

*International Conference on Voluntary Insolvency and SMEs or Individual Reorganization Procedure: Debtors' Option to Restart*

# **Natural Persons Insolvency: Foundations and Payment Plan Solutions**

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# Introduction

- Growth of consumer credit in recent decades
  - Consumer over-indebtedness
  - NPL levels in financial institutions
  - Often leads to social problems
- Personal insolvency regimes: a partial solution
  - Number of countries (mostly developed) enacted or updated their PI regimes in recent years
  - Debt Discharge is one the main tools
- Increased number of requests for WB assistance in this area

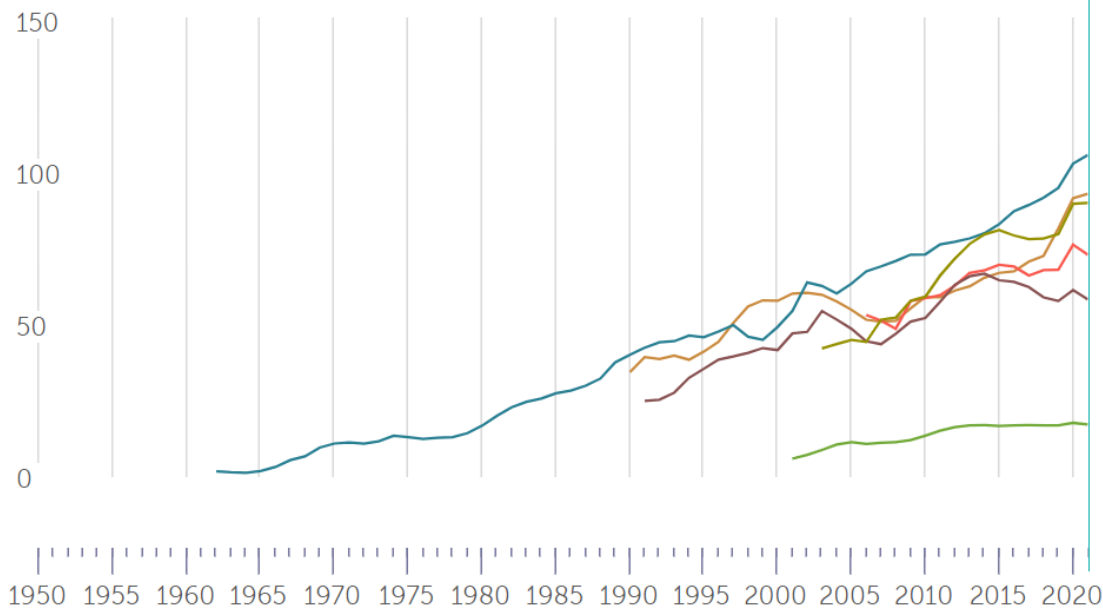


# Introduction

## Household debt, loans and debt securities, Percent of GDP

TREND (1950-2021)

Percent of GDP



SELECTION (2021)

⊠ Hong Kong SAR	93.08
⊗ Indonesia	17.25
⊠ Korea, Republic of	105.79
⊠ Malaysia	73.05
⊠ Singapore	58.35
⊗ Thailand	90.03

