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Judicial Management Vs Scheme of Arrangement: Evaluating the Corporate Rescue Mechanism in Malaysia with Comparative Analysis with United Kingdom

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ABSTRACT

Companies that are financially distressed do not necessarily end in liquidation. There are effective corporate rescue mechanisms in Malaysia that can rehabilitate these companies. Two of the main mechanisms in Malaysia under the Companies Act 2016 ('CA 2016') are the Judicial Management ('JM') and also Scheme of Arrangement ('SOA') which allows financially distressed companies to be restructured and preserved. These mechanisms also allow these companies to recover financially and at the same time preserve all stakeholders' interests.

In this article, the effectiveness of JM and SOA in Malaysia will be evaluated through the current legal framework in Malaysia, the practicality, its strengths and also weaknesses. Throughout this study, a qualitative method will be adopted through comparative analysis, socio-legal analysis and also doctrinal study. In the comparative analysis, United Kingdom's ('UK') corporate rescue mechanisms, especially its practicality and arrangement will be studied in order to compare and contrast with Malaysia's framework.

The primary claim of this article is that there are still few problems persisting even though Malaysia has improved its corporate rescue mechanisms. Amongst other, the problems are due to intricate method of implementation, strong creditor control and minimal judicial direction. On the other hand, the UK has better practical support and procedural flexibility. Therefore, there are lessons for Malaysia to benefit and improve its own corporate rescue mechanism by adopting from the UK.

Keywords: Corporate Rescue, Judicial Management, Scheme of Arrangement, Insolvency Law, Corporate Restructuring

INTRODUCTION

According to Alam & Miah, 2014, the intention of the corporate rescue mechanisms are to advocate for the ongoing of businesses and to protect stakeholders through revamp of the company's structure rather than an immediate liquidation. Even though a company may be insolvent, insolvency laws still allow these financially distressed but viable companies to be preserved.

Over the years, especially under the CA 2016, Malaysia has improved its corporate rescue mechanisms by introducing JM improvement of SOA. These mechanisms are the alternative to dissolution of a company and which allows corporate rehabilitation. However, according to MD Radzi et al, 2013, there are still some serious concerns regarding the dominance of creditors, the complexity of the procedures of the mechanisms which in result had limited the success rate of the restructuring of companies. As JM and SOA are both recognised as a very important tool to help financially distressed companies, there are still aspects that have to be improved.

The comparison with the UK's framework is very important as the UK had successfully established a practical corporate rescue mechanism. This is also a good benchmark considering UK shared common law background as Malaysia. Consequently, through comparative analysis with the UK, this article evaluates possible areas for Malaysia to reform by studying the UK's strength and limitations of their corporate rescue mechanisms.

LITERATURE REVIEW

Legal Framework for Corporate Rescue

Rather than steering struggling companies towards winding up, Malaysia and the UK have pivoted to a legislative stance that prioritises corporate rehabilitation whenever feasible (Mohd Ardi Shah,2026). This shift aligns with global practices (Chen et al.,2021) which focus on preserving sound enterprises, protecting employment, and delivering stronger recoveries for lenders, as opposed to merely ceasing operations. The theoretical foundations of this approach were notably contested during the 1980s in a landmark exchange between Douglas Baird and Thomas Jackson. Jackson (1982) contended that insolvency regimes should mirror the ex-ante agreements creditors would have reached without bargaining frictions. What is now termed the creditors' bargain theory. Accordingly, rescue measures are warranted only when they promise a superior financial outcome for creditors relative to dissolution. Rescue, therefore, possesses no independent virtue, its sole justification is its ability to maximise creditor returns in comparison to a straight liquidation scenario.

Despite the growing support for corporate rescue, scholars have questioned whether restructuring should always be preferred over liquidation. Baird (1986) cautioned that rescue procedures may sometimes be exploited to postpone inevitable liquidation, leading to greater losses for creditors instead of preserving businesses with genuine prospects of survival. White (1989), by contrast, argued that the value of a distressed company depends on the circumstances. In some cases, liquidation may generate higher returns because the company's assets are worth more when sold separately. At the same time, where a viable business can continue operating, restructuring may preserve its going-concern value and produce better outcomes for creditors. These competing perspectives shaped modern insolvency policy by encouraging lawmakers to adopt rescue mechanisms while recognising that restructuring should be pursued only when it offers greater economic value than liquidation.

