

China's New Enterprise Bankruptcy Law

Context, Interpretation and Application

Edited by:
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Yongqian Xu and
Haizheng Zhang

China S New Enterprise Bankruptcy Law China S New Enterprise Bankruptcy Law

Emily Lee



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The closure of many small and medium enterprises SMEs following the global financial crisis of 2008 spurred the Chinese government to follow its international counterparts in issuing an economic stimulus package While it was effective in preventing many financially distressed SMEs from failure by boosting demand for its businesses in the long run such SMEs should be rescued through a statutory regime which affords them temporary protection from creditors and provides them an opportunity to restructure their businesses In so doing the premature liquidation of SMEs would be prevented and SMEs with viable businesses but in temporary financial difficulties would be given a chance to succeed again Although China s new Enterprise Bankruptcy Law EBL has shortcomings it improves upon its predecessor legislation and since it is still at an infantile stage of development is bound for further reform Despite the EBL s success in bringing Chinese corporate bankruptcy laws in line with international standards full compliance with the UNCITRAL Model Law on Cross Border Insolvency and UNCITRAL Legislative Guide on Insolvency Law remains to be seen In September 2008 the South China Morning Post newspaper reported that the number of applications for corporate reorganization and bankruptcy cases had dropped leading to widespread speculation there are problems in the law s practical application This article examines the implementation of the EBL critiques key aspects of the EBL and argues for a comprehensive assessment of the EBL and for bringing the EBL in full compliance with the international standards on cross border insolvency

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