

A photograph of an industrial facility, possibly a refinery or chemical plant, featuring large blue pipes, metal walkways, and a complex network of structures. The image is tilted and partially obscured by white geometric shapes.

Defaulted Bonds - Trending Issues in Asia, Including Managing the Angry ‘Sophisticated’ Investor

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Introduction

- Recent issues faced by market participants and practitioners in defaulted bond scenarios in Asia
 - Summary of the default landscape
 - The Singapore Problem
 - The causes
 - The effects
 - Potential solutions
 - Consensual restructurings
- How those issues compare with experiences in the Australian and New Zealand markets.

Summary of the default landscape

- Brief overview of the default landscape in Asia
 - Jurisdictions
 - Industries
 - Legal and regulatory evolution
 - Infrastructure
- Typical wholesale bond documentation in Asia
- The role of the trustee
 - Conduit for bondholders to take action
 - Acts on instruction
 - Entitled to indemnification, security and pre-funding before acting

The Singapore Problem

- Sophisticated instruments finding their way into the hands of unsophisticated investors in a market unfamiliar with the realities of a default situation

The Singapore Problem - causes

- Sophisticated investor test
 - A low bar?
 - Australia and New Zealand in contrast
- Private bank rebate
 - A conflict of interest?
- Institutions and infrastructure not designed to operate in default scenarios
 - Clearing systems and stock exchanges

The Singapore Problem - effects

- Unsophisticated investors in unfamiliar territory
- Thirst for yield
- Lack of coherent instructing holder group
- Difficulty in obtaining trustee indemnification
- Deployment of third parties to pressure trustees
 - Regulators
 - Media

The Singapore Problem – potential solutions

- Legislation
 - Time to revisit the sophisticated investor test?
- Regulation
 - Disclosure of rebates
 - Enhanced consumer protection: the New Zealand example
- Enhanced infrastructure
- Investor education
 - Pre and post purchase
 - Pre and post default

Consensual restructurings

- Ways to avoid The Singapore Problem
 - Consent solicitations
 - Cram-down exchanges
 - The trend for liability management
- Engage distressed issuers at the earliest opportunity



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