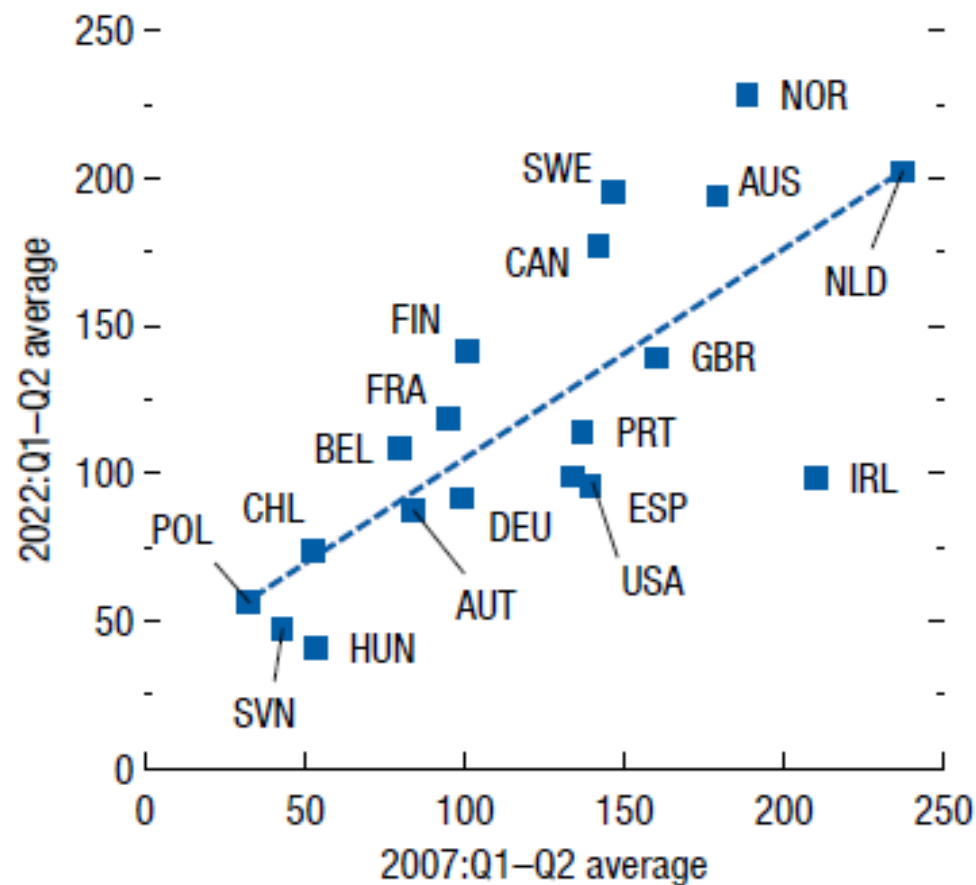
ADD AN ITEM TO THE CHART

RESET

Source: IMF Global Debt Database

### Figure 1.1.3. Household Indebtedness Rates in Selected Economies

(Percent)



Sources: Organisation for Economic Co-operation and Development; and IMF staff calculations.

Note: Data labels in the figure use International Organization for Standardization (ISO) country codes.

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# Sources of legal analysis

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## ABSENCE OF INTERNATIONAL STANDARDS IN THE AREA

- UNCITRAL Legislative Guide
- WB principles
- IMF: SME insolvency
- Recent 2014 EC Recommendation

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## PUBLICATIONS

- WB MSME Report (2018)
- WB Report on the Treatment of Insolvency of Natural Persons (2011)
- INSOL's Consumer Debt Report (2011)

# What is to be achieved?

## BENEFITS FOR CREDITORS

- Increased payment to individual creditors

- Enhancing fair distribution

## BENEFITS FOR HONEST DEBTORS

- Personal relief – hardship debts

- Family relief

## BENEFITS FOR SOCIETY/ECONOMY

- Encourage responsible lending

- Reduction of wasteful costs and avoidance of depressed sales

- More efficient loss distribution

- Increase taxable income and maximize economic activity

# Benefits for Financial Entities

## CLEANING UP BALANCE SHEETS

- - Enhances capital raise and investment
- - Enhances leverage capacity

## INCREASE IN BUSINESS ACTIVITY

- - Clients return to productive activity

## PROVIDES INCENTIVES TO IMPROVE RISK MANAGEMENT

- - Personal insolvency increases formality in economy

## FOSTERS ADEQUATE RISK TAKING

- - Makes creditor moral hazard more difficult
- - Fraud to be detected at inception



# Differences between corporate and consumer insolvency

## CORPORATE

- **Purpose:** value preservation/distribution
- Creditors participation
- Verification of claims
- Court involvement
- Administrator's discretion
- Complex estate management

## CONSUMER

- **Purpose:** Fresh start
- No unsecured creditor voting
- Generally, no claims administration
- Minimum court involvement
- Administrator applies standards
- Standard income collection

# Key Notions in Personal Insolvency

## TREATMENT OF INSOLVENCY, NOT POVERTY

- Systems are social *insurance*, not social *assistance*
- Poverty cannot be solved in one procedure, over-indebtedness can

## FRESH START VS EARNED START

- Obligation to turn over future income to obtain discharge?
- Differences in access criteria
- Differences in exiting criteria

# Payment through a Payment Plan

Plan Duration

Payments to Creditors: Reasonable Expenses and “Surplus” Income

- Actual or Projected Income, Exclusions and Enhancements
- Expenses: Flexibility and Standardization
- What to Do with Debtors with No Income, No Assets (NINAs)

Plan Implementation, Monitoring and Supervision

Modification of Payment Plans for Changes in Debtor’s Circumstances

Advantages and Disadvantages of the Different Approaches to Payment

## Fraud Avoidance

Fear in stakeholders detected. System needs credibility

Essential in cash-based economy with high informality

Adequate instruments available

- Credit information systems
- Access to procedure
- Discharge test

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THANKS!

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