A contracting perspective was advanced by Warren (1987) l, who argued that insolvency frameworks must account for worker, supplier, local communities, and the broader macroeconomic environment, rather than concentrating solely on the interest of creditors. On this basis, corporate rescue may remain justifiable even when it yields marginally lower returns than immediate winding up. This stakeholder centric rationale has subsequently influenced legislative reform across numerous jurisdictions. Nevertheless, detractors counter that such an approach introduces legal ambiguity and potentially prejudices creditor claims. Although these theoretical disagreements persist, they have indelibly shaped contemporary insolvency statutes. Turning to the Malaysian context, Judicial Management (JM) was formally introduced on 1 March 2018 under Companies Act 2016, with the framework being modelled on its UK counterpart to facilitate corporate rehabilitation. Its ambit, however, explicitly excludes banking and insurance institutions, which are governed separately by Financial Services Act 2013 (Abdul Rahman Shah, 2026). Even with these legislative developments, the efficacy of JM remains circumscribed by persistent legal and procedural impediments.

The SOA is a court-based restructuring process under the Companies Act 2016. It lets a company make an agreement with its creditors or members. If the required majority agrees and the court approves it, the scheme becomes binding on everyone involved, even those who do not agree. If the company is already in liquidation, the scheme may also bind the liquidator and contributories. SOA is still an important part of Malaysia's corporate rescue system, but it faces problems similar to JM.

The comparative sophistication of the UK's corporate rescue framework traces back to the Insolvency Act 1986, which introduced Administration following the Cork Committee's 1982 assertion that prior regime over emphasised liquidation and marginalised recovery prospects. Designed to preserve the viability of distressed entities rather than precipitating their immediate dissolution, Administration was subsequently recalibrated by the Enterprise Act 2002, which abolished administration receivership for new floating charges, instituted a streamlined out of court appointment route, curtailed creditors influence, accelerated the process, and entrenched a rehabilitation oriented ethos. Administration thereby cemented its status as a central UK rescue tool (Finch Milman, 2017). Progressing further, CIGA 2020 introduced the restructuring plan, the centrepiece of which is the cross-class cram- down a provision that permits court approval notwithstanding creditor appositions, albeit subject to specific-to-specific statutory preconditions (Paterson,2021).

The UK SOA has been developed over a long time and shaped by many court cases. It began with Victorian laws in 1870 and has become an important restructuring tool that still affects the Companies Act 2006 (Al Mashhour et al., 2020). Compared with Malaysia, the UK system is more mature and gives more legal certainty. Payne (2014) says the scheme sits between informal debt talks and formal insolvency proceedings. Finch and Milman (2017) point out that court approval and judicial supervision can make the process more expensive and complicated. Even so, Payne (2014) says court control is actually a strength. Because of this, the scheme is still a trusted way to rescue companies in the UK.

The UK experience demonstrates that an effective rescue framework must satisfy three foundational criterias, operational viability, procedural accessibility and equitable treatment of all stakeholders. Given that Malaysia shares a common law pedigree with its former colonial counterpart, a comparative analysis offers a compelling basis for illustrating how divergent judicial and legal approaches distinctly shape the practical operations of both Judicial Management and the Scheme of Arrangement. In this context, the present article undertakes a critical appraisal of Malaysia's extent of corporate rescue architecture, evaluating whether it fulfills its designated rehabilitation objectives, while simultaneously exploring which elements of the UK regime might be productively adapted to bolster domestic legislative reform.

The Theoretical and Conceptual Framework

Corporate rescue legislation is founded on the basic principles that a corporation is typically more valuable if it continues to operate than if it is shuttered and sold. A working firm may continue to produce money, service customers, and maintain employment, potentially adding more value than liquidation. This gives advantage to the creditors collectively (Armour, 2001). Creditors may rush to collect their debts privately without legal protection. While this is appropriate for each creditor, it can devastate the firm and diminish overall recovery, which is also known as a collective action problem. The insolvency rules impose a moratorium to address this, which prevents creditors from taking action for a limited time while rescue measures are developed.

