Annex 3

1. A scheme of arrangement is a procedure provided by the Companies Act (Chapter 50) of Singapore (the "**Singapore Companies Act**") for creditors and members of a company effect a compromise or arrangement so as to restructure the debts of a company that is on the brink of insolvency as an alternative to liquidation.

2. The procedure for a scheme of arrangement in Singapore are as follows:

   a. **The formulation of a proposal of a scheme for consideration by creditors**. This proposal should be accompanied by an explanatory statement explaining the scheme of arrangement. Typically, a scheme proposed to creditors would include a proposal for the reduction of debts owing by the company or entity concerned.

   b. **An application being made to court for approval to call a meeting of creditors**. The creditors should be divided into different classes if their interests are different. It is also common to apply for a stay of proceedings against the debtor company or entity to facilitate the consideration of the scheme.

   c. **If the approval is granted, the creditors will then consider the proposal and vote on it during the meeting of creditors**. The majority of votes required is more than half in number representing three quarters in value of those present and voting at the meeting.

   d. **If the requisite majority is obtained, the court must further sanction the scheme**. In general, the matters which the court will take into account in deciding whether or not to sanction a scheme includes a consideration of whether the statutory requirements to effect a scheme had been complied with, sufficient information had been given to the creditors and the terms of the scheme are reasonable.

3. Thereafter, if the Singapore Court sanctions the scheme of arrangement (and subject to certain administrative steps being taken), the scheme becomes binding as between the debtor company or entity and its creditors.

4. The Singapore Companies Act was recently amended in 2017 to introduce additional flexibility to enhance processes in schemes of arrangement in implementing debt restructuring, thereby bringing it closer to Chapter 11 of the United States Bankruptcy Code.

5. These enhancements include:

   a. **Enhanced Moratorium**. The Singapore Court is now statutorily permitted to grant moratoriums against creditor action to confer greater protection on a Scheme Company and its corporate group for restructuring in the following ways:

      (i) ***Automatic moratorium*** – A 30-day moratorium will automatically arise on filing of the moratorium application, if certain disclosure obligations are met and undertakings given.

      (ii) ***Scope of moratorium*** – The scope of the moratorium was previously limited; it was restricted to actions or proceedings against the Scheme Company, and most importantly, did not prevent secured creditors from proceeding against their securities. Such enforcement actions are often disruptive to the on-going restructuring process, and have been identified as a key weakness of the scheme of arrangement process. With the recent enhancements, the scope of the moratorium has been expanded, and now includes the ability to halt enforcement actions against secured assets.

(iii) ***Worldwide moratorium*** – The Singapore Court is now able to restrain creditor action overseas, as long as the creditor is in Singapore or within the jurisdiction of the Singapore Court. This worldwide moratorium should extend to foreign creditors that participated in the scheme and/or foreign creditors with a business presence in Singapore. It, however, remains an open question as to how far the Singapore Courts would reach beyond its borders to determine that it has jurisdiction over a particular foreign creditor.

(iv) ***Extension to related entities*** – The moratorium in favour of the Scheme Company may be extended to related entities (i.e. subsidiaries, holding company and ultimate holding company) of the Scheme Company. This is especially relevant in complex restructurings involving the entire corporate group and bond restructuring situations (where the issuer is typically a special purpose vehicle and the obligations are performed and/or guaranteed by the holding company and/or other operative entities).

b. **Rescue Financing**. The new rescue financing provisions allow new financing for the Scheme Company to be granted super priority over existing creditors' claims. Broadly, there are four levels of priority:

(i) ***Costs and expenses of winding up*** – This would provide the rescue financing priority over claims of any debenture holder secured by a floating charge (which, as created, was a floating charge). However, the rescue financing would rank equally in priority among other costs and expenses of winding up.

(ii) ***Priority over all preferential debts*** – This would provide the rescue financing priority over all preferential debts, including costs and expenses of winding up, and by extension, priority over claims of any debenture holder secured by a floating charge (which, as created, was a floating charge). However, the Scheme Company must demonstrate that it would not have been able to obtain the rescue financing unless the debt arising from the rescue financing is given this priority.

(iii) ***Secured over unencumbered assets or subordinate security over existing securities*** – Likewise, to obtain this order with respect to the rescue financing, the Scheme Company must demonstrate that it would not have been able to obtain the rescue financing unless the debt arising from the rescue financing is given this priority.

(iv) ***Same or higher priority over existing securities*** – Apart from the Scheme Company demonstrating that it would not have been able to obtain the rescue financing unless the debt arising from the rescue financing is given this priority, the Scheme Company must also convince the Singapore Court that there is adequate protection *for the interests of the holder of that existing security interest.*