

Insolvency and Revitalization Schemes for Local Governments

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[Summary]

Insolvency and revitalization schemes for local governments are presently under discussion in Japan. Such discussions tend to commence from consideration of the specific characteristics of individual local governments, and the points being discussed can be difficult to understand. Despite this, the structure of insolvency and revitalization schemes for local governments is basically identical to the structure of similar schemes for private enterprise, and involves financial restructuring, i.e. determining means of resolving excessive liabilities, and operational restructuring, i.e. review of all aspects of the operation of the local government.

In the case of private enterprise, systems for legal (Corporate Rehabilitation Law; Japanese Chapter 11) and voluntary liquidation (Industrial Rehabilitation Company Law and Private Guideline for Corporate rehabilitation) have been established, and the procedures at individual stages, such as the fixing of debts, the formulation of reconstruction plans, DIP finance and the exit of sponsors, have largely been settled on. There are, in addition, already a large number of examples of companies using these systems.

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In this paper, I have attempted to indicate more clearly the problems of insolvency and revitalization schemes for local governments by means of comparison with the schemes available to private enterprise. I have placed particular emphasis on the importance of due diligence with regard to debts and operational costs. While firm and detailed revitalization plans play an important role at specific stages of the revitalization process, it is impossible to formulate these plans without sufficient due diligence.

In discussing new insolvency and liquidation schemes, we should consider schemes that enable debts to be reduced. Unless loans involve risk, neither borrowers nor lenders will be financially responsible. However, with regard to whether debt reduction should be uniform or not, I recommend the introduction of a non-uniform scheme. Measures should be adopted according to the specific characteristics of the operations of individual local governments. It seems to be difficult for the current legal liquidation scheme to address this point. What is required are new voluntary liquidation schemes for local governments, or the introduction of laws based on a new way of thinking to replace the current legal liquidation system.