Another question is about control. Who manages the corporation during the rescue? Existing management may stay. However, an independent expert may take over alternatively. Existing management are intimately familiar with the business. Nevertheless, creditors may place more faith in independent management. This is crucial if bad management caused the failure (Warren, 1993). Then, they are creditors that refuse to coorperate. Malaysia and the United Kingdom as the earlier arrangements, required approval from the majority of creditors. Consequently, a few individuals might derail a strategy. The UK currently has a cross-class cram-down under CIGA 2020. Courts can impose a scheme despite opposition, though legal precautions apply (Paterson, 2022).

These safeguards ensure that creditors who dispute are not placed in a worse situation than they would be in liquidation. The contemporary insolvency legislation fosters a rescue culture in general, encouraging businesses to act quickly before their difficulties worsen. Although the UK system is more evolved in practice, this comparison still demonstrates that Malaysia and the UK have comparable legal underpinnings. The study investigates whether Malaysia's legal structure is robust enough to facilitate effective corporate rescue.

Legal Framework in Malaysia

The first legal framework in Malaysia that recognised the corporate rescue mechanism was the Companies Act 1965, which offered limited alternatives to liquidation or receivership (Chen et al., 2021). The main restructuring or arrangement tool was the SOA under Section 176. However, scholars criticised this framework for its procedural "cumbersomeness" and lack of robust rescue mechanisms and procedures (Ruzita Azmi & Adilah Abd Razak, 2015). According to Mohd Ardi Shah (2026), the 1997 Asian Financial Crisis further exposed these deficiencies, as many companies were wound up despite government attempts to raise insolvency thresholds. Recognising these gaps, the Corporate Law Reform Committee (CLRC) which was

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established in 2003, recommended modernising the framework to align with international standards (Chen et. al., 2021). This led to the CA 2016, which introduced two new mechanisms: JM and Corporate Voluntary Arrangement (CVA), while at the same time retaining, complementing and refining the SOA (Ruzita Azmi & Adilah Abd Razak, 2015).

Judicial Management (JM)

Introduced under Division 8 of Part III of CA 2016, JM is a court-supervised process modeled on Singaporean and UK precedents (Mohd Ardi Shah, 2026). It allows a distressed company or its creditors to appoint an independent Judicial Manager (also an insolvency practitioner) to rehabilitate the entity, preserving it as a going concern or ensuring a more advantageous realisation of assets than a winding-up. One of the objectives of JM is to have a workable proposal to achieve SOA as stipulated under Section 405(1)(b) of CA 2016 (Companies Commission of Malaysia, 2024). A critical feature of JM is the automatic moratorium, which provides the company with a much needed breathing room by staying legal proceedings for six months (Baker Tilly Malaysia, 2020).

However, scholarly discourse has centered on the secured creditor veto under Section 409(b) (Cheang & Ariff, 2025), which mandates the dismissal of a JM application if opposed by a secured creditor (Mohd Ardi Shah, 2026). A secured creditor is usually a banking institution. Mohd Ardi Shah (2026) argues that the secured creditor veto is a significant structural impediment to the effectiveness of JM while Balan (2025) contends that this framework produces a profound imbalance, elevating the interests of secured creditors above those of unsecured creditors, employees and the wider economy.

While Section 405(5)(a) of CA 2016 provides a "public interest" exception to override this veto, judicial interpretation has been rather restrictive. In *Leadmont Development Sdn Bhd v Infra Segi Sdn Bhd & Anor [2019]*, the court emphasised that generic concerns like loss of employment did not meet the public interest threshold, which is typically allowed only for extraordinary circumstances. Hence, the veto could not be overridden. Similarly in Re Top Builders Capital Bhd & Ors [2021], the court rejected the JM application under public interest ground because of secured creditor opposition although the case involved hundreds of homebuyers facing losses. The narrow and restrictive interpretation made the public interest exception inoperative according to Mohd Ardi Shah (2026) and Chen et. al. (2024). Additionally, other decisions like Goldpage Assets Sdn Bhd v Unique Mix Sdn Bhd [2020] and the Court of Appeal in Million Westlink Sdn Bhd v Maybank Investment Bank Berhad [2019] expanded stakeholder participation, ruling that unsecured creditors possess the standing to oppose JM applications (Mah Weng Kwai, 2021). The Companies (Amendment) Act 2024 ("CAA 2024") significantly expanded JM's accessibility, notably by making it available to public listed companies (PLCs), a previous restriction highlighted in Re Scomi Group Bhd [2021] (Cheang & Ariff, 2025). The amendments strengthened court supervision and aligned the framework with global standards.

