioned are areas could enhance the regime's effectiveness and support the country's broader economic growth efforts. Moreover, according to the World Bank Ease of Doing Business Report 2020,[1] Myanmar was ranked 165th out of 190 countries, an improvement of six places compared to its 2019 position. One of the key criteria assessed in this ranking was the process of resolving insolvency, which takes into account factors such as the duration, cost, outcome, and recovery rate of commercial insolvencies, as well as the strength of the legal framework.

Research Findings

The research finds that winding up a company in Myanmar can be initiated by shareholder resolution, however, to protect minority shareholders, a provision should be added to allow those representing one-tenth of the share capital to request dissolution in cases of severe majority abuse. This would act as a safeguard when majority abuse persists despite existing provisions. Additionally, the Insolvency Law, 2020 must ensure its positive impacts through effective implementation, including court-sanctioned mediation, flexible moratorium durations, and mechanisms for increasing capital. These measures align with legal frameworks that promote economic stability and sustainable corporate governance in Myanmar.

[1] The World Bank Ease of Doing Business Report, Comparing Business Regulation in 190 Economic, 2020, World Bank Group, P.4.

Conclusion

The research on winding up companies in Myanmar highlights the importance of a balanced legal framework for managing liquidation and supporting corporate rescue and rehabilitation. While Myanmar's framework shows potential, it needs improvements like effective insolvency law implementation, court-sanctioned mediation, and flexible moratoriums. Strengthening these areas can enhance corporate restructuring and contribute to sustainable economic growth.

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