Scheme of Arrangement (SOA)

The SOA remains the "classic corporate reconstruction provision" in Malaysia, governed by Section 366 of CA 2016. Unlike JM, for SOA the company remains under the control of its directors (Mah Weng Kwai, 2021). An SOA requires approval by a statutory majority of 75% in value of creditors and court sanction. A persistent weakness noted is the absence of an automatic moratorium. Instead companies are required to apply for a Restraining Order under Section 368, which is subject to strict conditions. The Federal Court in Mansion Properties Sdn Bhd v Sham Chin Yen [2021] clarified that the court's role is not a mere "rubber stamp," but must ensure the scheme is fair and reasonable such that an intelligent person might approve it (Ching, Elaine & Co., n.d.). Historically, the SOA was criticised for potential abuse, where management used ROs as "delay tactics" without a viable rescue plan (Ruzita Azmi & Adilah Abd Razak, 2015). The CAA 2024 introduced revolutionary "super scheme" features to the SOA framework, most notably the cross-class cramdown under Section 368D. This allows the court to compel dissenting classes of creditors to accept a scheme if they would not be "worse off" than in liquidation (Mohd Ardi Shah, 2026). This would prevent a single class from holding the entire rescue process hostage. Further, the introduction of "pre-pack" SOAs under Section 369C allows for faster, cheaper restructurings with schemes based on pre-negotiated terms.

Legal Framework in the United Kingdom

The Cork Report of 1982 served as the foundation for the present rescue culture in the UK. It argued for a system that would protect viable economic firms rather than forcing them into liquidation (Kastrinou & Jacobs, 2016). This led to the Insolvency Act 1986 (IA 1986), which established Administration and CVAs (Omar & Gant, 2016).

Administration

Administration is a preliminary procedure aiming at saving the firm as a going concern, improving the outcome for creditors, or realising property for secured creditors (Narayanan, 2024). The Enterprise Act of 2002 dramatically altered this procedure, phasing out administrative receivership, which is a private recovery instrument for secured lenders, to prioritise administration and rescue culture (Omar & Gant, 2016). Administration initiates a statutory moratorium and replaces the current management with an administrator. Academic analysis has emphasised the system's "creditor-centric" orientation, while noting the emergence of "pre-pack" administration as a realistic instrument for speedy company transactions, albeit controversial (Narayanan, 2024; Omar & Gant, 2016).

Scheme of Arrangement (SOA)

Part 26 of the CA 2006 governs the English SOA, which is a highly adaptable mechanism utilised for both solvent reorganisations and insolvent debt restructuring (Al Mashhour, 2020). The main benefit is that it is not officially an "insolvency proceeding", in which it reduces the "stigma" associated with failure (Peterson, 2017). The lack of an automatic moratorium and the necessity that all classes of creditors endorse the scheme were pointed out by the experts (Conway, 2019; Al Mashhour, 2020). Judicial authorities established the "honest man" requirement for justice in punishing schemes, such as Re Telewest Communications plc (No. 2) [2005].

The Corporate Insolvency and Governance Act 2020 (CIGA)

CIGA 2020, which established the Restructuring Plan under Part 26A of the Companies Act, "revolutionised" the UK landscape (Narayanan, 2024). This "super scheme" allows the court to bind a dissident class of creditors if they are better than they would be in a suitable alternative (often liquidation), permitting cross-class cram-down (Conway, 2019). The case of Re DeepOcean 1 UK Ltd [2021] saw the first court application of this power. A separate debtor-in-possession moratorium was also imposed by CIGA and prohibited ipso facto (termination) conditions in supply contracts (van Zwieten, 2023).

Identified Gaps and Theoretical Tensions

The literature demonstrates a theoretical contradiction between Creditor Wealth Maximisation (CWM), which prioritises secured creditors' rights, and communitarianism, that takes into account larger economics and social objectives like employee retention (Chen et al., 2021; Mohd Ardi Shah, 2026).

The secured creditor veto continues to undermine the rescue culture's legal goal in Malaysia. For example, critics claim that the public interest override is applied too narrowly, putting employees and homeowners in abandoned housing projects at risk. Moreover, a lack of specialist judicial training and actual evidence on rescue results has resulted in formalistic court procedures (Mohd Ardi Shah, 2026). There are still unsolved difficulties with valuation methods in cross-class cram-downs, despite CIGA has remedied some holes in the UK (Paterson, 2017). Despite the adoption of a new moratorium, there is also fear that the complexity and cost of these "super schemes" would exclude smaller businesses. These contradictions lay the groundwork for a comparative analysis of the efficacy of JM and SOA.

RESEARCH METHODOLOGY

This study takes on a qualitative comparative methodology, doctrinal legal analysis and also socio-legal approach. This article evaluates JM and SOA, which are Malaysia's corporate rescue mechanism. At the same time, this article will also study how the UK undertakes the implementation of these mechanisms. Through the comparative analysis, different methods of implementations by two countries with shared common law background will be examined. In addition to this, this article will also look at Malaysia's and UK's case laws, statutory provisions and legal articles and journals. The study will be focused on Malaysia's JM and SOA under CA 2016 and UK's corporate rescue provision under the Insolvency Act 1986. The aim of this study is to identify strengths and weaknesses of both jurisdictions.

For the socio legal approach, this article will examine the practicality of the mechanisms through professional reports, academic literature and also policy papers. There will be no primary data collection. Secondary sources such as the journal articles, case laws and legislation will be relied on entirely. Through this study, this article will then provide recommendations to improve the corporate rescue mechanism in Malaysia.

Comparative Analysis of Corporate Rescue Frameworks

Building on the legal framework, literature review and theory set out earlier, this section compares Malaysia's corporate rescue mechanism with its UK counterpart through doctrinal and comparative analysis. The focus on Judicial Management (JM) and Scheme of Arrangement (SOA) under the Companies Act 2016, set against administrative and SOA in the UK, along with the restructuring changes brought by the Corporate Insolvency and Governance Act ("CIGA").

Comparative analysis based on corporate rescue objectives

Modern insolvency law has generally moved away from liquidation toward preserving viable businesses and maximising value for creditors as a whole (Armour, 2001; Chen et al., 2021), in line with Jackson's 1982 creditor bargain theory, corporate rescue is only worthwhile if it beats liquidation on returns.

Malaysia and the UK share the same goal but have executed it differently. JM under Section 404-430 of the CA 2016 gives distressed companies a moratorium to attempt rehabilitation, as much as the UK Administration does under the Insolvency Act 1986. The significant difference is creditor power under Section 409(b) CA 2016 gives secured creditors an effective veto over JM applications, which limit access to the procedure, a point criticised by Mohd Ardi Shah (2026), Balan (2025), and Chen et al. (2024) as undermining Malaysia' corporate rescue mechanism. The UK went the other way, curbing creditor dominance through the Enterprise Act 2002, which restricted administrative receivership and made administration the default route as per Omar & Grant (2016), which is a more balanced approach weighing creditor recovery against broader economic interests.

Judicial Control and Creditor Involvement

A further point to discuss in contrast lies in the degree of court involvement and creditor influence. Malaysia JM needs court approval to commence and stays subject to significant creditor input throughout the process. In the case of Leadmont Development Sdn Bhd v Infra Segi Sdn Bhd & Anor [2019] and Re Top Builders Capital Bhd & Ors [2021], it shows that Malaysian courts view the public interest narrowly, leaving little room to override a secured creditor's objection.

In contrast, UK administration is much faster and efficient, wherein appointments can be made out of court, and administrators are given wide power to act decisively to protect company's value (Finch & Milman, 2017). CIGA 2020's restructuring plans added even more judicial flexibility. Put it together, this suggests that Malaysian courts function well as a check against misuse of the process, but the price of that caution may be slower and less effective.

Treatment of dissenting creditors

One of the most notable points of comparison is how each jurisdiction deals with dissenting creditors. Both countries traditionally required near-universal creditor buy-in before a restructuring could proceed, a rule that opened the door to holdout tactics, wherein a small minority could sink an otherwise workable plan. The UK's answer was the cross-class cram-down method, introduced into Part 26A of the Companies Act 2006 via

CIGA 2020, which let the court approve a plan over the objection of a dissenting creditor as long as that class is not left worse off than it would be under liquidation (Paterson, 2021; Narayanan, 2024).

Malaysia has since followed by adding Section 368D to the SOA framework through the CAA 2024, a move that looks very similar to the UK model and marks a real step towards a more effective and efficient restructuring. That being said, the provision is still new, so there is not much evidence on how it functions in practice. It would be a notable point of research to examine whether Malaysian courts end up applying the cram-down power broadly, or fall back on the same restriction which can be seen in JM cases.

Overall Effectiveness

In a nutshell, the comparative analysis suggests that Malaysia has built a reasonable modern legal framework pertaining to corporate rescue mechanisms. However, heavy secured creditor influence, procedural complexity, inconsistent judicial interpretation, and limited flexibility in restructuring forms a practical obstacle. The UK model however tends to show a stronger corporate rescue mechanism culture which has easy access procedure, procedural flexibility, broader judicial powers and workable tools for managing creditor opposition.

FINDINGS AND DISCUSSION

Judicial Management (JM) in Malaysia: Effectiveness and Limitations

JM was introduced under the CA 2016, reflecting the crucial transition of Malaysian insolvency regime from liquidation oriented towards business rehabilitation. One of its objectives is to save financially troubled but functional businesses, as it recognizes that a growing concern often creates more value for creditors, employees, and the economy at large. One of its strengths is the statutory moratorium that prevents creditors from commencing legal action or enforcing security once a JM Order is granted.

It is in line with the Jackson's creditors' bargain theory, as it prevents a creditor from pursuing self-interested enforcement actions that could undermine collective value. It is also consistent with the stakeholder theory by Warren, whereas looking at the stakeholder perspective, it preserves employment, business continuity and also maintains economic stability.

Nevertheless, JM also faces challenges. One of these is the secured creditor veto under Section 409(b) of the CA 2016, which allows secured creditors to object to JM applications. This position is, of course, criticized because it raises the question of the purpose of having rescue procedures if they can be denied due to creditor interests. Although Section 405(5)(a) of the same provides a public interest exception, Malaysian courts have generally interpreted it narrowly, as demonstrated in Leadmont Development Sdn Bhd (supra). As a result, creditor protection continues to outweigh rehabilitation objectives in many cases.

In addition, there remains uncertainty in regards to the interpretation of JM due to the limited court decisions. The Company Act (Amendment) 2024 ("CA 2024") aims to solve this issue with rescue financing options that make it easier to get working capital during restructuring. Despite that, these changes do not tackle issues related to the power of the secured creditors and the lack of judicial guidance. Hence, it can be said that, while JM has improved the corporate rescue mechanism in Malaysia, its success depends on the continued court developments, improved legislation and the establishment of a stronger rescue culture.

Scheme of Arrangement (SOA) in Malaysia: Flexibility and Challenges

The SOA remains as one of the most flexible rescue mechanism options that is available in Malaysia. Unlike JM, the SOA allows the current management to stay in control, while at the same time restructuring plans with the creditors. Therefore, it does not disrupt the flows of the company's business as they know the management of their company better. This feature lets the companies adjust their current debts as well reorganize their finances as needed.

Other than that, SOA has a restraining order. This feature, same as the JM moratorium, gives time to the companies to prepare the restructuring proposal while at the same time working to secure. Despite that, it is not perfect. In practice, it is still being criticized especially due to its complexity and cost. There are certain requirements such as court petitions, creditor meetings, voting processes, and judicial approval needed to be done. All these requirements may take longer time to be done and costly. As a result, it slows down the restructuring efforts. As companies that are having financial difficulties and trying to cut costs, it may not be their first choice.

Before the CAA 2024, creditors groups who disagreed may be able to disrupt the restructuring even after the approval of the majority. The CAA 2024 aims to address these problems with pre-packaged schemes and cross-class cram-down provisions. Such improvement in the legislation makes the restructuring process easier and lessens the power of the minority creditors to disrupt the company's effort. Despite that improvement, since it is still new and has not been widely tested in Malaysia, the effectiveness in practicality remains uncertain.

Back to the SOA, while it needed to be appreciated because of its flexibility and one good rescue option, nevertheless the success of it depends on the effectiveness of the implementation of the 2024 reforms as well the development of judicial certainty.

Discussion

Malaysia is moving in the right track as it has created a rescue-focused insolvency with few improvements. It can be seen that Malaysia has growing belief that viable business should be rehabilitated instead of liquidated whenever possible.

This shift can clearly be seen in the introduction of the JM under the CA 2016 and improvements made under CAA 2024. Features such as moratoria, rescue finance, and cram-down provision help maximize collective value by minimizing disruptive action which is then in line with the creditor's bargaining theory.

Not just that, corporate rescue evidently benefits a wider range of stakeholder interest from the interest of the employees to the interest of the wider economy. It is in sync with the stakeholder theory. It goes beyond just recovering the creditor's money and looking into a bigger picture.

Nevertheless, Malaysia still has a long journey to match the development of the UK's rescue mechanism culture. Guidance from the judiciary is still limited, influence from secured creditors remains strong, and many new restructuring features have not been tested in practice.

The success of the corporate rescue does not just depend on the legal changes. It also requires support from institutions which includes well experienced insolvency practitioners, judges with commercial knowledge, and the confidence from stakeholders.

While it can be said that CAA 2024 has made major improvements in the corporate rescue and brought it closer to international practice, it should not stop there. Malaysia must maintain consistency towards improvement. An effective rescue mechanism in the insolvency systems requires ongoing judicial development, better institutional support, and further improvement in the legislation.

CONCLUSION AND RECOMMENDATIONS

Through a comparative analysis with the UK, this article examined the effectiveness of JM and SOA in Malaysia. This study proves that Malaysia has made substantial progress in its rescue mechanism framework under the CA 2016 and CAA 2024. Financially distressed companies are now provided with alternatives that may support the preservation of their viable businesses.

However, there are still few problems left that limit the practicality of these mechanisms. Under Section 409(b), the secured creditor veto has remained to be the biggest challenge to corporate rescue under JM.

Notwithstanding that public interest exceptions exist, restrictive judicial interpretation still limits its practicality. On the other hand, even though SOA is a flexible rescue mechanism, complex procedures and requirement of strict creditor approval, still hinder the practicality of SOA.

Comparison analysis with the UK proves that procedural flexibility and practical accessibility are required in order to form an effective rescue mechanism. The UK has strengthened its corporate rescue mechanism through the introduction of the Enterprise Act 2002 and CIGA 2020 where hurdles for the restructuring have been reduced and also a more practical method to handle dissenting creditors.

In view of the above, there are few improvements that should be considered by Malaysia's corporate rescue mechanisms. Firstly, the requirement of secured creditor veto under Section 409(b) should be reviewed so that the restructuring effort will not be defeated by dissenting creditors. Secondly, in order to have better consistency and certainty in JM proceedings, there should be a clear judicial guidance on the public interest exception. Thirdly, the recently established cross-class cram-down mechanism should be thoroughly evaluated to determine whether it can tackle the issue of creditor holdout behaviour. Finally, going forward, Malaysia should focus on future reforms to simplifying operations and standardising procedures so that the aim to help financially distress but viable business is more effective while at the same time, the interest of all stakeholders are preserved.

In conclusion, Malaysia had established a solid legal framework for corporate rescue mechanisms. However, progressive enhancement of both JM and SOA are still required in order to ensure Malaysia evolves and develops a more practical and effective corporate rescue mechanism that is comparable to that of the UK.

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